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ANNA BULLETT (4)
KATE SYKES (5)

CITY COUNCIL WORKSHOP

Use Agenda Fields to input subtitle

September 30, 2024 at 5:00 PM in Council Chambers

REMOTE PARTICIPATION:

The City Council will conduct this meeting from Council Chambers, located on the second floor of City Hall.

To watch the meeting remotely, please visit https://portlandme.portal.civicclerk.com/event/7370/media

AGENDA ITEMS:

Discussion on ReCode Phase II

ADJOURNMENT:

1

Planning and Urban Development
Kevin Kraft, AICP
Director

To: Mayor Dion and Members of the City Council
From: Kevin Kraft, Director, Department of Planning & Urban Development
Nell Donaldson, Director of Special Projects
Date: September 27, 2024
RE: ReCode Phase II – Workshop #1

I. INTRODUCTION

On September 30, 2024, the City Council will hold a workshop on Phase II of ReCode, a comprehensive, multi-year effort to rewrite Portland's land use code. This workshop will provide an overview of the final draft of the land use code and zoning map, developed by city staff with guidance from consultant Camiros, Ltd., the Planning Board, Historic Preservation Board, various city departments, state agencies, and public input. This Council workshop follows five Planning Board workshops, two Historic Preservation Board workshops, and one Historic Preservation Board public hearing, all of which included opportunities for written and verbal public comment. A Planning Board public hearing is scheduled for Tuesday, October 8, 2024, during which the Board will vote and make a recommendation on ReCode to the City Council.

II. WHY RECODE?

In 2017, the City Council adopted *Portland's Plan 2030*, the comprehensive plan for the City of Portland. *Portland's Plan* was developed with the input of thousands of Portland residents, workers, students, and visitors, and includes a series of policy guides related to key topic areas, from transportation to housing, public facilities, historic resources, waterfront, open space, and the economy (*Figure 1*). One of the first recommendations of *Portland's Plan* was to "create a new unified development code, that incorporates zoning, the historic preservation ordinance, housing policies, and other aspects of the development review process into a more readable and useful document" (p. 90).

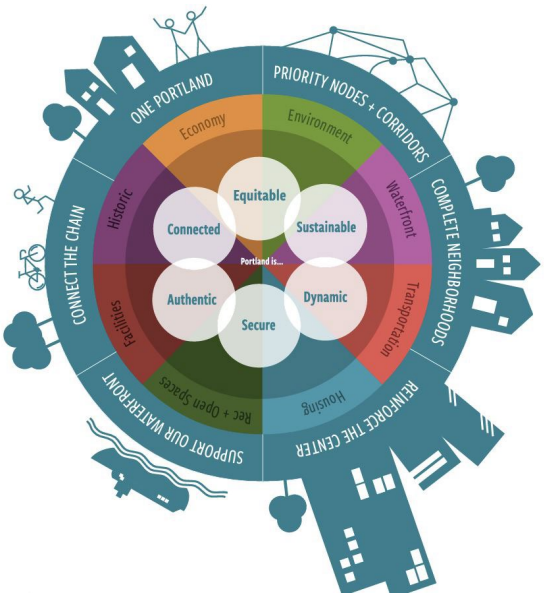

Figure 1: Visualizing Portland's Comprehensive Plan

At the time, the land use code and zoning map were the products of land use policy which had been adopted and amended by the City Council over many years. Much of the policy within the code reflected current best practice; however, the code had not been reworked holistically in half a century. It had ballooned to nearly 1,000 pages, contained pages of redundant language, and could be difficult to navigate. In this recommendation, *Portland's Plan* recognized that the City needed to revise the land use code on a functional level to improve legibility, clarity, and consistency.

Simultaneously, the recommendation also reflected a deeper understanding that fundamentally, as one of the principal tools for implementation of *Portland's Plan,* the land use code would need to be updated to align with the city's new shared vision and goals. This imperative reflects state statute; in Maine, 30-A MRS Section 4352(2) which requires explicitly that a "zoning ordinance must be pursuant to and consistent with a comprehensive plan adopted by the municipal legislative body."

III. APPROACH

While *Portland's Plan* recommends the creation of a new land use code, it provided no road map for completing such a project. For other communities rewriting their codes, this process is often lengthy, as well as costly. (Somerville's was a seven-year process, Boise's took four years, Atlanta's has been underway since 2015.) Recognizing that the ReCode initiative would inevitably span multiple years, from the start the effort was split into two distinct, successive phases.

1. ReCode Phase I

Phase I of the ReCode process was organized around reformatting, restructuring, and streamlining the code into a simpler, more user-friendly document, one that would serve as a clean framework for incorporating new policies in the future. Phase I also included some policy work where it intersected with the restructuring objective, including updates to the City's off-street parking standards (exempting parking requirements for any site within ¼ of public transit) and accessory dwelling unit (ADU) regulations. After a long review period, including numerous Planning Board workshops, Council workshops, and months in which portions of the draft code were open for public comment, the City Council adopted the revised land use code under Phase I of ReCode in November of 2020. Staff and the public have worked with the revised code ever since.

2. ReCode Phase II

Where Phase I of ReCode emphasized structural changes to the code, Phase II is focused on the policy-oriented work of rewriting the code to better align with the vision of *Portland's Plan*. For instance, *Portland's Plan* foregrounds sustainability, equity, and housing, among other goals; Phase II is designed to produce a land use code and zoning map amendments that directly addresses these issues.

IV. PROCESS

Phase II began almost immediately after the conclusion of Phase I with the release of an RFP for consultant services. In spring of 2021, Camiros, a consultant with national experience in writing and updating land use codes, was hired to support the ReCode Phase II effort. Camiros's scope includes two major elements, an evaluation of the existing land use code, and supporting city staff with drafting and review of amendments. Camiros has also been integrally involved in the public engagement around ReCode Phase II.

1. Land Use Code Evaluation

A land use code evaluation was released in December 2021 as the first work product of Phase II. The land use code evaluation evaluated the existing land use code with respect to the goals from *Portland's Plan*, responding to the six themes of the *Portland's Plan* vision. The code evaluation included recommendations related to basic use regulations, dimensional standards, and the City's existing zones. The evaluation also included structural recommendations that continue the organizational work of Phase I. Altogether, the code evaluation provided the City with a road map of possible strategies for revising the land use code to bring us closer to the goals of *Portland's Plan*.

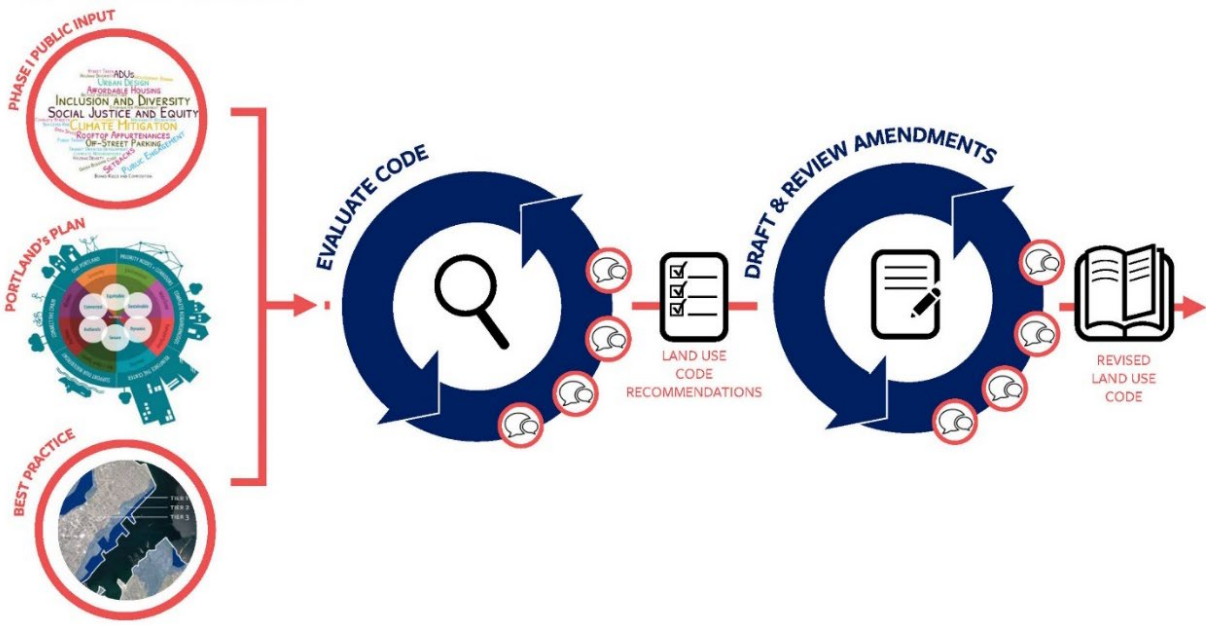

Figure 2: ReCode Phase II process

2. *Drafting & Review*

The drafting process began in mid-2022, with a focus on the core zoning elements of the land use code – Definitions, Zones, Use Standards, and Dimensional Standards - which are fundamentally related and lay the foundation for much of the rest of the code. Drafts were developed based on internal analysis, the code evaluation, best practice and research, and public input. In late June of 2023, the City released the "first wave" of draft changes to the land use code under ReCode Phase II.

After the close of the first wave comment period in the fall of 2023, the process of reviewing public input, revising the first four core articles, and developing draft amendments to the remainder of the land use code and the zoning map began. The resulting "second wave" changes, including edits to the entire land use code and zoning map, were released in April of 2024. The final draft zoning map can be viewed here.

Beginning in mid-summer, staff began the process of reviewing public feedback in preparation for the final round of revisions to the land use code and zoning map. As a product of this work, a final draft of the land use code and zoning map was released in early September.

Simultaneously, the Historic Preservation Board completed their review of proposed changes to the Historic Preservation ordinance, incorporating input from the public and the Maine Historic Preservation Commission. Staff also continued internal reviews with Permitting & Inspections, Housing & Economic Development, and Corporation Counsel on the drafts, as well with the Maine Department of Environmental Protection where necessary.

3. *Public Involvement*

ReCode builds off the work of *Portland's Plan*, which engaged approximately 3,000 Portland residents and business owners in visioning and goal-setting exercises which directly relate to policy within the land use code. Expanding on the success of the outreach under *Portland's Plan,* staff has made engagement a core component of ReCode. Public engagement has included:

- *Community Conversations:* Staff initiated ReCode with a set of Community Conversations in the fall of 2017 and spring of 2018, introducing the ReCode process to neighborhoods and leading attendees in a neighborhood-based analysis of strengths, weaknesses, opportunities, and threats (*Figure 3*). These Community Conversations, ultimately held with fifteen neighborhood associations, resulted in valuable information about the ways that neighborhoods perceive their physical space, their concerns, and their goals.
- www.recodeportland.me: Starting in 2018, staff also built out the ReCode website. This website has served as a source for information on ReCode for the entire span of the project, including background information on *Portland's Plan,* summaries of findings from public engagement, and drafts for public review. Since its inception, the website has drawn over 31,000 unique visitors, with over 9,000 of these visitors in 2024.
- *Interviews.* In the spring of 2021, interviews were conducted with 15 individuals representing a diverse array of perspectives on issues relevant to ReCode, ranging from those in the development community, affordable housing advocates, neighborhood residents, and representatives of civic and cultural organizations. These stakeholder interviews provided a snapshot of some of the challenges and opportunities related to using the code in practice in Portland today.
- *Code evaluation surveys, public forums, and online commenting.* The City conducted significant public engagement around the code evaluation, including a city-wide survey, an island survey, a series of public forums, and an online document comment portal. Almost 200 residents responded to the city-wide survey, over 600 responded to the island survey, 130 members of the public participated in the public forums, and the City received over 300 written comments from 32 commenters on the land use code evaluation document comment portal.
- *"First wave" videos, zone guides, public forums, and online commenting.* A series of four videos, a podcast, and numerous supplementary materials including "zone guides" were released along with the first wave of material to help the public understand the changes. In addition, the City hosted three in-person and one virtual open house to gather feedback from the public, and also welcomed input through email, form submission, and an online document comment portal. Altogether, over 100 people attended the forums and the City received almost 400 written comments from 88 commenters on the first wave changes.

Figure 3: North Deering Community Conversation SWOT Analysis

- *"Second wave" zone guides, ReCode Studio, and online commenting.* The release of the second wave of edits was also accompanied by an updated set of zone and article guides which provided a simple way to engage with the draft land use code and zoning map. In-person public engagement centered on the ReCode Studio, a two-day, in-person gallery-style drop-in event where the public could engage with ReCode materials in visual form, view a short film, explore the zoning map, and provide comments and markups on drafts. Members of the public could also explore the second wave draft code and map online and provide comments through an online commenting platform. Altogether, over 200 members of the public visited the in-person ReCode Studio and the City received almost 900 written comments from over 200 individual commenters on various aspects of the drafts via email, form submissions, the online document commenting platform Konveio, and the GIS-based map commenting platform on the ReCode website.
- *Promotion through podcasts, news, social media, email.* Each release of new materials for Recode, including the code evaluation and drafts of the land use code and zoning map, has been broadly publicized through the ReCode email list, the City's mailing lists, and social media. Staff has appeared at conferences, at neighborhood association meetings, at interest group meetings, on GPCOG's Let's Connect podcast, and stories have been published in the *Portland Press Herald*.
- *Direct meetings with community organizations.* Since the beginning of ReCode, staff has met with community and stakeholder groups upon request. These have included meetings with neighborhood associations, Portland Society of Architects (PSA), Maine Conservation Voters, Leadership Portland, Greater Portland Landmarks, the Peaks Island Council, the Chamber of Commerce, Portland Downtown, Portland Public Schools, Greater Portland METRO, Greater Portland Council of Governments, the Portland Housing Authority, and many others.
- *Planning Board and other Board engagement.* The public process has also featured five workshops with the Planning Board and two workshops with the Historic Preservation Board and one public hearing. Each of these meetings has provided an opportunity for public comment, both written and verbal.
- *Council engagement.* Staff has also engaged with the City Council at various points in the Phase II process, providing another opportunity for the public to participate in ReCode. These have included:
    - October 2021: A workshop with the Housing & Economic Development Committee on Housing and ReCode
    - December 2021: An update to the full City Council via communication
    - February 2022: A workshop with the full City Council on the Land Use Code Evaluation
    - September 2022: An update to the full City Council via communication
    - November 2022: A workshop with the full City Council on ReCode concepts
    - March 2024: A workshop with the Sustainability & Transportation Committee on climate resilience zoning through ReCode

V. SUMMARY OF PUBLIC COMMENT THEMES

The planning and review process to date has involved extensive public outreach, resulting in a wide range of feedback and perspectives on how the city should develop in the years to come. Staff has received many individual email and form submission comments over the course of ReCode Phase II and these have been included as *Attachment H*.

- *"PC: We need more local gas stations and convenient parking lots."*

- *"PC: Allowing density by right near public transportation, public parks, schools, etc. is the best way to ensure equitable access to Portland's resources."*

- *"PC: I'm supportive of drastically increasing TOD zones to the entirety of the major arterial streets like Brighton and Forest. The current proposal does not go far enough to increase density of areas that will have better bus transit. TOD zones should be entire streets, not just individual parcels."*

- *"PC: our housing capacity is maxed out and cramming more housing in small places is going to ruin the quality of life for us and is not going to provide "affordable housing". In will also put too much stress on the school system, as well as the infrastructure – especially the sewer system. The proposed setbacks and height of buildings allowed will make this look like New York City without enough sun in our yards to grow a garden. And where will everyone park?"*

- *"PC: No outside gardens should be allowed. We all know they attract critters and rats. They should only be permitted within a structure. Enough said."*

The public feedback on the ReCode proposal reflects a range of perspectives. Many community members have advocated for changes that would better support housing development in lower-density residential zones by allowing a broader range of housing types, as well as commercial uses in all residential areas. Some have expressed that the proposal does not go far enough, suggesting that TOD (Transit-Oriented Development) zones should be extended along the entire length of major arterial streets like Brighton and Forest Avenues. Conversely, there are significant concerns from other members of the public about increased density and building heights, with fears that these changes could undermine the character of single-family neighborhoods and drive families out of Portland. Additionally, concerns about parking have been raised, with some worried that increased density may exacerbate parking issues. Others have pointed to the existing conditions of major streets and intersections, which they believe are more car-oriented and not sufficiently supportive of pedestrians and cyclists and therefore expressed opposition to TOD zoning. Throughout the ReCode process, staff has aimed to balance these perspectives within the broader framework of Portland's Plan, which serves as the guiding foundation for this work.

Figure 4: City of Portland skyline from Back Cove (Source Corey Templeton)

VI. VISION

Throughout the ReCode process, many have asked, "What is the vision for ReCode?" ReCode builds upon the city's adopted comprehensive plan, *Portland's Plan,* which sets out the community's vision as well as goals and objectives for the city's growth in the coming years – all of which was informed by robust public engagement. At a more granular level, the vision for the regulatory aspect of ReCode is framed around livability, flexibility, and sustainability. ReCode does not set specific targets for housing units or job-related floor area nor does our land use code have control over external factors such as construction costs, interest rates, private property owner decisions, and building code requirements. Instead, it is intended to ensure that our land use code deliberately guides growth and development in a sustainable manner that is in harmony with the ecosystem, creating a built environment that supports livability for current and future generations and is not a barrier to smart growth. This framework encourages more efficient land use, linking densification to high-quality development and public transit. It also provides a structure for retrofitting the urban system to preserve the natural environment, minimize sprawl, and improve our water quality, while maintaining the flexibility to adapt to evolving industries, lifestyles, and societal needs, ensuring that municipal regulations support and guide, rather than hinder our society's progress.

VII. FINAL DRAFT CHANGES TO THE LAND USE CODE

The final draft includes a number of important changes to all articles of the land use code and zoning map. A complete clean version of the land use code is included as Attachment A. A complete redline is included as Attachment B. The final draft zoning map can be found here. Key changes are outlined below in themes.

1. How does ReCode create more opportunities for housing?

Like many communities throughout the United States, Portland is facing a severe housing shortage and affordability crisis, affecting both individuals and businesses across the city and region. This housing scarcity places a tremendous burden on our community. In 2017, *Portland's Plan* outlined a vision: "all who work in Portland should have the option of living in Portland." To achieve this, the plan set a target of 2,557 new

housing units by 2027, or 256 units per year, a growth target to capture 75% of the 2017 daytime population. Between 2017 and 2023, the city exceeded this target, averaging ±332 units annually, putting Portland on track to surpass its goal by more than 1,400 units by 2027. This is a significant accomplishment worth celebrating. However, the work doesn't end there, as the housing crisis continues to evolve.

In response to the national housing crisis, exacerbated by the COVID-19 pandemic, the State of Maine launched a *Housing Production Needs Study* in 2023. The study, conducted by MaineHousing, the Governor's Office of Policy Innovation and the Future, and the Department of Economic and Community Development, concluded that Maine needs roughly 84,000 new homes by 2030 to meet current and future demands. The number of additional homes needed varies across Maine's regions. Cumberland County, which encompasses Portland and the greater Portland area, is estimated to need 7,200 to 8,600 housing units by 2030.

With the City Council's December 2023 adoption of land use code changes to address LD 2003, allowing up to four units on every mainland residential lot, Portland now has the potential for 38,500 new dwelling units in existing, primarily off-peninsula residential zones (R-1, R-2, R-3, R-4, and R-5). While this figure far exceeds the target for the entire county, it is neither feasible nor desirable or sustainable to redevelop every lot in the city to this extent. The challenge lies in ensuring that growth occurs in a strategic manner that aligns with public investment, maximizes economic and social benefits, avoids urban sprawl, and respects the quality of life and character of neighborhoods, which have attracted so many individuals and families to Portland.

ReCode is key to addressing this challenge. The proposal before the Council not only integrates the provisions of LD 2003 but also goes further by mapping over 1,200 acres of land for mixed-use development, designating 105 acres of land for transit-oriented development (TOD) zoning, and introducing more "missing middle" housing types in neighborhoods across Portland. ReCode reforms Portland's housing regulations to support a wide range of housing options in every neighborhood, focusing on removing barriers and creating opportunities for growth that would enhance the city's economic vitality while balancing environmental and community needs, positioning Portland for a future of sustainable and inclusive growth. A summary of how ReCode will support housing development is outlined below:

A. Creating new opportunities through our zone structure

- ReCode proposes to consolidate existing low-density residential zones, making the existing R-1, R-2, and R-3 one zone, the RN-1 zone, with the R-3 uses and dimensional standards, which currently can be found in neighborhoods like East Deering, as its foundation. (See Article 5.) This change has the effect of immediately creating new opportunities for smaller lot residential within some of the city's outer neighborhoods, and bringing many existing lots into conformance with minimum lot size standards, while still respecting the existing context.

	R-1/R-2/R-3	R-4	R-5	R-6	R-5a/R-6a	R-7
New	RN-1	RN-2	RN-3	RN-4	RN-5	RN-6

Figure 5: Proposed residential zone conversions

- ReCode maps Transit-Oriented Development (TOD) zones in seven key nodes and expands mixed-use zones in strategic locations throughout the city, primarily along public transit routes near nodes and corridors.

- The final draft eliminates the Residential Professional (R-P) zone and replaces it with more permissive mixed-use B-1 or B-2/B-2b zones where appropriate. Similarly, ReCode proposes rezoning underutilized, poorly located legacy industrially zoned areas to more productive mixed-use or residential zones.

B. Housing where no housing has gone before: Expanding residential uses

- The draft expands the housing types within the code from the current single-family, two-family, and multi-family designations to include new "middle-density" options (three-family, four-family, and townhouse) that currently exist within the city's housing stock but are not reflected as distinct uses within the existing code. (See Table 6-A.) These new categories add a way to define and articulate mid-density housing types, particularly in the context of residential zones. Permitted residential uses have been modified in residential zones in alignment with changes adopted by the City Council under LD 2003 in December of 2023 such that:
    - Single- to four-family uses would be permitted by right in the RN-1 to RN-4 zones (the existing R-1, R-2, R-2, R-4, R-5, and R-6).
    - Multi-family dwellings would be permitted conditionally as adaptive reuse in the RN-1 (R-1, R-2, and R-3) and RN-3 (R-5) zones, similar to the existing code, and multi-family would be permitted as of right in the RN-2 (R-4), RN-4 (R-6), RN-5 (R-5a/R-6a), and RN-6 (R-7).
- ReCode continues to allow up to two Accessory Dwelling Units (ADUs) on all lawfully conforming and nonconforming lots with legal residential uses, with changes to dimensional standards to add flexibility for ADU creation. (See Section 6.6.2.)
- ReCode newly introduces live/work dwellings in the I-L and I-Lb Low-Impact Industrial zones when combined with a commercial use that is used by one or more of the residents. (See Table 6-F.) A live/work dwelling may also include the combination of a dwelling unit with arts-related activities, such as painting, photography, sculpture, music, and film, used by one or more of the residents.
- ReCode introduces single-family, two-family, three-family, four-family, townhouse, multi-family, and live/work dwellings as permitted uses in the B-4 zone, where residential uses are currently not allowed. (Table 6-C.) This change opens up large swaths of land currently not open to residential development.
- In island residential zones, two-family is proposed as a permitted use. It should be noted that this use permission is a revision from the LD 2003 changes, which currently allows up to three dwelling units, in response to public input, which raised concerns about the capacity for growth within the island context, where utility capacity, transportation capacity, natural resource implications, and climate vulnerabilities are documented concerns. In Island Business (I-B) zones, up to four-family is proposed as permitted, with multi-family conditional as conversion of an existing structure.

C. Tailoring the sweater: Changing dimensional standards to support housing creation

- Residential zone dimensional standards have been revised to provide more flexibility. For instance, the draft reduces minimum lot size across the existing R-1, R-2, R-5, and R-6a zones, adjusts minimum lot area requirements for other dwelling types, including townhomes and multi-family dwellings where those are permitted, and simplifies setback controls, which governs the size of front, side, and rear yards for a property. In almost all residential zones, side setbacks have been reduced. (See Table 7-A. and Figure 6)

Figure 6: Comparison of Minimum Lot Areas: Existing vs Proposed Zones

Current Zones	R-1	R-2	R-3	R-4	R-5	R-6	R-5a	R-6a	R-7
Minimum Lot Area	15,000	10,000	6,500	6,000	6,000	2,000	6,000	174,240 (4-acres)	None
ReCode Proposed Zones	RN-1			RN-2	RN-3	RN-4	RN-5		RN-6
Minimum Lot Area	6,500			6,000	5,000	2,000	40,000		None

- ReCode introduces alternative residential development options, like cottage courts, that can be used within certain zones (See Section 7.4). These are intended to replace the current PRUD development typologies and would result in projects that allow denser, more concentrated development that is more integrated into the surrounding neighborhood context.
- Dimensional standards within the island zones have been modified to more closely reflect the character of Portland's islands, and to provide some key new opportunities in certain zones. (See Table 7-B.) For instance, the IR-2 zone now provides flexibility for "small island lots" on Peaks Island, establishing modified dimensional standards for areas of Peaks Island that were originally developed with smaller lots.
- In mixed-use zones, residential density standards have been entirely eliminated to encourage residential development in these areas appropriate for higher density growth near public transit (See Table 7-C and Figure 7). Under ReCode, build-to zone requirements would be applicable in all mixed-use zones, and setbacks have been adjusted to allow for greater flexibility in situations where these areas do not abut existing residential zones.

Figure 7: Comparison of Minimum Lot Area Per Dwelling Unit (Density): Existing vs Proposed Zones

Current Zones	B-1/B-1b	B-2/B-2b/B-2c	B-3/B-3b/B-3c	B-4	B-5/B-5b	B-6	B-7
Minimum Lot Area Per Dwelling Unit	On-peninsula: 435 SF Off-Peninsula: 1,000 SF	On-peninsula: 435 SF Off-Peninsula: 1,000 SF	None	N/A (residential not permitted)	None	None	None
ReCode Proposed Zones	B-1	B-2/B-2b	B-3	B-4	B-5	B-6	
Minimum Lot Area Per Dwelling Unit	None	None	None	None	None	None	Zone eliminated

- Heights have also been increased in mixed-use zones to correspond with the new flexibilities for residential development and to allow for greater opportunity of mixed-use buildings along key corridors and at central nodes, particularly in and around downtown. (See Figure 8.) To correspond with a new approach to height within downtown, the drafts also include a set of "tower standards" that apply to those buildings built as towers. (See Section 7.5.3.) Tower regulations would require taller buildings exceeding 125 feet in height to have slimmer designs, reducing the impact on shadows and preserving views, while still accommodating growth demands. Additionally, projects in mixed-use zones and TOD zones that include 75% or more low-income or workforce residential units on-site in a project may qualify for a 10-foot height bonus above the maximum base height. (See Section 17.2.2(D) and Figure 8.)

Figure 8: Comparison of Height in Mixed-Use Zones: Existing vs Proposed Zones

Current Zones	B-1/B-1b	B-2/B-2b/B-2c	B-3/B-3b/B-3c	B-4	B-5/B-5b	B-6	B-7
Maximum Height	On-peninsula: 45 ft. Off-Peninsula: 25 ft.	On-peninsula: 45 ft., except 50 ft. if first floor is in commercial use	See Downtown Height Map	65 ft.	65 ft.	65 ft. or see B-5 Height Overlay Map	See Bayside Height Overlay Map
ReCode Proposed Zones	**B-1**	**B-2/B-2b**	**B-3**	**B-4**	**B-5**	**B-6**	**B-7**
Maximum Height	55 ft.	75 ft.	See City of Portland Height Map	65 ft.	75 ft.	See City of Portland Height Map	Zone eliminated
Base Height w/ 10 ft Affordable Housing Height Bonus	65 ft.	85 ft.	City of Portland Height Map	75 ft.	85 ft.	City of Portland Height Map	Zone eliminated

- Under the current code, to encourage low-income or workforce housing units, eligible projects in areas where residential use is allowed as a conditional or permitted use on the mainland may receive a density bonus ranging from 1.1 times the base for projects that provide 10-19% of units as low-income or workforce residential units to 2.5 times the base for projects that provide 50% or more low-income or workforce residential units (See Table 17-B.). As a result of the land use code amendments adopted by the City Council as part of LD 2003, four units are allowed on all mainland lots with the ability for additional 'bonus' units in any project on the mainland where over 50% of the units are affordable (example: 4 units x 2.5 density bonus = 10 units).
- Standards for the TOD zones have been developed to encourage an intensity of development appropriate for key nodes both on and off-peninsula, with minimal setbacks and permission for heights up to 85 feet in the TOD-1, or 125 feet in the TOD-2 zone (See Table 7-D). Similar to other mixed-use zones, TOD zones would not have a minimum lot area per dwelling unit requirement, incentivizing more residential development in optimal locations with excellent access to public transit.

D. Affordable housing doesn't have to be complicated: Simplifying incentives and requirements

- The final draft consolidates all incentives for affordable housing in one section of the ordinance, updates density bonuses to align with state requirements, and modifies incentives to address concerns about height in the context of greater heights in mixed-use zones city-wide. (See Section 17.2.2.) The final drafts also clarify how incentives and requirements relate.
- ReCode also simplifies the review process for inclusionary zoning projects by eliminating the conditional use requirement currently in place, clarify interpretation in cases of phased projects, strengthen requirements for the integration of units and bedroom counts, support long-term monitoring, and clarify the applicability of affordable housing bonuses. (See Section 17.2.3.)

E. Faster sometimes is better: Streamlining the development review process

- ReCode proposes to streamline the site plan review process for small and mid-density housing projects by making one- to four-family projects administrative (rather than Planning Board)

reviews. (See Table 13-A.) This change aligns with the treatment of single- to four-family uses within Article 6 of the ReCode draft. Today's code requires any project that creates three or more new units to undergo a major site plan review, which necessitates Planning Board approval; after ReCode this would no longer be the case.

- The final draft also eliminates site plan review when changing from any non-residential use to residential use to support the conversion of offices and other non-residential buildings to become much needed homes, regardless of total number of residential units.
- Under ReCode, the code continues to consider vacant nonconforming lots held under separate ownership as buildable lots, provided all provisions of the Land Use Code except minimum lot area and minimum street frontage can be met. However, given proposed reductions in minimum lot size, which will render many more lots conforming, and based on generally held land use principles, language has been revised to prohibit the division of nonconforming lots held in common ownership unless such division will result in conformity.

Figure 9: Mixed-use examples in Portland (Source - Corey Templeton)

2. What is the ReCode Complete Neighborhoods strategy?

Portland's Plan defines complete neighborhoods as places where "all residents, regardless of age, ability, or income, have access to the basic necessities of daily life—high-quality and affordable housing, schools and other civic functions, food, open space, and other amenities and services—within a walkable, bikeable distance." ReCode's approach is grounded in the belief that complete neighborhoods can be achieved by guiding the growth of new commercial uses to leverage existing infrastructure, rather than allowing scattered commercial development, which could result in creating greater vacancy rates and quality of life issues such as parking, trash, odor, and noise. The proposed changes aim to create opportunities for neighborhood-scale businesses and services in and around residential zones by expanding mixed-use zoning in appropriate locations and adjusting use permissions.

A. Let's meet for coffee - A center for every neighborhood: Expanding mixed-use zones

ReCode proposes to map over 1,200 acres of land with more mixed-use zones, including B-1 zones where there are existing (often nonconforming) non-residential uses, or in locations that could facilitate more mixed-use buildings at corners, intersections, or along corridors. B-1 zones are proposed for expansion in the West End, Libbytown, Munjoy Hill, Parkside, Riverton, North Deering, and East Deering neighborhoods. Additionally, B-5 zoning has been extended in East Bayside and B-2b zoning expanded in Parkside, East Bayside, Munjoy Hill, and North Deering. The R-P

(Residential Professional) zone has been eliminated in the final draft, and all R-P areas have been converted to mixed-use B-1 or B-2/B-2b zones, opening up more opportunities for mixed-use development with higher residential density in appropriate off-peninsula areas. (Figure 10)

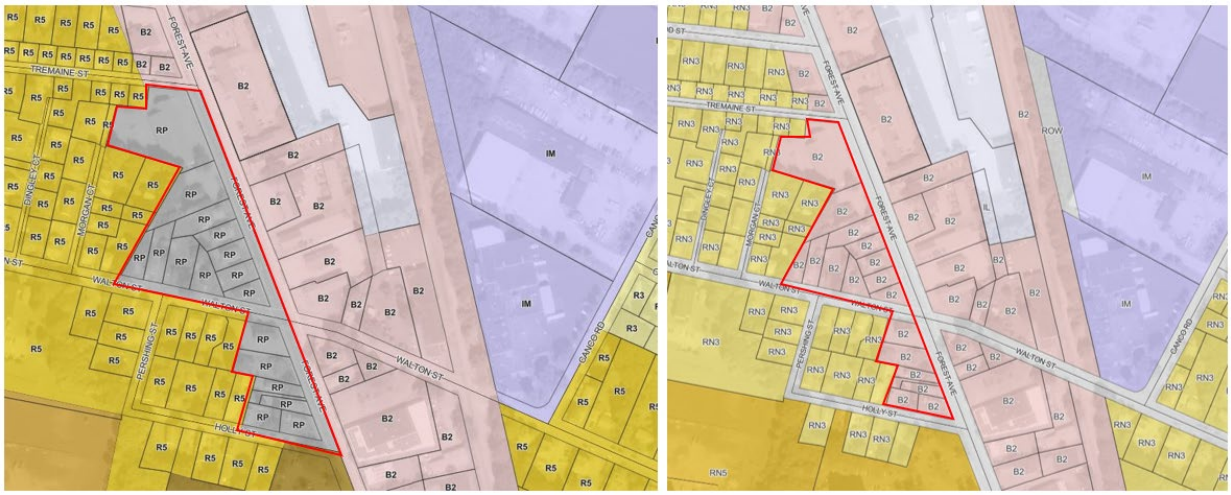

Figure 10: Existing R-P zoning (Left), Proposed ReCode Conversion to B-2 zone (Right) | Forest Avenue

B. The old neighborhood corner store: Adding new commercial uses in residential zones

ReCode introduces new uses in residential zones, including neighborhood non-residential reuse, which would be conditionally allowed across all residential areas. This use would allow for the reactivation of existing non-residential spaces, converting them into uses such as small offices, services, retail, restaurants, specialty food services, and studios for artists and craftspeople. Additionally, market gardens would be a new use permitted as a conditional use in every residential zone, supporting small-scale cultivation and production of fruits, vegetables, and flowers, along with associated farm stands. (See Section 6.4.25.)

Figure 11: Former florist shop & greenhouse on residential block, Deering Center

ReCode would also allow child care facilities in all mixed-use, TOD, residential, island, office, and light industrial zones. The use standards for childcare facilities specify regulations related to outdoor play areas, solid waste storage, and minimum lot size for child care centers. (See Section 6.4.9.) Additionally, family childcare providers are allowed to care for up to 12 children as a home occupation. Childcare facilities are only prohibited in the High Impact Industrial and Airport zones.

C. *Who says you can't work from home? Home occupations*

ReCode makes updates to home occupation regulations so they better align with today's work-from-home environment, while maintaining performance standards to minimize external impacts on neighborhoods and residents. (See Section 6.6.2(E).) Key changes include increasing the number of nonresident employees allowed from one to two and removing specific permitted use lists in favor of permitting businesses that meet the established performance standards.

3. How is ReCode supporting Transit-Oriented Development (TOD)?

As described above, creating complete neighborhoods is a cornerstone of *Portland's Plan*. This vision aligns with and complements the concept of transit-oriented development (TOD) that clusters these neighborhood features around public transit to improve accessibility between where people live, work, and recreate.

Figure 12: Allen's Corner current condition (left) | Example of mixed-use TOD style development (right)

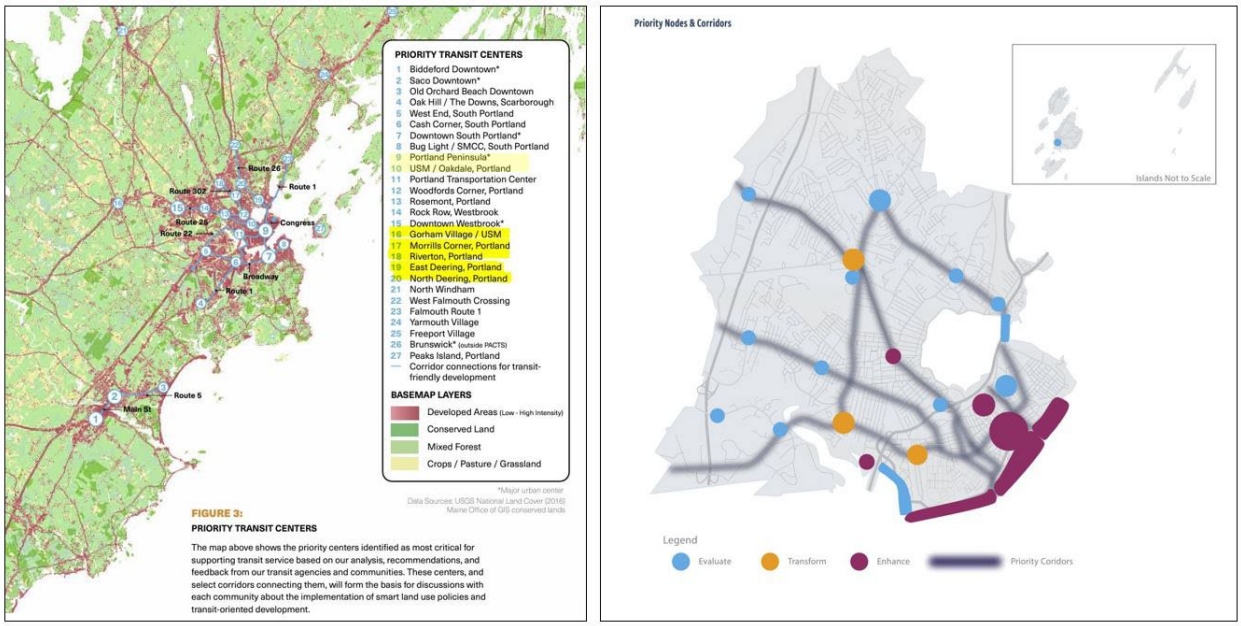

Figure 12: Identified Priority Transit Centers (Transit Tomorrow) (Left) | Portland's Plan 2030 Nodes & Corridors Map (Right)

In TOD areas, compact development creates shorter distances between locations; pedestrian-oriented streets make walking more inviting; and connections to bus routes, rail lines, bike networks, and other mobility options make it easy to access other parts of a city. These key features help to decrease the dependence on cars, and lower the demand for parking, which in turn enable more compact development patterns that can support less compact, lower-density residential neighborhoods nearby. A higher density of people, jobs, and amenities clustered together helps to supply the ridership needed for a more robust transit service. In other words, the transit networks and compact development mutually support each other in a way that uses land and resources more efficiently, reduces greenhouse gas emissions, and creates vibrant and livable neighborhoods that can become town centers for lower-density off-peninsula residential neighborhoods.

A. Supporting the future of transit: Creating the TOD zones

To support the concept of TODs, a key recommendation of *One Climate Future* and *Connect 2045*, the region's long-range transportation plan, ReCode introduces two new TOD zones with dimensional standards and use permissions designed to accommodate high-quality transit. TOD-1 encourages the development of moderate- to high-intensity, mixed-use, compact urban neighborhoods that support Portland's investment in high-frequency transit infrastructure generally suitable for targeted off-peninsula areas, with a maximum building height of 85 feet. TOD-2 promotes high-intensity, mixed-use, compact urban development, fostering vibrant, accessible, 24-hour neighborhoods in suitable on-peninsula locations with existing or potential for robust public transit.

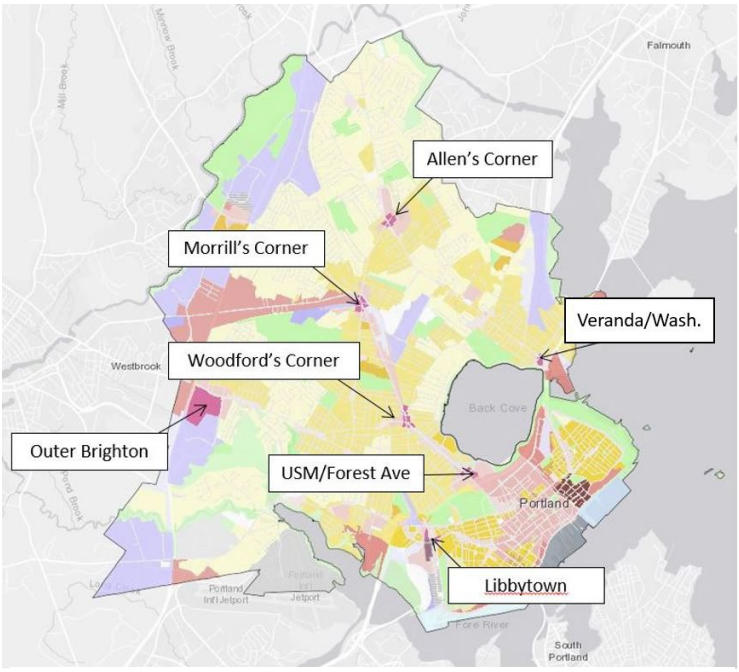

Figure 13: Areas where TOD zones are proposed to be mapped

B. Placing TOD where it matters: Mapping the TOD zones

Over the course of the public review, there have been numerous comments advocating for the expansion and mapping of more TOD zones throughout the city and for the mapping of the TOD-2 zone. Planning Board members also expressed support for expanding TOD zones in appropriate locations and provided input on areas that should be considered. There have also been several

public comments expressing concern about introducing TOD zones in off-peninsula neighborhoods.

Originally, TOD-1 zones were proposed in two areas, the Libbytown area near Union Station Plaza/Maine Medical Center and for outer Brighton Avenue near the Westbrook border. Based on additional analysis, public comment and Planning Board feedback, the final draft zoning map shows expanded TOD zoning on key parcels and nodes (105 total acres) among seven areas that could accommodate more height and density to support the growth of town centers built around key transit routes. TOD zone mapping was informed by several studies and policy documents including the future land use framework from *Portland's Plan 2030*, *One Climate Future*, *Portland-South Portland Smart Corridor Plan*, *Connect 2045*, *Transit Tomorrow*, and the *Gorham-Westbrook-Portland Rapid Transit Study*, which has identified the Brighton Avenue corridor as a future bus rapid transit alignment, as well as ongoing discussions about the future location of the Downeaster (NNEPRA) train station. Strengthening the city's transit-oriented development nodes to support travel by walking, biking, and public transportation is a direct recommendation of *One Climate Future*. (*Figure 13*)

TOD-2 and TOD-1 zones are proposed in the Union Station Plaza/Maine Med area. TOD-2 was mapped in this area alone due to its existing urban context, access to existing public transit routes, and the potential for the new Downeaster train station and bus rapid transit route to operate nearby. Furthermore, this area is near significant job generators including Maine Medical Center and Northern Light Mercy Hospital, and provides easy access to the rest of the peninsula, Portland's extensive trail networks, and dense urban neighborhoods. TOD zones are also proposed on key parcels off-peninsula that could accommodate more height and density, with TOD-1 zones proposed for portions of Washington/Veranda, Allen's Corner, Morrill's Corner, Woodford's Corner, outer Brighton Avenue, and USM/Forest Avenue.

4. How does ReCode address sustainability?

Sustainability is a foundational element throughout the entire land use code. One of the most impactful tools available to a community is concentrating density in appropriate locations. While this is a key strategy, ReCode also includes several other changes directly related to supporting our environmental goals.

A. Advancing core environmental regulation: Updating the shoreland zoning

ReCode proposes updates to our shoreland zoning, a zoning overlay that helps to protect the City's valuable water resources. (See Article 11.) Shoreland zoning is required by the State of Maine, and adds special requirements around the placement of structures in relation to the shore, the clearing of vegetation, and planting, for instance. The changes proposed in the shoreland zone are designed to maintain consistency with state rules in Chapter 1000, and include revisions to integrate resource protection and stream protection regulations into the shoreland zone, update standards for piers and docks, shoreline stabilization, clearing of vegetation, roads, and driveways, and consolidate nonconformity language. The revisions have been reviewed by the State of Maine Department of Environmental Protection.

B. A stormy future: Zoning for climate resilience

ReCode includes a number of provisions designed to integrate climate resilience within the city's land use regulations. Most notably, ReCode proposes a new overlay zone, the Coastal Flood Resilience Overlay Zone, to respond to vulnerabilities anticipated with a future of sea level rise and

increased flooding (See Section 8.1). The Coastal Flood Resilience Overlay Zone would extend beyond the reach of the City's existing floodplain regulations, and would require the elevation of certain critical uses, including residential, medial, schools, and child care, to ensure that they are located above the level of predicted future flood waters.

C. *Wait! The City actually reviews for that? Environment-related site plan standards*

A little-known fact is that the City's site plan and subdivision ordinances require review and consideration of several environmental and life safety factors. ReCode's climate-related revisions build upon the city's existing regulations by including changes to the city's site plan standards to integrate low-impact development principles, tie landscaping and hardscaping standards more directly to heat island impacts, and establish standards for cool roofs. (See Section 13.6.4(A)3.)

Additionally, Section 13.6.2(A) of the city's site plan standards requires the preservation of significant natural features and 13.6.2(C) governs water quality, stormwater management, and erosion control. Section 13.6.3(B) addresses public safety and fire prevention regulations, ensuring that new projects provide adequate emergency access. Each development must also obtain an 'ability to serve' letter from utility providers, including Central Maine Power and the Portland Water District, demonstrating there is capacity to serve the new project, as part of the approval process to ensure projects do not overburden sanitary sewers, stormdrains, etc.

Moreover, Article 15 governs impact fees, which are charged to new developments and changes of use. These fees contribute to parks & recreation, transportation, and wastewater infrastructure, helping to offset potential impacts from new projects.

Figure 14: Micucci Wholesale (left) Allagash Brewery (right)

5. ReCode and our industrial zones

With the exception of the mixed-use B-4 zone, ReCode does not suggest opening zones which have historically not allowed housing, such as the industrial zones, to residential uses. This approach is informed by both the policy of *Portland's Plan*, which supports a diverse economy including an industrial base, but also data which shows an erosion in Portland's industrial land area over the past 10 years (the loss of more than 90 acres) and strong demand for industrial space within the Portland market; according to the Dunham Group's *2024 Southern Maine Industrial Market Survey*, Portland has a remarkably low 0.6% industrial vacancy rate, while the region has a vacancy rate of 1.4% overall (*Figure 15*). The report goes on to state: "*In simple terms, the lack of industrial supply in Southern Maine is detrimental to our economy.*"

For this reason, aside from several selective map changes to transition undeveloped industrial areas located in areas less appropriate for industrial uses to more permissive zoning, ReCode generally proposes to retain industrial zoning in areas that can support and grow industrial/manufacturing and other job-generating uses. Many of these industrial areas have remained decidedly industrial. This has occurred in smaller pockets of the city not as accessible by public transit, farther from services and amenities, and closer to

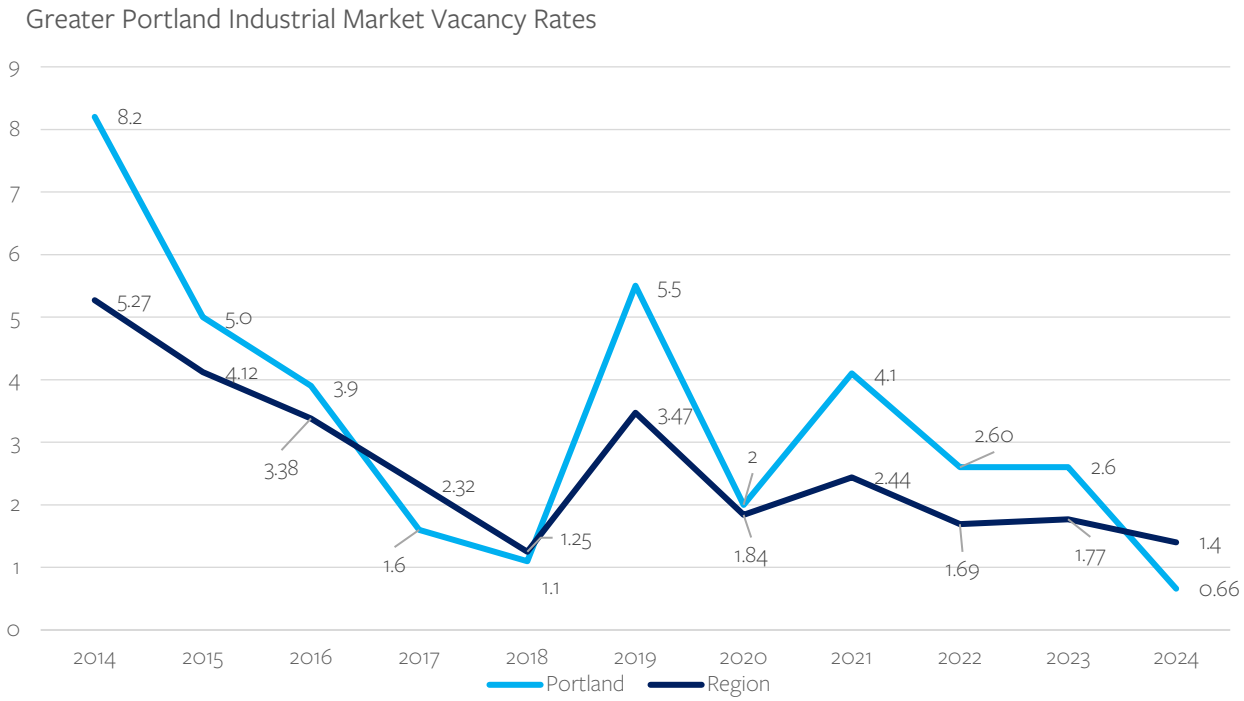

Figure 15: 2024 Southern Maine Industrial Market Survey | Dunham Group

major transportation routes, including Riverside Street, Presumpscot Street, St. James Street, and the south end of St. John Street. Retaining areas of the city for businesses in the industrial sector, particularly those that rely on intensive trucking and loading operations, is important for the city's and region's overall economy. These businesses depend on limited siting options that have relatively easy access to transportation hubs such as I-95, I-295, railroads, the waterfront, and Jetport. Furthermore, these businesses rely on sites that are farther from residential neighborhoods, where there is less competition for land from other high-value uses, such as residential, where tenants are also more sensitive to noise, odors, and other impacts of industrial activities and environmental justice concerns. Furthermore, industrial/manufacturing businesses generally require larger lots and blocks to accommodate large, flexible ground floor space for production, equipment, loading, storage, and wide column spacing as well as parking and truck maneuverability. Large lots to accommodate such uses are limited in Portland particularly on-peninsula or established developed areas off-peninsula.

As Portland continues to grow and densify there are few remaining areas of the city that can accommodate the types of businesses that help keep the city running, such as manufacturing, wholesalers, landscape/tree companies, construction supply companies, roofing, processing waste, warehousing, breweries, recycling companies, tow truck companies, last mile delivery services, food production, biotech firms, and many more. This approach is supported by *The Maine 2020-2029 Economic Development Strategy: The 2024 Reset*, which was released in March 2024. The report outlines several strategies to bolster Maine's economy, including leveraging the state's heritage industries, such as forestry, farming, and fishing to

generate global products and practices driven by new technologies, AI, and data science. It also emphasizes potential growth in high-growth sectors like aerospace, AI, bio-based alternatives, and renewable energy while capitalizing on the "Made in Maine" brand. The ReCode strategy to retain and encourage industrial growth aligns and complements state goals and Portland's vibrant, diverse economy. This includes the city's legacy working waterfront and fishing industries, as well as its institutions of higher education (Roux Institute, Maine College of Art & Design, University of Southern Maine, University of New England, Maine Law), bio-based industries, healthcare sector (MaineHealth, Northern Light Mercy), and dynamic creative arts and food sciences.

Figure 16: Richard Waltz Heating & Plumbing (left), Cozy Harbor Seafood (right)

Figure 17: Riverside Recycling Center Complex

6. What is the ReCode strategy for parking?

Off-street parking and loading requirements are established through the City's land use code. In response to policy guidance that promotes multi-modal transportation and minimizing the city's reliance on single-occupancy vehicles, the City's off-street parking and loading requirements have historically allowed significant flexibility. The changes proposed to this article through ReCode take this approach one step further. The final draft establishes new vehicle parking maximums, meaning an upper limit on the amount of off-street parking that may be constructed on a site. (See Article 18.) This change is meant to reduce construction costs, free up valuable real estate that may be used for other purposes, and help to encourage a move away from single-occupancy vehicles. In TOD zones, parking maximums are proposed to be lower

than in other zones. The draft also expands minimum bicycle parking requirements.

7. How is ReCode handling historic preservation?

Portland's Plan 2030 emphasizes the critical value of historic preservation, recognizing the significant role that the city's historic buildings, streetscapes, neighborhoods, and parks play in establishing its unique and authentic sense of place. *Portland's Plan* highlights preservation not only as a means to showcase the city's rich history but also as a key driver of economic development, sustainability, and community development. It also recognizes the importance of ensuring an appropriate balance of continuity and change as Portland grows and evolves. ReCode has focused on maintaining and clarifying the core functions of the historic preservation ordinance while making the article easier for all users to understand.

A. Back to the future: Streamlining the historic preservation ordinance

The final draft of Article 16 streamlines the purpose statement of the historic preservation ordinance to more discretely address the purpose of the article (as distinct from the purpose of the City's historic preservation program more broadly).

B. What makes it historic?: Clarifying the designation process

ReCode clarifies the types of historic designations (landmarks, historic districts, and historic landscape districts) and clarifies the basis for determining "contributing" classifications within designations. The draft also clarifies the steps for initiating a historic designation, the process for moving a historic designation through review, and the criteria for designation, as well as amendments. The final draft also removes the automatic designation for properties listed on the National Register of Historic Places.

C. Now that it's designated, what do I do?: Clarifying the review process

The draft establishes clear thresholds for administrative and Historic Preservation Board review of projects, adds exemptions for specific projects that otherwise receive City review (often with historic preservation staff consultation) and/or advance other City goals, updates procedural language to match current practice, and extends the duration of approvals to three years to provide greater flexibility for applicants. The draft also eliminates the requirement for sites outside of historic districts but within 100 feet of a historic district or landmark to undergo advisory historic preservation review.

On August 8, 2024, the Historic Preservation Board held a public hearing to vote on forwarding a recommendation to the Planning Board regarding final draft edits to the historic preservation ordinance, and related edits to Administration (Article 2) and Definitions (Article 3). This recommendation followed two workshops during which public comments were taken, as well as a review by the Maine Historic Preservation Commission (MHPC). The Historic Preservation Board recommendation letter can be found in Attachment I.

During the course of their review, Historic Preservation Board members were generally supportive of the proposed changes and strongly encouraged staff to ensure that Certified Local Government (CLG) status be maintained. Among various topics of discussion, some members expressed a desire to limit the Board's role in reviewing building massing and height, suggesting that those reviews be handled outside of the Historic Preservation Board. Other Board members expressed opposition to this suggestion and felt that it was a critical component of their review criteria. Additionally, some members suggested giving the Board authority to waive dimensional requirements or to direct applicants to the Zoning Board of Appeals (ZBA) for projects that might benefit from dimensional relief.

While staff appreciated the suggestion, they noted that individual Board members could attend ZBA meetings to share their perspectives on an individual project. Granting the Historic Preservation Board authority to direct applicants to the ZBA would add time and regulatory burden to the development review process. Additionally, staff felt it would be inappropriate to grant this authority, as the Board's scope is limited to projects within historic districts or designated landmarks. If waivers or dimensional relief are needed, the Planning Board or ZBA, with their broader citywide oversight, would be better suited to review such requests. Moreover, the adjusted dimensional standards proposed in ReCode, such as reduced lot sizes, setback requirements, and increased heights—are designed to minimize the need for dimensional relief. If specific issues arise and the Department observes multiple projects encountering similar challenges, there will be opportunities to analyze these projects and revisit the standards in the future.

VIII. NEXT STEPS

The Planning Board is scheduled to hold a public hearing on Tuesday, October 8, during which they will vote and make a recommendation to the City Council. The City Council's first reading will take place on October 21, followed by a second workshop on October 28, 2024. The City Council's public hearing is scheduled and has been noticed for November 4, 2024.

IX. ATTACHMENTS

A. Final Draft City of Portland Land Use Code
B. Final Draft City of Portland Land Use Code – Redline
C. Final Draft Zoning Map – Link Here
D. Summary of changes by Article
E. ReCode first wave public comments + city responses
F. ReCode second wave public comments + city responses
G. ReCode studio summary
H. ReCode General Public Comment
I. Historic Preservation Board Recommendation Letter
J. Portland Housing Supply Bootcamp 3.14.23
K. ReCode Island Zoning Questionnaire Findings
L. ReCode open house summary
M. ReCode Myth vs Fact Sheet

X. LINKS TO ADDITIONAL PUBLIC ENGAGEMENT RESOURCES

i. Code Evaluation Public Forum Summary
ii. Code Evaluation Survey Findings
iii. Code Evaluation Online Comment Summary

1 INTRODUCTORY PROVISIONS

1.1 TITLE

The title of this chapter of the City of Portland Code of Ordinances is the City of Portland Land Use Code and is referred to as the City of Portland Land Use Code or the Land Use Code.

1.2 ZONING MAP

The City of Portland zoning map is incorporated by reference.

1.3 PURPOSE

The intent of the Land Use Code is to protect the health, safety, and general welfare of the residents of Portland, consistent with the City's Comprehensive Plan, through standards that govern the orderly and compatible use of land, the form and mass of buildings, and the relationship of development to the public realm, Portland's open spaces, and the environment.

1.4 APPLICABILITY

This Land Use Code applies to all land, uses, and structures within the corporate limits of the City of Portland. No building or structure shall be erected, structurally altered, enlarged, repaired, moved, rebuilt, or used, and no land shall be sold, leased, conveyed, used, developed, or altered except in conformity with the provisions of this Land Use Code.

1.5 ENFORCEMENT

1.5.1 Enforcement

The Building Authority and/or a City of Portland Code Enforcement Officer is authorized to institute or cause to be instituted by the Corporation Counsel in the name of the City any and all actions, legal or equitable, that may be appropriate or necessary for the enforcement of the Land Use Code.

1.5.2 Violations

Any person being the owner or occupant of, having control of, or having the use of any building or premises or part thereof, who violates any of the provisions of this Land Use Code, shall be guilty of an offense and subject to the penalties and remedies provided in Chapter 1, Section 1-15 of the City of Portland Code of Ordinances and 30-A M.R.S. § 4452.

1.6 RELATIONSHIP WITH OTHER LAWS

1.6.1 Federal and state law

Where conditions, standards, or requirements imposed by any provision of this Land Use Code are found to be inconsistent with a provision listed in the law or regulations of the State of Maine or federal government, the more restrictive provision shall control.

1.6.2 City of Portland Land Use Code

If any provision of this Land Use Code contains an actual, implied, or apparent conflict with another provision of this code, the more restrictive provision shall control.

1.6.3 Fair Housing accommodation

The City of Portland may make reasonable modifications to the requirements of the Land Use Code to accommodate the needs of persons with disabilities as so defined in Title VII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988.

1.6.4 Comprehensive Plan

The City's adopted Comprehensive Plan serves as the basic policy guide for this Land Use Code. Amendments to this Land Use Code shall be generally consistent with the current adopted Comprehensive Plan.

1.6.5 Current versions and citations

All references to other regulations or manuals in this Land Use Code refer to the most current version and citation for those regulations or manuals, unless expressly indicated otherwise. When the referenced regulations or documents have been repealed and not replaced by other regulations or manuals, Land Use Code requirements for compliance are no longer in effect.

1.6.6 Private agreement

This Land Use Code does not nullify any private agreement or covenant. However, where this code is more restrictive than a private agreement or covenant, this code controls. The City does not enforce private agreements.

1.7 DELEGATION OF AUTHORITY

Whenever a provision requires the head of a department to perform an act or duty, that provision will be interpreted as authorizing the department head or officer to delegate that responsibility to others over whom they have authority.

1.8 RULES OF INTERPRETATION

1.8.1 Meaning of words and terms

All words and terms shall have the meanings shown in Article 3, unless otherwise expressly stated. For words or terms not specifically defined in this Land Use Code, they are interpreted by their common dictionary meaning or customary usage consistent with their context.

1.8.2 Graphics and illustrations

Graphics and illustrations are included to illustrate the intent of the text. In the case of a conflict between the text and any graphic or illustration, the text shall control.

1.8.3 Lists and examples

Unless otherwise expressly indicated, lists of items or examples that use "including," "such as", or similar terms are intended to provide examples only, and shall not be construed as being limited to the items or examples listed.

1.8.4 Time

When a number of days is specified as a period from a certain day within which or after or before which an act is authorized or required to be completed, time is computed as the number of calendar days excluding the calendar day when the act is authorized or required to be completed. Business days shall be interpreted as days on which the City of Portland is open for business.

1.8.5 Obligatory terms and conjunctions

The terms in the text of the Land Use Code shall be interpreted in accordance with the following rules of construction:

A. The terms "must", "shall", and "will" are mandatory terms that express a requirement or impose an obligation.

B. The terms "must not", "shall not", "will not", and "may not" express a prohibition.

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C. The term "should" expresses a recommendation or suggestion and does not express a requirement or imposition.

D. The term "may" is permissive and does not express a requirement or imposition.

E. The conjunction "and" indicates that all connected words or provisions apply.

F. The conjunction "or" indicates that the connected words or provisions may apply singly or in any combination.

G. The conjunction "either [...] or" indicates that the connected words or provisions apply singly, but not in combination.

1.8.6 Gender

Words denoting one gender apply to all genders.

1.8.7 Abbreviations

Building Authority. Either the Department of Permitting and Inspections, its director, or their designee.

Council. The Portland City Council.

Planning Authority. Either the Department of Planning and Urban Development, its director, or their designee.

Public Works Authority. Either the Department of Public Works, its director, or their designee.

1.9 SUCCESSIVE APPLICATIONS

Whenever any application, appeal, or other request filed pursuant to this Land Use Code has been finally denied on its merits, a second application, appeal or other request seeking essentially the same relief, whether or not in the same form or on the same theory, shall not be brought within one year of such denial unless, in the opinion of the authority or board before which it is brought, there has been a substantial change in circumstance or substantial new evidence is available.

1.10 AMENDMENTS

1.10.1 Authority

The City Council may amend this Land Use Code and the zoning map incorporated herein.

1.10.2 Procedure

A. An application for a text or zoning map amendment shall be filed with the Planning Authority. A payment of a nonrefundable application fee, as established by the City Council to cover administrative costs and costs of a hearing, shall accompany each application. The fee for text or zoning map amendment applications may be waived or reduced by the Planning Authority in the case of an application submitted by a governmental body or where an applicant can establish financial hardship. If a text or zoning map amendment application is withdrawn by an applicant prior to the submission of the advertisement copy to the newspaper to announce the public hearing, a refund of half of the amount of the application fee will be made to the applicant by the City provided that all costs incurred by the City have been paid in full by the applicant.

B. Once it is determined that the application is complete, the Planning Authority shall give a dated receipt to the applicant and, in the case of a map amendment, shall notify, by mail, all property owners within the limits of the proposed zoning map amendment and all property owners 500 feet beyond said area. The notice hereunder shall include a brief

description of the application, the address or location of the property involved, and contact information where additional information may be obtained. The cost of noticing shall be charged to the applicant.

C. A private applicant for a map amendment that would permit a development subject to major site plan review shall conduct neighborhood outreach according to the provisions for neighborhood meetings under Article 13.

D. The Planning Authority shall review the application against the standards of this article and make a recommendation to the Planning Board.

E. The Planning Board shall hold a public hearing in accordance with the provisions of Article 2 and make a recommendation to adopt, adopt with modifications, or not adopt the proposed map or text amendment, and forward the recommendation to the City Council.

F. In addition to any noticing required under Article 2, a notice of public meeting sign shall be posted by any private applicant for a map amendment on the property where the amendment is proposed at least ten days prior to the Planning Board hearing date. The dimensions, construction, and content of the sign shall be in accordance with standards established by the Planning Authority. The sign shall be removed from the site no more than three days following the date of the hearing.

G. The City Council shall review the proposed amendment and determine whether and how to amend the Land Use Code or zoning map.

H. Notice of the City Council public hearing shall be publicly posted in the City Clerk's office at least 13 days before the public hearing. In addition, notice of said public hearing must be published at least two times in a newspaper of general circulation in the City of Portland. The date of the first publication must be at least 12 days prior to any public hearing and the date of the second publication must be at least seven days prior to the public hearing.

I. For map amendments, notice of the City Council public hearing shall be sent by regular United States mail to at least 13 calendar days in advance of the hearing date to all property owners within the area proposed for rezoning and all property owners 500 feet beyond said area.

1.10.3 Review fees

The applicant shall pay a fee to cover the professional and administrative costs for review and analysis associated with the amendment, including but not limited to planning, legal, engineering, or other services. The fee shall be based on the hours of review and processing time and the prevailing hourly rate for reimbursement of City costs. The City shall periodically invoice the applicant for such costs incurred by the City, which invoice shall be paid promptly by the applicant.

1.10.4 Review standards

Except as otherwise required by law, amendments to the City's Land Use Code shall be pursuant to and consistent with the Comprehensive Plan.

1.11 TRANSITION RULES

A permitted use established prior to the effective date of the Land Use Code that is now classified as a conditional use shall be deemed a lawful conditional use. Any subsequent addition, enlargement, or expansion of that use shall conform to the procedural and substantive requirements for

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conditional uses in Article 6. A permitted or conditional use established prior to the effective date of this Code that is now classified as a prohibited use shall be deemed a nonconforming use and is controlled by the provisions of Article 4.

2 ADMINISTRATION

2.1 PLANNING BOARD

2.1.1 Composition

There shall be a Planning Board of seven members. Members of the Planning Board shall be residents of the city and shall not be officers or employees of the City. Members shall serve without compensation.

2.1.2 Appointments

A. Terms. The members of the Planning Board shall be appointed by the City Council for terms of three years. Such members shall serve until their successors are duly appointed and qualified. Such terms shall be staggered so that the terms of not more than three members shall expire in any calendar year, providing, however, such service shall not extend to over 120 days after expiration of their term. Members may serve for three consecutive three-year terms.

B. Vacancies. Permanent vacancies on the Planning Board shall be filled by the City Council, in the same manner as other appointments hereunder, for the unexpired term of the former member.

2.1.3 Removal of members

Any member of the Planning Board may be removed for cause by the City Council at any time, provided, however, that before any such removal, such member shall be given an opportunity to be heard in their own defense at a public hearing.

2.1.4 Officers

A. Chair. The members of the Planning Board shall annually elect one of their number as chair to preside at all meetings and hearings and to fulfill the customary functions of that office. The chair may administer oaths.

B. Vice chair. The members of the Planning Board shall annually elect one of their number as vice chair. In the absence of the chair, the vice chair shall act as chair and shall have all the powers of the chair. The vice chair shall have such other powers and duties as may be provided by the rules of the Planning Board.

C. Pro tempore officers. In the absence of both the chair and the vice chair, the board shall elect a chair pro tempore from among its number and the chair pro tempore shall have all the powers of the chair during the chair's and the vice chair's absence. In the absence of the vice chair, or when the vice chair is serving as chair, the board shall elect a vice chair pro tempore from among its number and the vice chair pro tempore shall have all the powers of the vice chair during the vice chair's absence or service as chair.

2.1.5 Committees

The chair of the Planning Board shall assign the members of the board to such regular and special committees as may be established by the board. Such committees shall have no final authority but shall assist the board in the conduct of its business by making recommendations to it concerning such specific items as may be assigned to them for study and report. The board shall adopt such rules as it shall deem appropriate to govern the organization and operation of its committees. Committee

meetings deliberative in nature shall be open to the public in accordance with Title 1 M.R.S. § 401 et seq.

2.1.6 Quorum and necessary vote

As to any matter requiring a hearing, no business shall be transacted by the Planning Board without a quorum, consisting of four members, being present. The vote of a majority of the members present shall be necessary to authorize any action by the board. If less than a quorum is present, the hearing may be adjourned for a period not exceeding three weeks at any one time. The Planning Authority shall notify in writing all members of the date of the adjourned hearing and shall notify such other interested parties as may be directed in the vote of adjournment.

2.1.7 Conflicts

No member of the Planning Board shall participate in the hearing or disposition of any matter in which they have an interest. Any question of whether a member has a conflict of interest sufficient for a member to be recused shall be decided by a majority vote of the members present, except the member whose possible conflict is being examined. Where such vote results in a tie, the subject member shall be recused from the matter.

2.1.8 Meetings and procedures

A. Meetings. Regular meetings of the Planning Board shall be held at the call of the chair or as provided by rule of the board. Special meetings may be called by the chair or any four members of the Board or at the request of the City Council.

1. *Workshops.* Workshops of the Planning Board or any of its committees may be held at the call of the board or committee chair, as the case may be, for the presentation of information by the Director of the Department of Planning & Urban Development, their staff, an applicant, or others. These meetings will be open for public comment according to the rules of the Planning Board. Such meetings, unless open to the public as provided in Title 1 M.R.S. § 401 et seq. shall be informational only and shall not result in final decisions on any matter.
2. *Public hearings.* Public hearings shall be held as required by the various statutes, codes, and ordinances pursuant to which matters are brought before the Planning Board and shall be conducted in accordance with relevant state law, the Land Use Code, and the rules of the board.

B. Notice. The Planning Authority shall give notice of the time and place of public workshops and hearings, including a brief description of the application(s) to be considered, as follows:

1. *Site plan and subdivision.* Notice shall be sent by regular United States mail at least 13 calendar days in advance of the workshop or hearing date to the applicant, the owner(s) of the subject property, and all owners of property located within 500 feet of the subject property. Notice shall also be given to the general public by publication in a newspaper of general circulation in the City of Portland at least two times, the date of the first publication to be at least 12 calendar days prior to the public hearing.
2. *Land Use Code or zoning map amendment.* For map amendments, notice shall be sent

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by regular United States mail to at least 13 calendar days in advance of any workshop or hearing date to all property owners within the area proposed for rezoning and all property owners 500 feet beyond said area. Notice of public hearing shall also be publicly posted in the City Clerk's office at least 13 days before the public hearing on such application. In addition, notice of said public hearing must be published at least two times in a newspaper of general circulation in the City of Portland. The date of the first publication must be at least 12 days prior to the public hearing and the date of the second publication must be at least seven days prior to the public hearing.

3. *Contract or conditional zoning*. Notice of public hearing shall be posted in the City Clerk's office at least 13 days prior to the public hearing and shall be published in a newspaper of general circulation within the city at least two times, the date of the first publication to be at least 12 days prior to the hearing. Notice shall also be sent to the owners of all property abutting the property to be rezoned at their last known address. This notice shall contain a copy of the proposed conditions and restrictions, with a map indicating the property to be rezoned.

The cost of noticing shall be charged to the applicant. Failure of any property owner to receive a notice of public hearing shall not necessitate another hearing and shall not invalidate any action of the board.

C. **Procedures.** The Planning Board shall adopt its own rules for the conduct of its business not inconsistent with the statutes of the state and this article. Such rules shall be filed with the Planning Authority and with the City Clerk. Any and all rule changes shall be placed on a City Council public agenda as a communication requiring a public hearing. Any rule may be vetoed, in whole or in part, by order of the Council within 45 days of the date of filing with the City Clerk. No rules change shall take effect until that time period has elapsed. If a part of a rule is vetoed, the remainder shall continue in effect. Any rule so adopted, which is not required by the statutes of the state or by this article, may be waived by the chair upon good cause being shown. Except as otherwise provided in Subsection 2.1.8(A)(1), all meetings, hearings, and deliberations of the Planning Board and its committees shall be open to the public in accordance with Title 1 M.R.S. § 401 et seq. Testimony at any hearing may be required by the Planning Board to be given under oath.

D. **Keeping of records.** The Director of the Department of Planning & Urban Development shall designate a member of their staff who shall attend all Planning Board proceedings. The staff shall provide for the keeping of minutes of the proceedings of the Board, showing the vote of each member on every question, or their absence or failure to vote, and shall maintain the permanent records and decisions of all Board meetings, hearings, and proceedings and all correspondence of the Board, as required by statute. Such records shall be public records open to inspection during working hours upon reasonable notice.

2.1.9 Record and decisions

A. Record. The minutes of the staff, and the audio or video recording or transcript if one is made, and all exhibits, papers, applications, and requests filed in any proceeding before the Planning Board and the decision of the Board shall constitute the record.

B. Decision. Every final decision of the Planning Board and every recommendation of the Planning Board to the City Council shall include written findings of fact, and shall specify the reason or reasons for such decision or recommendation. The Planning Authority shall provide notice of any decision of the Planning Board to the applicant.

2.1.10 Jurisdiction and authority

In addition to the jurisdiction conferred on it by other provisions of state law and the ordinances of the City and in accordance therewith, the Planning Board shall have the following jurisdiction and authority:

A. To prepare and recommend a Comprehensive Plan to the City Council.

B. To prepare and recommend to the City Council changes in and amendments to the Comprehensive Plan.

C. To aid and assist the City Council and departments and agencies of the City in implementing general plans and in planning, developing, and completing specific projects.

D. To hear, review, and approve, conditionally approve, or deny major site plans.

E. To hear, review, and approve, conditionally approve, or deny applications for subdivision approval.

F. To hear, review, and approve or deny applications for conditional uses as specified in Article 6.

G. To hear, review, and offer its recommendations to the City Council on applications for amendments to, or revisions of, this Land Use Code.

H. To review and offer its recommendations to the City Council on certain public projects.

I. To review and approve, conditionally approve, or disapprove site plans for regulated projects in shoreland areas.

J. To prepare and offer its recommendations to the City Council with regard to the City's annual Capital Improvement Program.

K. Upon reasonable request, to make its special knowledge and expertise available to any official, department, board, or agency of the city, county, state, or federal governments to aid them in the performance of their respective duties relating to the planning and development of the city and its region, including request from the City Council to review proposed developments in which the developer does not have the right, title, or interest in all the property necessary for the proposed development because some or all of that property is owned by the City.

L. To make such investigations, maps and reports, and recommendations in connection therewith, relating to the planning and development of the city as seem desirable.

M. To employ or contract with such experts and other assistants as may be necessary or convenient to carry out its duties hereunder and to pay for their services and for such other expenses as may be necessary and proper, provided, however, that such expenditures shall

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not exceed such funds as may be appropriated for such purposes by the City Council.

N. To hear, review, and offer its recommendations to the City Council on petitions for street vacations and discontinuances.

O. To hear, review, and decide appeals where it is alleged there is an error in any decision, requirement, or determination made by the Planning Authority.

P. To approve, following a public hearing and at the recommendation of the Public Works Authority and the Planning Authority, *Technical Manual* and *Design Manual* standards, provided that such standards shall be additional to and consistent with the provisions of this Land Use Code, necessary and reasonable, and in accordance with sound engineering and urban design practice.

2.1.11 Administrative appeals

A. Application procedures. An appeal may be taken to the Planning Board by any person affected by a final decision of the Planning Authority except as provided elsewhere in this Land Use Code. Such appeal shall be taken within 30 days of the action complained of by filing with the Planning Authority an application for appeal specifying the grounds thereof. The application shall be in such form as specified by the Planning Authority. A payment of a nonrefundable filing fee, as established by the City Council to cover administrative costs and costs of hearing, shall accompany each application. The Planning Authority shall forthwith transmit to the Planning Board all of the papers constituting the record upon which the action appealed from was taken.

B. Public hearing. A public hearing shall be set, advertised and conducted by the Planning Board in accordance with the provisions of this article.

C. Action. Within 30 days following the close of the public hearing, the Planning Board shall render a decision on the appeal in the manner and form specified in the provisions of this article and the statutes of the state. The failure of the board to act within 30 days shall be deemed a denial of the appeal unless mutually extended in writing by the appellant and the board. Within five days of such decision or failure to act notice thereof shall be mailed to each party.

D. Conditions and limitations. Any right granted by the reviewing board on appeal shall be subject to the same conditions and limitations as if secured without the necessity of an appeal.

2.1.12 Planning Board appeals

An appeal from any final decision of the Planning Board as to any matter over which it has final authority may be taken by any party or by any authorized officer or agent of the City to the superior court in accordance with Rule 80B of the Maine Rules of Civil Procedure. No appeal shall lie concerning any matter as to which the power of the Board is limited to the making of a recommendation.

2.2 HISTORIC PRESERVATION BOARD

2.2.1 Composition

The Historic Preservation Board shall consist of seven voting members who shall serve without compensation. Members shall not be officers or employees of the City. Members shall have demonstrated interest, knowledge, or training in historic preservation or closely related fields, and shall be residents of the city.

2.2.2 Appointments

A. Terms. The members of the Historic Preservation Board shall be appointed by the City Council for terms of three years. Such members shall serve until their successors are duly appointed and qualified. Such terms shall be staggered so that the terms of not more than three members expire in any calendar year, providing, however, such service shall not extend to over 120 days after expiration of their term. Members may serve for three consecutive three-year terms.

B. Vacancies. Permanent vacancies on the Historic Preservation Board shall be filled by the City council, in the same manner as other appointments hereunder, for the unexpired term of the former member.

2.2.3 Removal of members

Any member of the Historic Preservation Board may be removed for cause by the City Council at any time, provided, however, that before such removal, such member shall be given an opportunity to be heard in their own defense at a public hearing.

2.2.4 Officers

A. Election and terms. Officers of the Historic Preservation Board shall consist of a chair and vice chair. Officers shall be elected by the Historic Preservation Board and shall serve a term of one year and shall be eligible for re-election.

B. Chair. The chair shall preside at all meetings and hearings and fulfill the customary functions of that office.

C. Vice chair. In the absence of the chair, the vice chair shall act as chair and shall have all the powers of the chair. The vice chair shall have such other powers and duties as may be provided by the rules of the Historic Preservation Board.

D. Pro tempore officers. In the absence of both the chair and the vice chair, the board shall elect a chair pro tempore from among its number and the chair pro tempore shall have all the powers of the chair during the chair's and the vice chair's absence. In the absence of the vice chair, or when the vice chair is serving as chair, the board shall elect a vice chair pro tempore from among its number and the vice chair pro tempore shall have all the powers of the vice chair during the vice chair's absence or service as chair.

2.2.5 Quorum and necessary vote

As to any matter requiring a hearing, no business shall be transacted by the Historic Preservation Board without a quorum, consisting of four members, being present. The vote of a majority of the members present shall be necessary to authorize any action by the board. If less than a quorum is present, the hearing may be adjourned for a period not exceeding three weeks at any one time. The Planning Authority shall notify in writing all members of the date of the adjourned hearing and shall notify such other interested parties as may be directed in the vote of the adjournment.

2.2.6 Conflicts

No member of the Historic Preservation Board shall participate in the hearing or disposition of any matter in which they have an interest. Any question of whether a member has a conflict of interest sufficient for a member to be recused shall be decided by a majority vote of the members present, except the member whose possible conflict is being

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examined. Where such vote results in a tie, the subject member shall be recused from the matter.

2.2.7 Meetings and procedures

A. Meetings. Regular meetings of the Historic Preservation Board shall be held no less frequently than monthly. Special meetings may be called by the chair, any four members of the board, or at the request of the Planning Board or City Council.

1. *Workshops.* Workshops of the Historic Preservation Board or any of its committees may be held at the call of the board or committee chair, as the case may be, for the presentation of information by the Planning Authority, an applicant, or others. These meetings will be open for public comment according to the rules of the Historic Preservation Board. Such meetings, unless open to the public as provided in Title 1 M.R.S. § 401 et seq., shall be informational only and shall not result in final decisions on any matter.
2. *Public hearings*. Public hearings shall be held as required by the various statutes, codes, and ordinances pursuant to which matters are brought before the Historic Preservation Board and shall be conducted in accordance with relevant state law, the Land Use Code, and the rules of the board.

B. Notice. The Planning Authority shall give notice of the time and place of Historic Preservation Board workshops and public hearings, including a brief description of the application(s) to be considered, as follows:

1. *Historic designation nomination.* Notice shall be given to the general public by publication in a newspaper of general circulation in the City of Portland at least two times, the date of the first publication to be at least 12 calendar days prior to the workshop or hearing. Notice shall be sent by regular United States mail to the nominators and to the owner(s) of the subject property or properties at least 13 calendar days in advance of any workshop or hearing date.
2. *National Register of Historic Places nominations*. Notice shall be given to the general public by publication in a newspaper of general circulation in the City of Portland at least two times, the date of the first publication to be at least 12 calendar days prior to any workshop or hearing.
3. *Historic preservation review.* Notice shall be given to all property owners within 100 feet of the property at least 13 days prior to the date of the workshop or public hearing.
4. *Major site plan review.* For an application that is classified as a major site plan under Article 13, notice shall be given to all property owners within 500 feet of the property at least 13 days prior to the date of the workshop or hearing.
5. *Appeals*. Notice shall be given to all property owners within 100 feet of the property at least 13 days prior to the date of the workshop or public hearing. Where the appealed application is classified as a major site plan under Article 13, the notice shall be given to all property owners within 500 feet of the property.
6. The cost of noticing shall be charged to the applicant except in the following cases:

a. The cost of noticing National Register of Historic Places nominations shall be charged to the City.

b. The cost of noticing appeals shall be charged to the appellant.

7. Failure of any property owner to receive a notice of public hearing shall not necessitate another hearing and shall not invalidate any action of the board.

C. Procedures. The Historic Preservation Board may adopt procedural rules for the conduct of its business not inconsistent with the statutes of the state and this article. Any rule may be vetoed, in whole or in part, by order of the Council within 45 days of the date of filing with the City Clerk. No rules change shall take effect until that time period has elapsed. If a part of a rule is vetoed, the remainder shall continue in effect. Any rule so adopted, which is not required by the statutes of the state or by this article, may be waived by the chair upon good cause being shown. Except as otherwise provided in Subsection 2.2.7, all meetings, hearings, and deliberations of the Historic Preservation Board and its committees shall be open to the public in accordance with Title 1 M.R.S. § 401 et seq. Testimony at any hearing may be required by the Historic Preservation Board to be given under oath.

2.2.8 Record and decisions

A. Record. The minutes of the staff, and the audio or video recording or transcript if one is made, and all exhibits, papers, applications, and requests filed in any proceeding before the Historic Preservation Board and the decision of the Board shall constitute the record.

B. Decision. Every final decision of the Historic Preservation Board and every recommendation of the Historic Preservation Board to the Planning Board or City Council shall include written findings of fact, and shall specify the reason or reasons for such decision or recommendation. The Planning Authority shall provide notice of any decision of the Historic Preservation Board to the applicant.

2.2.9 Jurisdiction and authority

The Historic Preservation Board shall have the following jurisdiction and authority:

A. To conduct or administer an ongoing survey to identify historically, culturally, architecturally, and archaeologically significant buildings, structures, objects, sites, and areas.

B. To review buildings, structures, objects, sites, and areas nominated for local historic designation, and to make recommendations to the Planning Board and City Council for their designation as landmarks, historic districts, and historic landscape districts as applicable.

C. To participate in the Certified Local Government Program of the National Historic Preservation Act Amendments of 1980 and the Maine Historic Preservation Commission, and carry out any responsibilities delegated to it under that program, including review and comment on any National Register of Historic Places nominations submitted to the Historic Preservation Board.

D. To hold workshops and public hearings to advise and assist owners of historically designated properties on historic preservation and rehabilitation, and to review applications for historic preservation review affecting

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historically designated properties and to approve or deny such applications.

E. To provide testimony to the Board of Appeals in connection with any application for a certificate of economic hardship.

F. To develop guidelines for work affecting historic designations and to aid in the interpretation of the standards for review.

G. To assist the Planning Board and City Council in the development of a historic preservation component in the Comprehensive Plan of the City of Portland.

H. To make recommendations to the Planning Board concerning any amendments to the Land Use Code appropriate for the protection and continued use of historically-designated properties.

I. As requested, to provide comment, recommendations, or testimony to the Planning Board or City Council on matters pertaining to historic preservation in Portland.

J. To inform and educate the citizens of Portland as to the cultural, historic, architectural, and archeological heritage of the city by publishing maps, newsletters, brochures, and pamphlets and by sponsoring programs and seminars.

2.2.10 Administrative appeals

A. Application procedures. An appeal may be taken to the Historic Preservation Board by any person affected by a decision of the Planning Authority relative to Article 16. Such appeal shall be taken within 30 days of the action complained of by filing with the Planning Authority an application for appeal specifying the grounds thereof. The application shall be in such form as specified by the Planning Authority. A payment of a nonrefundable filing fee, as established by the City Council to cover administrative costs and costs of hearing, shall accompany the application. The Planning Authority shall forthwith transmit to the Historic Preservation Board all of the papers constituting the record upon which the action appealed from was taken.

B. Standard of review. The standard of review for appeals pursuant to this section shall be de novo. The appellant shall bear the burden of proof.

C. Public hearing. A public hearing shall be set, advertised, and conducted by the Historic Preservation Board in accordance with the provisions of this article.

D. Action. Within 30 days following the close of the public hearing, the Historic Preservation Board shall render a decision on the appeal in the manner and form specified in the provisions of this article and the statutes of the state. The failure of the board to act within 30 days shall be deemed a denial of the appeal unless mutually extended in writing by the appellant and the Board. Within five days of such decision or failure to act notice thereof shall be mailed to each party.

E. Conditions and limitations. Any right granted by the board on appeal shall be subject to the same conditions and limitations as if secured without the necessity of an appeal.

2.2.11 Historic Preservation Board appeal

A. Historic Preservation Board decision. An appeal from any final decision of the Historic Preservation Board as to any matter over which it has final authority may be taken by any party or by any authorized officer or agent of the City

to the Planning Board, adhering to the requirements of Subsection 2.1.11 of this article.

B. Standard of review. The Planning Board shall deny the appeal unless it finds that the action of the Historic Preservation board was arbitrary or capricious or was not based on substantial evidence. Review by the Planning Board under this subsection is intended to be appellate in nature. Except where the Planning Board determines that injustice would result, the Planning Board shall determine the appeal without considering any facts or arguments which were not presented to the Historic Preservation Board. Where the Planning Board finds it necessary to consider such new evidence in order to do substantial justice, it shall remand the matter to the Historic Preservation Board for further consideration, unless it determines that the resulting delay is likely to result in undue hardship to the applicant.

C. Planning Board decision. The Planning Board's decision on an appeal from a decision of the Historic Preservation Board shall be final with respect to the application or matter initially presented to the Historic Preservation Board. An appeal from any final decision of the Planning Board as to any matter over which it has final authority may be taken by any party or by any authorized officer or agent of the city to the superior court in accordance with Rule 80B of the Maine Rules of Civil Procedure. No appeal shall lie concerning any matter as to which the power of the board is limited to the making of a recommendation.

2.3 ZONING BOARD OF APPEALS

2.3.1 Composition

There shall be a Board of Appeals of seven members. Members of the Board shall be residents of the city and shall not be officers or employees of the City or any of its agencies or departments. Members shall serve without compensation.

2.3.2 Appointments

A. Terms. The members of the Board of Appeals shall be appointed by the City Council for terms of three years. Terms shall be staggered so that the terms of no more than three members shall expire in any calendar year. Such members shall serve until their successors are duly elected and qualified provided, however, that such service shall not extend to over 120 days after expiration of their term. Members may serve for three consecutive three-year terms.

B. Vacancies. Permanent vacancies on the Board of Appeals shall be filled by the City Council, in the same manner as other appointments under this article, for the unexpired term of a former member whose place has become vacant.

2.3.3 Removal of members

Any member of the Board of Appeals may be removed for cause by the City Council at any time, provided, however, that before any such removal, such member shall be given an opportunity to be heard in their own defense at a public hearing.

2.3.4 Officers

A. Chair. The members of the Board of Appeals shall annually elect one of their number as chair to preside at all meetings and hearings and to fulfill the customary functions of that office. In the absence of the chair, the secretary shall act

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as chair and shall have all the powers of the chair.

B. Secretary. The members of the Board of Appeals shall annually elect one of their number as secretary. The secretary shall fulfill the duties provided by statute and this article and have such other duties as may be provided by the rules of the board.

C. Pro tempore officers. In the absence of both the chair and the secretary, the board shall elect a chair pro tempore from among its number and the chair pro tempore shall have all the powers of the chair during the chair's and the secretary's absence. In the absence of the secretary, or when the secretary is serving as chair, the board shall elect a secretary pro tempore from among its number and the secretary pro tempore shall have all the powers of the secretary during the secretary's absence or service as chair.

2.3.5 Quorum and necessary vote

No business shall be transacted by the Board of Appeals without a quorum, consisting of four members, being present. The vote of a majority of the members present shall be necessary to authorize any action by the board.

2.3.6 Conflicts

No member of the Board of Appeals shall participate in the hearing or disposition of any matter in which they have an interest. Any question of whether a member has a conflict of interest sufficient to disqualify them shall be decided by a majority vote of the members, except the member who is being challenged. Where such a vote results in a tie, the challenged member shall be deemed disqualified.

2.3.7 Meetings and procedures

A. Staff. The Building Authority or their designee shall serve as staff to the Board of Appeals.

B. Meetings. Regular meetings of the Board of Appeals shall be held at the call of the chair or as provided by the rules of the board. Special meetings shall be called by the chair at the request of any two members of the board or at the request of the City Council. All meetings and hearings of the board shall be open to the public. For all matters properly brought before the Board of Appeals, the board shall select a reasonable time and place for a public hearing following the submission of the subject application.

C. Notice. The Building Authority shall give notice of public hearings in the form and manner and to the persons herein specified. The notice shall include the time and place of such hearing, a description of the contents of the matter to be heard and the address or location of the property involved. Where notice by mail is required, it shall be mailed at least seven days in advance of the hearing date by regular United States mail. Notices shall be given to each of the following as specified:

1. In all cases, to the petitioner.
2. In all cases, to all residents of the city by publication in a newspaper of general circulation in the city at least once, not more than 30 nor less than five days before the date of the hearing, and by mail to the applicant.
3. In the case of hearings relating to zoning appeals, a variance, or a conditional use, to the Planning Board and City Council by reasonable means.

4. In the case of hearings relating to a variance request from the provisions of Article 11, the application and all supporting information supplied by the applicant shall be forwarded to the State of Maine Department of Environmental Protection at least 20 days prior to action by the board. Any comments received from the Commissioner or their designee prior to action by the Board of Appeals shall be made part of the record and shall be taken into consideration by the Board of Appeals.
5. In the case of hearings related to a variance or conditional use, by mail to the owners of all the property within 500 feet of such parcel or tract.
6. In the case of hearings related to all other appeals, by mail to the owners of property directly abutting, and directly across a street or alley from the subject property.
7. For purposes of this subsection, the owners of property shall be considered to be the parties listed by the Assessor's Department as those against whom taxes are assessed. Failure of any property owner to receive a notice of public hearing shall not necessitate another hearing and shall not invalidate any action of the board.
8. The cost of noticing shall be charged to the applicant.

D. **Procedures.** The Board of Appeals shall adopt its own rules of procedure for the conduct of its business not inconsistent with the statutes of the state and this article. Such rules shall be filed with the City Clerk. Any rule so adopted which relates solely to the conduct of hearings, and which is not required by the statutes of the state or by this article, may be waived by the board upon good cause being shown.

1. *Conduct of hearings.*
   a. Any person may appear and testify at a public hearing, either in person or by a duly authorized agent or attorney, and may submit documentary evidence, provided, however, that the Board shall exclude irrelevant, immaterial and unduly repetitious evidence.
   b. The applicant and any abutter or similar person with standing shall in addition have the right to present witnesses on their own behalf and offer rebuttal evidence, to cross examine all witnesses testifying in opposition to their position through the chair, and to examine and introduce any documents produced at the hearing.
2. All other matters pertaining to the conduct of hearings shall be governed by the provisions of the relevant state statutes, this article, and the rules promulgated by the Board of Appeals.

2.3.8 Records and decisions

A. **Record.** The recording of testimony, if any, and all exhibits, papers, applications, and requests filed in any proceeding before the Board of Appeals and the decision of the board shall constitute the record.

B. **Decision.** Every decision of the Board of Appeals shall include findings of the fact, shall refer to the evidence in the record and the exhibits, plans or specifications upon which such decision is based, shall specify the reason

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or reasons for such decision, and shall contain a conclusion or statement separate from the findings of fact setting forth the specific relief granted or denying relief. The Building Authority shall hand deliver or mail a copy of the decision to the applicant, the Planning Board, and City Council within seven days of such decision, and shall also file the decision with the City Clerk.

2.3.9 Jurisdiction and authority

The Board of Appeals shall have the following jurisdiction and authority:

A. To hear and decide appeals from the granting or denial of any permit required by Chapter 6, Article 11, or Chapter 10 of the City of Portland Code of Ordinances.

B. To hear and decide appeals from any decision or order made by the Building Authority pursuant to the provisions of this Land Use Code or any other chapter of the City of Portland Code of Ordinances, except that decisions relating to enforcement of the Shoreland Overlay Zone provisions of this chapter may not be appealed to the Board of Appeals and may only be appealed directly to Superior Court in accordance with M.R. Civ. P. 80B and 30-A M.R.S. §§ 2691 & 4483.

C. To review interpretations of the Zoning Administrator or their designee, except that decisions on such interpretations shall be advisory only and shall not be appealable.

D. To hear and grant or deny applications for variances from the terms of this Land Use Code, including but not limited to terms related to use; dwelling unit conversion; space and bulk, such as lot size, density, and setbacks; parking; loading; and signs.

E. To hear and grant or deny applications for conditional uses, as specified in Article 6.

2.3.10 Administrative appeals

A. Application procedures. Application for any appeal to the board shall be submitted to the Building Authority. A payment of a nonrefundable application fee, as established by the City Council to cover administrative costs and costs of a hearing, shall accompany each application. The application shall be in such form as prescribed by the Building Authority.

B. Public hearing. A public hearing shall be set, advertised and conducted by the Board of Appeals in accordance with Subsection 2.3.7.

C. Standard of review. The standard of review for appeals pursuant to Subsections 2.3.9(A), (B), and (C) shall be de novo. The appellant shall bear the burden of proof.

D. Conditions and limitations on rights granted by appeal. Any right granted by the Board of Appeals on appeal shall be subject to the same conditions and limitations as if secured without the necessity of an appeal.

2.3.11 Variances

A. Application procedures

1. Application for a variance shall be submitted to the Building Authority. A payment of a nonrefundable application fee, as established from time to time by the City Council to cover administrative costs and costs of a hearing, shall accompany each application. The application shall be in such form as prescribed by the Building Authority.

2. A public hearing shall be set, advertised, and conducted by the Board of Appeals in accordance with Subsection 2.3.7.
3. All decisions by the board shall be rendered in a manner and form not inconsistent with the statutes of this state.
4. When a decision affects property located within the Shoreland Overlay Zone, the Zoning Board of Appeals shall cause written notice of its decision to be mailed or hand-delivered to the Department of Environmental Protection within seven days of the board's decision.

B. Undue hardship variance. An undue hardship variance may be granted by the board only where strict application of the ordinance, or a provision thereof, to the petitioner and their property would cause undue hardship. The words "undue hardship" as used in this subsection mean the following:

1. The land in question cannot yield a reasonable return unless a variance is granted.
2. The need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood.
3. The granting of a variance will not alter the essential character of the locality.
4. The hardship is not the result of action taken by the applicant or prior owner.

C. Disability variance

1. *By the Board of Appeals.* Notwithstanding the provisions of subsection (B) above, the board may grant a variance to an owner of a residential dwelling for the purpose of making that dwelling accessible to a person with a disability who resides in or regularly uses the dwelling. The board shall restrict any variance granted under this subsection solely to the installation of equipment or the construction of structures necessary for access to or egress from the dwelling by the person with the disability. The board may impose conditions on the variance, including limiting the variance to the duration of the disability or to the time that the person with the disability lives in the dwelling. The term "structures necessary for access to or egress from the dwelling" shall include railing, wall, or roof systems necessary for the safety or effectiveness of the structure. For the purpose of this subsection, a disability has the same meaning as a physical or mental disability under 5 M.R.S. § 4553.
2. *By the Building Authority.* Notwithstanding the provisions of subsections (B) and (C(1)) above, the Building Authority may issue a permit to the owner of a dwelling for the purpose of making a dwelling accessible to a person with a disability who resides in or regularly uses the dwelling. If the permit requires a variance, the permit is deemed to include that variance solely for the installation of equipment or the construction of structures necessary for access to or egress from the dwelling for the person with a disability.

D. Practical difficulty variance. Notwithstanding the provisions of subsections (B) and (C) above, the Board of Appeals may grant a variance from the dimensional standards of this Land Use Code that relate to lot area, lot coverage, frontage, and setback requirements when strict application of these standards

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would both preclude a permitted use of the property and result in significant economic injury to the applicant. Significant economic injury shall mean that the value of the property if the variance were denied would be substantially lower than its value if the variance were granted. To satisfy this standard, the applicant need not prove that denial of the variance would mean the practical loss of all beneficial use of the land. In granting a practical difficulty variance, all of the following conditions must be found to exist:

1. The need for a variance is due to the unique circumstances of the property, and not to the general conditions in the neighborhood.
2. The granting of the variance will not produce an undesirable change in the character of the neighborhood and will not have an unreasonably detrimental effect on either the use or fair market value of abutting properties.
3. The practical difficulty is not the result of action taken by the applicant or a prior owner.
4. No other feasible alternative is available to the applicant, except a variance.
5. The granting of a variance will not have an unreasonably adverse effect on the natural environment.
6. The property is not located, in whole or in part, within a shoreland area, as defined in 38 M.R.S. § 435, nor within a Shoreland Overlay Zone or flood hazard area, as defined in this Land Use Code.

E. Specified variances prohibited

1. A variance may only be granted with respect to the generally applicable space and bulk requirements of the zone in which the property is located and not from any provision that allows a deviation from those requirements.
2. No variance shall be granted which would permit the creation of a lot or parcel that cannot be developed in compliance with the zoning, subdivision, and other regulations applicable thereto.
3. No variance shall be granted which would result in a use or development of the lot or parcel in question which would not be in harmony with the general purpose and intent of this Land Use Code or the Comprehensive Plan; which would be materially detrimental to the public welfare or materially injurious to the enjoyment, use, or development of property or improvement permitted in the vicinity; or which would materially impair an adequate supply of light and air to properties and improvements in the vicinity, substantially increase congestion in the public streets, increase the danger of flood or fire, or endanger the public safety.
4. No variance shall be granted which would be greater than the minimum variance necessary to relieve the undue hardship or the hardship of the applicant.

F. Conditions on variances; variances less than requested. Reasonable conditions and safeguards relating to construction, character, location, landscaping, screening, and other matters may be imposed upon the premises benefited by a variance as considered necessary to prevent injurious effects upon other property and improvements in the vicinity or upon public facilities and services.

Such conditions shall be expressly set forth in the resolution granting the variance and in the notice informing the applicant thereof. Violation of such conditions and safeguards shall be a violation of this article. A variance less than or different from that requested may be granted when the record supports the applicant's right to some relief but not to the relief requested.

G. **Limitations on variances.** No variance permitting the erection or alteration of a building shall be valid for a period longer than two years, unless a building permit for such erection or alteration is issued and construction is actually begun within that period and is thereafter diligently pursued to completion. No variance relating to the establishment or maintenance of a use not involving a building or structure shall be valid for a period longer than two years, unless an occupancy permit is issued and a use commenced within such period.

H. **Recording of variances.** No variance shall be valid unless, within 90 days of final approval of the variance, a certificate describing the variance has been recorded by the applicant for the variance in the registry of deeds as required by 30 M.R.S. § 4353(5).

2.3.12 Violations

In addition to any other remedies available, the Board of Appeals after notice and hearing may revoke any variance or other relief granted under this section when the provisions of this chapter or the conditions under which the relief was granted have not been complied with.

2.3.13 Reconsideration

The Board of Appeals may reconsider any decision within 45 days of its decision. A request to the board to reconsider a decision must be filed within 10 days of the decision that is being reconsidered. A vote to reconsider and the action taken on that reconsideration must occur and be completed within 45 days of the date of the vote on the original decision. Reconsideration of a decision shall require a positive vote of the majority of the board members originally voting on the decision, and proper notification to the landowner, petitioner, Planning Board, code enforcement officer, and other parties of interest, including abutters and those who testified at the original hearing(s). The board may conduct additional hearings and receive additional evidence and testimony. Appeal of a reconsidered decision to Superior Court must be made within 15 days after the decision on reconsideration.

2.3.14 Appeals

Any aggrieved party may take an appeal, within 45 days of the vote of the original decision, from any final decision of the Board of Appeals to the superior court in accordance with Rule 80B of the Maine Rules of Civil Procedure and 30-A M.R.S. §§ 2691 & 4483., except as otherwise specifically provided in this article.

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3 DEFINITIONS

Adjacent grade (within the floodplain). For the purposes of calculating floor elevation in areas of special flood hazard, the natural elevation of the ground surface prior to the construction next to the proposed wall of a structure.

Adult business establishment. Any business, including but not limited to any bookstore, newsstand, novelty store, nightclub, bar, cabaret, amusement arcade, or theater, which:

A. Keeps for public patronage or permits or allows the operation of any adult amusement device as defined in Chapter 4 of the City of Portland Code of Ordinances; or

B. Customarily, meaning more often than an average of one calendar week during any calendar month of operation, exhibits motion pictures or displays any other visual representation described or advertised as being "X rated" or "for adults only," or which customarily excludes persons from any portion of the premises by reason of immaturity of age by the use of such, or similar, phrases; or

C. Is adjudged to be in violation of 17 M.R.S. §§ 2911, 2912.

Affordable housing. Housing for which the percentage of income a household is charged in rent and other housing expenses (including utilities such as electric, heat, water, sewer, and/or trash that the household pays separately from rent) or must pay in ownership cost (including but not limited to mortgage payments, 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.

After-hours entertainment license. Any of the music, dancing, and special entertainment licenses required or authorized by Chapter 4, Article III of the City of Portland Code of Ordinances.

Agriculture. Land and associated structures used for the growing of crops and raising of domesticated animals to provide food and other products for sale, personal consumption, donation, and/or educational purposes. Agriculture includes single-family dwellings and any additional dwellings that are accessory to the principal use of agriculture. Agriculture also includes farmstands used to sell crops grown on the premises.

Airport. Land, water, or any human-made object or facility located thereon, which is used or intended to be used for landing and takeoff of aircraft, and any appurtenant areas that are used or intended to be used for airport buildings or other airport facilities or rights-of-way, together with all airport buildings and facilities located thereon. Airports may include airport administration, terminals, carrier operations, concessions, reservations and ticket sales, freight, repair and storage, fueling services, flying schools, car rental operations, and other associated uses.

Airport restricted access areas. Runways, taxiways, and other areas of an airport accessible to aircraft, whether access is restricted by the Federal Aviation Administration or not.

Alley. Any way designed primarily for vehicular and pedestrian or utility access to the back or side of

premises otherwise abutting on a street, except driveways unless officially designated otherwise.

Animal-related services. Establishments principally for the training, daycare, or boarding of animals. Such uses shall not include veterinary services.

Approval. An affirmative decision on an application, including an approval with conditions.

Appurtenance. A device or structure not designed for human occupancy and attached to the exterior of a building.

Archaeological site. A bounded geographic location containing the physical evidence of previous human occupation including but not limited to structures, artifacts, graphics (paintings or drawings) and discarded material including plants or animals.

Area of shallow flooding. Area designated AO and AH zone on the Flood Insurance Rate Map (FIRM) with a 1 % or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

Area of special flood hazard. The land in the floodplain having a 1% or greater chance of flooding in any given year as specifically identified in the most recently adopted FEMA Flood Insurance Study for the City of Portland.

Auto service station. A business selling fuel for vehicles and propane, or providing services specific to charging electric vehicles, or providing motor vehicle repairs including, but not limited to, tune-ups, engine repair, brake work, muffler replacement, tire repair, or similar activities. Such businesses may also include car-washes and/or vacuums.

Bar. Any establishment required to be licensed to sell alcoholic beverages for on-premises consumption, which is not regularly used for the purpose of providing full meals, as defined in Title 28-A of the Maine Revised Statutes, on the premises.

Base flood. The flood having a 1% chance of being hereof or exceeded in any given year (i.e., a 100-year storm).

Basement. Area of building that includes a floor that is subgrade (below ground level) on all sides.

Bed and breakfast. A detached dwelling that contains no more than nine guest rooms; is used to provide or offer overnight accommodation for transient guests; has an owner, manager, or operator living in the building as a permanent resident; does not provide cooking facilities in any of the guest rooms; and provides meals on-site.

Beverage container redemption center. A facility established with the primary purpose of accepting empty beverage containers from consumers and paying or otherwise providing the refund value of such containers.

Breakaway wall. A wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without

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damage to the elevated portion of the building or supporting foundation system.

Building. A roofed and walled structure built for permanent use.

Building (within Article 16). A human-made construction created to shelter human activity, such as a house, barn, church, hotel or similar structure. Building may refer to a historically related complex such as a courthouse and jail or a house and barn.

Building, accessory. A detached roofed and walled structure that is incidental and subordinate in area and extent, and/or use to the principal building(s) on the property. A lot may have more than one accessory building.

Building addition. Any increase to footprint, floor area, or volume of an existing building.

Building alteration. A change or rearrangement in the structural supports, exterior appearance, or removal of features otherwise affecting the exterior appearance of a building.

Buildings, attached. Two or more independent buildings that share at least one common party wall but have full building separation and independent principal entries; not free-standing. Attached buildings may or may not have common ownership.

Building, principal. The main roofed and walled structure on a lot having the predominant area, extent, and/or use. A lot may have more than one principal building. When a garage is attached to the principal building in a substantial manner as by an enclosed area with roof or common wall, it shall be considered as a part of the principal building.

Child care center. Per 22 M.R.S. §8301-A(1-A)(A), a child care center is a house or other place in which a person maintains or otherwise carries out a regular program, for consideration, for any part of a day providing care and protection for 13 or more children under 13 years of age; or any location or locations operated as a single child care program or by a person or persons when there are more than 12 children being cared for.

Child care facility, small. Per 22 M.R.S. §8301-A(1-A)(E), a small child care facility is a house or other place, not the residence of the operator, in which a person maintains or otherwise carries out a regularly scheduled program, for any part of a day, providing care and protection for 3 to 12 children between 6 weeks and 12 years of age.

Clinic. Any establishment where patients are examined and treated by one or more health care providers, such as, but not limited to, physicians, dentists, psychologists, or social workers. Clinics may include laboratory services and facilities for ambulatory or outpatient surgical procedures.

Coastal AE Zone. The portion of the coastal high hazard area with wave heights between 1.5 feet and 3.0 feet and bounded by a line labeled the "Limit of Moderate Wave Action" (LiMWA) on a Flood Insurance Rate Map (FIRM). VE Zone floodplain construction standards are applied to development, new construction, and substantial improvements in the Coastal AE Zone.

Coastal high hazard area. An area of special flood hazard extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources. Coastal high hazard areas are designated as Zone VE and Zone AE bounded by a line labeled "Limit of Moderate Wave Action" (LiMWA) on a Flood Insurance Rate Map (FIRM).

Coastal wetland. All tidal and subtidal lands; all lands with vegetation present that is tolerant of salt water and that occurs primarily in a salt water or estuarine habitat; and/or any swamp, marsh, bog, beach, flat, or other contiguous low land that is subject to tidal action during the highest tide level for the year in which an activity is proposed as identified in tide tables published by the National Ocean Service. Coastal wetlands may include portions of coastal sand dunes.

Commercial vessel. Any watercraft used principally in a business or trade, including common carriers of passenger or freight, whether for governmental, nonprofit, or emergency purposes, but not including pleasure craft used principally for recreational purposes.

Common circulation drives. Private driveways, roadways and circulation areas accessible to all on-site tenants and/or occupants of a lot within the Waterfront Central Zone providing access from/to the public street network.

Communication studio. A commercial or public communication facility, including radio and television broadcasting and receiving stations and studios.

Community hall. A building or portion of a building used for social, recreational, artistic, civic, or educational community functions. Such a facility would be open to the public for such functions, which, for example, could include but not be limited to performances, dance, exhibitions, cultural exchange, training programs and workshops, neighborhood meetings, or gatherings. As part of these functions and activities, it shall be permissible to serve food, subject to other applicable codes and ordinances. A community hall may also be referred to as a neighborhood center.

Condominium. Any interest in real estate created pursuant to the Unit Ownership Act, 33 M.R.S. § 560 et seq., or its equivalent, as it may from time to time be amended.

Construction and engineering services. Offices for businesses in the conduct of any landscape or building trade or craft, together with land and/or structures used for the storage of equipment, vehicles, machinery, and/or materials related to and used by the trade or craft. Construction and engineering services with no storage of equipment, vehicles, machinery, and/or materials are considered general office uses.

Containment wall. Wall surrounding all sides of an above ground tank to contain any spills or leaks.

Critical systems. Mechanical, electrical, plumbing, fire protection, life safety, and communication systems required for the uninterrupted and safe operation and occupancy of a building.

Cultural facility. A facility open to the public, providing access to cultural exhibits and activities including but not limited to museums, cultural or

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historical centers, non-commercial galleries. A cultural facility may include accessory services such as, but not limited to, retail sales of related items.

Disturbed area. All land areas of a site that are stripped, graded, grubbed, filled, excavated, or substantially altered to accommodate construction activity which results in permanent or long-term alteration of the land.

Drive-through. A facility which provides a service directly to a motor vehicle occupant and where the customer drives a motor vehicle onto the premises and to a window or mechanical device through or by which the customer is served with or without exiting the vehicle. Drive-throughs do not include major or minor auto service stations.

Drive-through features. Features associated with drive-throughs including but not limited to designated travel or stacking lanes, intercom systems, menu boards, service windows, kiosks, mechanical devices, etc.

Dwelling, four-family. A single building containing four dwelling units.

Dwelling, live/work. A principal structure that combines a dwelling unit with a permitted commercial use that is used by one or more of the residents. A live/work dwelling may also include the combination of a dwelling unit with arts-related activities, such as painting, photography, sculpture, music, and film, used by one or more of the residents. Live/work dwellings are subject to the standards for the individual uses contained within this Code.

Dwelling, multi-family. A single building containing five or more dwelling units.

Dwelling, multi-family conversion. A single building containing five or more dwelling units, converted from an existing dwelling of four or fewer units, or an existing structure in nonresidential use.

Dwelling, single-family. A single building containing one dwelling unit.

Dwelling, three-family. A single building containing three dwelling units.

Dwelling, townhouse. A structure consisting of two or more dwelling units, the interior of which is configured in a manner such that dwelling units are attached horizontally, separated by a party wall, and each dwelling unit is located on a separate lot with a separate exterior entrance.

Dwelling, two-family. A single building containing two dwelling units.

Dwelling unit. One or more rooms forming a single unit for habitation by one family, including food preparation, living, sanitary, and sleeping facilities.

Dwelling unit, accessory. A dwelling unit subordinate in size to the principal residential structure(s) on a lot and located either within the principal residential structure(s) or in an accessory structure.

Earth-moving activity. Any removal or placement, excavation, filling, stockpiling, or grading of soil, earth, loam, sand, gravel, rock, and other mineral deposits.

Easement. A right, privilege, or liberty which one has in land owned by another for some special and definite purpose.

Elevation certificate. An official form (FEMA form FF-206-FY-22-152, as amended) that is used to verify compliance with the floodplain management regulations of the National Flood Insurance Program.

Emergency operations. Operations conducted for the public health, safety, or general welfare, such as protection of resources from immediate destruction or loss, law enforcement, and operations to rescue human beings and livestock from the threat of destruction or injury.

Emergency shelter. A facility providing temporary overnight shelter to individuals experiencing homelessness in a dormitory-style or per-bed arrangement.

Entrance, principal. A main point of access for pedestrians into a building. Buildings may have more than one principal entrance.

Essential services. The construction, alteration, or maintenance of gas, electrical, or communication facilities; steam, fuel, electric power, or water transmission or distribution lines, towers and related equipment; telephone cables or lines, poles, and related equipment; gas, oil, water, slurry, or other similar pipelines; municipal sewage lines, collection, or supply systems; and associated storage tanks. Such systems may include towers, poles, wires, mains, drains, pipes, conduits, cables, fire alarms and police call boxes, traffic signals, hydrants, and similar accessories, but shall not include service drops or buildings which are necessary for the furnishing of such services.

Exhibition, meeting, and convention halls. An indoor facility for the conduct of exhibitions, conventions, or other large gatherings.

Façade. An exterior building wall, from grade to the top of the parapet or eaves. A facade incorporates the full width of a building elevation, including any projections or recesses occurring across an elevation.

Façade, blank. A building façade that contains expanses of wall area with no windows, no entrances, no articulation, and no other elements or features, or is otherwise undifferentiated.

Family. One or more individuals related by blood, marriage, civil union, adoption, or guardianship and/or up to eight unrelated individuals living together in a dwelling unit as a single nonprofit housekeeping unit.

Family child care provider. Per 22 M.R.S. §8301-A(1-A)(C), a family child care provider is a person who provides day care in that person's home on a regular basis, for consideration, for children under 13 years of age who are not the children of the provider or who are not residing in the provider's home.

Farmstand. A temporary structure, used for the sale of food or non-food crops grown on the premises.

Fill. Soil, earth, loam, sand, gravel, rock and other mineral deposits.

Filling. The placement of soil, earth, loam, sand, gravel, rock and other mineral deposits. Filling shall include stockpiling.

Fixture, fully shielded. A light fixture or luminous tube constructed and mounted such that all light emitted by the fixture or tube, either directly from the lamp, tube, or a diffusing element, or indirectly by reflection or refraction from any part of the light fixture, is projected below the horizontal. If the lamp or tube, any reflective surface, or lens cover (clear or prismatic) is visible when viewed from above or directly from the side, from any angle around the fixture or tube, the fixture or tube is not fully shielded.

Flag. A fabric sheet of square, rectangular, or triangular shape having no enclosing or supporting framework that is typically mounted on a pole.

Flood or flooding.

A. A general and temporary condition of partial or complete inundation of normally dry land areas from:
   1. The overflow of inland or tidal waters.
   2. The unusual and rapid accumulation or runoff of surface waters from any source.

B. The collapse or subsidence of land along a shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined above.

Flood boundary and floodway map. The official map issued by the Federal Emergency Management Agency (FEMA) on which the boundaries of the flood have been designated. This may alternatively be referred to as a flood hazard boundary map.

Flood elevation study. An examination, evaluation, and determination of flood hazards and, if appropriate, corresponding water surface elevations.

Flood insurance rate map. The official map (FIRM) on which the Federal Emergency Management Agency (FEMA) has delineated both the areas of special flood hazard and the risk premium zones applicable to the city.

Floodplain or floodprone area. Any land area susceptible to being inundated by water from any source (see Flood or Flooding).

Floodplain management. The operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works, and floodplain management regulations.

Floodplain management regulations. Zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance, and erosion control ordinance), and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

Floodproofing. Any combination of structural or nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real estate, to water and sanitary facilities, structures, and their contents.

Floodway encroachment lines. The lines marking the limits of floodways on federal, state, and local floodplain maps.

Foundation. The supporting substructure of a building or other structure, excluding wooden sills and post supports, but including basements, slabs, frost walls, or other base consisting of concrete, block, brick, or similar material.

Forested wetland. A freshwater wetland dominated by woody vegetation that is six meters (approximately 20 feet) tall or taller.

Freeboard. A factor of safety usually expressed in feet above a flood level for purposes of floodplain management. Freeboard tends to compensate for the many unknown factors, such as wave action, bridge openings, and the hydrological effect of urbanization of the watershed, which could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions.

Freshwater wetland. Freshwater swamps, marshes, bogs, and/or similar areas which are both: Of ten or more contiguous acres or of less than ten contiguous acres and adjacent to a surface water body except for any river, stream or brook such that, in a natural state, the combined surface area is in excess of ten acres or of less than ten acres that is depicted on the Shoreland Zoning map.

Inundated or saturated by surface or ground water at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils. Freshwater wetlands may contain small stream channels or inclusions of land that do not conform to the criteria of this definition.

Functionally-dependent use (within the floodplain). A use that cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

Garage/yard sale. A temporary event held on residential property, during which the owner or occupant offers used personal items, such as clothing, furniture, and household goods, for sale to the public.

General office. An office for the conducting or managing of a business or the practice of a profession, including that of a licensed health care provider, so long as such office does not include laboratory services and facilities for ambulatory surgical procedures. Such an office may or may not offer services to the public. An office is not materially involved in fabricating, assembling, or warehousing of physical products for the retail or wholesale market, nor engaged in the repair of products or retail services.

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General services. Establishment primarily engaged in rendering frequent or recurring services to persons or business on a fee basis, including but not limited to banks, health clubs, laundries, beauty shops, barber shops, nail salons, electronics repair shops, and the like.

Greenhouse/nursery (retail). An establishment where flowers, shrubbery, trees, and other horticultural and floricultural products are propagated and sold, which may include gardening and landscape supplies and products, such as hardware, garden tools and utensils, paving stones and bricks, bulk materials such as mulch, straw, and stone, and other related items for sale.

Green roof. A roof of a building that is partially or completely covered with vegetation and designed to meet the Maine Stormwater Best Management Practices Manual standards and recommendations. A green roof installation must serve the purpose of reducing stormwater runoff through retention or slowing and consist of an assembly that at a minimum includes a root repellent system, a drainage system, a filtering layer, a growing medium and plants, and shall be installed on a waterproof membrane.

Ground cover. Small plants, fallen leaves, needles and twigs, and the partially decayed organic matter of the forest floor.

Group home. A housing facility for 9 to 12 persons with disabilities that is approved, authorized, certified, or licensed by the State.

Heliport. An area used for the landing of helicopters at any location other than an airport. Such area shall include a landing area or pad, and may include parking required for access to the landing area or pad, a loading and unloading area for emergency vehicles, and other related facilities other than maintenance and repair facilities.

Highest Astronomical Tide. The elevation of the highest predicted astronomical tide expected to occur at a specific tide station over the National Tidal Datum Epoch, or NTDE.

Historic rehabilitation. The act or process of making possible a compatible use for a property through repair, alterations, and additions while preserving those portions or features which convey its historical, cultural, or architectural values.

Hospital. An institution providing health services, primarily on an inpatient basis, and medical or surgical care of the sick or injured, including as an integral part of the institution such related facilities as laboratories, outpatient departments, training facilities, central service facilities, and staff offices.

Hostel. An overnight lodging facility for transient guests that provides sleeping rooms and common spaces for cooking. A hostel shall not be used as an emergency shelter.

Hotel. A commercial facility that provides sleeping accommodation for a fee and customary lodging services. Related accessory uses may include, but are not limited to, meeting facilities, restaurants, bars, and recreational facilities for the use of guests. A hotel has common facilities for reservations,

cleaning services, combined utilities, and on-site management and reception.

Impervious surface. Area covered with low-permeability material that is highly resistant to infiltration by water, such as asphalt, concrete, or rooftop, and areas such as gravel roads and unpaved parking areas that will be compacted through design or use to reduce their permeability. Common impervious surfaces include, but are not limited to, rooftops, walkways, patios, driveways, parking lots or storage areas, concrete or asphalt paving, gravel roads, packed earthen materials, and macadam or other surfaces which similarly impede the natural infiltration of stormwater. Pervious pavement, pervious pavers, pervious concrete, and underdrained artificial turf fields are all considered impervious.

Impound lot. A facility that provides temporary outdoor storage for vehicles that are to be claimed by titleholders or their agents. An impound lot is typically used for the storage of wrecked motor vehicles usually awaiting insurance adjustment or transport to a repair shop. Impound lot does not include impound facilities owned and used by governmental authorities.

Industrial, high-impact. Industrial activity involving the manufacturing, packaging, assembly, or distribution of finished or semi-finished products from either raw materials or previously prepared material which are generally incompatible with residential, commercial, and lower-impact industrial uses and sensitive natural areas due to their high generation of traffic, noise levels, emissions, lighting, and odors. High-impact industrial includes fish-waste processing.

Industrial, low-impact. Industrial activity involving the manufacturing, packaging, assembly, or distribution of finished or semi-finished products from previously prepared material, where such activities are conducted wholly within an enclosed building. Low-impact industrial uses do not include the processing of raw materials or salvaging operations. Low-impact industrial uses are generally compatible, due to their size and nature of impact, with residential, commercial and other low impact industrial uses.

Intermodal transportation facility. A facility where two or more modes of transportation intersect, passengers can transfer between modes, and basic passenger amenities are provided.

Kitchen facilities. Facilities used for the preparation of meals, including refrigerators and devices used for the cooking and preparation of food.

Laboratory and research facility. A building or group of buildings used for the purpose of conducting research, investigation, testing, and experimentation in any field of science, medicine, or technology and including facilities such as but not limited to administrative offices, laboratories, and service or machine shops to serve the facility. Laboratory and research facilities do not include manufacturing of products for sale.

Limit of Moderate Wave Action (LiMWA). The landward limit of the 1.5 foot breaking wave within a Coastal AE Zone. These areas are bounded by a line labeled "Limit of Moderate Wave Action" (LiMWA) on a Flood Insurance Rate Map (FIRM). The LiMWA line delineates that portion of the Special Flood

Hazard Area (SFHA) landward of a VE zone in which the principal sources of flooding are astronomical high tides, storm surges, or tsunamis, not riverine sources. These areas may be subject to wave effects, velocity flows, erosion, scour, or combinations of these forces. The floodplain development and construction standards for VE Zones will be applied in the Coastal AE Zone.

Locally-established datum. For purposes of the floodplain ordinance, an elevation established for a specific site to which other elevation at the site are referenced. This elevation is generally not referenced to the National Geodetic Vertical Datum (NGVD), North American Vertical Datum (NAVD), or any other established datum and is used in areas where mean sea level data is too far from a specific site to be practically used.

Lodging house. A house, building or portion thereof containing five or more rooming units, as well as common areas, and providing such units to individuals on not less than a monthly basis for compensation.

Lodging house common areas. Portions of a lodging house which are available for use by residents of the lodging house. Lodging house common areas shall include, but are not limited to, one or more of the following: kitchens, living rooms, recreation rooms, improved basements, and finished porches. Bathrooms, stairways, hallways, and storage areas shall not be counted as lodging house common areas.

Lot. A lawfully created parcel or area of land that is designated as an individual unit for use, development, or ownership that is either: a) separately described in a deed or on a plan recorded in the Cumberland County Registry of Deeds; b) a contiguous combination of such lots under common ownership and designated as one unit for development; or c) a newly established parcel meeting all the dimensional requirements of the zone in which it is located.

Lot, nonconforming. A lot which, at the effective date of adoption or amendment of this Code, does not meet the minimum lot area or minimum street frontage requirements of the zone in which it is located.

Lot, through. A lot that fronts upon two parallel streets, or which fronts upon two streets which do not intersect at the boundaries of the lot.

Lot, flag. A lot platted so that the main building site area (the "flag") is set back from the street on which it fronts, and includes an access strip (the "pole") connecting the main building site with the street.

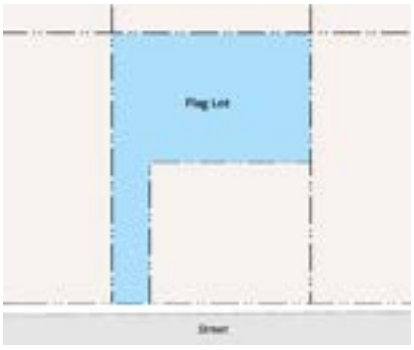

FIGURE 3-A: FLAG LOT

Lowest floor (within the floodplain). The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant

enclosure, usable solely for parking of vehicles, building access, or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of Article 12.

Low-income household. A household having an income not exceeding 80% of median income for area of residence as set forth in regulations promulgated from time to time by the United States Department of Housing and Urban Development pursuant to 42 U.S.C. sections 1437 et seq.

Low-income housing unit for rent. 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).

B. The unit is rented to a household earning 80% or less of AMI.

C. The requirements of (A) and (B) above are limited by deed restriction or other legally binding agreement for the applicable length of time in this ordinance.

Low-income housing unit for sale. A dwelling unit for which:

A. The sale price is affordable to a household earning 100% or less of Area Median Income (AMI) as defined by the United States Department of Housing and Urban Development (HUD).

B. The unit is sold to a household earning 100% or less of AMI.

C. The requirements of (A) and (B) above are limited by deed restriction or other legally binding agreement for future sales for the applicable length of time in this ordinance.

Marijuana cultivation facility. A cultivation facility required to be licensed pursuant to 28-B M.R.S. § 201 or any other facility engaged primarily in the business of planting, propagation, growing, harvesting, drying, curing, grading, trimming, or other processing of marijuana, including mature marijuana plants, immature marijuana plants, seedlings, and marijuana seeds, for use or sale.

Marijuana manufacturing facility. A manufacturing facility required to be licensed pursuant to 22 M.R.S. § 2423-F or 28-B M.R.S. § 201.

Marijuana, plant canopy. As defined by 28-B M.R.S. § 102.

Marijuana product. As defined by 22 M.R.S. § 2422 or 28-B M.R.S. § 102.

Marijuana, registered dispensary. A registered medical marijuana dispensary as defined by 22 M.R.S. § 2422.

Marijuana, registered patient. As defined by 22 M.R.S. § 2422.

Marijuana retail store. A retail establishment licensed to sell marijuana, marijuana products, immature marijuana plants, and seedlings to adult use or medical marijuana customers. A marijuana retail store is only authorized as a principal use, and is not permitted as an accessory use. A marijuana retail store shall not include a registered dispensary.

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Marijuana, small-scale caregiver. A registered caregiver who sells or dispenses marijuana to no more than five individual registered patients in any one calendar month; does not process or manufacture marijuana using chemicals or solvents; and cultivates no more than: 1) 250 square feet of plant canopy where located in a single-family dwelling or commercial space; or 2) 125 square feet of plant canopy where located in a dwelling unit within a two-family or multi-family building.

Marijuana testing facility. A facility licensed to develop, research and test marijuana, marijuana products and other substances as defined by 22 M.R.S. § 2422 or 28-B M.R.S. § 102.

Marina. A commercial operation providing floats, slips, and piers intended primarily for berthing of noncommercial vessels and the provision of related services such as supplies, fuel, equipment and repairs, which may be provided both to tenants and non-tenants.

Market garden. An area of land or a facility, managed and maintained by an individual, group, or business to grow and harvest food and non-food crops to be sold for profit on-site, off-site, or both. Market gardens may be located outdoors or fully enclosed within a permanent building. Market gardens do not include the cultivation of marijuana.

Market value. The estimated price a property will bring in the open market and under prevailing market conditions in a sale between a willing seller and a willing buyer, both conversant with the property and with prevailing general price levels.

Mean high tide. The mean height of tidal high waters at a particular point or station over a period of time to such length that increasing its length does not appreciably change this mean. For tidal waters, the cycle of change covers a period of 19 years, and mean high tide is defined as the average of the high waters over a 19-year period.

Mean sea level (within the floodplain). For purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929, North American Vertical Datum (NAVD), or other datum, to which base flood elevations shown on the City's FIRM are referenced.

Mid-block permeability. A continuous, open-air corridor at least 20' in width that physically or visually connects two streets or public rights-of-way and provides a break in the street wall. The corridor must be unobstructed and open to the sky.

Moderate-income household. A household having an income not exceeding 120% of median income for area of residence as set forth in regulations promulgated from time to time by the United Sates Department of Housing and Urban Development pursuant to 42 U.S.C. sections 1437 et seq.

National Geodetic Vertical Datum (NGVD). The national vertical datum, a standard established in 1929, which is used by the National Flood Insurance Program (NFIP). NGVD is based upon mean sea level in 1929 and also has been called "1929 Mean Sea Level (MSL)".

Neighborhood nonresidential reuse. Select nonresidential uses located within a residential neighborhood to serve nearby residents, and

occupying a structure which is nonresidential in its original construction and/or current principal use.

Non-commercial vessel berthing. The use of berthing space for berthing of watercraft other than commercial vessels. Berthing space used in the following manner shall not be included in the calculation of the number of linear feet under this use category:

A. Space used principally for sale or repair of vessels.

B. Commercial vessel tenant space used by a noncommercial vessel for a period not exceeding ten consecutive days while the primary commercial vessel tenant is conducting its business or trade.

Normal high-water line (non-tidal waters). That line which is apparent from visible markings, changes in the character of soils due to prolonged action of the water or changes in vegetation, and which distinguishes between predominantly aquatic and predominantly terrestrial land. Areas contiguous with rivers that support non-forested wetland vegetation and hydric soils and that are at the same or lower elevation as the water level of the river during the period of normal high-water are considered part of the river.

North American Vertical Datum (NAVD). The national datum whose standard was established in 1988, which is the new vertical datum used by the National Flood Insurance Program (NFIP) for all new Flood Insurance Rate Maps. NAVD is based upon vertical datum used by other North American countries such as Canada and Mexico and was established to replace NGVD because of constant movement of the earth's crust, glacial rebound and subsidence, and the increasing use of satellite technology.

Object (within Article 16). A material thing of functional, aesthetic, cultural, historical, or scientific value that may be, by nature or design, movable yet related to a specific setting or environment.

Office park. A development of one or more buildings designed to accommodate offices, laboratory and research facilities, high-tech manufacturing, and similar uses with no outdoor storage. An office park may also include hotels, medical/dental offices, and supportive commercial uses for the primary convenience of office park workers and visitors, including limited retail, general services, financial institutions, child care centers and small child care facilities, and restaurants.

Off-peninsula. All land located north of I-295.

100-year flood. See base flood.

On-peninsula. All land located south of I-295.

Open space. Land and water areas designed and reserved for use as active or passive recreation areas or for preservation purposes.

Open space, public. Open space maintained for the use of the general public. Public open space may include parks, plazas, and public seating areas.

Outlet stream. Any perennial or intermittent stream, as shown on the most recent highest resolution version of the national hydrography dataset available from the United States Geological Survey on the website of the United States

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Geological Survey or the national map, that flows from a freshwater wetland.

Owner. Any person that has any interest, legal or beneficial, in any parcel or lot.

Park. A noncommercial public facility that serves the recreational needs of residents and visitors. Park includes, but is not limited to, playgrounds, ballfields, golf courses, gymnasiums, playing fields, courts, dog parks, skateboard parks, pools, community gardens, marinas, sports complexes, and passive recreation areas. Parks may also include non-commercial indoor or outdoor facilities, including zoos and amphitheaters, accessory services such as, but not limited to, restaurant and retail establishments, and temporary outdoor uses such as festivals and performances.

Party wall. Any partition wall common to two adjacent or attached buildings.

Place of assembly. A building or portion of a building used as a community hall, private club, fraternal organization, or place of religious assembly. This definition shall not include buildings or portions of buildings used as a community hall, private club or non-profit social and recreational facility, or place of religious assembly where eight or fewer people, not including the permanent residents of a single-family dwelling, assemble. A place of assembly may include accessory uses, such as childcare facilities or preschools, meeting rooms, food preparation and dining areas, auditoriums, and/or classrooms.

Post-secondary school. A facility for post-secondary higher learning that grants associate or bachelor's degrees. The institution may also have research facilities and/or professional schools that grant master and doctoral degrees. Post-secondary schools may also include additional uses as part of the principal use, such as dormitories, cafeterias, restaurants, retail sales, indoor or outdoor recreational facilities, preschool facilities, and similar uses.

Private club or non-profit social and recreational facility. A private club or nonprofit social and recreational facility is open exclusively to members and to their bona fide guests accompanying them, in order to promote fellowship, social living, proper recreation, civic responsibility, neighborhood responsibility, community welfare, or other endeavors. It shall be permissible to serve food and meals on such premises provided adequate dining room space and kitchen facility are available and are provided within all regulations of this Land Use Code and other applicable codes and ordinances.

Real estate project sales office/model unit. A residential unit or other structure within a development that is temporarily used for display purposes as an example of dwelling units available for sale or rental in a residential development and/or sales or rental offices for dwellings within the development.

Recent floodplain soils. Recent floodplain soils include the following soil series as described and identified by the National Cooperative Soil Survey: Alluvial. Charles, Cornish, Fryeburg, Hadley, Limerick, Lovewell, Medomak, Ondawa, Podunk, Rumney, Saco, Suncook, Sunday, and Winooski.

Recreational vehicle. A vehicle that is:

A. Built on a single chassis;

B. 400 square feet or less when measured at the largest horizontal projection, not including slideouts;

C. Designed to be self-propelled or permanently towable by a motor vehicle;

D. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use; and

E. Registered as a motor vehicle with tires attached and on the ground.

Recreation and amusement center. A facilities equipped for the conduct of sports and athletic events or leisure time recreation activities. Such facilities may limit admission either to members or to persons paying an entrance fee. Recreation and amusement centers may be indoor or outdoor. They do not include stadiums.

Recycling facility. A facility engaged exclusively in the collection, separation, recovery and sale or reuse of materials that would otherwise be disposed of or processed as waste or the mechanized separation and treatment of waste, other than through combustion, and the creation and recovery of reusable materials other than as a fuel for the generation of electricity.

Regulatory floodway. The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height. When not designated on the Flood Insurance Rate Map (FIRM), it is considered to be the channel of a river or other watercourse and the adjacent land areas to a distance of 1/2 the width of the floodplain, as measured from the normal high-water mark to the upland limit of the floodplain.

Relocation. The act or process of taking a structure or object and moving it from its current location or orientation to a new location or orientation.

Riverine. Relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

Residential care facility (small). A facility which provides, on a regular basis, medical or non-medical care and services for up to 16 individuals in separate dwelling or rooming units. Said facility must be licensed as a board care, residential care facility or equivalent pursuant to the regulations promulgated by the State of Maine Department of Health and Human Services.

Residential care facility (large). A facility which provides, on a regular basis, medical or non-medical care and services for 17 or more individuals in separate dwelling or rooming units. Said facility must be licensed as a board care, residential care facility or equivalent pursuant to the regulations promulgated by the State of Maine Department of Health and Human Services.

Restaurant. Any food service establishment with indoor seating capacity for ten or more patrons.

Retail. Any shop or store offering goods or merchandise to the general public for direct consumption and not for resale, or food service establishment with indoor seating capacity for nine

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or fewer patrons. Retail shall not include gasoline, diesel, or propane fuel sales.

Riprap. Rocks, irregularly shaped, and at least six inches in diameter, used for erosion control and soil stabilization, typically used on ground slopes of two units horizontal to one unit vertical or less.

River. A free-flowing body of water including its associated floodplain wetlands from that point at which it provides drainage for a watershed of 25 square miles to its mouth.

Riverine. Relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

Roadway. That portion of a street between the regularly established curblines, or that part of a street or alley devoted to vehicular or bicycle traffic.

Rooming unit. One or more rooms forming a single unit used, or intended to be used, for living and sleeping purposes by an individual or a family, but not designed for food preparation. In a suite of rooms, each room that provides sleeping accommodation shall be counted as one rooming unit for the purpose of this chapter.

Sapling. A tree species that is less than two inches in diameter at four and one half feet above ground level.

Sea Level Rise-Base Flood Elevation (SLR-BFE). 13 feet NAVD88, or the predicted height of flood waters that may occur as the result of a 100 year storm in conjunction with 3.9 feet of base sea level rise.

Sea Level Rise-Design Flood Elevation (SLR-DFE). The minimum elevation required for a finished ground floor level in the Coastal Flood Resilience Overlay Zone (CFROZ).

Seedling. A young tree species that is less than four and one half feet in height above ground level.

Self-storage facility. A facility for the storage of personal property, where individual renters control and access individual storage spaces. Self-storage facilities may be designed with individual storage spaces located within a fully enclosed, climate controlled building, with individual storage spaces accessed from the outdoors, or with a combination of storage spaces. Administrative offices for the facility, and retail sales of related items, such as moving supplies may be included.

Sexually explicit. The display or depiction of sex organs during actual or simulated sexual intercourse or sexual acts as defined in 17 A M.R.S. § 251.

Shoreline. The normal high-water line, or upland edge of a freshwater or coastal wetland.

Sidewalk. That portion of a street not included in the roadway, and devoted in whole or part to pedestrian traffic.

Sign. A structure, device, figure, display, message placard, or other contrivance, or any part thereof, situated outdoors or indoors, which is designed, constructed, intended, or used to advertise, provide information in the nature of advertising, provide historical, cultural, archeological, ideological, political, religious, or social information, or direct or attract attention to an object, person, institution,

business, product, service, message, event, or location by any means, including words, letters, figures, designs, symbols, fixtures, colors, or illumination.

Sign, animated. Flashing, blinking, reflecting, revolving, or other similar sign with visibly moving or rotating parts or visible mechanical movement of any kind.

Sign, awning. Any sign that is part of or attached to an awning over a door, entrance, window, storefront, or outdoor service area.

Sign, A-Frame. A pedestrian-oriented self-supporting sign that is not permanently affixed to a structure or the ground.

Sign, bandit. Any advertising sign that is placed on public property or on private property without the consent of the property owner or as authorized in this article.

Sign, blade. A permanent, pedestrian-scaled sign mounted either to the wall of building by means of a bracket or attached to the underside of a lintel, arch, or other overhead structure above a porch or walkway and which is typically hung perpendicular to the wall of the building.

Sign, building identification. A sign consisting of letters or numbers applied to a building wall, engraved into the building material, or consisting of a sculptural relief which contains the name of the building or describes its function, but which does not advertise any individual tenant of the building or any products or services offered.

Sign, building-mounted. Sign attached to, connected to, erected against the wall, parapet, or fascia of a building or structure.

Sign, bus shelter. As specified in 23 M.R.S. §1908-A, any outdoor sign visible to the traveling public from public right-of-way that is affixed to a publicly-owned bus shelter operated by a transit agency.

Sign, cabinet. A permanent building-mounted or freestanding sign with its text and/or logo symbols and artwork on a translucent face panel that is mounted within a metal frame or cabinet that contains the lighting fixtures which illuminate the sign face from behind.

Sign, canopy. A sign that is printed, painted, or affixed to a canopy, typically used to accent building entries.

Sign, center identification. A sign identifying the name of a building, office park, or shopping center only.

Sign, changeable copy. A sign that is designed so that characters, letters, numbers, or illustrations can be manually or mechanically changed or rearranged without altering the face or surface of the sign. For the purposes of this article, a sign whose message changes more than eight times per day is considered an animated sign and not a changeable copy sign.

Sign, directional. A sign erected to inform the viewer of the approximate route, direction, or location of a facility or use.

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Sign, direct illumination. Illumination resulting from light emitted directly from an exposed light bulb or light fixture, and not light diffused through translucent signs or reflected from other surfaces such as the ground or building face.

Sign, directory. A permanent sign which provides information in a list, roster, or directory format.

Sign, Electronic Message. A sign or portion of a sign that utilizes computer-generated messages or some other electronic means of changing its characters, letters, numbers, illustrations, display, color, and/or light intensity, including animated graphics and video, by electronic or automatic means. An Electronic Message Sign is not a Single- or Two-Color LED Sign.

Sign, externally-illuminated. A sign whose illumination is reflected from its source by the sign surface to the viewer's eye, the source of light not being visible to the viewer. (See Section 19.7.3(C).)

Sign, feather banner. A temporary sign that is taller than it is wide and made of a flexible material (typically cloth, nylon, or vinyl) and mounted to a pole to fly freely.

Sign, freestanding. A permanent sign that is erected or mounted on its own self-supporting permanent structure or base detached from any supporting elements of a building.

Sign, fuel pump topper. A temporary sign affixed to the top of an operable fuel dispensing pump used to advertise goods offered for sale on the same parcel on which the fuel pump is located.

Sign, incidental. A sign which provides incidental information, including security, credit card acceptance, business hours, open/closed, directions to services and facilities, or menus.

Sign, individual letter. A cut-out or etched letter or logo which is individually mounted on a building wall or freestanding sign.

Sign, internally illuminated. Any sign in which the source of light is entirely enclosed or backlit (halo) within the sign and not directly visible.

Sign, landmark. A permanent sign indicating individual historic landmarks, local historic districts, or otherwise determined by the City to have attained a high degree of community, cultural, aesthetic, or historic significance.

Sign, logo. A stylized group of letters, words, numbers, or symbols used to represent and distinguish a business, product, or organization.

Sign, marquee. A permanent sign structure placed over the entrance to a building and typically used for a theater or other entertainment use.

Sign, monument. A permanent freestanding sign with a solid base that is at least 60% the width of the sign face.

Sign, off-premise. Any sign that directs attention to a business, commodity, service, entertainment, product, structure, use, or property different from a structure or use existing on the property where the sign is located, and/or any sign on which space is rented, donated, or sold by the owner of said sign

or property for the purpose of conveying a message.

Sign, permanent. A sign intended to exist for the duration of time that the use or occupant is located on the premises.

Sign, pole. An elevated permanent sign typically supported by one or two poles, posts, or columns that do not meet the base width requirements for a monument sign.

Sign, projecting. A permanent sign that is attached to and extends perpendicular from a building from the wall.

Sign, service island canopy. A permanent sign mounted on or under a service island canopy, including on a fascia.

Sign, single-color or two-color LED. A permanent or temporary sign or portion of a sign composed of single-color or two-color LEDs that displays static or changeable sign messages using characters, letters, and numbers only. Examples of these signs include, but are not limited to, ″open″ or ″closed″ signs, time and temperature″ signs, or signs indicating the number of available spaces in a parking garage.

Sign, temporary. A sign which is intended for a limited period of display and which is designed to be moved easily and is not permanently affixed to a structure, sign area, or window.

Sign, wall. A permanent sign affixed to or erected against the wall or fascia of a building or structure, with the exposed face of the sign parallel to the plane of wall or fascia to which it is affixed or erected.

Sign, wall banner. A temporary sign constructed of cloth, bunting, plastic, paper, or similar non-rigid material, and securely attached to the wall or support structure for which it is advertising. Flags are not considered temporary wall banners.

Sign, window. A permanent or temporary sign posted, painted, placed, or affixed in or on a window, or otherwise exposed to public view through a window.

Sign, Yard, Type I. A small temporary sign typically constructed of corrugated plastic and supported on a wire frame used, for example, for advertising by local businesses or by election campaigns.

Sign, Yard, Type II. A temporary sign mounted on a single post installed securely in the ground with a small sign hanging from a cross-bar mounted parallel to the ground.

Sign, Yard, Type III. A temporary large sign mounted on two posts installed securely in the ground.

Sign copy. Any graphic, word, numeral, symbol, insignia, text, sample, model, device, or combination thereof that is primarily intended to advertise, identify, or notify.

Sign face. The exterior surface of a sign, exclusive of structural supports, on which is placed the sign copy.

Sign substructure. The supports, uprights, bracing and/or framework of a sign.

Site. All contiguous land under the same ownership or control, whether proposed for development or not, except where development is limited to a lot or lots within a subdivision.

Site (within Article 16). The location of a significant event, an archaeological site, a landscape or traditional cultural property, or a building or structure, whether standing, ruined, or vanished, where the location itself maintains historical or archeological value regardless of the value of any existing structure.

Social service center. A service establishment that provides assistance for those recovering from chemical or alcohol dependency; survivors of abuse seeking support; those transitioning from homelessness or prior incarceration; and those with health and disability concerns. It does not include in-patient, overnight, or living quarters for recipients of the service or for the staff. Such service does not include medical examinations or procedures, or medical detoxification, dispensing of drugs or medications, or other treatments normally conducted in a medical office.

Solar access. Space open to the sun and clear of overhangs or shade, including orientation of buildings and lots to the sun, so as to permit the use of active and/or passive solar energy systems on individual properties.

Solar energy system. A complete assembly consisting of one or more solar collectors and associated mounting hardware or equipment, intended to provide for the collection, storage, and distribution of solar energy for heating or cooling, electricity generation, or solar/thermal hot water systems. Solar energy systems shall include the following:

A. **Solar energy system, accessory.** A system as defined above, where power generation is incidental to a principal use. Accessory solar energy systems include building-integrated or roof-mounted systems of any size, or ground-mounted systems of less than 1,000 square feet in area.
B. **Solar energy system, minor.** A system as defined above, between 1,000 and 9,999 square feet in area, where power generation is considered a principal use. Minor solar energy systems may take the form of either a building-integrated or roof-mounted solar array or a ground-mounted system.
C. **Solar energy system, major.** A system as defined above, of 10,000 square feet or more in area, where power generation is considered a principal use. Major solar energy systems may take the form of either a building-integrated or roof-mounted solar array, or a ground-mounted system.

Solar energy system, building-integrated. A solar energy system that is an integral part of a principal or accessory building and include, but are not limited to, photovoltaic or hot water systems that are contained within roofing materials, windows, walls, skylights and awnings.

Solar energy system, ground-mounted. Also known as free-standing solar energy systems, a solar energy system that is structurally mounted to the ground. The panels may be stationary or revolving and of any size.

Solar energy system, roof-mounted. A solar energy system in which solar panels are mounted on top of the structure of a roof either as a flush-mounted system or as modules fixed to frames which can be tilted toward the south at an optimal angle.

Solid waste disposal facility. A solid waste facility for the incineration or landfilling of solid waste or refuse-derived fuel. Facilities that burn material-separated, refuse-derived fuel, either alone or in combination with fuels other than municipal solid waste or refuse-derived fuels, are not solid waste disposal facilities.

Sounds, impulse. Sound events characterized by brief excursions of sound pressure, each with a duration of less than 1 second.

Sounds, tonal. Sound waves usually perceived as a hum or whine because their instantaneous sound pressure varies essentially as a simple sinusoidal function of time.

Special Flood Hazard Area. See area of special flood hazard.

Specialty food service. A business that specializes in the sale of certain food products and/or the on-site production of items, such as a delicatessen, bakery, candy maker, meat market, catering business, cheesemonger, coffee roaster, or fishmonger, and may offer areas for ancillary retail sales or eating and drinking areas that serve the products processed on-site. Specialty food service includes preparation, processing, canning, or packaging of food products where all processing is completely enclosed and there are no outside impacts. Specialty food service does not include production of alcohol.

Stadium. A commercial structure with tiers of seats and/or viewing areas around and/or adjacent to a field, court, or stage, intended to be used for the viewing of athletic events, entertainment, concerts, and other public gathering purposes. Stadiums may be indoor or outdoor.

Stockpiling. Any placement or creation of piles or loads of soil, loam, sand, gravel, rock, or other mineral deposits upon a site for the purpose of storage, warehousing, or reserving for future use.

Stormwater retention area. A pond or basin used for the permanent storage of stormwater runoff.

Stormwater detention area. A storage area for the temporary storage of stormwater runoff which does not contain water during non-storm conditions.

Stream. A free-flowing body of water from the outlet of a great pond or the confluence of two perennial streams as depicted on the most recent, highest resolution version of the national hydrography dataset available from the United States Geological Survey on the website of the United States Geological Survey or the national map to the point where the stream becomes a river or where the stream meets the Shoreland Zone of another water body or wetland. When a stream meets the Shoreland Zone of a water body or wetland and a channel forms downstream of the water body or wetland as an outlet, that channel is also a stream.

Street. A public way established by or maintained under public authority, or a way dedicated to the use of the public and appearing on the official map of the city.

Street, cul-de-sac or dead end. A street with only one outlet.

Street line. The line of demarcation between private property and a street.

Structure. Anything temporarily or permanently located, built, constructed, or erected for the support, shelter, or enclosure of persons, animals, goods, or property of any kind or anything located, built, constructed, or erected on or in the ground or on another structure. The term includes decks and satellite dishes. Structure does not include fences, poles and wiring and other aerial equipment normally associated with service drops, including guy wires and guy anchors or subsurface wastewater disposal systems. Inside the Shoreland Overlay Zone, patios and at-grade walkways shall be considered structures.

Structure (within Article 16). A human-made construction built for purposes other than human shelter. It can be an engineering project large in scale, such as a bridge or tunnel.

Structure, accessory. A structure on a lot that is incidental and subordinate in area, extent, and/or use to the principal structure on the lot. A lot may have more than one accessory structure.

Structure, nonconforming. A structure which does not meet applicable dimensional requirements but which is allowed solely because it was in lawful existence at the time this Code or subsequent amendments took effect.

Structure, principal. The main structure on a lot having the predominant area, extent, or use. A lot may have more than one principal structure.

Studios for artists and craftspeople. A facility for the production of arts and crafts products such as paintings, sculpture, or other arts, or the practice of arts such as music or dance, or the production of custom, hand-crafted, or limited production of products such as furniture, wood, clay, and metal products, publications, and similar low-impact arts and crafts activities.

Subdivision. As defined in 30 A M.R.S. § 4401 and 4402.

Tasting room. A facility for the sampling of beer, wine, spirits, other alcoholic or non-alcoholic beverages, or food.

Telecommunication tower. Radio masts or tower structures built primarily to hold telecommunication antennas.

Temporary contractor's office and contractor's yard. A short-term, portable, or modular structure utilized as a watchman's quarters, construction office, or equipment shed during the construction of a new development. This may include a contractor's yard where materials and equipment are stored in conjunction with a construction project.

Temporary outdoor sales. Temporary uses, which may include temporary structures where goods are

sold, such as but not limited to arts and crafts fairs, flea markets, rummage sales, consignment auctions, and holiday sales such as Christmas tree lots and pumpkin sales lots. Temporary outdoor sales does not include garage/yard sales, or outdoor sales related to a retail goods establishment where such goods are part of the establishment's regular items offered for purchase.

Temporary outdoor storage container. Temporary self-storage containers, delivered to a residence or business for the purpose of storing items, and subsequently picked up and stored at an off-site location until scheduled for retrieval.

Tenant. Any occupant in lawful possession of a rental unit, whether by lease, sublease, or otherwise.

Theater or performance hall. Any establishment devoted to showing motion pictures, or for dramatic, musical, or live performances.

Tidal waters. All waters affected by tidal action during the highest annual tide.

Transient guest. A person who occupies a facility offering accommodations on an overnight basis for compensation and whose actual occupancy is limited to no more than 15 days out of any 60-day period.

Tree. A woody perennial plant with a well-defined trunk(s) at least two inches in diameter at four and one half feet above the ground, with a more or less definite crown, and reaching a height of at least 10 feet at maturity.

Tree, feature mature. A tree that meets at least one of the following criteria:

A. Any tree that is on the Register of Big Trees promulgated by the Maine Department of Agriculture, Conservation & Forestry (the "Big Tree List")

B. Certain trees 24" in diameter or greater (diameter at breast height or DBH) as identified by the City Arborist

C. Ornamental trees 12" in diameter or greater (diameter at breast height or DBH) as identified by the City Arborist

D. Rare tree specimen to include either a tree species classified as rare or endangered at either the state or federal level, and/or stands of native trees that are rare or threatened as identified by the City Arborist.

Tree, hazard. A tree with a structural defect, combination of defects, or disease resulting in a structural defect that under the normal range of environmental conditions at the site exhibits a high probability of failure and loss of a major structural component of the tree in a manner that will strike a target. A normal range of environmental conditions does not include meteorological anomalies, such as, but not limited to: hurricanes; hurricane-force winds; tornados; microbursts; or significant ice storm events. Hazard trees also include those trees that pose a serious and imminent risk to bank stability. A target is the area where personal injury or property damage could occur if the tree or a portion of the tree fails. Targets include roads, driveways, parking areas, structures, campsites, and any other developed area where people frequently gather and linger.

Tree, ornamental. Any tree, shrub, or other plant grown primarily for decorative purposes and whose mature height can be expected to be between three feet and 25 feet.

Tree, shade. Any tree, evergreen or deciduous, planted primarily for its high crown of foliage and whose mature height can be expected to exceed 25 feet.

Tree, storm-damaged. A tree that has been uprooted, blown down, is lying on the ground, or that remains standing and is damaged beyond the point of recovery as the result of a storm event.

Tree, street. Tree planted in the public right-of-way and/or private roadway.

Tributary stream. A channel between defined banks created by the action of surface water, which is characterized by the lack of terrestrial vegetation or by the presence of a bed, devoid of topsoil, containing waterborne deposits or exposed soil, parent material or bedrock; and which is connected hydrologically with other water bodies. Tributary stream does not include rills or gullies forming because of accelerated erosion in disturbed soils where the natural vegetation cover has been removed by human activity.

Upland edge of a wetland. The boundary between upland and wetland. For purposes of a coastal wetland, this boundary is the line formed by the landward limits of the salt tolerant vegetation and/or the highest astronomical tide level, including all areas affected by tidal action. For purposes of a freshwater wetland, the upland edge is formed where the soils are not saturated for a duration sufficient to support wetland vegetation, or where the soils support the growth of wetland vegetation but such vegetation is dominated by woody stems that are six meters (approximately 20 feet) tall or taller.

Use. The purpose for which land or structures thereon is designed, arranged, or intended to be occupied, or for which it is occupied, maintained, rented, or leased.

Use, nonconforming. Use of buildings, structures, or land which is not allowed in the zone in which it is situated, but which is allowed to remain solely because it was in lawful existence at the time this Code or subsequent amendments took effect.

Utility substation. Any sewage or water pumping station, electric power substation, transformer station, telephone equipment enclosures, or other similar structures owned or operated by a utility.

Vegetation. All live trees, shrubs, ground cover, and other plants including, without limitation, trees both over and under four inches in diameter, measured at four and one-half feet above ground level.

Vegetation, climate resilient northeast native. Plants identified as native to the northeast as identified by the Northeast Regional Invasive Species & Climate Changes (RISCC) Network or a Maine licensed landscape architect.

Vegetation, native. Vegetation indigenous to local forests.

Vegetation, non-native invasive species. Species of vegetation listed by the Maine Department of

Agriculture, Conservation, and Forestry as being invasive in Maine ecosystems and not native to Maine ecosystems.

Veterinary services. An establishment for the treatment of animals, where animals may be boarded during their convalescence

Very low-income household. A household having an income not exceeding 50% of median income for area of residence as set forth in regulations promulgated from time to time by the United States Department of Housing and Urban Development pursuant to 42 U.S.C. section 1437 et seq.

Warehousing and distribution facility. The storage of goods, wares, and merchandise in a warehouse from which distribution occurs. May include wholesale use, but not retail or direct sales to consumers. Warehousing and distribution facilities do not include self-storage facilities.

Watercourse. Any natural or artificial stream, river, creek, ditch, channel, swale, canal, conduit, culvert, drain, waterway, gully, ravine, or wash in which water flows in a definite direction or course, either continuously or intermittently, or which has a definite channel, bed, and banks, and includes any area adjacent thereto subject to inundation by reason of overflow or floodwater.

Water-dependent uses. Those uses that require, for their primary purpose, location on submerged lands or that require direct access to, or location in, coastal or inland waters and which cannot be located away from these waters. Inside the Shoreland Overlay zone, these uses include, but are not limited to, commercial and recreational fishing and boating facilities, finfish and shellfish processing, fish-related storage and retail and wholesale fish marketing facilities, waterfront dock and port facilities, shipyards and boat building facilities, marinas, navigation aids, basins and channels, shoreline structures necessary for erosion control purposes, industrial uses dependent upon water-borne transportation or requiring large volumes of cooling or processing water that cannot reasonably be located or operated at an inland site, and uses that primarily provide general public access to coastal or inland waters. Recreational boat storage buildings are not considered to be a functionally water-dependent use.

Wetlands (outside of the Shoreland Overlay Zone). Those areas which have two or more of the following:

A. A water table at or near the surface during the growing season;

B. Very poorly drained soils, including Sebago mucky peat; or

C. Obligate wetland vegetation.

Very poorly drained soils and obligate wetland vegetation shall be as defined and illustrated in the United States Department of Interior, Fish and Wildlife Service publication of Wetland Plants of the State of Maine (1986).

Wind energy system. A system of components that converts the kinetic energy of the wind into electrical or mechanical power. A wind energy system comprises all necessary components including turbines, energy storage, power conditioning, control systems, transmission systems (where appropriate) and structural support systems to provide electricity or mechanical power for residential, commercial, industrial, utility, or

governmental use. Wind energy systems shall include the following:

A. Wind energy system, accessory: A system as defined above, where power generation is incidental to a principal use. Accessory wind energy systems include roof-mounted systems, and ground-mounted systems less than 45 feet in height.

B. Wind energy system, minor: A system as defined above, where power generation is considered a principal use. Minor wind energy systems are ground-mounted systems measuring between 45 feet and 85 feet in height.

C. Wind energy system, major: A system as defined above, where power generation is considered a principal use. Major wind energy systems are ground-mounted systems measuring between 85 feet and 160 feet in height.

Wholesale. Sale for resale, not for direct consumption.

Workforce housing unit for rent. A dwelling unit for which:

A. The rent is affordable to a household earning 80% or less than of AMI.

B. The unit is rented to a household earning 80% or less of AMI.

C. The requirements of (A) and (B) above are limited by deed restriction or other legally binding agreement for the applicable length of time in this ordinance.

Workforce housing unit for sale. A dwelling unit for which:

A. The purchase price is affordable to a household earning 80% or less of AMI.

B. The unit is sold to a household earning 80% or less of AMI.

C. The requirements of (A) and (B) above are limited by deed restriction or other legally binding agreement for the applicable length of time in this ordinance.

4 NONCONFORMING USES, STRUCTURES, & LOTS

4.1 IN GENERAL

4.1.1 Continuation

Any building, structure, lot, or use that legally existed at the time of its creation and has been made nonconforming by the provisions of this Land Use Code or any subsequent amendment hereto may be continued, subject to the provisions of this article, so long as it remains otherwise legal.

4.1.2 Burden on property owner

The burden of establishing the legality of a nonconformity under the provisions of this Land Use Code is the responsibility of the property owner or operator of the nonconforming use, lot, building, or structure. Based upon the evidence presented, the Building Authority or their designee will make a determination of the validity of the nonconforming status.

4.1.3 Unlawful use, lot, building, or structure

Any use lot, building, or structure established or constructed in violation prior to the effective date of this Land Use Code shall not be regarded as lawfully nonconforming, and is not entitled to any rights established within this Section.

4.1.4 Safety regulations

All police power regulations enacted to promote public health, safety, and welfare, including but not limited to all building, fire, and health codes, shall apply to nonconforming uses, structures, and lots.

4.2 NONCONFORMING USES

4.2.1 Expansion of nonconforming use

A nonconforming use of a structure or land shall not be expanded or increased in intensity. Expansion shall include any addition, extension, or enlargement that increases the cubical content of any structure devoted entirely to a nonconforming use, and any extension or relocation of a nonconforming use to any other structure, portion of floor area, or land area currently not occupied by such nonconforming use. This provision shall not apply in the case of expansion of a nonconforming use solely for the purpose of bringing the use into compliance with health or safety codes, or to correct a condition which is determined by the Board of Appeals to constitute a health or safety problem. Any such expansion shall be limited to the minimum necessary to accomplish that purpose. Except as expressly provided herein, any expansion, extension, or enlargement permitted under this subsection shall be in compliance with all other applicable sections of this Land Use Code. Nothing within this subsection shall be construed to permit an increase in the number of units in a building which is nonconforming as to the number of dwelling units or will become nonconforming as a result of such alteration, modification, or addition.

4.2.2 Change of nonconforming use

A. A nonconforming use shall only be changed to a use that is permitted in the zone in which the use is located. When a nonconforming use has been changed, in whole or in part, to a permitted use, the whole or part that conforms shall not thereafter be changed back to any nonconforming use.

B. Any change of use in violation of this article shall be deemed to be an abandonment of the lawfully nonconforming use.

4.2.3 Discontinuance of nonconforming use

If a lawfully nonconforming use is discontinued for a period of one year, such discontinuance shall constitute an abandonment of the use and the property shall not thereafter be occupied or used except in conformity with the provisions of this Land Use Code. A nonconforming use of land which is incidental or accessory to a principal nonconforming use shall be considered discontinued at the same time as the nonconforming principal use. In cases of foreclosure or similar situations involving a lawfully nonconforming use, the Building Authority shall be authorized to extend the aforementioned period up to an additional five years provided that the extension is for good cause and the minimum length considered necessary to resume the lawfully nonconforming use.

4.3 NONCONFORMING LOTS

4.3.1 Lots in separate ownership

A vacant nonconforming lot held under separate and distinct ownership shall be considered a buildable lot provided that all provisions of this Land Use Code except minimum lot area and minimum street frontage can be met.

4.3.2 Lots in common ownership

Adjoining nonconforming lots in common ownership as of [effective date] shall be considered as one lot and shall not again be divided except in conformance with the provisions of this Land Use Code.

4.4 NONCONFORMING STRUCTURES

4.4.1. Restoration or reconstruction

A nonconforming structure damaged by fire, explosion, flood, riot, act of the public enemy, accident of any kind, decay, or otherwise may be maintained, repaired, reconstructed, restored or rebuilt only where:

A. The restoration or reconstruction is of a structure which is lawfully nonconforming as to any dimensional requirements.

B. The restoration or reconstruction will occur entirely within the existing footprint and previous shell of the building and no alterations, modifications, or additions will be made except as provided in this article and as permitted in this subsection and Subsection 4.4.2.

C. Restoration or reconstruction is commenced within two years of the initial damage where such damage is sudden and accidental, or, in the case of decay, of the demolition of the structure or commencement of restoration or reconstruction, and is diligently pursued to completion without expiration of permits.

D. In cases of foreclosure or similar situations involving a lawfully nonconforming structure, the Building Authority shall be authorized to extend the aforementioned period up to an additional five years provided that the extension is for good cause and the minimum length considered necessary to maintain, repair, or reconstruct the lawfully nonconforming structure.

E. Where a structure is located within the Coastal Flood Resilience Overlay Zone, such structure may be restored or reconstructed, but must meet the standards of the CFROZ. This provision shall not apply to pump stations.

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4.4.2. Alteration or extensions

A. Alterations. Alterations may be made to a structure which is lawfully nonconforming only where at least one of the following apply:

1. The alteration is required by law or is necessary to restore the structure to a safe condition upon the order of any official charged with the protection of public safety.
2. The alteration will eliminate the nonconformity.
3. The alteration will not create any new nonconformity and will not increase the degree of any existing nonconformity.

B. Extensions. Existing principal structures which are lawfully nonconforming as to dimensional requirements may be enlarged or extended subject to the following provisions:

1. No modification to an existing nonconforming structure shall increase any existing nonconformity, except as provided in (3) and (4) below.
2. No modification to an existing nonconforming structure shall create new nonconformity with any provision of this Land Use Code.
3. A one-time increase of one additional story above a building that is lawfully nonconforming as to minimum setbacks may be permitted provided that:
   a. No portion of the expansion horizontally extends beyond the nonconforming portion of the first story of the structure.
   b. Any portion of a vertical expansion above the permitted one additional story shall meet the required minimum setback.
   c. The vertical expansion meets applicable maximum height requirements.
4. Any covered porch existing on June 5, 1957 which does not meet minimum setback requirements may be enclosed, provided that the majority of the enclosure consists of glass.

C. Relocation. A nonconforming structure shall not be relocated, in whole or in part, to any other location on the same lot unless relocation would make the structure more conforming. A nonconforming structure may be relocated to another lot only if the structure conforms to all regulations of the zone to which it is relocated.

4.4.3. Nonconformity as to required build-to zone and building length

As of the effective date of this Land Use Code, when an existing structure does not conform to the required build-to zone, build-to percentage, maximum building length, or building length as a percentage of street frontage for the applicable zone, the structure shall be deemed exempt from that standard. Such structure may be altered or expanded without having to conform to the applicable standard(s) until the structure's building footprint is expanded by 50% or more. If expansions to the structure occur incrementally, building footprint shall be calculated as the sum of all expansions occurring after the effective date of this Land Use Code. Once the existing structure is demolished, this deemed conforming status shall become null and void.

4.4.4. Nonconformity as to number of dwelling units

A. Purpose. The purpose of this provision is to establish a process whereby certain dwellings which contain more dwelling units than the number permitted by the applicable provisions of the Land Use Code may be recognized as legal, nonconforming uses.

B. Application. Application for validation of such nonconforming dwelling units shall be on a form provided by the Building Authority, and shall be accompanied by:

1. An application fee as established by the City Council to cover administrative costs.
2. A plan, drawn to scale, which shows the location of the building(s) on the lot, parking, easements, dumpsters, fencing, public ways, and any other significant feature.
3. A floor plan for each unit in the dwelling, whether or not it is the subject of the application.

C. Eligibility. In order for a nonconforming dwelling unit to be validated by administrative action of the Building Authority as authorized herein, the Building Authority must find, based on competent evidence, supported by public records, that:

1. The nonconforming dwelling units were either in existence on April 1, 2005, or the structure in which they are located was originally designed to accommodate more than the number of such units presently in use.
2. The applicant neither constructed nor established the nonconforming dwelling units.
3. The nonconforming dwelling units comply with or can be made to comply with current standards of Chapter 10 of the City of Portland Code of Ordinances, including the National Fire Protection Association Life Safety Code and the National Fire Protection Association 1: Fire Prevention Code, as amended.
4. Each of the nonconforming dwelling units complies with, or can be made to comply with, provisions of the Chapter 6 of the City of Portland Code of Ordinances, as amended, including, but not limited to, the minimum standards for space and occupancy, the minimum plumbing standards, and the minimum ventilation standards.
5. In the absence of legally competent evidence, supported by records (such as, but not limited to, Assessor's records, purchase and sale agreements, affidavits, deeds, mortgages, as well as reliable secondary sources), that the conditions of (C)(1), (2), (3), (4), or (5) above can be met, the Building Authority may not approve the application, but shall advise the applicant that the matter may be appealed to the Board of Appeals.

D. Notice to abutters. Upon receipt of a completed application, the Building Authority shall provide the owners of abutting properties notice of the application, along with a notice that they may object to the Building Authority's acting on the application and require the applicant to appeal to the Board of Appeals. The notice shall advise the abutters and owners of property within 300 feet that any objection must be submitted in writing to the Building

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Authority within 10 days of the date of the notice sent to them. The failure of any property owner to receive the notice described above shall not invalidate any action by the Building Authority. The Building Authority shall promptly notify the applicant of receipt of the objection, that the Building Authority is without authority to proceed, and advise the applicant that, within 30 days from receipt of the letter, an application may be filed to have the matter reviewed by the Board of Appeals as a conditional use.

E. Approval of application. The Building Authority may approve the application, provided that the evidence presented satisfies all of the requirements of this subsection and provided that no abutter nor person entitled to notice has requested that the application be referred to the Board of Appeals, instead of the Building Authority. Upon approval of the application, final inspection by the Building Authority certifying the units as in compliance with all applicable codes, and receipt of an inspection fee as established by the City Council for each nonconforming dwelling unit which has been recognized as a lawful, nonconforming use, the Building Authority shall issue a certificate of occupancy.

F. Disapproval of application. In the event the application is not approved by the Building Authority or in the event of a timely objection filed by a person qualified herein to file such an objection, the applicant, within 30 days from the decision of the Building Authority or objection, may appeal the matter to the Board of Appeals as a conditional use.

G. Action by Board of Appeals. The Board of Appeals shall treat applications filed under this subsection as an application for a conditional use, applying the standards applicable to conditional uses under Section 6.5 as well as the requirements of this subsection.

H. Dimensional and parking requirements. In making decisions under this subsection, neither the Building Authority nor the Board of Appeals shall apply the dimensional or parking requirements which would otherwise apply in the zones where the nonconforming dwelling units are situated.

I. Exclusions. The provisions of this subsection shall not apply to rooming units, but shall apply to efficiency apartments under Chapter 6 of the City of Portland Code of Ordinances. The Board of Appeals is without jurisdiction to grant any relief (including, but not limited to, variances) which would recognize the particular dwelling units which are the subject of this subsection as legal, nonconforming uses, except in strict compliance with each requirement of this subsection.

J. Prior judicial and administrative action. Decisions of any court or administrative body, including but not limited to, the Building Authority, the Planning Board, or the Board of Appeals, made prior to the effective date of this subsection and which addressed the number of nonconforming dwelling units in a particular structure, will not bar relief under this subsection.

5 ZONES

5.1 ESTABLISHMENT OF ZONES

To carry out the provisions of this Land Use Code, the City of Portland shall be divided into the zones in Table 5-A.

5.2 ZONING MAP

5.2.1 Zoning map adopted

The zones in Table 5-A shall be shown upon a map filed in the Department of Planning and Urban Development. Such zoning map, with amendments, is hereby adopted as the official zoning map of the City of Portland and as part of this Land Use Code.

5.2.2 Zone boundaries when uncertain

Where uncertainty exists with respect to the boundaries of the various zones, as shown on the zoning map, the following rules shall apply:

A. Unless otherwise indicated, zone boundary lines correspond to lot lines. Zones shall be interpreted to extend to the center lines of streets, alleys, parkways, waterways, or rights-of-way.

B. Depiction of the Shoreland Overlay Zone on the zoning map is illustrative of the general location of such zone. The actual boundaries shall be determined by measurement of the distance indicated on the map and in this Land Use Code from the normal high-water line of the water body or the upland edge of wetlands. Where such measurement is not the same as the location of the boundary of the zoning map, the measurement shall control, unless the zoning map indicates that the zone boundary shall follow an existing property line.

TABLE 5-A: ZONES

Residential Neighborhood	RN-1, RN-2, RN-3, RN-4, RN-5, RN-6
Island	IR-1, IR-2 I-B Island Business
Mixed-Use	B-1 Neighborhood Business B-2 and B-2b Community Business B-3 Downtown Business B-4 Commercial Corridor B-5 Urban Commercial B-6 Eastern Waterfront
Transit-Oriented	TOD-1 Transit Neighborhood TOD-2 Transit Center
Office	O Office
Industrial & Airport	I-L and I-Lb Low-Impact Industrial I-M and I-Mb Moderate-Impact Industrial I-H High-Impact Industrial A-B Airport Business
Open Space	OS-R Recreation and Open Space OS-P Open Space Preservation
Waterfront	EWPZ Eastern Waterfront Port WCZ Waterfront Central WPDZ Waterfront Port Development
Overlay Zones	Coastal Flood Resilience Overlay Fort Sumner Park Height Overlay Institutional Overlay (IOZ) Island Transfer Station Overlay Pedestrian Activities District Overlay University of Southern Maine Overlay Waynflete School Overlay
Form-Based	IS-FBC India Street Form-Based Code
Other	Shoreland Overlay Floodplain Management

5.2.3 Extension of zone lines

Where a zone boundary line divides a lot in single or joint ownership of record at the time such line is established, the use provisions of this Land Use Code for the less restricted portion of such lot shall extend not more than 30 feet into the more restricted portion, provided that the lot has at least 20 feet of street frontage in the less restrictive zone when taken together with adjacent premises which are under the same or equivalent ownership or control. If such boundary line divides a business or industrial zone from a residential zone, no frontage on a street other than the principal business street in the less restrictive zone may be taken into consideration in connection with the right herein granted. This subsection shall only apply with respect to use provisions.

5.3 CONDITIONAL OR CONTRACT ZONING

5.3.1 Authority and purpose

Pursuant to 30-A M.R.S.§ 4352(8), conditional or contract zoning is hereby authorized for rezoning of property where, for reasons such as the unusual nature or unique location of the development proposed, the City Council finds it necessary or appropriate to impose, by agreement with the property owner or otherwise, certain conditions or restrictions in order to ensure that the rezoning is consistent with the City's Comprehensive Plan. Conditional or contract zoning shall be limited to where a rezoning is requested by the owner of the property to be rezoned. The conditional or contract zoning must be consistent with the Comprehensive Plan, and rezoned areas must be consistent with the existing and permitted uses within the original zone. Nothing in this section shall authorize either an agreement to change or retain a zone or a rezoning which is inconsistent with the City's Comprehensive Plan.

5.3.2 Hearing

The Planning Board shall conduct a public hearing in accordance with Section 2.1.8 prior to any property being rezoned under this section.

5.3.3 Conditions and restrictions

Conditions and restrictions imposed under the authority of this section shall relate only to the physical development and operation of the property and may include, by way of example:

- **A.** Limitations on the number and types of uses permitted.
- **B.** Restrictions on the scale and density of development.
- **C.** Specifications for the design and layout of buildings and other improvements.
- **D.** Schedules for commencement and completion of construction.
- **E.** Performance guarantees securing completion and maintenance of improvements, and guarantees against defects.
- **F.** Preservation of open space and buffers, and protection of natural areas and historic sites.
- **G.** Contributions toward the provision of municipal services required by the development.
- **H.** Provisions for enforcement and remedies for breach of any condition or restriction.

5.3.4 Amendments

Except as expressly modified in any contract or conditional rezoning agreement, the use and occupancy of any property within the City of Portland used or occupied pursuant to a contract

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or conditional rezoning agreement otherwise shall be governed by and comply with the provisions of the Land Use Code of the City of Portland and any applicable amendments thereto or replacement thereof.

5.3.5 Enforcement

Notwithstanding language in any contract or conditional zoning to the contrary, any violation of a conditional or contract zone shall be enforced pursuant to 30-A M.R.S. § 4452, as may be amended from time to time, or in any other manner available by law. No alleged violation of a contract or conditional rezoning may be prosecuted until the City has delivered written notice of the alleged violation(s) to the owner or operator of the property that is subject to the contract or conditional rezoning and given the owner or operator an opportunity to cure the violation(s) within 30 days of receipt of the notice. In addition, if such an enforcement action should result in a finding that the terms of the conditional or contract zone have been violated, then the City may act to modify or rescind the conditional or contract zone and to rezone the property.

5.4 BASE ZONE PURPOSE STATEMENTS

Base zone purpose statements shall be as established in Tables 5-B to 5-H.

TABLE 5-B: RESIDENTIAL NEIGHBORHOOD ZONE PURPOSE STATEMENTS

The residential neighborhood zones are intended to reflect the varied character and development patterns of Portland's residential neighborhoods, and to promote new residential development that increases housing diversity and choice within the City, in alignment with the City's priorities and vision for the future. Development within the residential zones should thoughtfully respond to each area's context, including elements such as the urban grid, pedestrian and bike connectivity, and access to transit and open space. Standards for each zone have been tailored to address building form and encourage context sensitivity, while allowing for a range of permitted dwelling types.

RN-1	To provide for a residential neighborhood environment predominantly characterized by dwellings on lots of at least 6,500 square feet. Conversion of existing nonresidential structures to multi-family dwellings is permitted within the RN-1 zone, subject to standards encouraging compatibility and context sensitivity to ensure the stability of established residential neighborhoods. Select nonresidential uses may also be permitted in the RN-1 zone.
RN-2	To provide for a residential neighborhood environment that acknowledges the unique character of the Western Promenade while accommodating dwellings on lots of at least 6,000 square feet. Construction of new multi-family dwellings at moderate densities is allowed, as-is conversion of existing structures to multi-family dwellings, subject to standards encouraging compatibility and context sensitivity to ensure the stability of established residential neighborhoods. Select nonresidential uses may also be permitted in the RN-2 zone.
RN-3	To provide for a residential neighborhood environment predominantly characterized by dwellings on lots of at least 5,000 square feet. Conversion of existing nonresidential structures to multi-family dwellings is permitted within the RN-3 zone, subject to standards encouraging compatibility and context sensitivity to ensure the stability of established residential neighborhoods. Select nonresidential uses may also be permitted in the RN-3 zone.
RN-4	To provide areas of the city, on the peninsula and in select off-peninsula locations in alignment with major public transportation routes and near service areas, for a residential neighborhood environment of dwellings on lots of at least 2,000 square feet. Townhouse and multi-family dwellings are also permitted, subject to standards encouraging compatibility and context sensitivity to ensure the stability of established residential neighborhoods. Select nonresidential uses may also be permitted in the RN-4 zone.
RN-5	To accommodate existing areas of the city characterized by a residential neighborhood environment of multi-family dwellings at relatively high density, exhibiting a pattern of larger lots and setbacks, as well as generally taller building heights. Select nonresidential uses may also be permitted in the RN-5 zone.
RN-6	To provide areas of the city, predominantly on the peninsula, for a dense residential neighborhood environment of townhouse and multi-family dwellings. Select nonresidential uses may also be permitted in the RN-6 zone.

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TABLE 5-C: ISLAND ZONE PURPOSE STATEMENTS

IR-1	To provide for a low-intensity environment characterized by residential, recreational, and rural uses on Portland's islands. Standards for the IR-1 zone are intended to preserve and protect the rustic character of the islands, to protect groundwater resources and natural and scenic areas, and to permit only low-intensity development in areas lacking adequate public facilities and services. Select nonresidential uses may also be permitted in the IR-1 zone.
IR-2	To provide for a residential neighborhood environment on Portland's islands in areas with adequate public services. Expansion or extension of IR-2 zoning should be limited, generally focused toward areas adjacent to existing IR-2 areas, and restricted by such factors as adequacy of access, whether adequate water will be available for private use and for fire protection, whether soils in the area are adequate for subsurface water disposal, or whether public sewers are available. Select nonresidential uses may also be permitted in the IR-2 zone.
I-B	To provide limited areas on Portland's islands for the development of a mixture of residential, retail, and service establishments that primarily serve the needs of the local island market area. The I-B zone provides for a mixture of commercial and service uses, closely integrated with – and complimentary to – the surrounding residential neighborhood fabric to support the concept of a complete neighborhood. Standards for the I-B zone may vary by location, dependent upon the availability of public water and sewer resources.

TABLE 5-D: MIXED-USE ZONE PURPOSE STATEMENTS

B-1	To provide limited areas that support a small scale, pedestrian-friendly, mixed-use environment, allowing residents access to daily shopping and service needs within walking distance of nearby established residential neighborhoods. The B-1 zone provides for a mixture of commercial and service uses, closely integrated with – and complimentary to – the surrounding residential neighborhood fabric to support the concept of a complete neighborhood. The zone encourages both vertical and horizontal mixed-use, such as a commercial first floor with residential uses above, combined retail/office uses in a multi-story structure (vertical), or commercial uses mixed with three-family, four-family, townhouse, and multi-family structures across the face of a block (horizontal). Suitable locations for this zone may include street intersections and arterial streets with existing or proposed traditional neighborhood retail and service uses.
B-2	To provide locations for a mixture of commercial, service, and residential uses in a comfortable pedestrian environment that is easily accessible and well-connected to surrounding neighborhoods. Such a mixture may serve the daily needs of nearby residents within walking distance, as well as surrounding neighborhoods via multiple modes of transportation. The zone provides a broad range of goods and services with a mixture of large and small buildings, such as grocery stores, shops and services located in shopping centers and along arterial streets. The B-2 zone's multi-modal orientation accommodates all modes of transportation, and the standards of the zone require that development relate to surrounding neighborhoods by design, orientation, and circulation patterns. The zone encourages mixed-use development, and provides locations for moderate to high-density housing, including three-family, four-family, townhouse, and multi-family structures in urban neighborhoods along arterials.
B-2b	To provide neighborhood and community retail, business and service establishments that are oriented to and built close to the street. The B-2b zone is suitable in areas where a more compact urban development pattern exists or where a neighborhood-compatible commercial district is established which exhibits a pedestrian scale and character. Such locations may include the peninsula and other arterials and intersections with an existing urban or neighborhood-oriented building pattern. The B-2b zone encourages mixed-use development, and provides locations for moderate to high-density housing in urban neighborhoods along arterials.
B-3	To maintain and enhance the role of the downtown as the business and commercial center of the region, and to enhance and promote the orderly expansion of retail and service businesses downtown, satisfying the related needs of the city's resident, working, and visitor populations. The B-3 zone encourages increased housing opportunities downtown, including three-family, four-family, townhouse, and multi-family structures to accommodate Portland's diverse residential population, and supports an active, walkable pedestrian environment through the encouragement of intensive mixed-use activities, enhancement and maintenance of public and private open space, and the enlivenment and increased attractiveness of the street environment. Standards of the B-3 zone require excellence in urban design, to preserve and capitalize on the unique character and historic fabric of downtown Portland by encouraging reuse of significant existing structures and providing opportunities for an enhanced presence and integration of arts and cultural activities. The zone reinforces the role of downtown as a meeting place for community residents and visitors alike from all walks of life and all socio- economic groups by prioritizing access via multiple modes of transportation and enhancing and protecting the pedestrian environment.

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TABLE 5-D: MIXED-USE ZONE PURPOSE STATEMENTS

B-4	To provide locations in the city for the development and operation of businesses serving a regional or larger market, to provide locations for large-scale commercial uses that require larger land areas to accommodate their operations, and to support moderate to high-density housing including three-family, four-family, townhouse, and multi-family structures. Standards of the B-4 zone acknowledge the need to maintain automobile access while encouraging improvement of the pedestrian environment and accommodating alternative modes of transportation.
B-5	To provide areas on or proximate to the waterfront, downtown, and the peninsula where a mixture of uses, including marine, industrial, commercial, and a broad range of residential option, is encouraged. The B- 5 zone is characterized by larger underdeveloped lots with great potential for dense, clustered, urban mixed-use development and reuse of existing land and buildings. It is anticipated that the dense, mixed-uses of the B-5 zone will rely on a shared infrastructure system, including service alleys, parking lots, public transportation facilities, stormwater management, and driveways.
B-6	To establish a zoning district for the upland portion of the Eastern Waterfront area. The B-6 zone encourages a distinctly urban form through development that emphasizes a quality pedestrian experience, promotes public transit, and demonstrates exemplary urban design. The zone promotes a broad range of both residential and commercial uses to achieve 24-hour urban vitality, and shared use of parking infrastructure as recommended in the *Eastern Waterfront Master Plan* for redevelopment. The B-6 zone promotes a mixed-use development pattern envisioned for urban land on Portland's peninsula.

TABLE 5-E: TRANSIT-ORIENTED DEVELOPMENT ZONE PURPOSE STATEMENTS

TOD-1	To provide for and encourage the development of moderate to high-intensity mixed-use, compact urban neighborhoods that support Portland's investment in high frequency transit infrastructure through permissions for a dense, pedestrian-scale built environment and a range of uses that encourage walking, bicycling, and use of public transit at advantageous locations within the City's off-peninsula neighborhoods.
TOD-2	To provide for and encourage the development of high-intensity mixed-use, compact urban neighborhoods that support Portland's investment in high frequency transit infrastructure through permissions for a highly dense, pedestrian-scale built environment and a broad range of uses that allow residents to live, work, shop, dine, and pursue cultural and recreational opportunities while enjoying a range of mobility choices. The TOD-2 zone is intended to allow for the creation of vibrant, accessible, 24-hour neighborhoods at suitable locations on or near the peninsula.

TABLE 5-F: OFFICE ZONE PURPOSE STATEMENTS

O	To provide areas for the creation of low-intensity office uses, allowed as either independent uses, or integrated into a park- or campus-like setting. Standards of the O zone encourage office and related uses which are of the highest quality, are well-designed and maintained, and are compatible with their natural surroundings.

TABLE 5-G: INDUSTRIAL AND AIRPORT ZONE PURPOSE STATEMENTS

I-L & I-Lb	To provide areas in which low-impact industrial uses, and limited other uses serving employees and residents of the surrounding neighborhood, will be compatible with adjacent residential uses, will provide a buffer between residential neighborhoods and higher impact industrial zones, or will stand alone as a smaller scale industrial district. The I-L zone is located adjacent to residential neighborhoods, business uses and other industrial uses where the low-intensity nature of the uses, as well as their strict performance standards, will ensure the compatibility of the uses with other adjacent industrial and nonindustrial uses. The I-Lb zone is typically located on the peninsula.
I-M & I-Mb	To provide zones in areas of the city in which low- and moderate-impact industries and transportation-related uses will coexist. I-M zones are located on arterials or collectors. The I-Mb zone is typically located on the peninsula. These locations provide for direct access onto arterials, thereby protecting residential neighborhoods from drive-through traffic. The purpose of the I-M and I-Mb industrial zones is also to provide for larger industrial buildings and for the limited or controlled use of areas outside of structures for storage of materials and machinery. These facilities often require large volumes of imported materials and products which result in large volumes of shipping and receiving. Often uses may be highway-oriented and transportation-related, thus relying on citywide and regional transportation infrastructure. Industrial uses in these moderate-impact industrial zones may require separation from higher-impact uses.
I-H	To provide areas suitable for higher impact industrial uses than are permitted in other industrial zones, and other uses that are capable of demonstrating, through design, layout and topography, their compatibility with, or non-intrusion on, existing or future higher impact industrial uses on adjacent or neighboring I-H zoned properties. Due to the intensity of use, the I-H zone is intended for uses which may require extensive outdoor storage and usage and may utilize heavy equipment. Processes may require separation from residential or sensitive environmental areas. The I-H zone is separated from other nonindustrial uses as well as natural or constructed features. High-impact industrial uses will be of a higher intensity, with a greater lot coverage than the other zones.
A-B	To provide an area for the development of airport-related enterprises. Uses permitted in this zone are those customarily associated with the operation of the airport terminal and individual airlines and accessory uses to provide for the comfort and convenience of the airport's patrons and employees.

TABLE 5-H: OPEN SPACE ZONE PURPOSE STATEMENTS

OS-R	To provide for the reasonable use of open space, while simultaneously preserving and protecting its inherent characteristics to assure its continued availability for public use as scenic and recreation area; to provide a suitable location for large-scale regional sports and athletic facilities; and to develop an open space system throughout the city which provides the highest quality parks, plazas, and pedestrian environment. The OS-R zone may include parcels of public property and private property legally restricted from intensive use or development through deed, covenant, or otherwise.
OS-P	To preserve and protect open space as a limited and valuable resource, and to further the City of Portland's goals related to climate adaptation and resiliency. The OS-P zone prioritizes preservation and protection of Portland's critical conservation and natural resource areas. Very limited development may be allowed for sustainable energy generation, passive recreation and educational purposes, but must be compatible with and cause little impact to these areas.

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6 USE STANDARDS

6.1 APPLICABILITY

6.1.1. In general

A. The use of buildings, structures, private property, and City-owned property are governed by this article, except when superseded by other applicable laws or ordinances. It is the intent that, when in doubt, this article should be interpreted to accommodate the goals of the City's Comprehensive Plan and other plans.

B. All uses shall comply with any applicable federal and state requirements, and any additional applicable federal, state, county, and/or city ordinances.

C. All uses shall comply with any supplemental use standards in Section 6.4 as applicable. Use standards address specific impacts, design or siting standards, and/or additional regulations outside of this Code.

6.2 DETERMINATION OF USE

6.2.1 Use tables

A. Tables 6-A to 6-G shall determine if a use is permitted (●), conditional (◐), or not permitted ( ) as a principal use within a zone. Where a use is listed as both permitted and conditional (●/◐), determination shall be based on the nature of such use as described in the use standards of Section 6.4. Unless otherwise noted, where a use is listed in terms of square footage, square footage figures shall correspond to the total square footage of the use as indicated.

B. Certain uses within Tables 6-A to 6-G shall meet required use standards listed in Section 6.4. A reference is provided in the "Use Standards" column the tables. In the case of conflict of required standards (i.e., a cross reference is missing from the table, the numbering of standards has changed but not updated in the Table, etc.), the use standards in Section 6.4 control.

6.2.2 Unlisted uses

A. Uses not expressly listed as permitted or conditional in Tables 6-A to 6-G are prohibited as principal uses except that a use may be permitted subject to meeting the following performance-based standards:

1. The proposed use is consistent with the purposes of the zone.

2. The proposed use is closely related to a permitted or conditional use in terms of character, scale, and external impacts.

3. The buildings and structures associated with the proposed use are designed and operated so that it will prevent undue adverse environmental impacts, substantial diminution of the value or utility of neighboring structures, or significant hazards to the health or safety of neighboring residents by controlling noise levels, emissions, traffic, lighting, odor, and any other potential negative impacts.

B. The review authority shall determine whether the uses not listed as permitted or conditional uses meet the above standards. If it is determined that the use does not meet the above criteria, it shall not be permitted.

C. The review authority may impose reasonable conditions of approval on the proposed use to ensure that it is similar in character and impact to a permitted or conditional use.

6.2.3 Multiple uses

A. A lot may contain more than one principal use, providing each use is allowed within the zone. Each principal use shall be permitted separately. In certain cases, uses are defined in Article 3 to include accessory uses that provide necessary support or are functionally integrated into the principal use.

B. Notwithstanding the above, and unless otherwise specifically permitted by this Code, lots containing a single family, two-family, three-family, or four-family dwelling may contain more than one principal use only so long as the total number of dwelling units on the lot does not exceed four, or three on the islands, not including accessory dwelling units.

6.2.4 Uses operated in an enclosed structure

A. In all mixed-use, office, and industrial zones, uses shall be operated within a completely enclosed structure, except for those customarily operated in open air.

B. In the mixed-use zones, open air activities shall be those licensed by the City.

6.2.5 Uses in zones not listed

A. Use permissions for certain zones within this Code are not included in Tables 6-A to 6-G, but are addressed separately as follows:

1. Use permissions for overlay zones are found in Article 8.

2. Use permissions for the India Street Form-Based Code (IS-FBC) zone are found in Article 9.

3. Use permissions for the waterfront zones are found in Article 10.

6.3 CHANGE OF USE

A change of use from one use in Tables 6-A to 6-G to another is governed by the requirements of the new use. The use of any part of any building, structure, or property shall not be changed to any other use, whether principal or accessory and whether alterations in the building, structure, or property are involved or not, until a permit and certificate of occupancy authorizing such change of use has first been secured from the Building Authority in accordance with Chapter 6 of the City of Portland Code of Ordinances.

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TABLE 6-A: PERMITTED AND CONDITIONAL USES IN RESIDENTIAL NEIGHBORHOOD ZONES

		RN-1	RN-2	RN-3	RN-4	RN-5	RN-6	Use Standards
Residential	Single-family dwellings	●	●	●	●			
	Two-family dwellings	●	●	●	●			
	Three-family dwellings	●	●	●	●			
	Four-family dwellings	●	●	●	●			
	Multi-family dwellings	◐	●	◐	●	●	●	6.4.12
	Townhouse dwellings		●		●		●	6.4.13
	Group homes	◐	◐	◐	◐	◐	◐	6.4.17
	Lodging houses			◐	◐	●	●	6.4.21
Institutional	Child care centers + small child care facilities	◐	◐	◐	◐	◐	◐	6.4.9
	Elementary, middle, and secondary schools	◐	◐	◐	◐	◐	◐	
	Governmental uses	●	●	●	●	●	●	
	Places of assembly	◐	◐	◐	◐	◐	◐	6.4.30
	Post-secondary schools			◐	◐	◐	◐	6.4.31
	Residential care facilities (small)	◐	◐	◐	◐	◐	◐	6.4.35
	Residential care facilities (large)	◐	◐	◐	◐	◐	◐	
Comm.	Bed and breakfasts				●/◐	●/◐	●/◐	6.4.7
	Hostels				●/◐	●/◐	●/◐	6.4.18
	Market gardens	◐	◐	◐	◐	◐	◐	6.4.25
	Neighborhood nonresidential reuse	◐	◐	◐	◐	◐	◐	6.4.26
Other	Cemeteries	●	●	●	●	●	●	
	Parks and open spaces	●	●	●	●	●	●	
	Solar energy system (minor)	●	●	●	●	●	●	6.4.38
	Utility substations	◐	◐	◐	◐	◐	◐	6.4.39

Key: ● = permitted | ◐ = conditional | Blank = not permitted | ●/◐ = permitted or conditional per use standards

TABLE 6-B: PERMITTED AND CONDITIONAL USES IN ISLAND ZONES

		IR-1	IR-2	I-B	Use Standards
Residential	Single-family dwellings	●	●	●	
	Two-family dwellings	●	●	●	
	Three-family dwellings			●	
	Four-family dwellings			●	
	Multi-family dwellings			◐	6.4.12
	Live/work dwellings			●	
	Lodging houses		◐	●	6.4.21
Institutional	Child care centers + small child care facilities	◐	◐	●	6.4.9
	Elementary, middle, and secondary schools	◐	◐	◐	
	Governmental uses	●	●	●	
	Places of assembly	◐	◐	●	6.4.30
Commercial / Service	Auto service stations			◐	6.4.5
	Bed and breakfasts			●	6.4.7
	Cultural facilities			●	
	General offices			●	6.4.15
	General services			●	
	Greenhouse/nursery (retail)			◐	6.4.16
	Hotels			◐	6.4.19
	Neighborhood nonresidential reuse	◐	◐		6.4.26
	Restaurants			●	6.4.34
	Retail			●	6.4.36
	Specialty food service			●	
Other	Agriculture	●			6.4.3
	Boathouses and storehouses for fishing equipment	●	●	●	
	Campgrounds	◐			6.4.8
	Cemeteries	◐	◐		
	Low-impact industrial			●	
	Marinas			●	
	Parks and open spaces	●	●	●	
	Solar energy system (minor)	●	●	●	6.4.38
	Studios for artists and craftspeople	●	●	●	
	Utility substations	◐	◐	◐	6.4.39
	Wharves, piers, docks, and landing ramps	●	●	●	

Key: ● = permitted | ◐ = conditional | Blank = not permitted | ●/◐ = permitted or conditional per use standards

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TABLE 6-C: PERMITTED AND CONDITIONAL USES IN MIXED-USE ZONES

		B-1	B-2/ B-2b	B-3[1]	B-4	B-5	B-6	Use Standards
Residential	Two-family dwellings	●	●	●	●	●	●	
	Three-family dwellings	●	●	●	●	●	●	
	Four-family dwellings	●	●	●	●	●	●	
	Townhouse dwellings	●	●	●	●	●	●	6.4.13
	Multi-family dwellings	●	●	●	●	●	●	6.4.12
	Live/work dwellings	●	●	●	●	●	●	
	Lodging houses	●	●	●	●	●		6.4.21
Institutional	Child care centers + small child care facilities	●	●	●	●	●	●	6.4.9
	Clinics	●	●	●	●	●		
	Cultural facilities	●	●	●	●	●	●	
	Elementary, middle, and secondary schools	●	●	●		●	●	
	Emergency shelters			◐	◐	◐		6.4.14
	Governmental uses	●	●	●	●	●		
	Places of assembly	●	●	●	●	●	●	6.4.30
	Post-secondary schools		●	●	●	●	●	6.4.31
	Residential care facilities (small)	●	●	●	●	●	●	6.4.35
	Residential care facilities (large)		●	●	●	●	●	
Commercial / Service	Adult business establishments			●				6.4.2
	Auto, boat, and related dealerships		◐		●			6.4.5
	Auto service stations		◐		●			
	Bars		●	●	●	●	●	6.4.6
	Bed and breakfasts	●	●	●				6.4.7, 6.4.10
	Exhibition, meeting, and convention halls			●	●	●	◐	
	Funeral homes		●		●			
	General offices	●	●	●	●	●	●	6.4.15, 6.4.10
	General services	●	●	●	●	●	●	
	Greenhouse/nursery (retail)		◐		◐			
	Hostels	●		●		●		6.4.18, 6.4.10
	Hotels		●	●	●	●	●	6.4.19
	Intermodal transportation facility		●	●	●	●	●	
	Marijuana retail store		●	●	●			6.4.23
	Market gardens	●	●	●	●	●	●	6.4.25, 6.4.10
	Recreation and amusement centers		●		●	●		

Key: ● = permitted | ◐ = conditional | Blank = not permitted | ●/◐ = permitted or conditional per use standards

TABLE 6-C (CONT.): PERMITTED AND CONDITIONAL USES IN MIXED-USE ZONES

		B-1	B-2/ B-2b	B-3[1]	B-4	B-5	B-6	Use Standards
Commercial/Service	Registered marijuana dispensary		●/◐	●	●			6.4.23
	Restaurants	●	●	●	●	●	●	6.4.34, 6.4.10
	Retail	●	●	●	●	●	●	6.4.36, 6.4.10
	Small-scale marijuana caregiver		●	●	●			6.4.23
	Specialty food service	●	●	●	●	●	●	6.4.10
	Theaters and performance halls		●	●	●	●	●	
	Veterinary services		●		●			
Industrial	Animal-related services				●			
	Communication studios		●	●	●	●	●	
	Dairies		●		●			6.4.11
	Impound lots				●			6.4.20
	Intermodal transportation facilities					●	●	
	Laboratory and research facilities		◐	◐	●	◐	◐	
	Low-impact industrial	●	●	●	●	●	●	6.4.22
	Marijuana testing facilities				●			6.4.23
	Marijuana manufacturing facilities				●			
	Marijuana cultivation facilities (<7,000 SF plant canopy)				●			
	Printing and publishing			●	●	●	●	6.4.32
	Self-storage facilities				●			6.4.37
	Studios for artists and craftspeople	●	●	●	●	●	●	
	Warehousing and distribution				●			6.4.40
Other	Marine uses					●	●	6.4.24
	Off-street parking			●/◐		●	◐	6.4.27
	Parks and open spaces	●	●	●	●	●	●	
	Social service centers		◐	◐	◐	◐	◐	
	Solar energy system (minor)	●	●	●	●	●	●	6.4.38
	Solar energy system (major)				◐			
	Utility substations	●	●	●	●	●	●	6.4.39
	Wind energy system (minor)		◐	◐	◐	◐	◐	6.4.41

Key: ● = permitted | ◐ = conditional | Blank = not permitted | ●/◐ = permitted or conditional per use standards

[1] Uses within the B-3 zone may be subject to the standards of the Pedestrian Activities District (PAD) Overlay found in Section 8.5 of this Code.

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TABLE 6-D: PERMITTED AND CONDITIONAL USES IN TRANSIT-ORIENTED DEVELOPMENT ZONES

		TOD-1	TOD-2	Use Standards
Residential	Townhouse dwellings	●	●	6.4.13
	Multi-family dwellings	●	●	6.4.12
	Live/work dwellings	●	●	
	Lodging houses	●	●	6.4.21
Institutional	Child care centers + small child care facilities	●	●	6.4.9
	Clinics	●	●	
	Cultural facilities	●	●	
	Elementary, middle, and secondary schools	●	●	
	Governmental uses	●	●	
	Places of assembly	●	●	6.4.30
	Post-secondary schools		●	6.4.31
	Residential care facilities, small	●	●	6.4.35
	Residential care facilities, large	●	●	
Commercial / Service	Bars	●	●	6.4.6
	Exhibition, meeting, and convention halls		●	
	General offices	●	●	
	General services	●	●	
	Hostels		●	6.4.18
	Hotels		●	
	Intermodal transportation facilities	●	●	
	Recreation and amusement centers		●	
	Restaurants	●	●	
	Retail	●	●	
	Specialty food service	●	●	
	Theaters and performance halls		●	
	Veterinary services	●	●	
Indust.	Communication studios	●	●	
	Studios for artists and craftspeople	●	●	
	Low impact industrial	●	●	6.4.22
Other	Parks and open spaces	●	●	
	Solar energy system (minor)	●	●	6.4.38
	Utility substations	●	●	6.4.39
	Wind energy system (minor)	◐	◐	6.4.41

Key: ● = permitted | ◐ = conditional | Blank = not permitted | ●/◐ = permitted or conditional per use standards

TABLE 6-E: PERMITTED AND CONDITIONAL USES IN OFFICE ZONES

		O	Use Standards
Inst.	Child care centers + small child care facilities	●	6.4.9
	Governmental uses	●	
Com	General offices	●	
	Office parks	●	6.4.28
Ind.	Laboratory and research facilities	●	
	Printing and publishing	●	6.4.32
Other	Parks and open space	●	
	Solar energy system (minor)	●	6.4.38
	Utility substations		
	Wind energy system (minor)	◐	6.4.41

Key: ● = permitted | ◐ = conditional | Blank = not permitted | ●/◐ = permitted or conditional per use standards

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TABLE 6-F: PERMITTED AND CONDITIONAL USES IN INDUSTRIAL & AIRPORT ZONES

		I-L/I-Lb	I-M/I-Mb	I-H	A-B[1]	Use Standards
	Live/work dwellings	●				
Institutional	Airports				●	
	Child care centers + small child care facilities	●	●			6.4.9
	Emergency shelters	◐	◐	◐		6.4.14
	Places of assembly	●				6.4.30
Commercial / Service	Bars				●	6.4.6
	General offices	●	●			6.4.15
	General services				●	
	Hotels				●	
	Intermodal transportation facilities	●	●			
	Market gardens	●				6.4.25
	Recreation and amusement centers	●	●			
	Restaurants				●	
	Self-storage facility		●	●		6.4.37
	Specialty food service	●	●			
	Veterinary services	●	●	●		
Industrial	Animal-related services	●	●	●		6.4.4
	Auto service station	●	●	●	●	6.4.5
	Construction & engineering services	●	●	●		
	Dairies	●	●	●		
	Food & seafood processing, packing, and distribution		●	●		
	High-impact industrial uses			●		
	Impound lots		●	●		6.4.20
	Laboratory and research facilities	●	●	●		
	Low-impact industrial	●	●	●		6.4.22
	Lumber yards	●	●	●		
	Marijuana cultivation facilities	●	●	●		6.4.23
	Marijuana manufacturing facility	●	●	●		
	Marijuana testing facility	●	●	●		
	Printing and publishing	●	●	●		

Key: ● = permitted | ◐ = conditional | Blank = not permitted | ●/◐ = permitted or conditional per use standards

TABLE 6-F (CONT.): PERMITTED AND CONDITIONAL USES IN INDUSTRIAL & AIRPORT ZONES

		I-L/I-Lb	I-M/I-Mb	I-H	A-B[1]	Use Standards
Indust.	Recycling facilities		●	●		6.4.33
	Solid waste disposal facilities		●	●		6.4.33
	Studios for artists and craftspeople	●	●			
	Warehousing and distribution facilities	●	●	●		6.4.40
Other	Off-street parking				●	
	Social service centers	◐	◐	◐		
	Solar energy system (minor)	●	●	●	●	6.4.38
	Solar energy system (major)		●	●	◐	
	Telecommunication towers (ground-mounted)		●	●		
	Utility substations	●	●	●		6.4.39
	Wind energy system (minor)	◐	●	●	●	6.4.41
	Wind energy system (major)		●	●	◐	

Key: ● = permitted | ◐ = conditional | Blank = not permitted | ●/◐ = permitted or conditional per use standards

[1] Permitted uses on lots within airport restricted access areas shall be limited to those which do not require or encourage access or visits by the public and which provide technical administrative or other support to airport operations.

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TABLE 6-G: PERMITTED AND CONDITIONAL USES IN OPEN SPACE ZONES

	OS-R[1]	OS-P	Use Standards
Cemeteries	●		
Cultural facilities	◐		
Marinas	●		
Parks and open space	●	●	6.4.29
Solar energy system (minor)	◐		6.4.38, 6.5.6
Solar energy system (major)	◐		
Stadiums	◐		6.5.6
Utility substations	●/◐		6.4.39, 6.5.6
Wharves, piers, docks, and landing ramps	●	◐	
Wind energy system (minor)	◐		6.4.41, 6.5.6

Key: ● = permitted | ◐ = conditional | Blank = not permitted | ●/◐ = permitted or conditional per use standards

[1] Accessory uses within structures of 2,500 SF or more shall be treated as a conditional use under subsection 6.5.6.

6.4 SUPPLEMENTAL USE STANDARDS

These standards shall apply to the following uses as indicated in Tables 6-A to 6-G, whether permitted or conditional. Where a use is allowed as conditional, these standards apply in addition to the general conditional use standards in Section 6.5.

6.4.1 In general

A. Street access. Unless specifically excepted under Section 7.4, a building or structure may only be constructed on or moved onto a lot, or a dwelling unit added to a lot, if one of the following conditions is met. These standards apply to all buildings and structures unless specifically exempted by this section.

1. *Existing, accepted streets.*

a. The lot has frontage on a paved and accepted City street with a minimum width of 10 feet on a one-way street and 20 feet on a two-way street, measured from curb to curb. In the absence of a curb, the minimum clear paved width shall be measured from the edge of the pavement, excluding sidewalks.

b. The lot has frontage on an accepted or continued street on an island in Casco Bay that meets a minimum width of 16 feet, measured from the edge of the pavement, or from the edge of the built surface if unpaved.

c. The required minimum width may be reduced, or the requirement waived on the islands only, if the Fire Chief and the Public Works Director or their designee(s) jointly determine that meeting the minimum width is impracticable and the City's ability to provide services will not be unreasonably impaired by a reduction in width.

2. *Streets to be improved in connection with development.* The owner or developer of a lot that is not located on an existing,

accepted (or in the case of the islands, continued) street that meets the minimum criteria established above shall improve the street in accordance with the following.

a. The street, between the lot and the nearest existing, accepted City street and including the frontage of the lot itself, shall be improved to meet the standards adopted elsewhere in this Code, including those adopted by the Public Works Authority and the Planning Authority. In the case of a corner lot, this shall apply to the frontage of the lot from which access is taken.

b. The street may be improved to an alternative standard if the Fire Chief and the Public Works Director or their designee(s) jointly determine that:

i. Meeting the standards adopted elsewhere in this Code is impracticable;

ii. There is limited potential for further development on the street or for further connections to the City's existing street network; and

iii. The City's ability to provide services will not be unreasonably impaired by a modification of the standards of this Code.

c. The owner or developer shall take all necessary steps under Chapter 25, Article III, of the City Code to dedicate the improved portion of the street to the City for acceptance. This shall include provision of a waiver of any claim for damages that may result from acceptance.

3. *Exceptions.* On lots with an existing, inhabited structure or structures on an unaccepted City street, the following buildings and structures are exempt from the requirements of this subsection.

a. Accessory buildings not intended for habitation.

b. The addition of one accessory dwelling unit within an existing single-family dwelling.

6.4.2 Adult business establishments

A. Adult business establishments shall be located at least 1,000 feet from any other adult business establishment, and at least 500 feet from any residential zone, as measured in a straight line from the nearest point of the lot line on the lot which the use is proposed to the nearest point of the lot line on the lot where the other use or zone is located, without regard to intervening structures or objects.

B. No sexually explicit materials, entertainment, or activity shall be visible from the exterior of the premises.

6.4.3 Agriculture

A. No animals shall be kept on any lot less than three acres or closer than 100 feet to any street or lot line, except domesticated chickens as regulated in Chapter 5 of the City of Portland Code of Ordinances.

B. Raising of domesticated animals as a component of any agricultural use shall not create any odor, noise, health, or safety hazards, or other nuisance to neighboring properties.

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C. Raising of pigs or reptiles is not permitted.

6.4.4 Animal-related services

A. In the B-4, I-L and I-Lb zones, animal-related services may not include kennel or boarding facilities.

B. No animal-related service may include outdoor kennel facilities.

C. Any exterior training and exercise areas shall be located in a side or rear yard only, and shall be completely fenced.

D. Exterior training and exercise areas are not permitted within 200 feet of a residential zone.

6.4.5 Automobile, boat, and related dealerships and auto service stations

A. Automobile, boat, and related dealerships shall not be allowed in the B2-b zone.

B. In the B-2b zone, auto service stations shall only be permitted as an expansion of an auto service station in existence as of 11/15/1999.

C. Signs shall not adversely affect visibility at intersections or access drives. Signs shall be constructed, installed, and maintained so as to ensure the safety of the public, and shall advertise only services or goods available on the premises.

D. No ingress and egress driveways shall be located within 30 feet from an intersection. No entrance or exit for vehicles shall be in such proximity to a playground, school, church, other place of public assembly, or any residential zone that the nearness poses a threat or potential danger to the safety of the public.

E. A landscaped buffer, no less than five feet wide, shall be located along street frontages (excluding driveways). The buffer shall consist of a variety of plantings in accordance with the City of Portland *Technical Manual*.

F. Car washes shall be designed to avoid the tracking of residual waters into the street.

6.4.6 Bars

A. In the B-6 zone, no bars located east of Waterville Street shall be permitted within 50 feet of Fore Street.

6.4.7 Bed and breakfasts

A. Bed and breakfasts in the RN-4, RN-5, and RN-6 zones are allowed only as conversions of residential structures existing as of 3/3/1997. Such uses are a permitted use if they contain four or fewer guest rooms, and a conditional use if they contain five to nine guest rooms.

B. In the RN-4, RN-5, and RN-6 zones, the minimum lot area for bed and breakfasts shall be 2,000 square feet for the first three guest rooms and 500 square feet for each additional guest room.

C. In the I-B zone, bed and breakfasts are permitted on Peaks Island only. The minimum lot area for bed and breakfasts shall be 5,000 square feet for the first three guest rooms and 5,000 square feet for each additional guest room. When not served by public water and sewer, a bed and breakfast in the I-B zone shall require 10,000 square feet of lot area per guest room.

6.4.8 Campgrounds

A. Campgrounds shall not include recreational vehicles.

B. No tent shall be located within 75 feet of the perimeter of site.

C. The land area of the campground shall not be less than the equivalent of 5,000 square feet of land area per tent site exclusive of the roadway network.

6.4.9 Child care centers and small child care facilities

A. Outdoor play areas shall be screened and buffered from surrounding residences with landscaping and/or fencing to minimize visual and noise impacts.

B. Solid waste shall be stored in covered containers. Such containers shall be screened on all sides.

C. In residential and island residential zones, the following additional standards apply:

1. Outdoor play areas shall be located in the side or rear yards only, and shall be screened from adjacent properties by a fence or wall at least 48 inches in height.
2. A 10-foot-wide landscaped buffer shall be required between the fence and the adjacent property line.
3. The minimum lot area for a child care center shall be 10,000 square feet.

6.4.10 Commercial and service uses in the B-1 zone

A. Commercial and service uses in the B-1 zone shall be permitted provided that such uses generate less than 100 peak hour vehicle trips per 2,000 square feet of floor area and less than 100 peak hour vehicle trips in total.

B. No beverage container redemption centers shall be permitted.

6.4.11 Dairies

In the B-2 and B-2b zones, dairies are permitted only if an expansion of an existing dairy.

6.4.12 Dwellings, multi-family

A. Use limitations

1. In the RN-1 and RN-3 zones, multi-family dwellings are allowed only as conversions of existing nonresidential structures.
2. In the I-B zone, multi-family dwellings are allowed only as conversions of existing residential or nonresidential structures.

B. Conversion standards

1. No multi-family conversion is allowed in an existing structure with less than 1,500 square feet of habitable floor area.
2. Any new off-street parking provided for multi-family conversion of existing residential structures shall be located to the side or rear of the structure.

6.4.13 Dwellings, townhouse

A. For townhouse dwellings, interior side setback requirements do not apply to the interior side yard where the party wall for the structure is located. Such requirements only apply to end units without an attached party wall.

B. There shall be a minimum separation of 15 feet between exterior sidewalls of townhouse buildings. Where the front or rear wall of a townhouse faces the front or rear wall of another townhouse, the minimum required separation between such buildings shall be 30 feet. Driveways and parking areas may be located within this minimum separation area.

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6.4.14 Emergency shelters

A. In the B-3 zone, no emergency shelters shall be permitted north of Oxford Street.

B. The facility shall provide adequate space for conducting security searches and other assessments.

C. The facility shall be designed with a centralized shelter operations office on each level providing sightlines to sleeping areas.

D. A management plan adequately outlining the following areas shall be provided: management responsibilities; process for resolving neighborhood concerns; staffing; access restrictions; on-site surveillance; safety measures; controls for resident behavior and noise levels; and monitoring reports.

E. Adequate access to and from fixed route transit service shall be provided. The facility shall be within a ¼ mile of fixed route transit service, or shall be within ½ mile of fixed route transit service and provide adequate indoor space to permit all shelter guests day shelter, as well as implement strategies to help residents utilize transit.

F. The facility shall provide on-site services to support residents, such as case management, life skills training, counseling, employment and educational services, housing assistance, or other programs.

G. Suitable laundry, kitchen, pantry, bicycle storage, and secure storage facilities for shelter stayers shall be provided on-site.

H. An outdoor area for guest use shall be provided on-site with adequate screening to protect privacy of guests.

6.4.15 General offices and general services

A. General office and general service uses in the I-B and B-1 zones are limited to a maximum of 5,000 square feet of gross floor area.

B. General office uses in the I-L and I-Lb zones shall be limited to those involving minimal public visitation and minimal direct service to the general public, primarily to provide support services to larger organizations such as educational institutions, social service agencies, or business headquarters.

6.4.16 Greenhouse/nursery (retail)

A. In the I-B zone, the indoor display of retail goods and point of sale area shall be limited to a maximum of 1,000 square feet.

6.4.17 Group homes

A. Group homes shall be subject to the minimum lot area requirements for nonresidential uses.

B. A group home shall not be located within 500 feet of another, as measured along street lines to the respective property lines.

C. The Board of Appeals or Planning Board may impose conditions upon a conditional use permit concerning the creation or operation of a group home including but not limited to the following: site and building maintenance; lighting, fencing, and other appropriate security measures; screening and buffering of parking areas; compatibility of any additions or alterations with the existing residential structure; and compatibility of new structures with the architectural character of the surrounding area.

6.4.18 Hostels

A. An operations plan shall be submitted demonstrating that:

1. No unaccompanied minors under the age of 18 shall be permitted in the facility.

2. The length of stay for transient guests shall not exceed 15 days within any 60-day period.

B. In the RN-4, RN-5, and RN-6 zones, hostels are permitted if for no more than 10 overnight transient guests, and conditional if for between 11 and 20 overnight transient guests. No more than 20 overnight transient guests shall be permitted.

C. In the B-1 zone, no more than 20 overnight transient guests shall be permitted.

6.4.19 Hotels

A. Hotels in the I-B zone are limited to a maximum of 50 guest rooms.

B. The minimum gross floor area for hotels in the I-B zone shall be 5,000 square feet for the first three guest rooms and 5,000 square feet for each additional guest room. When not served by public water and sewer, a hotel in the I-B zone shall require 10,000 square feet of lot area per guest room.

C. Hotels shall not be permitted in the B-2b zone.

D. Hotels in the B-6 zone are limited to a maximum of 150 guest rooms.

6.4.20 Impound lots

Impound lots shall be at least 300 feet from any residential zone or lawfully conforming residential use.

6.4.21 Lodging houses

A. In the RN-3 and RN-4 zones, lodging houses are allowed only as conversions of existing two-family, three-family, four-family, or multi-family residential structures, provided that the lodging house shall not be located within 500 ft. of another as measured along street lines.

B. Lodging houses shall be subject to the minimum lot area requirements for nonresidential uses.

C. Individual rooming units in a lodging house shall be a minimum of 70 square feet in area.

D. Lodging houses shall provide a minimum of 200 square feet of combined rooming unit and common area per rooming unit.

E. Lodging houses, except for lodging houses located in the IR-2 and I-B zones, shall contain common areas for use by residents, including a kitchen. A kitchen need not be available as a part of the common areas where all meals are provided on a daily basis.

F. In the IR-2 and I-B zones, lodging houses are allowed with no more than nine rooming units. When not served by public water and sewer, lodging houses shall require 10,000 square feet of lot area per rooming unit.

6.4.22 Low-impact industrial

A. Low-impact industrial in the B-1, B-2b, B-3, and B-6 zones is limited to a maximum of 10,000 square feet in gross floor area.

B. In the B-6 zone, no brew pubs or microbreweries east of Waterville Street shall be permitted within 50 feet of Fore Street.

C. When a low-impact industrial use is located in any mixed-use zone, the following standards apply:

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1. All circulation and maneuvering, including loading, unloading, and turnaround areas, must be located on site. No maneuvering, loading, or unloading may happen in the right-of-way.
2. Truck loading, unloading, and access shall be located in the rear or interior side yard where possible.
3. Shared infrastructure shall be utilized to the extent practicable, including but not limited to service alleys, parking areas, stormwater treatment, public transportation facilities, and driveways.

6.4.23 Marijuana-related uses

A. The following standards apply to the following marijuana-related uses:
1. Marijuana cultivation facilities.
2. Marijuana manufacturing facilities.
3. Marijuana retail stores.
4. Marijuana testing facilities.
5. Small-scale marijuana caregivers.
6. Registered dispensaries.

B. Location criteria
1. No marijuana cultivation facility, marijuana manufacturing facility, marijuana testing facility, small-scale marijuana caregiver, marijuana store, or registered dispensary may be located within 500 feet of a pre-existing public school, private school, or a public preschool program, as defined by 20-A M.R.S. § 1. Distance shall be measured in a straight line from the nearest point of the lot line on the lot which the use is proposed to the nearest point of the lot line on the lot where the public school, private school, or public preschool program is located, without regard to intervening structures or objects.
2. No marijuana cultivation facility, marijuana manufacturing facility, or marijuana testing facility may be located within 300 feet of any residential zone. Distance shall be measured in a straight line from the nearest point of the lot line on the lot which the use is proposed to the nearest point of the lot line on the lot where the residential zone is located, without regard to intervening structures or objects.

C. Marijuana retail stores and registered marijuana dispensaries shall be permitted uses in the B-2 zone, and shall not be permitted in the B-2b zone.

D. Marijuana retail stores and registered dispensaries may not exceed a maximum gross floor area of 2,000 square feet.

E. Marijuana cultivation facilities shall be limited to less than 2,000 square feet of plant canopy in the I-L/I-Lb zone and less than 7,000 square feet of plant canopy in the I-M/I-Mb zone.

F. For purposes of this ordinance, any approval issued for a marijuana cultivation facility, marijuana manufacturing facility, or marijuana testing facility operated pursuant to 22 M.R.S. § 2421 et seq. shall be deemed to constitute approval for the same corresponding marijuana cultivating, manufacturing, or testing facility use operating under 28 M.R.S. § 101 et seq. Notwithstanding the above, no marijuana cultivation facility, marijuana manufacturing facility, or marijuana testing facility may operate without the applicable state and City license.

6.4.24 Marine uses

A. In the B-5 zone, marine uses shall include marine products wholesaling and retailing; harbor and marine supplies and services; marine repair services and machine shops; shipbuilding and facilities for the construction, maintenance, and repair of vessels; marine museums and aquariums; boat repair yards; boat storage; and seafood processing, packing, and distribution for human consumption.

B. In the B-6 zone, marine uses shall include marine products wholesaling and retailing; harbor and marine supplies and services; and underground marine fuel storage provided that such storage shall be used solely for the purpose of fueling vessels.

6.4.25 Market garden

A. Market gardens may be located outdoors or fully enclosed within a permanent building, subject to the following:

1. Outdoor market gardens are limited to the cultivation of herbs, fruits, flowers, or vegetables, including the cultivation and tillage of soil and the production, cultivation, growing, and harvesting of any agricultural, floricultural, or horticultural commodity.
2. The keeping of livestock, chickens or other poultry, and apiaries are prohibited.
3. Greenhouses, including high tunnels/hoop-houses, cold-frames, and similar structures, are permitted to extend the growing season.
4. Accessory structures, including but not limited to a shed or utility building necessary for the use's operation may be allowed for the storage of tools and materials. All accessory structures shall be located a minimum of five feet from any lot line.
5. Farmstands are permitted, and are limited to sales of items grown at the site. Farmstands shall be removed during the time of the year when the use is not in operation. Only one farmstand is permitted per market garden.
6. When located in a fully enclosed permanent building, market gardens may include all of the forms of cultivation and production allowed for outdoor market gardens, as well as hydroponics, aquaponics, myco-culture, and other similar indoor crop-production techniques.
7. Market gardens within a fully enclosed permanent building may include an area within the building for sales of items grown at the site. Such sales area may occupy no more than 15% of the floor area devoted to the principal use.

B. In the B-3, B-5, and B-6 zones, market gardens shall only be permitted within an enclosed structure.

6.4.26 Neighborhood nonresidential reuse

A. Neighborhood nonresidential reuse is only allowed within existing structures that are nonresidential in their original construction and/or current principal use as of the effective date of this Code.

B. The following nonresidential uses are permitted within a neighborhood nonresidential reuse. The initial conditional use approval for the neighborhood nonresidential reuse may specify one or more uses under the list below. A modification of the conditional use approval is

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required for a change to any of the uses below which were not specified in the initial or subsequent conditional use approval.

1. General offices <5,000 square feet
2. General services <5,000 square feet
3. Restaurants
4. Retail <5,000 square feet
5. Specialty food service
6. Studios for artists and craftspeople

C. No off-street parking is required for a neighborhood nonresidential reuse.

D. Drive-through facilities are prohibited for any neighborhood nonresidential reuse.

E. Neighborhood non residential reuses shall comply with the performance standards of the B-1 zone.

6.4.27 Off-street parking

A. In the B-3 zone, structured parking is a permitted use. Surface parking within the B-3 zone shall be allowed as a conditional use.

B. Surface parking in the B-3 and B-6 zones is subject to the following standards:

1. Surface parking lots shall be laid out in a manner conducive to development of future buildings, and/or structured parking on site.
2. All surface parking areas, including parking aisles, shall be located a minimum of 35 feet from any street. This 35-foot setback shall not apply to access drives oriented perpendicularly to a street.

C. In the B-3, B-5, and B-6 zones, structured parking is subject to the following standards:

1. Parking structures shall incorporate ground-floor retail space or other non-parking and active use space along all street frontages. Such retail or active space shall maintain a minimum depth of 30 feet from all street-facing façades of the structure.
2. The Planning Board may waive the requirement for ground-floor retail or other non-parking and active use space upon demonstration that the project meets at least one of the following criteria:
   - **a.** The applicant demonstrates that steepness of grade or the character of the adjacent street does not support retail or other non-parking and active use space.
   - **b.** The ground floor of the garage is set back a minimum of 35 feet from the street right-of-way, and its design does not serve as an impediment for the development of space between the structure and the right-of-way for retail or other non-parking and active use in the future. Any such space located between the structure and the right-of-way shall not be used for surface parking.
   - **c.** The applicant demonstrates, to the satisfaction of the Planning Board, that market support for ground floor retail or other non-parking active uses does not currently exist. In such cases, the structure of the garage shall be designed to accommodate such spaces in the future as follows:
     - **i.** On the ground floor of a structure, a minimum of 30 feet in depth, measured from the façade of the structure, shall be designed to accommodate retail or active uses in the future.

ii. Such space shall maintain a minimum height of 12 feet from finished floor to finished ceiling. Where a parking structure fronts on more than one public street, and where there is an existing change in grade elevation of over 5% across the footprint of the garage, this requirement only applies to the frontage facing the street with higher traffic volumes.

iii. The applicant must demonstrate that the design of the parking structure anticipates the future development of utilities and circulation necessary to support non-parking active uses.

3. In cases where the Planning Board waives the requirement for ground-floor retail or other non-parking and active use space, garages shall be designed to enhance the pedestrian experience and disguise the parking use to the greatest extent possible. Use of traditional storefront design concepts and traditional building materials is encouraged.

6.4.28 Office parks

A. Office parks shall have a minimum gross area of three acres of contiguous land, and may be developed with multiple buildings on a single lot under common ownership, or as a coordinated development on multiple parcels under unified control or management.

B. Office park development proposals shall include a master plan of the office park, which shall include the following:

1. The location of the building(s) on the site.
2. The location of infrastructure on the site.
3. The location of all common areas and landscape buffers.
4. Identification of traffic circulation patterns, traffic controls, and parking areas, including demonstration that additional traffic generated by the project itself can be reasonably accommodated on existing public streets.
5. Identification of internal sidewalks, illustrating the manner in which the developer will provide this amenity to take advantage of the topography and natural features of the site.
6. Building elevation drawings which indicate architectural style, exterior finishes and color, building height and scale, and location and scale of window and door openings. Samples of exterior building materials shall also be submitted.
7. The location and style of lighting to be used in the development.
8. Identification and description of all proposed signage.
9. A description of phasing and timing of the development.
10. A description of any proposed private development restrictions.
11. Delineation of the subdivision of land, if proposed as a coordinated development on multiple parcels.
12. Any other information necessary and sufficient to ensure compliance with the standards in this subsection.

C. Office parks shall include a landscape program that meets the following standards.

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1. All land areas not covered by structures, parking areas, or circulation facilities shall be landscaped and maintained.
2. To soften the visual impact of large expanses of pavement in parking lots, vegetation shall be planted or retained in islands or planting strips where required by the site plan or subdivision ordinance.
3. Landscape buffers shall be provided to screen areas abutting a residential zone or use, and to screen parking lots and driveways from public view. The buffer shall be of a dense and continuous nature and shall incorporate trees, shrubs, fencing, berms, and related elements deemed necessary.

D. Office parks shall consider and be sensitive to the need to preserve natural features on site. Natural features include, but are not limited to existing vegetation, floodplains, rock outcroppings, surface water bodies, drainage swales and courses, and wetlands.

E. All light fixtures shall be hooded or shielded so that the light shines downward.

6.4.29 Parks and open spaces

In the OS-P zone, parks and open spaces shall be limited to passive recreational use, including but not limited to trails and paths for pedestrians and bicyclists, and areas for fishing, hiking, wildlife management and conservation activities. Essential services shall also be permitted.

6.4.30 Places of assembly

A. In all RN zones, construction of a new principal building as a place of assembly is permitted only on lots with frontage on collector or arterial roads. Places of assembly are allowed on streets of any classification as adaptive reuse of existing structures that are nonresidential in their original construction and/or current use as of the effective date of this Code.

B. Places of assembly in the B-1, I-L, and I-Lb zones are limited to 10,000 square feet or less in gross floor area.

6.4.31 Post-secondary schools

A. In any residential zone, expansion of existing post-secondary schools onto land other than the lot(s) on which the principal use is located shall be subject to a determination that the proposed use cannot be reasonably accommodated on the existing lot(s) through more efficient utilization of land or buildings, and will not cause significant physical encroachment into established residential areas.

B. In any residential zone, a new post-secondary school or expansion of an existing post-secondary school shall not cause displacement or conversion of existing residential uses.

6.4.32 Printing and publishing

Printing and publishing in the B-3, B-5, B-6, and O zones is limited to a maximum of 10,000 square feet in gross floor area, unless an expansion of a printing and publishing establishment greater than 10,000 square feet and in existence as of 4/4/1988.

6.4.33 Recycling and solid waste disposal facilities

Within the I-M/I-Mb zone, recycling and solid waste disposal facilities are permitted within an enclosed structure only.

6.4.34 Restaurants

A. In the B-1 zone, restaurants are limited to a maximum of 2,000 square feet in gross floor area, shall not operate between the hours of 11 p.m. and 6 a.m., and shall not accept deliveries or services between the hours of 10 p.m. and 7 a.m. Food service and consumption shall be the primary function.

B. In the B-6 zone, restaurants located east of Waterville Street within 50 feet of Fore Street shall be limited in hours of operation to between 5 a.m. and 11 p.m. each day, and food service and consumption shall be the primary function of the restaurant.

6.4.35 Residential care facilities

In the residential zones, large residential care facilities shall require a minimum lot area of 20,000 square feet.

6.4.36 Retail

A. In the I-B zone, retail uses are limited to a maximum of 10,000 square feet in gross floor area.

B. In the B-1 zone, retail uses are limited to a maximum of 5,000 square feet in gross floor area, and shall not operate between the hours of 11 p.m. and 6 a.m., and shall not accept deliveries or services between the hours of 10 p.m. and 7 a.m.

C. Retail in the B-3 and B-5 zones shall not include wholesale or bulk purchase sales of lumber and construction supplies, truck rental establishments, sales, rental, and repair of heavy equipment, or wholesale establishments, including establishments where membership is required.

6.4.37 Self-storage facility

A. Storage units shall not be used for residential occupancy or business.

B. Plumbing connections shall not be permitted in self-storage units.

C. The following additional standards apply to self-storage facilities with units accessed directly from the outdoors:

1. Outdoor self-storage facilities shall be oriented so that storage unit access doors do not face the public right-of-way.

2. Outdoor self-storage facilities are allowed to include an area for storage of recreational vehicles. Storage areas for recreational vehicles shall be located in the rear yard.

3. No storage of recreational vehicles is allowed within 25 feet of any rear lot line. No storage of recreational vehicles is allowed within 30 feet of any interior side lot line. No storage of recreational vehicles is allowed within 50 feet of any front or corner side lot line.

4. If storage areas for recreational vehicles are provided, they shall be screened along interior side and rear lot lines with a solid fence or wall, a minimum of six feet and a maximum of seven feet in height. Shrubs shall be planted and spaced sufficiently to form a continuous linear hedgerow at plant maturity; plantings shall be placed inside the fence oriented toward the interior of the lot.

6.4.38 Solar energy systems (major and minor)

A. In general

1. All solar energy systems shall meet the technical, safety, and maintenance

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standards in the City of Portland *Technical Manual*.

2. Solar energy systems shall minimize impacts resulting from construction and maintenance of the solar energy system, including lighting, security measures, traffic, and grid connections.
3. Solar panel placement shall minimize or negate any solar glare impacting nearby properties or roadways, without unduly impacting the functionality or efficiency of the solar energy system.

B. Ground-mounted solar energy systems

1. Ground-mounted solar energy systems are only permitted in the B-4, I-L, I-Lb, I-M, I-Mb, I-H, and A-B zones.
2. Ground-mounted solar energy systems shall be located away from and screened from public ways and nearby residential/institutional uses to the extent possible and shall be designed to minimize impacts on significant scenic views.
3. Layout and fencing for ground-mounted systems shall be integrated with existing landscape and minimize removal of vegetation to the extent possible.
4. Minor ground-mounted solar energy systems shall be located a minimum 50 feet from all RN zones, and the B-1 and B-2/B-2b zones.
5. Major ground-mounted solar energy systems shall be located at least 75 feet from all RN zones, and the B-1 and B-2/B-2b zones.
6. The absolute height of any ground-mounted solar energy system shall be no more than 20 feet above the ground as measured from the base of the support.
7. The following components of a ground-mounted solar energy system shall be counted as impervious in the calculation of landscaped open space ratio:
   a. Foundation systems, typically consisting of driven piles, monopoles, or helical screws with or without small concrete collars or weighted ballast.
   b. All mechanical equipment of the solar energy system, including maximum horizontal extents of any concrete pad or any pad mounted structure for batteries, switchboard, transformers, or storage cells.
   c. Paved access roads servicing the solar energy system.

C. Roof-mounted solar energy systems

1. Roof-mounted solar energy systems are not included in the calculation of maximum structure height.
2. Solar energy systems mounted on flat roofs shall meet the following standards:
   a. In residential zones, solar energy systems mounted on flat roofs are limited to a height of 5 feet above the surface of the roof upon which they are mounted, and shall be set back from the edge of the roof one foot for every one foot of solar energy system height.
   b. In B-4 and industrial zones, flat roof-mounted systems are not subject to limitations on height, or to a required setback.
   c. In all other zones, solar energy systems mounted on flat roofs are limited to a height of 8 feet above the surface of the roof upon which they

are mounted, and shall be set back from the edge of the roof one foot for every one foot of solar energy system height.

3. Solar energy systems mounted on pitched roofs shall meet the following standards:
   a. Solar energy systems on pitched roofs shall be mounted with a maximum distance of one foot between the surface of the roof to the highest point of the system.
   b. Solar energy systems on pitched roofs shall be installed parallel to the roof surface on which they are mounted.
   c. Solar energy systems on pitched roofs may not extend higher than the highest point of the roof surface upon which they are mounted.

6.4.39 Utility substations

A. Utility substations shall be as small in size as practicable, and shall be set back a minimum of 35 feet from any right-of-way, not including limited-access roads.

B. Substations shall be suitably screened and landscaped so as to ensure compatibility with the surrounding neighborhood. The remainder of the lot not occupied by the utility substation and its related access shall be designed and designated for future development.

C. In the OS-R zone, sewage pumping and treatment facilities shall be permitted. Water pumping stations shall be treated as a conditional use and subject to the additional standards of subsection 6.5.6.

6.4.40 Warehousing and distribution facilities

A. Warehousing and distribution facilities in the I-L and I-Lb zones are limited to a maximum of 10,000 square feet in gross floor area.

B. No outdoor storage is permitted as a component of warehousing and distribution in the B-4 and I-L/I-lb zones, except for boat storage.

6.4.41 Wind energy systems (major and minor)

A. General

1. All wind energy generation equipment shall be approved under a certification program approved by the U.S. Department of Energy.
2. Wind energy systems, including foundations and support structures, electrical connections, control equipment, and associated site improvements shall be designed, engineered, and installed to comply with all applicable local, state, and federal construction and electrical regulations and Federal Aviation Administration regulations. Applicable state and local approvals shall be obtained prior to installation of any wind energy system.
3. All on-site electrical wiring associated with the proposed wind energy system shall be located within the tower/pole/supporting structure or underground. Above ground on-site connections near substations or to the electric grid shall be allowed.
4. Wind energy systems shall be designed to avoid electromagnetic interference with the transmission or reception of radio, telephone, television, microwave,

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navigational, or similar signals to neighboring areas.

B. Setbacks

1. Minor ground-mounted wind energy systems shall be set back from all property boundaries and street right-of-way lines by a distance equal to or greater than 1.1 times the total height of the system, measured from the base of the system to the top of the system at maximum vertical rotation. The setback distance shall be measured to the center of the wind generator base.
2. Major ground-mounted wind energy systems shall be set back from all property boundaries and street right-of-way lines by a distance equal to or greater than 1.5 times the total height of the system, measured from the base of the system to the top of the system at maximum vertical rotation. The setback distance shall be measured to the center of the wind generator base.

C. Height

1. Ground-mounted wind energy systems are limited to a maximum height of 65 feet in the B-2/B-2b, B-5, and B-6 zones.
2. All moving components of a ground-mounted wind energy system shall be a minimum of 12 feet from ground level or accessible surface.

D. Siting and placement

1. No wind energy system shall be located within 250 feet of any significant wildlife habitat, as defined by the Maine Department of Environmental Protection/Maine Department of Inland Fisheries and Wildlife under provisions of the Natural Resources Protection Act (38 M.R.S. § 480 et seq.) including wildlife habitat for species appearing on the official state and federal list of endangered or threatened animal species.
2. For all major and minor wind energy systems, or any system over 100kW, evidence shall be provided that the Environmental Coordinator of the Maine Department of Inland Fisheries and Wildlife and the Maine Natural Area Program have been notified of the location, height, and design of the proposed wind energy system at least three weeks prior to any final determination under this subsection. Any comments received therefrom shall be addressed to the satisfaction of these state authorities prior to any final determination under this provision.
3. The support structure (e.g. tower, pole) for ground-mounted wind generating systems shall not be climbable for a minimum height of 12 feet above the surrounding ground level. All ground-mounted electrical and control equipment shall be labeled and secured to prevent unauthorized access.
4. The use of guy wires is discouraged. If required, they shall be located away from pedestrian routes/access points and marked with visible, reflective, colored objects, such as flags, reflectors, or tape, which shall be placed on the anchor points of guy wires and along the guy wires up to a height of ten feet from the ground.
5. Ground-mounted wind energy systems shall be located away from and screened

from public ways and nearby residential/institutional uses to the extent possible and shall be designed to minimize impacts on significant scenic views.

E. Illumination and signs

1. No part of the system may be illuminated, except as required by the Federal Aviation Administration (FAA) or other authorities for safety and security purposes. Where lighting is required, it shall be at the lowest intensity allowable with fixtures shielded and directed to minimize glare and visibility from the ground.
2. There shall be no signs, advertisements, flags, or decorative items on a wind energy system or any associated facilities, except for the manufacturer's/installer's/owner's identification (not exceeding one square feet in size), appropriate warning signs, or lights if required by the FAA.

6.5 CONDITIONAL USES

6.5.1 Conditional use review procedure

A. Review authority. The Zoning Board of Appeals shall review all conditional use applications, with the exception that the Planning Board shall review all conditional use applications associated with projects that are otherwise before the Planning Board.

B. Application. Applications for conditional use review shall be submitted to the Building Authority for all Zoning Board of Appeals reviews and the Planning Authority for all Planning Board reviews. A nonrefundable application fee, as established from time to time by the City Council to cover administrative costs and costs of a hearing, shall accompany each application. The application shall be in such form and shall contain such information and documentation as shall be prescribed from time to time by the review authority.

C. Public hearing. A public hearing shall be set, advertised, and conducted by the review authority in accordance with Article 2 of this Land Use Code.

D. Action. Within 30 days following the close of the public hearing, the review authority shall render its decision, in a manner and form specified by Article 2 of this chapter, approving the conditional use, approving the conditional use subject to conditions as specified in Subsection 6.5.3, or denying it. The failure of the review authority to act within 30 days shall be deemed an approval of the conditional use, unless such time period is mutually extended in writing by the applicant and the review authority. Within five days of such decision or the expiration of such period, the Building Authority or Planning Authority shall mail notice of such decision or failure to act to the applicant and, if a conditional use is authorized, list therein any and all conditions imposed by the review authority.

6.5.2 General conditional use standards

The review authority shall, after review of the application, approve a conditional use upon a finding that the proposed conditional use, at the size and intensity contemplated at the proposed location, will not have substantially greater negative impacts than would normally occur from surrounding uses or other allowable uses in the same zone. The review authority shall find that this standard is satisfied if it finds that:

A. The volume and type of vehicle traffic to be generated, hours of operation, expanse of

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pavement, and the number of parking spaces required are not substantially greater than would normally occur at surrounding uses or other allowable uses in the same zone.

B. The proposed use will not create unsanitary or harmful conditions by reason of noise, glare, dust, sewage disposal, emissions to the air, odor, lighting, or litter.

C. The design and operation of the proposed use, including but not limited to landscaping, screening, signs, loading, deliveries, trash or waste generation, arrangement of structures, and materials storage will not have a substantially greater effect/impact on surrounding properties than those associated with surrounding uses or other allowable uses in the zone.

D. The proposed use will meet any additional zone or use-specific standards identified in Tables 6-A to 6-G and Section 6.4.

6.5.3 Conditions on conditional use approvals

The review authority may impose such reasonable conditions upon the premises benefited by a conditional use as may be necessary to prevent or minimize adverse effects therefrom upon other property in the neighborhood. Such conditions shall be expressly set forth in the resolution authorizing the conditional use. Violation of such conditions shall be a violation of this article.

6.5.4 Effect of issuance of a conditional use approval

The approval of a conditional use shall not authorize the establishment or extension of any use nor the development, construction, reconstruction, alteration, or moving of any building or structure, but shall merely authorize the preparation, filing, and processing of applications for any permits or approvals which may be required by the City of Portland Code of Ordinances, including but not limited to a building permit, a certificate of occupancy, subdivision approval, and site plan approval.

6.5.5 Limitations on conditional use approvals

No conditional use approval shall be valid for a period longer than three years from the date of approval, unless the conditional use has commenced or a building permit is issued and construction has begun within that period and is thereafter diligently pursued to completion, provided, however, that one or more extensions of said time may be granted if the facts constituting the basis of the decision have not materially changed and the two year period is not exceeded thereby. A conditional use approval shall be deemed to authorize only the particular use for which it was issued and such approval shall automatically expire and cease to be of any force or effect if such use shall for any reason be discontinued for a period of 12 consecutive months or more.

6.5.6 Supplemental standards for certain conditional uses in the OS-R zone

In addition to general conditional use standards and supplemental use standards, the following standards shall apply to stadiums, solar energy systems, water pumping stations, wind energy systems, and accessory uses within structures of 2,500 square feet or more within the OS-R zone:

A. The use shall be in conformity with or satisfy a deficiency identified in a federal, state, regional, or City recreation and open space plan, including but not limited to the state *Comprehensive Outdoor Recreation Plan*, as

such plans may from time to time be created or revised.

B. Buildings and structures shall not obstruct significant scenic views presently enjoyed by nearby residents, passersby, or users of the site.

C. Indoor recreation or nonrecreational uses in the OS-R zone shall serve a significant public purpose that cannot reasonably be accommodated outside of the OS-R zone.

6.6 ACCESSORY USES

6.6.1 In general

A. Accessory uses shall be permitted in conjunction with permitted or conditional principal uses. Accessory uses shall be:

1. Customarily found in association with the principal use.
2. Generally consistent with the impacts of the principal use.
3. Secondary in nature, clearly incidental and subordinate to the principal use in terms of area and function.
4. Located on the same lot as the principal use unless otherwise permitted.
5. Consistent with the intent of the zone.

B. No accessory use or uses within a building shall occupy more than a combined total of 25% of the floor area of the principal building, with the exception of required off-street parking, unless otherwise provided in Subsection 6.6.2 below. In the case of multi-tenant buildings, this standard shall apply separately to each leased portion of the principal building.

C. No accessory use or uses not within a building shall occupy more than a combined total of 25% of the unbuilt lot area, with the exception of off-street parking or as otherwise provided in Subsection 6.6.2.

6.6.2 Standards for specific accessory uses

A. Accessory Dwelling Units (ADUs)

1. Accessory Dwelling Units (ADUs) shall be permitted on all lawfully conforming and nonconforming lots with legal residential uses.
2. ADUs shall be permitted as new detached accessory structures, building additions, or within existing lawfully conforming or nonconforming structures. However, the addition of an ADU may in no way increase the degree of nonconformity of any structure unless otherwise permitted under this subsection.
3. Up to two ADUs shall be permitted per qualifying property.
4. Under circumstances where an existing nonconforming structure is converted to an ADU, the design of the ADU shall take into consideration to the extent practicable the privacy of adjacent properties.
5. An ADU shall be limited to a gross floor area of 2/3 of the gross floor area of the largest principal unit on the lot. The aggregate square footage of detached ADUs on a lot shall not exceed the gross floor area of the principal structure.
6. ADUs shall be exempt from maximum lot coverage and minimum lot area per dwelling unit requirements.
7. Detached ADUs shall be limited to a maximum height of 18 feet, unless constructed above a garage, in which case the height of the structure shall be limited to 25 feet.

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8. Detached ADUs shall not be subject to side and rear setbacks for detached accessory structures as established in Article 7. Rather, detached ADUs shall maintain a minimum setback of 5 feet from all side and rear lot lines.
9. Detached ADUs shall not be permitted between a principal structure and a front lot line.

B. Antennas, discs, transmitting and receiving equipment. Building-mounted antennas, discs, and other transmitting and receiving equipment shall be:

1. No taller than 15 feet above the highest structural steel of the building roof.
2. Setback no less than 15 feet from the building perimeter.
3. Integrated into the architecture of the building in placement, form, color, and material so as to screen or camouflage such equipment from public view.

C. Drive-throughs

1. Drive-throughs shall be permitted as an accessory use in the B-4 zone.
2. Drive-throughs shall be permitted as conditional accessory uses in the B-2 zone only if a drive-through was located on the site as of the effective date of this Code. In all other zones, drive-throughs shall be prohibited.
3. Drive-throughs shall be subject to the following review standards:
   a. All components of a drive-through, including, but not limited to, signs, stacking lanes, menu/order boards, trash receptacles, and service windows shall be located to the side or rear of the principal building where practicable, except where such placement will be detrimental to an adjacent residential zone or use, and shall be located a minimum of 40 feet from any adjoining property in a residential zone. This distance shall be measured from the outermost edge of the outside drive-through feature to such property line. In addition, drive-through features shall be located a minimum of 25 feet from a right-of-way.
   b. The site shall have adequate stacking capacity for vehicles waiting to use these service features without impeding vehicular circulation or creating hazards to vehicular circulation on adjoining streets.
   c. Any speakers, intercom systems, or other audible means of communication shall not play pre-recorded messages. Any speakers, intercom systems, audible signals, computer prompts, or other noises generated by drive-through services or fixtures shall not exceed 55 dB or shall be undetectable above the ambient noise level as measured by a noise meter at the property line.
   d. Site and vehicular light sources shall not unreasonably spill over or be directed onto adjacent residential properties and shall otherwise conform to the lighting standards set forth in the City of Portland *Technical Manual*.
   e. Where automobiles may queue, waiting for drive-through services,

their impacts shall be substantially mitigated to protect adjacent residential properties from headlight glare, exhaust fumes, and noise. As deemed necessary by the review authority, mitigation measures shall consist of installation of solid fencing with landscaping along any residential property line which is exposed to the drive-through or the enclosure of the drive-through fixtures and lanes so as to buffer abutting residential properties and to further contain all associated impacts.

f. Drive-through lanes shall be designed and placed to minimize crossing principal pedestrian access-ways or otherwise impeding pedestrian access.

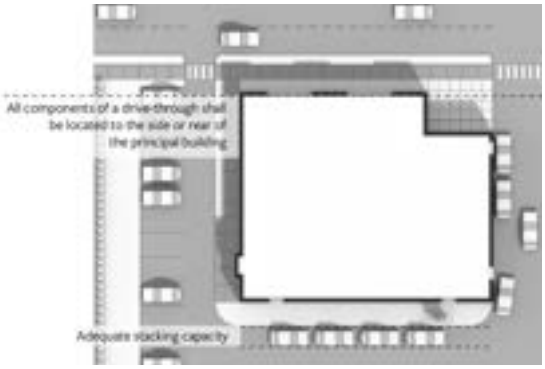

FIGURE 6-A: DRIVE-THROUGH SITING

D. Heliports. A heliport shall be designed and constructed in accordance with all federal and state regulations.

E. Home occupations

1. A home occupation shall be incidental to the residential use of a dwelling, and shall not change the essential residential character of the dwelling.

2. No interior or exterior alterations that are inconsistent with the residential use and character of the building shall be permitted. With the exception of a permitted sign, there shall be no evidence visible from the exterior of the premises that the property is used in any way other than as a dwelling. No display of products shall be visible from the exterior of the premises.

3. Exterior signs shall be limited to one non-illuminated sign not exceeding a total area of two square feet. Such sign must be affixed to the building, and may not project more than one foot from the façade of the building.

4. The home occupation and all related activity, including any storage, equipment, and display of products shall be conducted entirely within a principal building or accessory structure. This does not apply to the home occupation of licensed family childcare provider, which may include outdoor space needed to meet state licensing requirements.

5. No toxic, explosive, flammable, combustible, corrosive, etiologic, radioactive, biohazardous, or other restricted materials shall be used or stored as a component of a home occupation.

6. No home occupation shall include dispensing of medication from the dwelling.

7. The home occupation shall not produce any perceptible noise, vibration, heat, smoke, odor, electrical interference, dust or other particulate matter, or other

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nuisance effects in excess of that normally associated with residential use.

8. A home occupation shall be limited to residents of the dwelling and no more than two nonresident employees on the premises.
9. The home occupation shall not create vehicular or pedestrian traffic in greater volumes than average for a residential neighborhood. The home occupation and any related activity shall not create any traffic hazards or nuisances in public rights-of-way.
10. Any clients or business-related visitors shall be limited to the hours of 7:00 a.m. to 8:00 p.m.
11. The storage of semi-trucks, trailers, or heavy equipment such as construction or landscaping equipment used in a commercial business, is prohibited.
12. Repair and service of any vehicles, any type of heavy machinery, or any type of engine, is prohibited. Repair of small electronics or appliances is allowed.
13. A family childcare provider as a home occupation shall not be subject to floor area limitations for an accessory use, but shall be limited to the care of not more than 12 children and shall have no nonresidential employees.
14. Businesses with no employees, no customers, and no external impacts are not considered home-occupations for the purposes of this subsection, and are exempt from its provisions. Remote work is also not considered a home occupation, and is exempt from these provisions.

F. **Makers' markets in the IL-b zone.** Makers' markets, including periodic or seasonal sale of handcrafted and limited production products for final consumption, which may include prepared or raw foods, shall be permitted as an accessory use in the IL-b zone, provided that:
   1. Such sales are located within a lawfully conforming principal permitted use.
   2. Such sales occupy an area no larger than 45% of the floor area devoted to the principal use.
   3. Such sales by any single vendor or group of vendors shall occur for no more than a total of 28 hours a week collectively.
   4. Such products are produced or permitted to be produced in the IL/IL-b zone.
   5. Such products are sold by the producer of the product or their designee.

G. **Tasting rooms in industrial zones.** Tasting rooms shall be permitted as accessory uses on the premises of facilities where beer, wine, spirits, other alcoholic or non-alcoholic beverages, or food are produced, provided that:
   1. Service of food in the facility is limited to that which does not constitute a full meal.
   2. No more than 10% of the beverage menu in tasting rooms accessory to beverage production or 10% of the food menu in tasting rooms accessory to food production is produced or manufactured off-site.
   3. Tasting rooms shall not be subject to the limitations on the use of unbuilt lot or yard area in Subsection 6.6.1(C).

H. Solar energy generation

1. Accessory solar energy systems shall be permitted in all zones except within cemeteries.
2. All accessory solar energy systems are subject to the following conditions:
   a. All systems shall meet the technical, safety, and maintenance standards in the City of Portland *Technical Manual*.
   b. Solar energy systems shall minimize impacts resulting from construction and maintenance of the solar energy system, including lighting, security measures, traffic, and grid connections.
   c. Solar panel placement shall minimize or negate any solar glare impacting nearby properties or roadways, without unduly impacting the functionality or efficiency of the solar energy system.
   d. Ground-mounted accessory solar energy systems shall be located in side or rear yards only, and shall be subject to all dimensional standards for detached accessory structures within Article 7 unless otherwise specified.
   e. Building-mounted or roof-mounted accessory solar energy systems are not included in the calculation of maximum structure height, but must meet the following standards:
      i. Systems installed on pitched roofs shall be installed parallel to the roof surface on which they are mounted, and may project a maximum of one foot from the surface of the roof to the highest point of the system. Systems may not extend higher than the highest point of the roof surface on which they are mounted.
      ii. Systems installed on flat roofs must be set back a minimum of one foot for each foot of system height. Systems are limited to a height of five feet above the surface of the roof in all residential zones, 15 feet in the B-4 zone and industrial zones, and eight feet in all other zones.

I. Wind energy generation. Ground-mounted and roof-mounted accessory wind energy systems shall be permitted as accessory uses within all zones. Accessory wind energy systems are subject to the following standards:

1. Accessory wind energy systems shall comply with all general use standards for wind energy systems as stated under Subsection 6.4.41.A of this article.
2. Properties shall be limited to one ground-mounted accessory wind energy system and two roof-mounted accessory wind energy systems.
3. The maximum height of a ground-mounted accessory wind energy system is 25 feet in all RN zones, the B-1 zone, and all island zones. In all other zones, the maximum height shall be the maximum height allowed within the zone or 45 feet, whichever is less.
4. The maximum height of any roof-mounted accessory wind energy system is 15 feet above the height of such structure. Roof-mounted systems are not included in the calculation of maximum structure height.

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5. Roof-mounted accessory wind energy systems shall be set back from any edge of the building upon which they are mounted by a distance equal to or greater than the total height of the system, measured from the roof surface at the point of attachment to the top of the system at maximum vertical rotation. The setback distance shall be measured to the center of the wind generator base.
6. Ground-mounted accessory wind energy systems shall be setback from property lines by a distance equal to or greater than 1.1 times the total height of the system, measured from the base of the system to the top of the system at maximum vertical rotation. The setback distance shall be measured to the center of the wind generator base.
7. Ground-mounted accessory wind energy systems shall be located within the rear yard only and shall be sited to maximize existing vegetative or other screening from nearby residential buildings and public ways. The location shall minimize changes to existing topography and natural vegetation which would result from construction or maintenance of the system.

6.7 TEMPORARY USES

6.7.1 In general

Temporary uses may be permitted as determined by the Planning Authority or Building Authority. Temporary uses on private property shall comply with the standards of this section, as well as regulations pertaining to temporary uses contained elsewhere in the City of Portland Code of Ordinances. All temporary uses require a temporary use permit unless specifically cited as exempt. A temporary use permit may be issued for additional temporary uses not specifically listed per Subsection 6.7.2(G) below. Temporary uses do not require additional parking unless specifically cited in the temporary use standards or stipulated as a condition of approval.

6.7.2 Standards for specific temporary uses

A. Farmstand

1. A farmstand for the sale of food or non-food crops grown only on the premises is permitted, and shall be exempt from temporary use permit requirements.
2. In the island zones, such stand may include the sale of agricultural products produced on the premises or the sale of fish or shellfish caught by the occupant of the premises.
3. Acceptable stands are a portable table or cart, and cannot exceed an area of 200 square feet.
4. Farmstands are permitted for no more than 180 days per calendar year, and shall be removed when not in use.
5. Farmstands must be set back from all public rights-of-way a distance of no less than 5 feet.

B. Garage/yard sale

1. A garage/yard sale is permitted as a temporary use on residential property, and shall be exempt from temporary use permit requirements.
2. Garage/yard sales are limited to no more than six days per calendar year.

C. Real estate project sales office or model unit

1. A real estate sales office/model unit(s) is allowed for a residential development.
2. No real estate sales office/model unit(s) may be located in a manufactured home or off-site.
3. The temporary use permit shall be valid for the life of the residential development project. The real estate sales office must be removed and/or closed within 30 days after the sale or rental of the last unit within the development. The model unit(s) must be closed within 30 days after the sale or rental of the last unit of the development.
4. All activities conducted within real estate sales office/model unit(s) must be directly related to the construction and sale of properties within the particular development. Use as a general office of operation of any firm is prohibited.

D. Temporary contractor's yard

1. A temporary contractor's yard is allowed incidental to a construction project.
2. The temporary use permit shall be valid for the life of the project, to be verified by open permits.
3. The temporary contractor's yard shall be removed within 30 days of the completion of construction, and the premises shall be restored to their pre-construction state.
4. Temporary contractor's yards shall be screened on all sides by a fence a minimum of six feet in height to a maximum of eight feet in height. Fencing shall not be required on shared lot lines if the abutting lot contains a fence or other barrier that prohibits entry onto the lot.

E. Temporary outdoor sales

1. Temporary outdoor sales in residential zones are limited to those events conducted by and located on the premises of a place of assembly, an elementary, middle, or secondary school, or a post-secondary school, and shall be exempt from temporary use permit requirements.
2. Time limits shall be as follows:
   a. Time limitations apply to the lot, not the operator of the use.
   b. Temporary outdoor sales events in residential zones are limited to three events per calendar year, with a maximum of either three consecutive days, or two consecutive weekends. A minimum of 30 days between events is required.
   c. Temporary outdoor sales events in nonresidential zones are limited to four events per calendar year, with a maximum duration of five days per event, and a minimum of 30 days between events.
   d. Temporary outdoor sales events for seasonal sales, such as Christmas trees or pumpkins, are limited to four events per calendar year, with a maximum of 30 days per event and a minimum of 30 days between events.
   e. Temporary outdoor sales events in any nonresidential zone must be located a minimum of 125 feet from a residential zone.

F. Temporary outdoor storage containers

The use of an outdoor storage container is limited to a maximum of 90 days per calendar

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year, and shall be exempt from temporary use permit requirements.

G. Additional temporary uses. In addition to the temporary uses listed above, a temporary use permit may be issued by the Planning Authority or Building Authority for other temporary uses that are substantially similar to a temporary use listed above. A permit may be issued if the Planning Authority determines that such use is compatible with the surrounding land uses and proper care has been taken to address potential impacts to surrounding land uses. The time limit of such temporary use will be determined and approved as part of the temporary use permit.

6.8 PERFORMANCE STANDARDS

All uses shall comply with the performance standards established in this section, unless any federal, state, or local law, ordinance, or regulation establishes a more restrictive standard, in which case the more restrictive standard shall apply.

6.8.1 Development in the OS-R and OS-P zones

All development in the OS-R and OS-P zones shall comply with the following development standards:

A. All ground areas not used for parking, loading, vehicular, or pedestrian areas and not left in their natural state shall be suitably landscaped and designed with quality materials that are consistent with adopted City policy or master plans, and which provide a comfortable, durable, accessible, readily maintainable, and aesthetically pleasing environment.

B. Natural features, such as mature trees and natural surface drainageways, shall be preserved to the greatest possible extent consistent with the uses of the property.

C. Loading areas shall be screened and parking areas shall be screened and landscaped so as to avoid a large continuous expanse of paved area.

D. Buildings and structures shall be sited to avoid obstructing significant scenic views presently enjoyed by nearby residents, passersby, and users of the site.

E. Storage of commodities and equipment shall be completely enclosed within buildings or provided with screening by a fence, wall, or landscaping.

F. The outer perimeter of playfields, play lots, and other active recreational areas shall be screened, or shall be located a reasonable distance from any residential use.

6.8.2 Discharges

No discharge shall be permitted at any point into any private sewage disposal system, or stream, or into the ground, of any materials in such a way or of such nature or temperature as to contaminate any water supply, or otherwise cause the emission of dangerous or objectionable elements, except in accordance with standards approved by the Public Health Authority or by the Public Works Authority. No discharge into harbor water areas shall be permitted, unless permitted by the Maine Department of Environmental Protection under a waste discharge license and as approved by the Department of Public Works in accordance with Chapter 24 of the City of Portland Code of Ordinances. All private sewage disposal or private wastewater treatment facilities shall comply with the provisions of Chapter 24.

6.8.3 Electromagnetic interference

In any industrial zone, there shall be no electromagnetic interference that adversely affects

the operation of any equipment other than that belonging to the creator of such interference.

6.8.4 Exterior lighting

All exterior lighting shall be designed and installed with full cut-off fixtures to direct illumination onto the site and to prevent illumination from such fixtures on neighboring properties in accordance with the City of Portland *Technical Manual*.

6.8.5 Landscaping and screening

A. In all mixed-use zones, the I-B zone, TOD zones, the O zone, and the A-B zone outside of restricted access areas, sites shall be landscaped to screen parking and accessory site elements, including storage and solid waste receptacles, from the right-of-way, public open space, or abutting residential zones.

B. In the I-H zone, where a front yard abuts an arterial or a major collector street, it shall be landscaped. Rear yards, side yards, and the perimeter of any parking area for greater than 15 vehicles shall be landscaped if visible from a right-of-way, public open space, or residential zone.

TABLE 6-H: NOISE STANDARDS

Zone	Daytime/Evening (7 a.m.-9 p.m.)	Night (9 p.m.-7 a.m.)
I-B	60 dBA	55 dBA
O	60 dBA	60 dBA
B-1	55 dBA	55 dBA
B-2/B-2b	60 dBA	55 dBA
B-3	60 dBA	55 dBA
B-4	65 dBA	60 dBA
B-5, B-6	60 dBA	50 dBA
I-L/I-Lb	60 dBA	50 dBA
I-M/I-Mb	70 dBA	55 dBA
I-H	75 dBA	55 dBA
A-B	60 dBA	60 dBA

6.8.6 Noise

A. No use shall be operated so as to generate recurring noises that are unreasonably loud, cause injury, or create a nuisance to any person of ordinary sensitivities.

B. The maximum permissible sound level of any continuous, regular, or frequent source of sound produced by an activity shall be as shown in Table 6-H.

C. Sound shall be measured as follows:

1. For noise generated by a use in the I-L/I-Lb, I-M/I-Mb, and I-H zones, sound shall be measured at or within the boundaries of the nearest residential zone.
2. For noise generated by a use in the B-1, B-2/B-2b, B-3, B-4, B-5, B-6, I-B, O, and A-B zones, sound shall be measured at lot boundaries.

D. Sound levels shall be measured with a sound level meter with a frequency weighting network manufactured according to standards prescribed by the American National Standards Institute (ANSI) or its successor body.

E. **Wind energy systems.** Where the underlying zone is residential and does not specify sound requirements, or where the system will be within 100 feet of a residential zone, sound generated by the wind energy system shall not exceed 45 decibels on the A scale between the hours of 9:00 p.m. and 7:00 a.m., and 50 decibels on the A scale between 7:00 a.m. and 9:00 p.m., as measured at the nearest property line in accordance with this provision and technical standards set out in the City of Portland *Technical Manual*. Audible sound

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levels of wind energy systems shall include sounds generated in all conditions including low and high winds (furling, yawing, and flutter) and power outages (freewheeling).

F. Exemptions

1. Noises created by construction and maintenance activities between 7:00 a.m. and 9:00 p.m. are exempt from the maximum permissible sound levels set forth in Table 6-H.
2. The following uses and activities shall also be exempt from the requirements of Table 6-H:
   - **a.** The noises of safety signals, warning devices, emergency pressure relief valves, and any other emergency devices.
   - **b.** Traffic noise on public roads or noise created by aircraft and railroads.
   - **c.** Noise created by refuse and solid waste collection.
   - **d.** Emergency construction or repair work by public utilities, at any hour.

   Noise created by any recreational activities which are permitted by law and for which a license or permit has been granted by the City, including but not limited to concerts, parades, sporting events, and fireworks displays.

6.8.7 Odor

It shall be a violation of this article to create an odor nuisance. An odor nuisance shall be considered to exist when 10 confirmed complaints relating to odors of such intensity and character as to be detrimental to the public health and welfare occur in an area within two separate 24-hour periods. The 10 confirmed complaints must originate from 10 different households in a residential zone, or from 10 different individuals in a commercial or industrial zone.

6.8.8 Exterior stairways

Exterior stairs may be permitted, so long as such stairways shall have minimal visual impact upon the building and are located in the rear or side yard.

6.8.9 Outdoor storage

Outdoor storage shall comply with the requirements of Table 6-I.

6.8.10 Smoke and dust

Visible emissions from a direct or fugitive emission source may not exceed an opacity of 20% for more than 2.5 minutes in any half-hour period. All visible emissions must comply with the standards of the Maine Department of Environmental Protection.

6.8.11 Storage and repair of vehicles

A. In all residential zones, all island zones, and the B-3 zone, only one unregistered motor vehicle may be stored outside, for a period not exceeding 30 days.

B. In all other mixed-use zones, storage of unregistered motor vehicles for more than 10

TABLE 6-I: OUTDOOR STORAGE STANDARDS

	B-1	B-2/ B-2b	B-3	B-4	B-5	B-6	I-B	O	A-B	I-L/ I-Lb	I-M/ I-Mb	I-H
There shall be no outdoor storage except for fully enclosed receptacles for solid waste disposal.	●		●		●	●		●				
All outdoor storage must be located a minimum of 20 feet from any lot line. However, when abutting a residential zone, all outdoor storage must be located a minimum of 100 feet from a lot line abutting such zone.		●		●			●		●	●	●	●
Outdoor storage areas must be designed and maintained so as to prevent the accumulation of debris and standing water that can attract insects and vermin. All outdoor storage areas shall employ measures to prevent displacement of materials and windblown dust or particulates, including the use of windbreaks, tarps, or other coverings to protect stored materials from the elements.		●		●			●		●	●	●	●
No outdoor storage shall be permitted in the front setback, except for storage for plant and tree nurseries or lumber yards if listed as a permitted use. All such storage located in the front setback shall consist of live plant materials or lumber products. No aggregate materials, machinery, or other materials or products shall be stored in the front setback.		●		●			●		●			
All outdoor storage shall be suitably screened from the public way and abutting properties by a landscaped buffer or solid fence at least five feet in height. This does not apply to storage of materials allowed in the front setback for plant and tree nurseries or lumber yards.		●		●			●		●			
Exterior lighting of outdoor storage areas shall not exceed that which is required for security purposes and shall meet the standards of Subsection 6..8.4.	●	●	●	●	●	●	●	●	●	●	●	●

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days, and outdoor storage of used automobile tires shall be prohibited.

C. No partially dismantled, wrecked, or junked vehicles shall be stored outdoors. This provision does not apply to vehicles undergoing repair.

D. All vehicle repair facilities shall be screened along interior side and rear lot lines by a landscaped buffer or solid fence a minimum of five feet in height.

6.8.12 Waste disposal

A. All solid waste disposal, including materials which might cause fumes or dust, or constitute a fire hazard if stored outdoors, shall be only in fully enclosed, covered containers or receptacles. In all nonresidential zones except for the industrial zones, such containers or receptacles shall be within designated, screened areas. In industrial zones and the B-4 zone, outdoor storage of refuse, debris, or previously used materials awaiting reuse shall either be in an appropriate container or located within a designated, screened area.

B. Containers or receptacles shall not leak or otherwise permit liquids or solids to escape from the container or be transferred beyond lot boundaries by natural causes or forces. Areas attracting large numbers of insects or vermin are prohibited.

C. Where food processing is permitted, all food processing waste shall be stored within a completely enclosed structure. If not refrigerated, such waste shall be removed from the site in an enclosed container within 48 hours of its generation. All enclosed and exterior food processing waste storage areas shall be cleaned and sanitized on a regular basis.

6.8.13 Vibration

A. In any mixed-use zone and the O zone, vibration inherently and recurrently generated shall be imperceptible without instruments at lot boundaries. This shall not apply to vibration resulting from activities aboard a vessel or from railroad vehicle activities, or from activities on a pile-supported pier.

B. In all industrial zones, any use creating earthshaking vibrations, with the exception of airports, shall be controlled in such a manner as to prevent transmission beyond lot lines of vibrations causing a displacement of .003 or greater on one inch, as measured by a vibrograph or similar instrument at the property boundaries.

6.8.14 Entertainment businesses in the B-3 and WCZ zones

A. In the B-3 and WCZ zones, a business with an entertainment license as required or authorized by Chapter 4, Section 4-51(a) of the City of Portland Code of Ordinance shall be considered an entertainment business for the purposes of this section, and may not be located within 100 feet of another entertainment business, as measured along or across public ways from the main entrance or entrances of each. This dispersal requirement shall not apply to entertainment businesses that do not allow amplified entertainment.

1. Any entertainment business located in the B-3 or WCZ zones on or before January 3, 2006 shall not be required to comply with this dispersal requirement. If located within 100

feet of another entertainment business, such business shall be considered a lawfully nonconforming use subject to the standards of Article 4 of this Code. Any such business shall continue to be considered an entertainment business for the purpose of administering this dispersal requirement for a new or relocating entertainment business in the B-3 and WCZ zones.

2. Where two or more entertainment businesses operate on one site, and where each business entity requires or has a separate business license, or displays in a manner visible from public property separate business trademarks, logos, service marks, or other mutually identifying names or symbols, each business entity shall be counted as a separate entertainment business for the purposes of this section.
3. Following a hearing held pursuant to Chapter 15, Section 15-10 of the City of Portland Code of Ordinances, the Building Authority may impose conditions on the food service license of any entertainment business in the B-3 and WCZ zones that operates between 1:00 a.m. and 4:00 a.m. to maintain or improve public safety. Such conditions may be imposed following a written recommendation from the Portland Police Department that such conditions are necessary. The Building Authority's decision may be appealed to the City Manager pursuant to Chapter 15, Section 15-9 of the City of Portland Code of Ordinances. Nothing in this section shall be construed to limit the Building Authority's authority in Chapter 15 to deny, suspend, or revoke any license pursuant to the standards and process in that chapter.

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7 DIMENSIONAL STANDARDS

7.1 APPLICABILITY

Construction, alterations, and additions to structures and buildings are governed by this article, except when superseded by other applicable laws or ordinances. It is the intent that, when in doubt, this article should be interpreted to accommodate the goals of the City's Comprehensive Plan and other plans.

7.2 RULES OF MEASUREMENT

Blank wall area. The horizontal linear dimension of contiguous building façade, measured along a street frontage, that does not contain fenestration, doors, change in wall plane, or other architectural or material embellishment. Any wall less than five feet in height is not considered to be a blank wall.

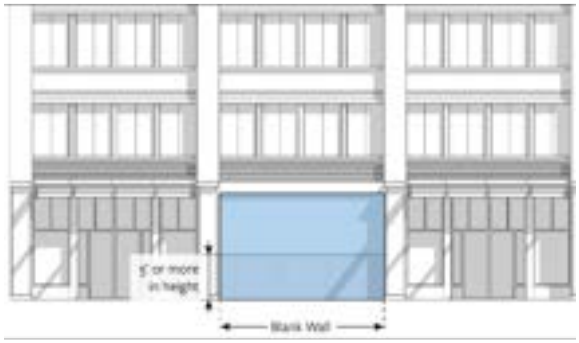

FIGURE 7-A: BLANK WALL AREA

Footprint. The lot area contained within the outermost perimeter of the building envelope including cantilevered portions of the building, projections, and porches, decks, and similar attached structures integral to the building and contributing to its mass, but excluding roof overhangs less than two feet in depth.

Building length. The linear dimension of a building façade, measured along a street frontage. Passageways, breezeways, and similar building connections are included in the calculation of total building length. On sites with multiple buildings, building length shall only be measured on buildings abutting a street frontage.

Build-to percentage. The percentage of the building façade that must be located within a build-to zone. Façade articulation meeting the standards of this Code, such as window or wall recesses and projections, are included as part of the required build-to percentage even when they are recessed beyond the build-to zone. Plazas, outdoor dining, and other public open space features that are bounded by a building façade parallel to the frontage are counted as meeting the build-to percentage. Build-to percentage is calculated as a ratio of the total building length of a principal structure, not street frontage.

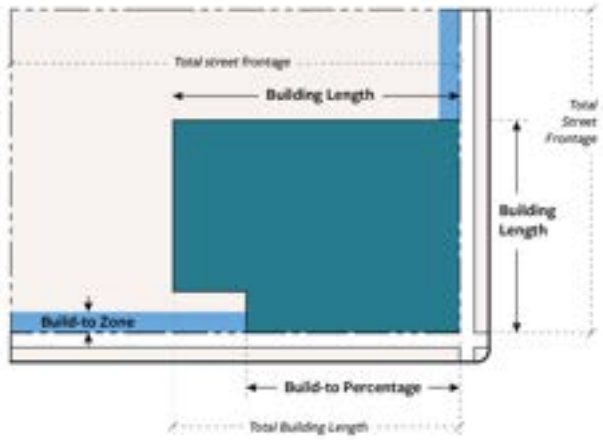

FIGURE 7-B: MINIMUM LENGTH AND BUILD-TO PERCENTAGE

Build-to Zone (BTZ). The area on a lot, measured perpendicular to the front and/or corner side lot line, where all or a portion of the applicable façade of a structure must be located, measured as minimum and maximum range from the lot line. Placement of a building at a build-to zone must not violate corner clearance requirements.

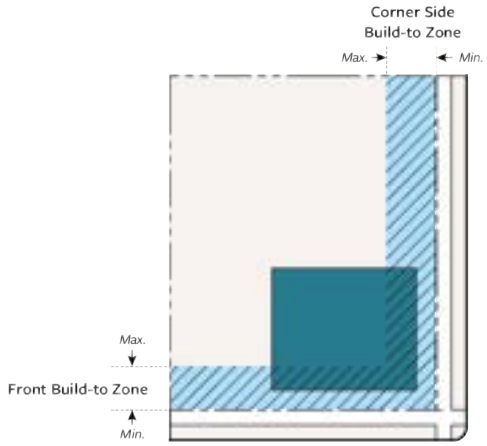

FIGURE 7-C: BUILD-TO ZONE

Floor area. The total floor space enclosed by exterior or standard fire walls and roof of a building, exclusive of vent shafts and courts.

Grade, pre-development. The average of elevation measurements, existing as of October 1, 2000, at consistent intervals of no less than three and no more than ten feet around the entire perimeter of a structure. Measurements shall be taken at the foundation of the structure where it meets the grade.

Grade, average. The average of elevation measurements at consistent intervals of no less than three and no more than ten feet around the entire perimeter of a structure. Measurements shall be taken at the foundation of the structure where it meets the grade.

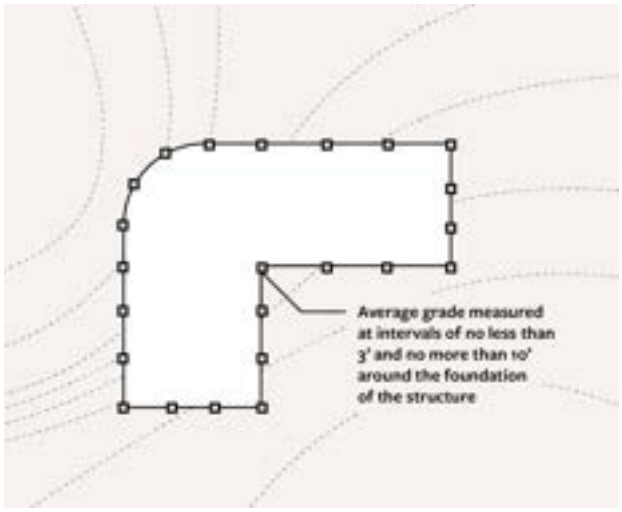

FIGURE 7-D: AVERAGE GRADE

Height. The vertical measurement from average grade, or the pre-development grade on the islands, to the highest point of a structure. For buildings, height shall be measured to the roof beams in flat roofs, to the highest point of the roof beams or the highest point on the deck of mansard roofs, to a level midway between the level of the eaves and highest point of pitched roofs or hip roofs, or to a level two-thirds of the distance from the level of the eaves to the highest point of gambrel roofs. For this purpose, the level of the eaves shall be taken to mean the highest level where the plane of the roof intersects the plane of the outside wall on a side containing the eaves.

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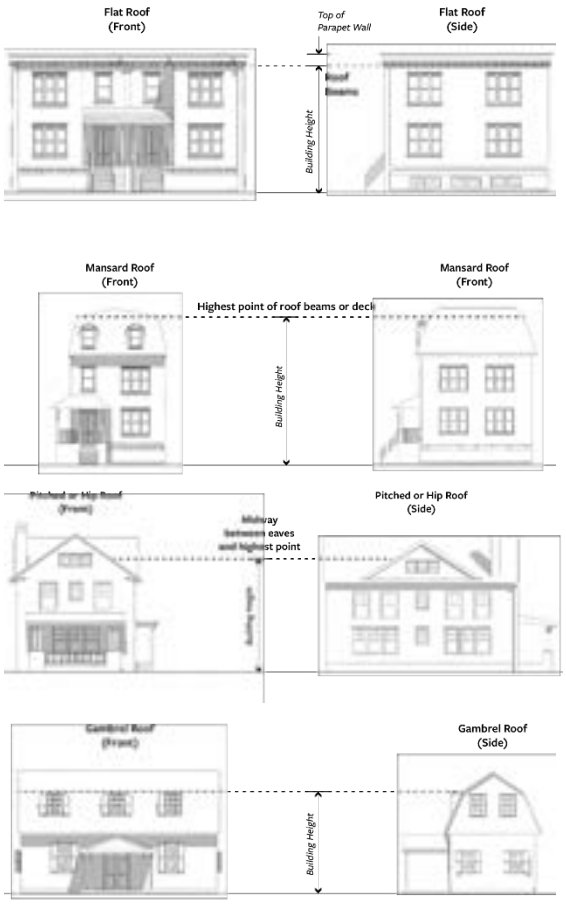

FIGURE 7-E: BUILDING HEIGHT MEASUREMENT

Landscaped open space ratio. The proportion of lot area covered by landscaped open space, calculated by dividing the total landscaped open space area by the lot area. For the purposes of this measurement, landscaped open space shall not include green roofs or structured or engineered surfaces.

Lot area. The area of a lot enclosed within the boundary lines of a lot. For townhouse dwellings, the minimum lot area per dwelling unit applies to the overall townhouse development and not to individual lots underlying townhouse dwelling units. On flag lots, no part of the "pole" connecting the main building area to the street shall be calculated as lot area.

Lot coverage. The proportion of lot area covered by building footprint and the footprint of accessory detached structures.

Lot line. A line of record bounding a parcel or area of land that is designated as an individual unit for use, development, or ownership.

Lot line, corner side. The lot line perpendicular or approximately perpendicular to the front lot line and the longer lot line abutting the street on a corner lot.

Lot line, front. The lot line separating a lot from a street right-of-way. The front lot line of a corner lot is the shorter lot line abutting the street. In the case of a through lot, both lot lines separating a lot from a street right-of-way are considered front lot lines.

Lot line, interior side. Any lot line that is not a front, rear, or corner side lot line and abuts an adjacent lot.

Lot line, rear. The lot line opposite and most distant from the front lot line. In cases where a lot has multiple lot lines that meet this definition, each of those lines shall be considered a rear lot line for the purposes of applying setback and other dimensional requirements. In the case of triangular or similar irregularly shaped lots, the rear lot line shall be established as a line of ten feet in length entirely within the lot, parallel to and at a maximum distance from the front lot line.

FIGURE 7-F: LOT LINES

Setback. The required minimum distance a structure shall be located from a lot line, which is open, unoccupied and unobstructed except as otherwise permitted in this code of ordinances. A setback is located along the applicable lot line for the minimum depth specified by the zone in which such lot is located, and may be equal to or lesser than a yard. Setbacks do not apply to fences, retaining walls, raised garden beds and other similar structures.

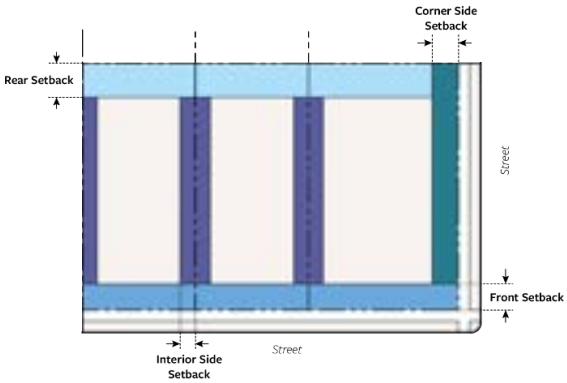

FIGURE 7-G: SETBACKS

Setback, corner side. A setback along the corner side lot line, extending from the front setback to the rear lot line, the depth of which shall be measured perpendicular to the corner side lot line.

Setback, front. A setback along the front lot line, extending between side lot lines, the depth of which shall be measured perpendicular to the front lot line. For flag lots, the front setback is measured from the rear lot line of the lot that separates the flag portion of the lot from the street. For through lots, the front setback shall be applied on both street frontages unless the lot is in a residential district, in which case one frontage shall meet the front setback requirement and the other shall meet the rear setback requirement. In the case of lots without frontage on a street, the property line that parallels the nearest developed street shall be considered the front. Where front yard averaging is required to determine the front setback, the average is based upon the two adjacent lots on

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either side, or, in the case of a corner lot, the next two adjacent lots. In the case of a lot configuration where only one lot is available for averaging, the required front setback shall be that of the adjacent lot. Where no lots are available for averaging, the front setback shall be a minimum of 20 feet in the RN-1 and RN-2 zones, a minimum of 15 feet in the RN-3 zone, and a minimum of five feet in the RN-4 and I-B zones.

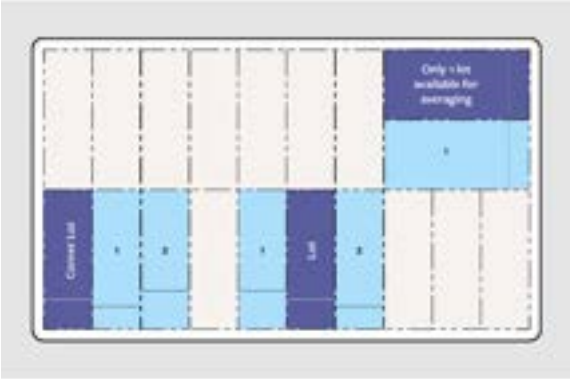

FIGURE 7-H: SETBACK AVERAGING

Setback, rear. A setback along the rear lot line, extending between side lot lines, the depth of which shall be measured perpendicular to the rear lot line.

Setback, side. A setback along a side lot line extending from the front lot line to the rear lot line, the depth of which shall be measured perpendicular to the side lot line. For townhouse dwellings, side setback requirements are only applicable to end units, not to any side sharing a party wall.

Stepback. A space on a lot which is required by this article to be maintained open, unoccupied, and unobstructed, measured between lot lines and any structure, that occurs at a prescribed height above the ground. Stepbacks shall apply to all attached accessory structures, including the minimum necessary housing of elevators, stairways, tanks fans, or other building operating equipment not intended for human occupancy.

Story. That portion of a building included between the surface of any floor and the surface of the floor, or the roof, next above. A half story is a story situated under a sloping roof, the area which at a height four feet above the floor does not exceed two-thirds of the floor area of the story immediately below it. A story which exceeds 18 feet in height shall be counted as two stories. A basement shall be counted as a story for the purpose of height measurement where more than one-half of its height is above the average level of the adjoining ground.

Street frontage. The distance for which a lot line adjoins a public street, from one lot line intersecting said street to the furthest distant lot line intersecting the same street.

Yard. The area of a lot between a lot line and a principal structure, measured as the horizontal distance between a specified lot line and a principal structure.

Yard, corner side. A yard along the corner side lot line, extending from the front yard to the rear lot line, measured between the corner side lot line and a principal structure.

Yard, front. A yard along the front lot line, extending between side lot lines, measured between the front lot line and a principal structure. On flag lots, the front yard is measured from the rear lot

line of the lot that separates the flag portion of the lot from the street, and a principal structure.

Yard, rear. A yard along the rear lot line, extending between side lot lines or a side lot line and a corner side yard, measured between the rear lot line and a principal structure.

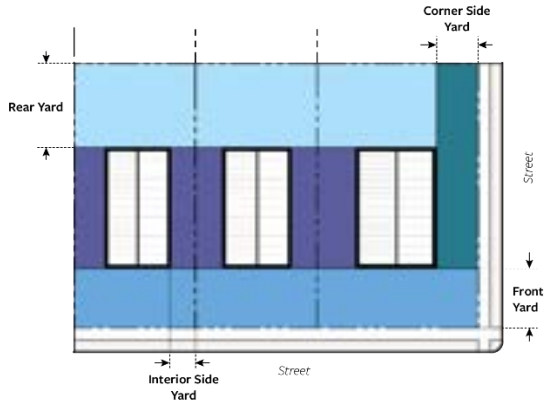

FIGURE 7-I: YARDS

Yard, side. A yard along the side lot line, extending from the front yard to the rear yard, measured between the side lot line and a principal structure.

7.3 DIMENSIONAL STANDARDS

Tables 7-A to 7-G shall establish the dimensional standards for each zone. Certain additional standards may apply per Section 6.4 and Sections 7.4, 7.5, and 7.6.

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TABLE 7-A: RESIDENTIAL NEIGHBORHOOD ZONE DIMENSIONAL STANDARDS

		RN-1	RN-2	RN-3	RN-4	RN-5	RN-6
Lot area (min.)	**Single-family**	6,500 SF	6,000	5,000 SF	2,000 SF	--	--
	Two-family	6,500 SF	6,000	5,000 SF	2,000 SF	--	--
	Three-family	6,500 SF	6,000	5,000 SF	2,000 SF	--	--
	Four-family	6,500 SF	6,000	5,000 SF	2,000 SF	--	--
	Townhouse	--	1,500 SF/unit	--	1,500 SF/unit	--	1,200 SF/unit
	Multi-family		1,200SF/unit		725 SF/unit	1,200 SF/unit, minimum of 40,000 SF	435 SF/unit
	Nonresidential	6,500 SF	6,000 SF	5,000 SF	2,000 SF	40,000 SF	2,000 SF
	Street frontage (min.)	40 ft.	40 ft., except 15 ft./unit for townhouse	40 ft.	20 ft., except 15 ft./unit for townhouse	50 ft.	20 ft., except 15 ft./unit for townhouse
	Front setback (min.)	Average of adjacent front yards - 5 ft.	Average of adjacent front yards - 5 ft.	Average of adjacent front yards - 5 ft.	Average of adjacent front yards - 5 ft.	25 ft.	--
Rear setback (min.)	**Principal structures and detached accessory structures** (>250 SF footprint)	25 ft.	20 ft.	20 ft.	10 ft.	25 ft.	5 ft.
	Detached accessory structures (<250 SF footprint)	5 ft.	5 ft.	5 ft.	5 ft.	5 ft.	5 ft.
Side setback, interior (min.)	**Principal structures and detached accessory structures** (>250 SF footprint)	8 ft.	8 ft., except that a side setback may be reduced to not less than 5 ft. provided that the cumulative side yards are not less than 16 ft.	7 ft., except that a side setback may be reduced to not less than 4 ft. provided that the cumulative side yards are not less than 14 ft.	5 ft., except that a side setback may be reduced to not less than 0 ft. provided that the cumulative side yards are not less than 10 ft.	16 ft.	5 ft., except that a side setback may be reduced to not less than 0 ft. provided that the cumulative side yards are not less than 10 ft.
	Detached accessory structures (<250 SF footprint)	5 ft.	5 ft.	5 ft.	3 ft.	5 ft.	3 ft.
	Side setback, corner (min.)	15 ft., or the depth of an adjacent front yard directly abutting the corner side yard of the lot, whichever is less	10 ft, or the depth of an adjacent front yard directly abutting the corner side yard of the lot, whichever is less	10 ft, or the depth of an adjacent front yard directly abutting the corner side yard of the lot, whichever is less	--	25 ft.	--

TABLE 7-A (CONT.): RESIDENTIAL NEIGHBORHOOD ZONE DIMENSIONAL STANDARDS

		RN-1	RN-2	RN-3	RN-4	RN-5	RN-6
Structure height (max.) (Unless otherwise governed by the City of Portland Height Map or the Fort Sumner Park Height Overlay)		35 ft.	35 ft.	35 ft.	35 ft., except 45 ft. for buildings with 3 or more dwelling units. In all cases, height shall be limited to 35 ft. within 15 ft. of a rear lot line when abutting an RN-1, RN-2, or RN-3 zone	55 ft.	65 ft., except 45 ft. within 15 ft. of an RN-1, RN-2, RN-3, RN-4, OS-R, or OS-P zone
Detached accessory structure height (max.)		18 ft.	18 ft.	18 ft.	18 ft.	18 ft.	18 ft.
Building length (max.) (Multi-family + Nonresidential uses)		--	--	--	70 ft.	180 ft.	--
Lot coverage (max.)	**Residential uses**	60%	60%	60%	60%	60%	100%
	Nonresidential uses	35%	50%	50%	60%	50%	100%
Landscaped open space ratio (min.)	**Residential uses**	30%	30%	30%	30%	30%	--
	Nonresidential uses	50%	30%	30%	20%	30%	--
Width of garage opening on front façade (max.)			--	--	9 ft. or 30% of the front façade, whichever is greater, however in no case more than 20 ft.	--	9 ft. or 30% of the front façade, whichever is greater, however in no case more than 20 ft.

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TABLE 7-B: ISLAND ZONE DIMENSIONAL STANDARDS

		IR-1	IR-2	I-B Served by Public Water & Sewer	I-B Not Served by Public Water & Sewer
Lot area (min.)	**Single-family**	40,000 SF, except 60,000 SF if not served by public water	20,000 SF, except 3,000 SF if a small island lot per Subsection 7.6.3	5,000 SF	20,000 SF
	Two-family	40,000 SF, except 60,000 SF if not served by public water	20,000 SF, except 3,000 SF if a small island lot per Subsection 7.6.3	5,000 SF	20,000 SF
	Three-family	--	--	5,000 SF	20,000 SF
	Four-family	--	--	5,000 SF	20,000 SF
	Multi-family	--	--	1,200 SF/unit	5,000 SF/unit
	Nonresidential	40,000 SF	20,000 SF	None	20,000 SF
	Street frontage (min.)	100 ft.	50 ft., except 30 ft. if a small island lot per Subsection 7.6.3	40 ft.	40 ft.
	Front setback (min.)	20 ft.	20 ft. or the average of adjacent front yards, whichever is less	Average of adjacent front yards - 5 ft.	Average of adjacent front yards - 5 ft.
Rear setback (min.)	**Principal structures and detached accessory structures** (>250 SF footprint)	30 ft.	25 ft., except 15 ft. if a small island lot per Subsection 7.6.3	10 ft.	10 ft.
	Detached accessory (<250 SF footprint)	5 ft.	5 ft., except 3 ft. if a small island lot per Subsection 7.6.3	5 ft.	5 ft.
Side setback, interior (min.)	**Principal structures and detached accessory structures** (<250 SF footprint)	20 ft.	12 ft., except 8 ft. if a small island lot per Subsection 7.6.3. Small island lots may reduce one side setback to no less than 6 ft. provided that the cumulative side yards are not less than 16 ft.	10 ft.	10 ft.
	Detached accessory (<250 SF footprint)	5 ft.	5 ft., except 3 ft. if a small island lot per Subsection 7.6.3	5 ft.	5 ft.
	Side setback, corner (min.)	20 ft.	12 ft., except 8 ft. if a small island lot per Subsection 7.6.3	10 ft.	10 ft.
	Structure height (max.)	35 ft.	35 ft., except 27 ft. on Little Diamond Island	35 ft.	35 ft.
	Detached accessory structure height (max.)	18 ft.	18 ft.	18 ft.	18 ft.
	Lot coverage (max.)	20%	40%, except 60% if small island lot per Subsection 7.6.3	60%	60%
	Landscaped open space ratio (min.)	70%	50%, except 30% if a small island lot per Subsection 7.6.3	20%	20%

TABLE 7-C: MIXED-USE ZONE DIMENSIONAL STANDARDS

	B-1	B-2/B-2b	B-3	B-4	B-5	B-6[1]
Lot area (min.)	--	--	--	10,000 SF	--	--
Street frontage (min.)	20 ft.	--	--	60 ft.	--	--
Gross floor area (max.) (Nonresidential uses on the ground floor only, unless otherwise permitted or restricted)	5,000 SF	--	--	--	--	--
Build-to zone	0–5 ft.	0–10 ft.	0-5 ft.	0-20 ft.	0-10 ft.	0-10 ft.
Build-to percentage (min.)	100%	100%	100%	50%	80%	80%
Building length as a percentage of street frontage (min.)	--	B-2: None B-2b: Lots up to 50 ft. in frontage: 80% Lots greater than 50 ft. in frontage: 60%	Lots up to 50 ft. in frontage: 80% Lots greater than 50 ft. in frontage: 60%	--	60%	70%
Blank wall area (max.)	20 ft.	20 ft.	20 ft.	40 ft.	20 ft.	20 ft.
Rear setback (min.)	None, except 10 ft. if abutting a lot in a residential zone	None, except 10 ft. if abutting a lot in a residential zone	--	None, except 20 ft. if abutting a lot in a residential zone	--	--
Side setback, interior (min.)	None, except 5 ft. if abutting a lot in a residential zone	None, except 5 ft. if abutting a lot in a residential zone	--	None, except 10 ft. if abutting a lot in a residential zone	--	--
Structure height (max.)	55 ft., except 35 ft. within 20 ft. of an RN-1, RN-2, RN-3, OS-R, or OS-P zone[2]	75 ft., or as shown on the City of Portland Height Map, except 50 ft. within 15 ft. of an RN-1, RN-2, RN-3, RN-4, OS-R, or OS-P zone	See City of Portland Height Map	65 ft.	75 ft., or as shown on the City of Portland Height Map	See City of Portland Height Map
Landscaped open space ratio (min.)	--	B-2: 10% B-2b: None	--	20%	--	--

[1] In the case of a conflict with the B-6 Building Height and Building Envelopes Map, the map shall control.
[2] In the B-1 zone on Washington Avenue north of Gould Street, structure height shall be limited to 45 ft.

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TABLE 7-D: TRANSIT-ORIENTED DEVELOPMENT ZONE DIMENSIONAL STANDARDS

	TOD-1	TOD-2
Lot area (min.)	--	--
Street frontage (min.)	--	--
Build-to zone	0-10 ft.	0-5 ft.
Build-to percentage (min.)	100%	100%
Building length as a percentage of street frontage (min.)	Lots up to 50 ft. in frontage: 80% Lots greater than 50 ft. in frontage: 60%	80%
Blank wall area (max.)	20 ft.	20 ft.
Rear setback (min.)	None, except 20 ft. if abutting a lot in a residential zone	None, except 20 ft. if abutting a lot in a residential zone
Side setback, interior (min.)	None, except 10 ft. if abutting a lot in a residential zone	None, except 10 ft. if abutting a lot in a residential zone
Structure height (min./max.) (Unless otherwise governed by the City of Portland Height Map)	Min.: 35 ft. Max. 85 ft., except 50 ft. within 30 ft. of an RN-1, RN-2, RN-3, or RN-4 zone	Min. 35 ft. Max. 125 ft., except 50 ft. within 30 ft. of an RN-1, RN-2, RN-3, or RN-4 zone
Landscaped open space ratio (min.)	10%	--

TABLE 7-E: OFFICE PARK DIMENSIONAL STANDARDS

	O
Lot area (min.)	10,000 SF, except 3 ac. for an office park
Street frontage (min.)	40 ft., except 100 ft. for an office park
Gross floor area (max.) (Nonresidential uses)	--
Front setback (min.)	15 ft., except 50 ft. for an office park
Rear setback (min.)	20 ft., except 50 ft. for an office park
Side setback, interior (min.)	15 ft., except 25 ft. for an office park, or 40 ft. where an office park abuts a residential zone
Side setback, corner (min.)	15 ft., except 50 ft. for an office park
Structure height (max.) (Unless otherwise governed by the City of Portland Height Map)	45 ft., except 55 ft. for an office park, or 75 ft., including rooftop appurtenances, on lots within office parks which are greater than 50 ac. if each minimum setback is increased by 1 ft. for each 1 ft. of height above 55 ft.
Lot coverage (max.)	60%
Landscaped open space ratio (min.)	30%, except 40% for an office park

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TABLE 7-F: INDUSTRIAL AND AIRPORT ZONE DIMENSIONAL STANDARDS

	I-L	I-Lb	I-M	I-Mb	I-H	A-B
Lot area (min.)	--	--	--	--	--	20,000 SF
Street frontage (min.)	60 ft.	60 ft.	60 ft.	60 ft.	60 ft.	50 ft.
Setback from street (min.)	15 ft.	--	15 ft.	--	25 ft.	None, except 20' if property has frontage on Westbrook St.
Rear setback (min.)	15 ft., except 35 ft. when abutting residential zone	None, except 25 ft. when abutting residential zone	15 ft., except 35 ft. when abutting residential zone	None, except 25 ft. when abutting residential zone	35 ft.	None, except 50 ft. if abutting residential zone[1]
Side setback, interior (min.)	15 ft., except 35 ft. when abutting residential zone	None, except 25 ft. when abutting residential zone	15 ft., except 35 ft. when abutting residential zone	None, except 25 ft. when abutting residential zone	35 ft.	None, except 25 ft. if abutting residential zone
Structure height (max.) (Unless otherwise governed by the City of Portland Height Map)	50 ft.	50 ft.	75 ft.	75 ft.	75 ft.	75 ft., except 45 ft. within 100 ft. of a residential zone
Landscaped open space ratio (min.)	35%	--	15%	--	15%	--

[1] No structure may extend beyond the building line established for any runway or taxiway. If provided, rear and side yards must not be less than 5 ft. in width.

TABLE 7-G: OPEN SPACE ZONE DIMENSIONAL STANDARDS

	OS-R[1]	OS-P
Lot area (min.)	--	20,000 SF
Front setback (min.)	20 ft.	25 ft.
Rear setback (min.)	20 ft., except none if abutting a parcel in the OS-R or OS-P zone	50 ft.
Side setback, interior (min.)	10 ft., except none if abutting a parcel in the OS-R or OS-P zone	10 ft.
Side setback, corner (min.)	10 ft.	20 ft.
Structure height (max.) (Unless otherwise governed by the City of Portland Height Map)	45 ft.	35 ft.
Lot coverage (max.)	25%	10%
Landscaped open space ratio (min.)	75%, except 25% for stadiums and none for sewage treatment facilities	90%

[1] Public open spaces less than 2 ac. and on the peninsula are not required to meet the OS-R dimensional standards.

7.4 ALTERNATIVE RESIDENTIAL DEVELOPMENT OPTIONS

The following alternative residential development options are available within certain zones as indicated. These alternative residential development options are intended to provide creative opportunities for residential development by modifying standards within certain zones to allow for a variety of densities and site designs. Alternative residential development options may not be combined.

7.4.1 Conservation residential development

A. A conservation residential development permits a reduction in minimum lot area in exchange for provision of common open space, allowing for the efficient use of land and preservation of Portland's natural resources.

B. Conservation residential development is permitted in the RN-1, IR-1, and IR-2 zones.

C. A conservation residential development shall be a minimum of two acres in area.

D. A conservation residential development shall be designed to prioritize the preservation of important natural features such as streams, wetlands, stands of mature trees, and critical wildlife habitats. Development shall minimize impacts on the natural environment by carefully laying out structures, streets, and other infrastructure, including buffer zones to protect and connect existing natural areas on site.

E. Development standards

1. Site layout

a. All lots within a conservation residential development shall have frontage on a street, private way, or common open space within the development.

b. The maximum number of lots permitted within a conservation development shall be determined by the total acreage of the site divided by the applicable minimum residential lot area requirement of the underlying zone.

c. All lots within the conservation residential development shall meet the dimensional requirements of the underlying zone with the exception of the following:

i. Minimum lot area and street frontage may be reduced by no more than 50%.

ii. Maximum lot coverage and minimum landscaped open space ratio requirements do not apply to lots of 5,000 square feet or less in lot area.

iii. A minimum side setback of five feet applies to all lots within a conservation residential development unless otherwise specified below.

iv. A minimum corner side setback of ten feet applies to all corner lots within a conservation residential development unless otherwise specified below.

v. Front and rear setbacks may be reduced by 50% for all lots within the conservation residential

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development, unless otherwise specified below.

vi. Where a lot within the conservation residential development abuts adjacent property, minimum side and rear setbacks are required in accordance with the standards of the underlying zone.

vii. Where a lot within the conservation residential development abuts a street at the perimeter of the development, minimum front setback and minimum street frontage is required in accordance with the standards of the underlying zone.

2. *Common open space*

a. In addition to any open space otherwise required by this code, 30% of the total site area of a conservation residential development shall comprise common open space. Common open space shall be designed as follows:

i. Required common open space shall maintain a minimum width of at least 30 feet in any direction.

ii. Common open space may be improved for recreational use, or left in a natural state. If improved for recreational use, no more than 10% of the common open space shall comprise impervious surfaces.

iii. No more than 50% of the required common open space shall be covered by water.

iv. Structures located within any common open space shall be accessory to any recreational use of the space.

b. Common open space may be conveyed as follows:

i. To the City of Portland.

ii. To a nonprofit corporation or charitable trust, the purposes or powers of which include retaining or protecting the natural, scenic, or open space values of real property; assuring the availability of real property for agricultural, forest, recreational, or open space use; protecting natural resources; or maintaining or enhancing air or water quality of real property.

iii. To one or more homeowner's associations.

c. Common open space associated with a conservation residential development shall not be sold, and has no future development rights.

7.4.2 Cottage court residential development

A. A cottage court residential development allows for small lot residential development in a manner that coordinates dwelling types and common open space into a cohesive whole, maintained in shared stewardship by residents.

B. Cottage court residential development is allowed in the RN-1, RN-2, RN-3, and IR-2 zones.

C. A cottage court residential development may be designed as dwellings on individual lots, or as multiple dwellings on a lot in common ownership.

D. Use limitations

1. Only single-family and two-family dwellings are permitted within a cottage court residential development.

2. No more than 25% of the residential structures in a cottage court development shall be two-family dwellings.

3. Accessory dwelling units are not permitted within a cottage court residential development.

4. Buildings for common facilities for use by the residents, such as laundry facilities, communal kitchens, and common rooms, are also permitted.

E. Development standards

1. A cottage court residential development shall contain a minimum of four residential structures.

2. The maximum number of residential structures within a cottage court development is 12. When cottage court residential development is occurring on multiple adjacent development sites, the maximum number of residential structures within all development sites is 24.

3. All standards of the underlying zone apply, with the following exceptions:

a. In the RN-1, RN-2, and RN-3zones, the minimum total lot area required for a cottage court residential development is calculated as 50% of the cumulative lot area required for all proposed dwellings under the base zoning district.

b. In the IR-2 zone, the minimum total lot area required for a cottage court residential development is calculated as 3,000 square feet per dwelling, for all proposed dwellings.

c. Individual lots within a cottage court residential development are exempt from the standards of the underlying zone for lot area, street frontage, setbacks, lot coverage, and landscaped open space ratio. However, standards for street frontage, setbacks, lot coverage, and landscaped open space ratio apply to the cottage court residential development as a whole.

4. All residential structures within a cottage court shall front onto a street or a common open space.

5. Common open space areas within cottage court residential developments shall meet the following standards:

a. Required common open space shall be provided at a ratio of 300 square feet per dwelling unit.

b. Required common open space shall be provided in the form of a centrally located, contiguous open space. Such open space shall maintain a minimum dimension of 30 feet in width, and shall front on a public street.

c. A maximum of 30% of the common open space shall be hardscape.

d. Off-street parking may be provided on individual development sites for each

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residential structure within the cottage court, or in a shared parking area serving multiple residential structures. Common parking areas shall contain no more than ten spaces each and must be screened from abutting lots that are not part of the development. Parking shall not be located between principal structures and the street, or within any required common area.

F. Small unit bonus

1. Cottage court residential developments may be eligible for a development bonus in exchange for construction of small dwelling units as described in this section.

2. To be eligible, all dwelling units, including any dwelling units achieved through the bonus, shall be 800 square feet or less in floor area.

3. *Bonus*

a. The number of residential structures able to be developed as part of the overall cottage court residential development may be increased by 35%, but shall not exceed three bonus residential structures.

b. Residential structures achieved through the bonus shall meet the development standards of the cottage court development as set forth in item E above.

c. Residential structures achieved through the bonus are not included in the calculation of minimum total lot area required for the overall cottage court development, and do not count toward the maximum number of units in the development.

7.5 SUPPLEMENTAL DIMENSIONAL STANDARDS

7.5.1 Corner clearance

No shrub, wall, fence, sign, or pile of material higher than 3 1/2 feet above the lowest elevation at the curbline shall be permitted on a corner lot within the area of a triangle formed by a line connecting the curblines of the intersecting streets at points 25 feet from the corner, unless said obstruction is reviewed by the Public Works Authority and found not to be a traffic or public safety hazard.

7.5.2 Pedestrian passage required

A. Where a nonresidential or mixed-use building exceeds 300 feet in length along a public right-of-way, and abuts two parallel frontages with pedestrian facilities, or one frontage with pedestrian facilities and a public park, or other public open space on the side of the building opposite the street frontage, a pedestrian passage is required to provide a break in the ground-floor façade and facilitate mid-block connectivity. Such passage shall meet the following standards:

1. Passages shall be designed to accommodate pedestrians and, to the extent practicable, bicyclists. Vehicular access and circulation shall not be allowed as a component of a passage.

2. Passages shall be a minimum of 30 feet in width and 20 feet in height and shall be located within the middle third of the building, measured along the frontage.

3. Ground floor uses shall be oriented toward the passage, including public entrances.
4. Ground floor façades facing into building passages in nonresidential and mixed-use buildings shall maintain a minimum transparency of 35% of the wall area of the passage.
5. Passages shall be designed to maintain views from one end through to the other.
6. Inclusion of decorative elements such as lighting installations or public art within passages is encouraged.
7. Passages shall align with the street grid or other points of access to sidewalks, public paths, parking lots, public parks or other publicly owned open space where feasible.
8. For the purposes of any build-to zone requirement, a building passage is considered part of the building façade that meets such requirement.

B. Where a nonresidential or mixed-use building exceeds 300 feet in length along a public right-of-way, but does not abut two parallel frontages with pedestrian facilities as specified in item A above, a break in the building massing is required as follows:

1. Building mass shall be recessed a minimum of 20 feet in depth for no less than 30 linear feet along the façade. Such recess shall extend the full height of the building, and shall meet the following criteria:
   a. The recess shall be located within the middle third of the building, measured along the frontage.
   b. Ground floor uses shall be oriented toward the recessed area, including public entrances.
   c. The recessed area is subject to all transparency requirements.
   d. The recessed area shall be designed as public or common space including amenities such as seating areas, landscaping, lighting, decorative elements, and public art.
   e. For the purposes of any build-to zone requirement, a building recess meeting these standards is considered part of the building façade that meets such requirement.

C. Where another means of meeting the City's connectivity goals may be preferable to providing a pedestrian passage as specified in this subsection, the Planning Board or Planning Authority may waive these requirements and approve an alternative design.

7.5.3 Towers

A. Purpose and applicability. Portions of buildings extending above a height of 125 feet shall be considered towers, and are subject to additional standards to ensure their design minimizes encroachment into view corridors, ensures adequate provision of light and air to adjacent streets, trails, and open spaces, and enhances the visual richness and aesthetic appeal of the Portland skyline.

B. Stepback required

1. Portions of buildings higher than 125 feet shall be stepped back a minimum of 30

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feet from any street or public open space, with the following exceptions:

a. Structures subject to standards that require a stepback below 125 feet in height shall be exempt from providing additional stepback above 125 feet. This exemption applies regardless of the dimension of the required stepback at lower building heights.

b. Structures that voluntarily achieve a total stepback, below 105 feet in height of 20 feet or greater from any street or public open space, with at least one stepback occurring between 35 and 65 feet in height. No individual stepback used to meet this standard shall be less than ten feet in depth.

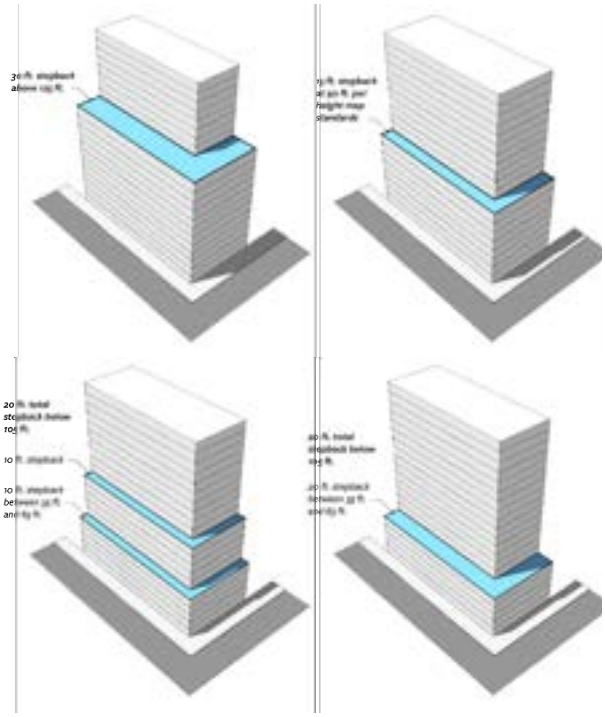

FIGURE 7-J: TOWER STEPBACK

2. Structures with multiple façades abutting a street or public open space are subject to the following:

a. Structures with two façades subject to the required stepback must meet the standard as established in paragraph (A) above for both façades.

b. Structures with three façades subject to the required stepback must meet the standard as established in paragraph (A) above for the two longest building façades. The third façade shall either meet the standard as established in paragraph (A) above, or provide a 15 foot wide streetscape improvement area containing a public sidewalk, landscaping, and other streetscape improvements within the abutting street right-of-way and/or private property along the street frontage.

c. Structures with four or more façades subject to the required stepback must meet the standard as established in paragraph (A) above for the two longest building façades. The remaining building façades shall either meet the standard as established in paragraph (A) above, or provide a 15 foot wide streetscape improvement area containing a public sidewalk, landscaping, and other streetscape improvements within the abutting street right-of-way and/or private property along the street frontages.

3. The Planning Board shall have the authority to waive one or more of the

required stepbacks provided that one of the following conditions is met:

a. The depth of the building lot precludes a building having an average minimum lot depth dimension of 170 feet.

b. The proposed building has an architecturally significant design that is articulated to avoid a monolithic appearance and emphasizes slender, vertically-oriented proportions while employing a variety of scales, materials, fenestration, and massing to assure a rich, visually interesting experience as viewed within the context of the downtown skyline and provide visual interest and human scale at the pedestrian level.

4. In the event that the Planning Board grants a waiver for one or more of the required stepbacks, the Board may require the applicant to mitigate the impacts of the waiver by requiring any or all of the following conditions:

a. Along all public street frontages and public open spaces, all buildings (regardless of height) shall maintain a pedestrian scale through the use of building elements at the street level as listed in this standard along no less than 60% of the building's horizontal length.

b. Along all public street frontages and public open space for the building(s) over 125 feet, a canopy, awning, or similar permanent architectural feature to provide pedestrian protection and wind mitigation shall be provided within the first 35 feet of height.

c. The applicant shall demonstrate that building design elements and location will reasonably mitigate downdraft effects of the proposed building or buildings.

C. Tower floor plates. To minimize shadow and wind impacts, loss of views, and to allow for the passage of light and air into interior spaces, those portions of a building above 125 feet in height are limited to a maximum floor plate of 10,000 square feet.

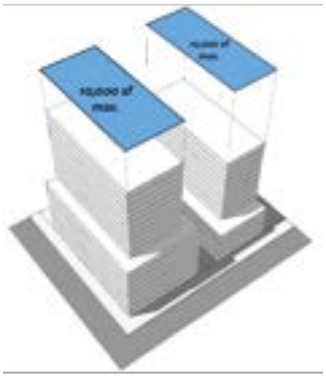

FIGURE 7-K: TOWER FLOOR PLATES

D. Tower separation. In order to preserve view corridors and to maintain a varied skyline, the following tower separation requirements apply:

1. All portions of buildings above 125 in height shall provide a minimum of 35 feet of setback from side and rear lot lines when abutting another tower.

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2. Towers within a single development site shall be separated to avoid the appearance of a tall, solid block massing.
3. All portions of buildings above 125 feet in height shall be separated a minimum distance of 75 feet, measured parallel to any applicable street frontage.
4. On development sites of 500 feet or greater as measured parallel to Marginal Way, the aggregate building façade widths above 85 feet shall not exceed 50% of the total development site distance parallel to Marginal Way. Buildings over 125 feet in height that are being reviewed as separate phases shall be entitled to meet the 50% building requirement in aggregate for all such buildings over 125 feet in height, provided that view corridors are retained as each phase is built.

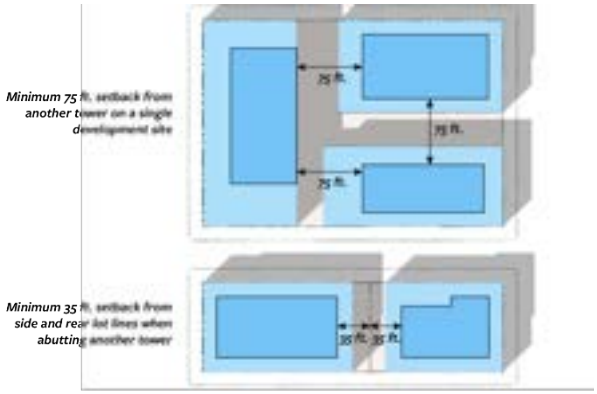

FIGURE 7-L: TOWER SEPARATION

E. Architectural cap allowance

1. A tower may extend up to 40 feet above the designated height limit for the purpose of enclosing rooftop appurtenances, and providing a distinctive architectural cap that adds visual interest to the Portland skyline. This does not apply to towers in the B-3 zone located north of Cumberland Avenue.
2. No habitable floor area shall be created within the building envelope provided by an architectural cap, unless the following standards are met:
   a. A minimum of 50% of such habitable floor area is devoted exclusively to one or more uses open to the public, such as a restaurant, atrium, or viewing area.
   b. The primary design intent and expression of the architectural cap shall determine whether additional floor area is created. Such floor area should be clearly incidental to the design expression, rather than a continuation of floor plates found below the architectural cap.

7.5.4 Supplemental dimensional standards for specific structures

A. Fences. In residential zones, no wall or fence within 15 feet of the street shall be more than four feet in height, unless said fence is located in the side or rear yard.

B. Swimming pools. Outdoor swimming pools as accessory uses shall be subject to the following dimensional standards:

1. No swimming pool shall be sited in the front yard.
2. No part of any swimming pool shall be located closer than 10 feet from the principal structure, nor closer than 10 feet from side or rear lot lines.

7.6 SPACE AND BULK EXCEPTIONS

7.6.1 Height

A. Exceptions to minimum height requirements in any zone. Minimum height requirements in any zone shall not apply to the following:

1. Accessory building components and structures such as truck loading docks, covered parking, mechanical equipment enclosures and refrigeration units.
2. Information kiosks, ticketing booths, parking attendant booths, or bank remote teller facilities.
3. Structures accessory to parks or plazas.
4. Utility substations, including sewage collection and pumping stations, water pumping stations, transformer stations, telephone electronic equipment enclosures, and other similar structures.

B. Exceptions to minimum height requirements in the B-3 zone. Minimum height provisions as depicted on the City of Portland Height Map shall not apply to:

1. Additions to buildings existing as of June 4, 2007 provided that the cumulative additions since June 4, 2007 do not exceed 10% of the building footprint on June 4, 2007, except building additions on those portions of the lot located closer to the street line than the building footprint existing as of June 4, 2007 shall not be included in this 10% limitation.
2. Buildings or building additions of less than 2,500 square feet footprint, on lots or available building sites of less than 3,000 square feet.

C. Exceptions to minimum height requirements in the B-6 zone. Minimum height provisions as depicted on the B-6 Building Height Overlay and Building Envelopes map shall not apply to:

1. Buildings located in the area east of Freedom Way.
2. Parking garages.
3. Additions to buildings existing as of December 8, 2004 provided that the cumulative additions since December 8, 2004 do not exceed 25% of the building footprint on December 8, 2004, except that such restriction shall not apply to those portions of the building addition that are constructed closer to the street line than the building footprint existing as of December 8, 2004.
4. Buildings or building additions of less than 2,000 square feet footprint on lots or available building sites of less than 2,000 square feet.

D. Exception for public art. Except in residential zones, public art that has been individually accepted by the City Council for inclusion within the public art collection pursuant to Article 20 shall not be subject to the height limitations within the underlying zone.

E. Exceptions for rooftop appurtenances. Unless otherwise noted, rooftop appurtenances for the housing of elevators, stairways, access vestibules, tanks, fans, or other building operating equipment not intended for human occupancy, pedestal paver systems and decks up to 18 inches in height above the surface of the roof, deck railings or

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guards, skylights, steeples, flag poles, chimneys, smokestacks, radio or television masts, water tanks, or silos may be erected above the height limitations herein prescribed. Unenclosed shade structures covering up to 200 square feet in floor area, and other appurtenances associated with rooftop occupancy may be erected to a height not exceed ten feet above the surface of the roof.

F. Exception for telecommunication towers. Where permitted, ground-mounted telecommunication towers may be erected above the height limitations within the underlying zone.

G. Exception for accessory structures integral to principal uses in the I-L, I-Lb, I-M, I-Mb, and I-H zones. Where an accessory structure is integral to the operation of a principal use in the I-L, I-Lb, I-M, I-Mb, or I-H zone, such structure shall not be subject to the height maximums for the zone. Such accessory structures may include smokestacks, chimneys, cooling towers, water towers, and similar features.

7.6.2 Building length

A. Additions to existing buildings

1. In the B-2b, additions to buildings existing as of the effective date of this Code that do not cumulatively exceed 50% of the building footprint as of the effective date of this Code are not required to meet minimum building length standards. However, any such additions shall increase conformity with the standards to the extent practicable.

2. In the B-3, B-5, B-6, TOD-1, and TOD-2 zones, additions to buildings existing as of the effective date of this Code that do not cumulatively exceed 25% of the building footprint as of the effective date of this Code are not required to meet minimum building length standards. However, any such additions shall increase conformity with the standards to the extent practicable.

B. In the B-6 zone. Buildings located in the area east of Freedom Way shall be exempt from the minimum building length requirement.

C. Lots with multiple street frontages. Where a minimum building length as a percentage of street frontage applies to a lot with multiple street frontages, the street with the highest traffic volume shall meet the established standard. In the case of a lot with two street frontages, the second frontage shall meet a reduced standard of 40%. If there are more than two frontages, there is no minimum requirement for any frontage beyond the two with the highest traffic volumes.

D. The Planning Board may approve a different building length to comply with the standards of the *City of Portland Design Manual* provided that the building length standard is met to the maximum extent practicable.

7.6.3 Lot area

A. Small island lots

1. Existing developed and undeveloped lots in the IR-2 zone on Peaks Island that do not meet the 20,000 square foot minimum lot area standard as of the effective date of this Code shall be deemed to be small

island lots, subject to modified lot area, street frontage, setback, lot coverage, and landscaped open space ratio requirements for residential uses. These standards apply only to lots in the IR-2 zone on Peaks Island.

2. The standards for small island lots shall apply to existing residential uses as well as new residential development on qualifying lots. The small island lot standards shall not apply to lots in nonresidential use or to nonresidential development in the IR-2 zone.
3. A new dwelling may be built on a small island lot subject to modified dimensional standards, provided that the lot is currently vacant, in residential use, used exclusively for parking, or contains structure(s) not used for residential purposes.
4. New small island lots may only be created by a single lot division of an existing lot, with the remaining developed portion meeting the standard dimensional requirements of the IR-2 zone. Further division of the remaining lot to create additional small island lots is prohibited.
5. Lots created as part of a cottage court development in the IR-2 zone shall not be considered small island lots, and shall be subject to the standards for cottage court development.

B. Residential lots not served by public sewers.

A lot in an unsewered residential district shall meet the provisions of the state Minimum Lot Size Law, 12 M.R.S. § 4807 et seq., or the applicable minimum lot area, whichever is larger.

7.6.4 Setbacks

A. Permitted encroachments into required setback areas

1. Any setback may be occupied by a one-story entrance porch not enclosed, with or without a roof, if the area of the porch does not exceed 50 square feet within the side or rear setback or 250 square feet within the front setback, nor the projection from the building exceed six feet. Stairs necessary to access a porch shall not be included in this calculation. A basement bulkhead of similar size, but not more than 24 inches in height, is also permitted. A cornice eave, sill, canopy, chimney, bay window, balcony, or other similar architectural feature may encroach into any required setback a distance of not more than two feet.
2. Ground-mounted and building-mounted mechanical equipment may encroach into a required side or rear setback. This includes mechanical equipment related to the operation of the structure, such as heating, ventilation, and air conditioning (HVAC) equipment, personal electrical generators, and swimming pool pumps and filters. This allowance does not include window-mounted or through-the-wall air conditioning units.

B. Build-to zone exceptions

1. Limited access roads are not considered street frontages for the purposes of build-

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to zone requirements, and are exempt from build-to zone standards.

2. Build-to zone requirements shall not apply to utility substations, alternative energy installations, and secondary building components such as truck loading docks, mechanical equipment enclosures, and refrigeration units.
3. The Planning Board or Planning Authority may approve a different front setback or build-to zone for irregularly shaped lots provided the front setback or build-to zone is met to the maximum extent practicable.
4. In the mixed-use and transit-oriented development zones, where buildings are set back more than 10 feet from a lot line abutting a street, or in the B-4 zone where buildings are set back more than 20 feet from a lot line abutting a street, a continuous, attractive, and pedestrian-scaled edge treatment shall be constructed along the street, consisting of street trees spaced at no more than 15 feet on center, approved by the City Arborist, and a combination of landscaping no less than four feet deep, ornamental brick or stone walls, or ornamental fencing.
5. In the B-3 zone, the Planning Board may require or approve an alternative build-to zone to comply with the design standards of Article 13 and the *City of Portland Design Manual*.
6. Where build-to zone requirements apply to a lot with multiple street frontages, the two streets with the highest traffic volume shall meet the established standard. In the case of a lot with two street frontages and a corner, buildings shall be sited at the street corner and both frontages shall meet the required build-to zone. In the case of a lot with three or more street frontages encompassing two or more corners, buildings shall be sited at the corners, and the two streets with the highest traffic volume shall meet the established standard. Build-to zone requirements shall not apply to any frontage beyond the two with the highest traffic volumes.
7. In the B-6 zone, build-to zone requirements do not apply to parking garages and public transportation facilities. Notwithstanding required setbacks, new structures located in the blocks located south of Fore Street and north of Commercial Street and its extension shall build to the key building envelopes shown on the City of Portland Height Map. Buildings located in the area east of Freedom Way shall not have a maximum front setback and shall not be required to build to the key building envelope perimeter. Parking structures and the buildings for public transportation facilities may, however, be set back beyond the key building envelopes (toward the interior of blocks), but may not occupy the land between the key building envelope and the street right-of-way.
8. Build-to zone requirements shall not apply to additions to existing buildings as follows:
   a. Build-to zone requirements shall not apply to vertical additions to existing

buildings to meet minimum height requirements.

b. In the B-1, B-2, and B-2b zones, build-to zone requirements shall not apply to additions to buildings existing as of the effective date of this Code that do not cumulatively exceed 50% of the building footprint as the effective date of this Code. However, any such additions shall increase conformity with the standards to the extent practicable.

c. In the B-4, B-5, B-6, TOD-1, and TOD-2 zones, build to zone requirements shall not apply to additions to buildings existing as of the effective date of this Code that do not cumulatively exceed 25% of the building footprint as of the effective date of this Code. However, any such additions shall increase conformity with the standards to the extent practicable.

C. Minimum setback exceptions for nonconforming lots

1. In the case of a nonconforming lot existing as of June 5, 1957 in the RN-1, RN-2, RN-3, and RN-4 zones and less than 100 feet deep, the front setback need not be deeper than 20% of the depth of the lot.

2. In the case of a nonconforming lot existing as of June 5, 1957 in a residential zone, the required side setback for principal structures may be reduced in order to provide a buildable width of up to 24 feet as follows:

a. RN-1, RN-2: No side setback shall be reduced to less than 5 feet.

b. RN-3: One side setback may be reduced to zero feet, provided the other shall be reduced to not less than 5 feet. A permanent maintenance easement a minimum of 5 feet in width shall be provided on the parcel adjacent to the lot line with the zero foot setback.

7.6.5 Stepbacks and areas of limited height adjacent to RN or open space zones

A. A cornice eave, sill, canopy, chimney, bay window, balcony, or other similar architectural feature may project into any required stepback or area of limited height adjacent to an RN or open space zone a distance of not more than two feet.

B. Building mounted mechanical equipment may encroach into a required stepback or area of limited height adjacent to an RN or open space zone by no more than 50% of the width of such required stepback. This includes mechanical equipment related to the operation of the structure, such as heating, ventilation, and air conditioning (HVAC) equipment.

7.6.6 Street frontage

In the IR-1 and IR-2 zones, a lot that is buildable pursuant to Subsection 4.3.1 and lots created after July 15, 1985, which are not part of a subdivision need not provide street frontage if access is available by means of a permanent easement or right-of-way which existed as of July 15, 1985. Such easement or right-of-way shall have a minimum

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width of 16 feet and a minimum travel width of eight feet except that an easement or right-of-way providing access for three or more lots or providing the only means of access to a parcel or parcels of three acres or more, shall meet the construction requirements of Chapter 25, Article III of the City of Portland Code of Ordinances. In the IR-1 zone, such easement or right-of-way shall conform to the requirements contained within the City of Portland Technical Manual. In the IR-2 zone, such easement or right-of-way shall be a minimum of 32 feet wide. Such easement or right-of-way shall be sufficient to permit municipal service delivery.

7.6.7 Additions to and/or relocations of designated historic structures

Additions to and/or relocations of designated historic structures or structures determined by the Historic Preservation Board to be eligible for such determination shall not be required to meet minimum building height, or minimum building length standards.

Portland, ME
Height Map

Max. Height (ft)

- 45 ft
- 55 ft
- 65 ft
- 85 ft
- 105 ft
- 125 ft
- 180 ft
- 250 ft
- 325 ft

Maximum Street Wall Height(ft)

- 50' max. street wall height with 15' stepback
- 90' max. street wall height with 15' stepback
- 50' max. street wall height with 30' stepback
- 90' max. street wall height with 30' stepback

Multiple stepbacks cumulatively reaching at least the minimum noted above (15 and 30 ft.) are acceptable.

No new construction of any building shall be less than 35 ft. in height within 50 ft. of any street frontage. See Land Use Code for exceptions.

Boundary offsets are from street centerline unless otherwise noted.

No rooftop structure located between the projections of the centerlines of Emery St. and Fletcher St., as described above. shall exceed a height of 62 ft as measured from average grade of the building at its foundation.

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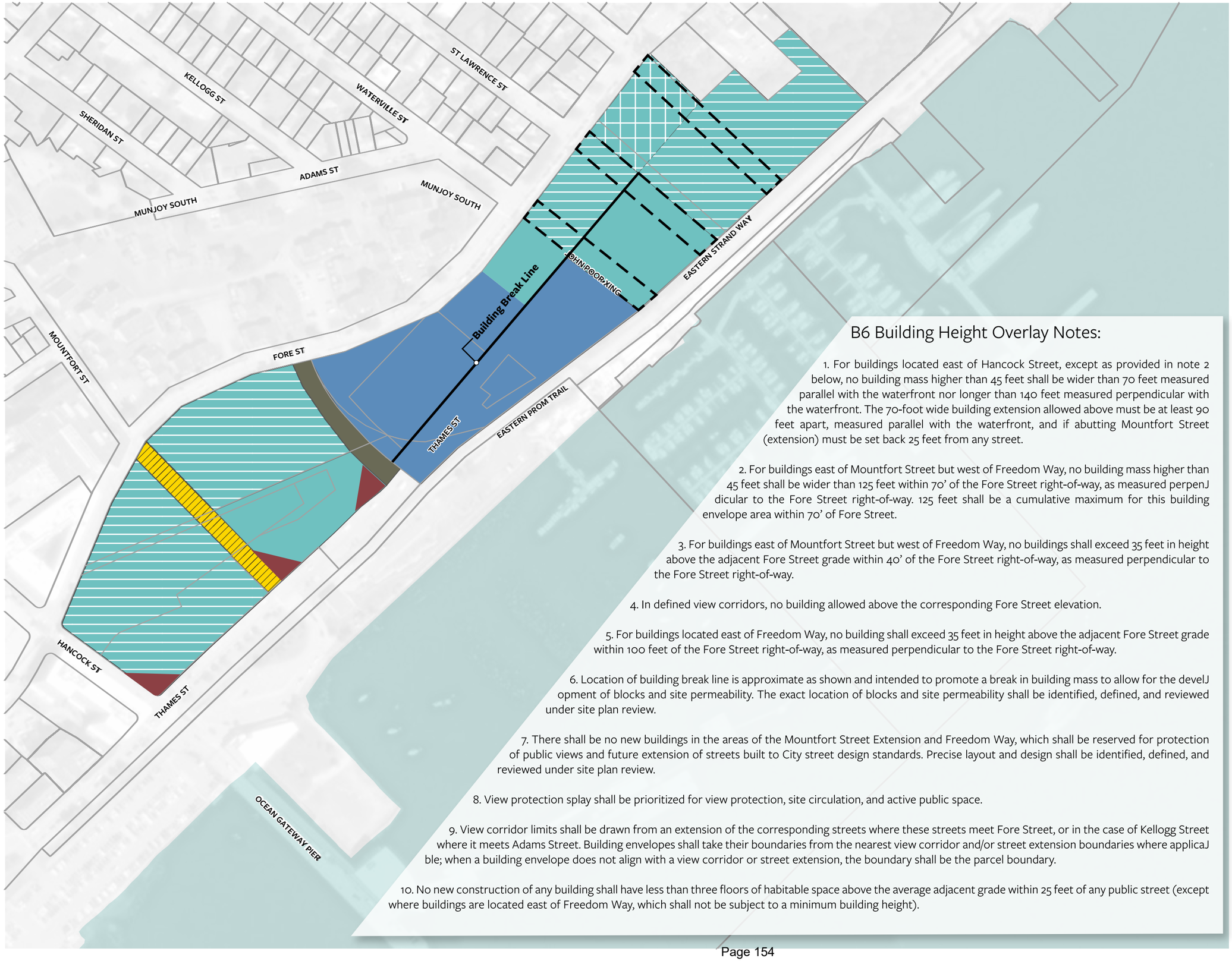
City of portland

Portland, ME

B-6 Building Height Overlay & Building Envelopes Map



B6 Building Height Overlay Notes:

1. For buildings located east of Hancock Street, except as provided in note 2 below, no building mass higher than 45 feet shall be wider than 70 feet measured parallel with the waterfront nor longer than 140 feet measured perpendicular with the waterfront. The 70-foot wide building extension allowed above must be at least 90 feet apart, measured parallel with the waterfront, and if abutting Mountfort Street (extension) must be set back 25 feet from any street.

2. For buildings east of Mountfort Street but west of Freedom Way, no building mass higher than 45 feet shall be wider than 125 feet within 70' of the Fore Street right-of-way, as measured perpenJ dicular to the Fore Street right-of-way. 125 feet shall be a cumulative maximum for this building envelope area within 70' of Fore Street.

3. For buildings east of Mountfort Street but west of Freedom Way, no buildings shall exceed 35 feet in height above the adjacent Fore Street grade within 40' of the Fore Street right-of-way, as measured perpendicular to the Fore Street right-of-way.

4. In defined view corridors, no building allowed above the corresponding Fore Street elevation.

5. For buildings located east of Freedom Way, no building shall exceed 35 feet in height above the adjacent Fore Street grade within 100 feet of the Fore Street right-of-way, as measured perpendicular to the Fore Street right-of-way.

6. Location of building break line is approximate as shown and intended to promote a break in building mass to allow for the develJ opment of blocks and site permeability. The exact location of blocks and site permeability shall be identified, defined, and reviewed under site plan review.

7. There shall be no new buildings in the areas of the Mountfort Street Extension and Freedom Way, which shall be reserved for protection of public views and future extension of streets built to City street design standards. Precise layout and design shall be identified, defined, and reviewed under site plan review.

8. View protection splay shall be prioritized for view protection, site circulation, and active public space.

9. View corridor limits shall be drawn from an extension of the corresponding streets where these streets meet Fore Street, or in the case of Kellogg Street where it meets Adams Street. Building envelopes shall take their boundaries from the nearest view corridor and/or street extension boundaries where applicaJ ble; when a building envelope does not align with a view corridor or street extension, the boundary shall be the parcel boundary.

10. No new construction of any building shall have less than three floors of habitable space above the average adjacent grade within 25 feet of any public street (except where buildings are located east of Freedom Way, which shall not be subject to a minimum building height).

- 35 ft max
- 45 ft max
- 45 ft max with 55 ft extentions
- 45 ft max with 65 ft extentions
- Monfort Street Extension
- View corridor
- Freedom Way
- View protection splays

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City of Portland

8 OVERLAY ZONES

8.1 COASTAL FLOOD RESILIENCE OVERLAY ZONE (CFROZ)

8.1.1 Purpose

The purpose of the Coastal Flood Resilience Overlay Zone (CFROZ) is to protect persons and structures from the adverse effects of sea level rise and storm surge associated with climate change by:

A. Advancing adaptation strategies for long-term resilience.

B. Complementing public realm resilience measures by guiding development on private property.

C. Mitigating flood risks in a way that is specific to Portland's unique hydrological conditions and affected uses, particularly in areas that are not currently recognized as flood zones but are vulnerable to future sea level rise.

D. Providing a balanced framework in which flood protection requirements are proportional to the vulnerability and risks of various occupancies.

8.1.2 Applicability

The provisions of the CFROZ shall apply to property or proposed projects wholly or partially within the boundaries of the Coastal Flood Resilience Overlay Zone as depicted on the City of Portland Zoning Map. However, property or proposed projects within the CFROZ boundary that are also located wholly or partially within special flood hazard areas with a BFE of 13 feet or higher as defined in Article 12 shall be exempt from the provisions of the CFROZ.

8.1.3 Relationship to underlying zoning

The CFROZ constitutes an overlay zone. The provisions of the underlying zoning, as they may be amended from time to time, continue to apply, except as expressly superseded by this Section. Where conflicts exist between this Section and the remainder of this Code, the more restrictive provision shall govern.

8.1.4 Use classifications

A. For the purposes of this Section, uses in the CFROZ shall be classified as follows:

1. *Critical uses.* Critical uses generally include residential, governmental, educational, medical, emergency, and related high-risk uses.
2. *Non-critical uses.* Non-critical uses generally include retail, restaurant, commercial, and related medium-risk uses.
3. *Exempt uses.* Exempt uses generally include low risk and low occupancy uses such as parking, construction yards, and storage.

B. Table 8-A shall determine whether a use is classified as critical, non-critical, or exempt. For uses not listed in Table 8-A, the Building Authority or the Planning Authority shall determine the classification based upon the most nearly comparable land use. Water-dependent uses shall be considered exempt.

C. All accessory uses shall be considered non-critical, with the following exceptions:

1. Accessory dwelling units.
2. Child care centers and small child care facilities greater than 1,000 square feet in floor area.
3. Clinics greater than 1,000 square feet in floor area.

TABLE 8-A: CLASSIFICATION OF USES AS CRITICAL, NON-CRITICAL, OR EXEMPT

		Critical	Non-Critical	Exempt
Residential	Single-family dwellings	●		
	Two-family dwellings	●		
	Three-family dwellings	●		
	Four-family dwellings	●		
	Townhouse dwellings	●		
	Multi-family dwellings	●		
	Live/work dwellings	●		
	Group homes	●		
	Lodging houses	●		
Institutional	Child care centers + small child care facilities	●		
	Clinics	●		
	Cultural facilities	●		
	Elementary, middle, and secondary schools	●		
	Emergency shelters	●		
	Governmental uses	●		
	Hospitals	●		
	Places of assembly	●		
	Post-secondary schools	●		
	Residential care facilities (small)	●		
	Residential care facilities (large)	●		
Commercial	Adult business establishments		●	
	Animal-related services		●	
	Auto, boat, and related dealerships		●	
	Auto service stations			●
	Bars		●	
	Bed and breakfasts	●		
	Exhibition, meeting, and convention halls		●	
	Funeral homes		●	
	General offices		●	
	General services		●	
	Greenhouse/Nursery, retail			●
	Hostels	●		
	Hotels	●		
	Marijuana retail store		●	
	Market garden			●

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TABLE 8-A: CLASSIFICATION OF USES AS CRITICAL, NON-CRITICAL, OR EXEMPT

		Critical	Non-Critical	Exempt
Commercial	Neighborhood nonresidential reuse		●	
	Office park		●	
	Recreation and amusement centers		●	
	Registered marijuana dispensary		●	
	Restaurants		●	
	Retail		●	
	Small-scale marijuana caregiver		●	
	Specialty food service		●	
	Theaters and performance halls		●	
	Veterinary services		●	
Industrial	Communication studios		●	
	Construction & engineering services		●	
	Dairies			●
	Fish waste processing		●	
	Food & seafood processing, packing, and distribution		●	
	High-impact industrial uses		●	
	Impound lots			●
	Intermodal transportation facilities		●	
	Laboratory and research facilities		●	
	Low-impact industrial		●	
	Lumber yards			●
	Marijuana cultivation facility (<2,000 SF plant canopy)			●
	Marijuana cultivation facility (2,000-7,000 SF plant canopy)		●	
	Marijuana cultivation facility (>7,000 SF plant canopy)		●	
	Marijuana manufacturing facilities		●	
	Marijuana testing facilities		●	
	Printing and publishing		●	
	Recycling facilities			●
	Self-storage		●	
	Solid waste disposal facilities			●
	Studios for artists and craftspeople		●	
	Telecommunication towers (ground-mounted)			●
	Warehousing and distribution		●	

TABLE 8-A: CLASSIFICATION OF USES AS CRITICAL, NON-CRITICAL, OR EXEMPT

		Critical	Non-Critical	Exempt
Other	Agriculture			●
	Boathouses and storehouses for fishing equipment			●
	Campgrounds			●
	Cemeteries			●
	Marinas and yacht clubs			●
	Marine uses			●
	Off-street parking			●
	Parks and open spaces			●
	Social service centers	●		
	Solar energy system (minor)			●
	Solar energy system (major)			●
	Utility substations	●		
	Wharves, piers, docks, and landing ramps			●
	Wind energy system (minor)			●
	Wind energy system (major)			●

8.1.5 Projects subject to the standards of the CFROZ

A. Any development located within the established boundary of the CFROZ, and which meets the thresholds listed below, shall be subject to the standards of the CFROZ.

1. All new construction containing a critical use or uses.
2. New construction of greater than 1,000 square feet containing non-critical uses only.
3. Any addition of greater than 1,000 square feet containing critical or non-critical uses.

B. Where a change of use occurs within the CFROZ, all portions of a building containing a critical use and the critical systems supporting such use shall meet the CFROZ standards. Changes of use to non-critical uses shall not require compliance with the CFROZ standards.

C. Structures within the CFROZ that are 50,000 square feet or greater in gross floor area and undergoing substantial improvement are required to meet the CFROZ standards when they contain a critical use or uses. For the purposes of this subsection, substantial improvement shall be as defined in Article 12.

8.1.6 Use and dimensional requirements

A. Sea level rise design flood elevation (SLR-DFE). The required SLR-DFE shall be determined by use classification. For mixed-use developments that contain uses in different classifications sharing a ground floor, each use shall be addressed independently.

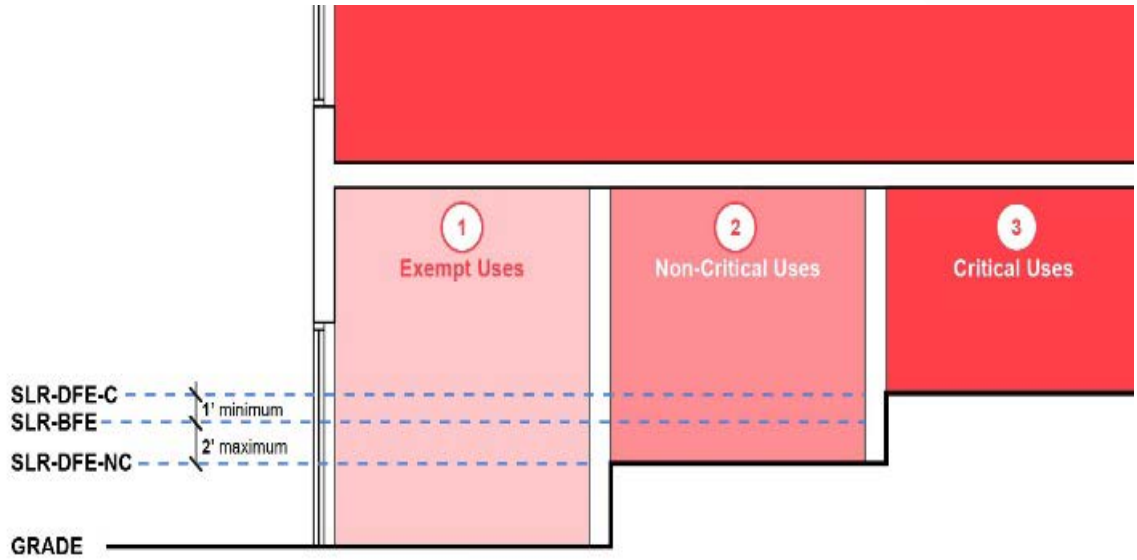

FIGURE 8-A: CFROZ USE CLASSIFICATIONS AND DESIGN FLOOD ELEVATION

1. *Critical uses.* The SLR-DFE for all critical uses (SLR-DFE-C), including the critical systems serving such uses, shall be a minimum of one foot above SLR-BFE, as defined in Article 3. In a proposed project containing critical uses, the following building and site elements are permitted to be located below the SLR-DFE:
   a. Lobbies, entries, egress stairs, and elements required for vertical circulation from the SLR-DFE to grade, such as elevators, ramps, and stairs.
   b. Parking.
   c. Storage.
   d. Flood protection equipment.
2. *Non-critical uses.* The SLR-DFE for non-critical uses (SLR-DFE-NC), including the critical systems serving those uses, shall be no lower than two feet below SLR-BFE, as defined in Article 3. The minimum elevation of the underside of the beams supporting the second floor in a multi-story building, or the roof in a one-story building, shall be no less than 13 feet above SLR-BFE. In a proposed project containing non-critical uses, the following building and site elements are permitted to be located below SLR-DFE:
   a. Lobbies, entries, egress stairs, and elements required for vertical circulation from the SLR-DFE to grade, such as elevators, ramps, and stairs.
   b. Parking.
   c. Storage.
   d. Flood protection equipment.
3. *Exempt uses.* Exempt uses shall not be subject to dimensional requirements with respect to SLR-BFE.

B. **Building height.** Within the CFROZ, if a proposed project contains principal critical or non-critical uses on the ground floor, height shall be measured from the SLR-DFE or from average grade, whichever is higher.

C. **Exemptions for required ramping and stairs.** Ramping and stairs necessary to meet any required SLR-DFE may be included within the calculation of area required to meet landscaped open space ratio requirements,

and shall not be included within the calculation of lot coverage. Ramping and stairs necessary to meet any required SLR-DFE may be located in any required front yard, interior or corner side yard, or rear yard, and in cases where build-to requirements apply, shall be considered to meet the build-to percentage.

D. Hazardous materials. Any hazardous materials shall be fully contained and elevated a minimum of two feet above SLR-DFE.

8.2 FORT SUMNER PARK HEIGHT OVERLAY

8.2.1 Purpose

The purpose of the Fort Sumner Park Height Overlay is to protect the public interest by limiting the impact of development on the quintessential views of natural resources and the changing Portland skyline from Fort Sumner Park.

8.2.2 Applicability

A key apex point is established in Fort Sumner Park at 43° 40' 2.3359" N. 70° 15' 4.3687" W . The Fort Sumner Park Height Overlay includes all land within 200 feet to the west of this key apex point as indicated on the City of Portland Zoning Map.

8.2.3 Standards

Notwithstanding any other section of this Land Use Code, development in the Fort Sumner Park Height Overlay shall be subject to the following additional provisions:

A. The top of structures, including rooftop appurtenances, within the overlay shall not exceed the baseline vertical height of the apex point (160.27' City of Portland Datum (Mean Tide)). For each 25' radially away from the apex point, the vertical height permitted in the overlay is reduced by 1 foot. (See Figure 8-B.)

B. The minimum building setback from the park property shall be 15 feet.

8.2.4 Review process

Any project within the Fort Sumner Park Overlay shall go before the Parks Commission for a recommendation to the Planning Board regarding potential impacts on Fort Sumner Park.

8.3 INSTITUTIONAL OVERLAY (IOZ)

8.3.1 Purpose

The Institutional Overlay Zone (IOZ) provides a regulatory tool available to the city's major medical

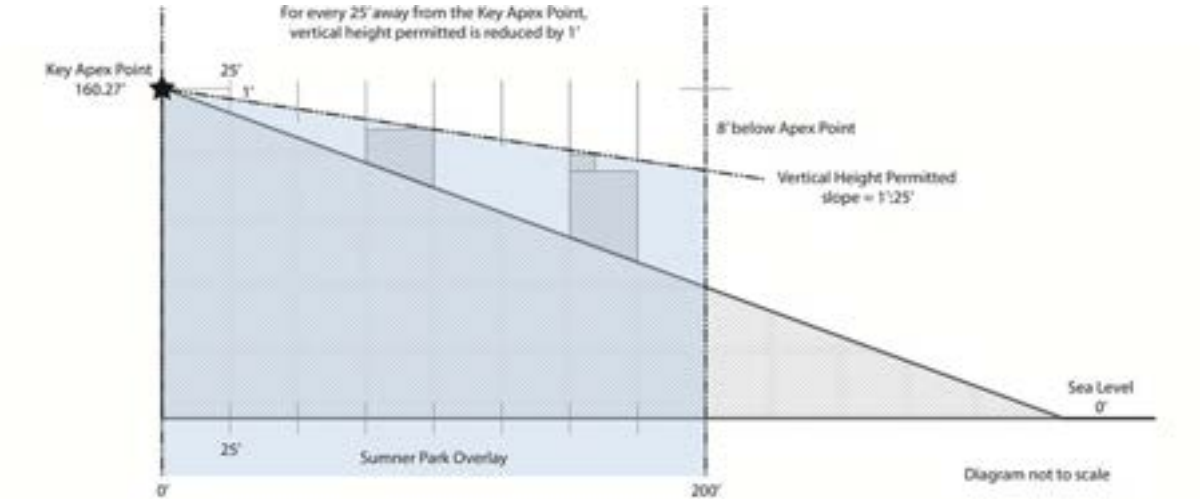

FIGURE 8-B: FORT SUMNER PARK OVERLAY PERMISSIBLE HEIGHT

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and higher education campuses where an alternative regulatory structure is needed to facilitate a consistent, predictable, and clear growth management process. The purposes of the Institutional Overlay Zone are to:

A. Acknowledge that the city's major academic and medical institutions play a prominent role in the health and well-being of the local and regional community, and to sustain that role, these institutions need flexibility to change and grow.

B. Encourage proactive planning for institutional change and growth which identifies and addresses likely long-term institutional needs and cumulative impacts while leveraging potential benefits at the neighborhood, city, and regional level.

C. Ensure that institutional change and growth both complements and, as appropriate, integrates adjacent or surrounding neighborhoods through carefully planned transitions.

D. Support the formation and continuation of mutually beneficial public-private cooperation.

E. Support an ongoing public engagement process that benefits both the institutions and nearby neighborhoods.

F. Reflect Comprehensive Plan and other policy objectives.

G. Provide a regulatory tool for Portland's major institutions that includes the flexibility required to balance the particular needs of institutions with the needs of the surrounding neighborhood and wider community.

8.3.2 Location and applicability

The city's major medical and higher education institutions are eligible to apply for designation as Institutional Overlay Zones. Use of an Institutional Overlay Zone is encouraged for these institutions, particularly where proposed future development may be inconsistent with current base zoning.

8.3.3 Establishment

A. Application for an Institutional Overlay Zone. Where an eligible institution seeks designation as an IOZ, they shall submit a zone change application consisting of two components:

1. An Institutional Development Plan (IDP) in accordance with Subsection 8.3.4.
2. A regulatory framework in accordance with Subsection 8.3.5. If adopted, this framework shall serve as the text and map amendment to the City's Land Use Code and zoning map.

B. Required public involvement. At least two neighborhood meetings shall be required to establish designation as an IOZ. The first shall be held prior to the formal submission of a zone change application, and the second shall be held during the City's review. Meetings shall identify the concerns, if any, of affected residents and property owners, and should solicit feedback to inform the Institutional Development Plan (IDP) and regulatory framework proposed. Meetings shall be held in a convenient location proximate to the institution. The applicant shall provide written notification to property owners of record within 500 feet of the proposed IOZ boundary at least ten days prior to the meeting dates, and shall maintain written records of the meetings.

C. Required scoping meeting. The eligible institution shall meet with the Planning Authority after the first required neighborhood meeting and prior to submission of the zone

change application to confirm the focus of the Institutional Development Plan (IDP) and regulatory framework, including associated study areas that may be outside of the proposed IOZ boundary. The IDP and regulatory framework will vary in detail and focus depending on the eligible institution and its context. The content requirements in Subsections 8.3.4 and 8.3.5 and the recorded comments from neighborhood meeting(s) shall provide direction for the content of the IDP. The Planning Authority or Planning Board may require additional information or modify content requirements as is relevant to the eligible institution.

D. Reviewing authority. The Planning Board shall review the zone change application, including the IDP and regulatory framework. At least one public workshop and a public hearing before the Planning Board are required. Upon recommendation of the Planning Board, the City Council shall review and consider adoption of the Institutional Overlay Zone and the accompanying regulatory framework as an amendment to the City's Code of Ordinances.

E. Future institutional development. All new development shall be compliant with the established IOZ and accompanying regulatory framework. It shall also be consistent with the IDP, consistent with the Comprehensive Plan, and shall meet applicable site plan standards, unless such standards are superseded by the regulatory framework. Any development proposed by an eligible institution outside the established IOZ boundary shall be reviewed under the standards of the applicable zone , unless such development is proposed in a residential zone and is functionally related to the operations within the IOZ, in which case it shall be addressed by the IDP and require an amendment to the IDP as applicable.

8.3.4 Institutional Development Plan (IDP)

A. Purpose. Any use conducted by an eligible institution and any construction by an eligible institution in an Institutional Overlay Zone shall be consistent with an Institutional Development Plan (IDP) approved by the Planning Board in accordance with this section. The purpose of the IDP is to establish baseline data about institutional land uses, facilities, and services, and to measure, analyze, and address the anticipated or potential impacts of planned institutional growth and change. The IDP shall serve as a background document that supports the proposed regulatory framework and informs subsequent site plan review(s).

B. Planning horizon. An IDP shall provide the City and abutting neighborhoods with a clear outline of the anticipated or potential growth and change of the eligible institution for the short- to medium-term (e.g. 1-5 and 5-10 years respectively), as well as a conceptual growth plan for the long-term (e.g. 10 years or more). However, the specific planning horizons for each institution will be determined as part of the IDP approval process.

C. Content. The IDP submission shall address the following elements unless specifically modified by the Planning Authority or Planning Board, with the scope and level of detail to be clarified at the required scoping meeting:

1. Context information, including:
   - **a.** The institution's adopted mission, vision, or purpose statement.
   - **b.** A summary of relevant baseline data

on the institution, including:

i. A neighborhood context plan.
ii. An inventory of current programs and services.
iii. A current census of the number of people using the institution (e.g., employees, enrollment, patients), with an indication of maximums and minimums over time.
iv. An inventory and/or plan of all existing property holdings within the main campus and within the City of Portland, including an indication of functional land use links between off-campus properties and the main campus (e.g. remote parking).
v. An inventory and/or plan of existing facilities, including data on use, floor area, and any existing functional connections between facilities.

c. A summary of the baseline characteristics of the existing campus and context of the institution, based on identified study areas, including:
   i. A summary of existing resources, such as historic, open space, and natural resources.
   ii. A summary of the existing transportation system, including vehicular, pedestrian, transit, bicycle, and parking supply, demand, and utilization.
   iii. A summary of existing public infrastructure supporting the institution, including demand, utilization and any capacity issues.
   iv. Relevant municipal plans, projects, and studies that may influence the IDP study area and opportunities for integrating institutional growth.
d. A summary of public involvement in the development of the IDP, including major areas of public concern.

2. Assessment of future institutional growth and change, including:
   a. A description of institutional needs and areas of future institutional growth and change, with:
      i. A projected census of users (e.g., enrollment /employment/patient/ visitor figures and anticipated variations over time).
      ii. Institutional objectives for property both within and outside the IOZ boundary (e.g. acquisition and/or disposition), including an indication of any functional land use connection for sites outside the IOZ boundary to the main campus.
      iii. A development plan addressing anticipated or potential institutional needs and physical improvements, including the proposed boundary of the IOZ and any phasing of the development.
   b. Analysis and associated plans that address the following elements in terms of anticipated growth or potential impacts within the identified

study area, and support the development parameters as set out in the regulatory framework, including:

i. Transportation and access, with:

a) An analysis of the projected changes in parking demand, supply, and impacts to the off-street and on-street parking capacity, including an explanation of the proposed parking plan.

b) An analysis of the projected changes in vehicular, pedestrian, transit, and bicycle access routes and facilities, their capacity, and safety.

c) A transportation, access, and circulation plan, representing the synthesis of the analysis, and including a program of potential improvements or set of guidelines to address access deficiencies to and within the IOZ. The plan should outline proposed mechanisms and potential strategies to meet transportation objectives, including transportation demand management, phasing, and when a Traffic Movement Permit (TMP) may be required.

ii. Environment, with:

a) An analysis of potential cumulative impacts on natural resources and open spaces.

b) An analysis of projected energy consumption, hazardous materials generation, noise generation, and similar issues as relevant.

c) An environmental plan, representing the synthesis of the analysis and including a proposed program or set of guidelines for future preservation, enhancement, conservation, and/or mitigation.

iii. Infrastructure, with:

a) An analysis of projected public utility demand and the capacity of associated infrastructure.

b) An analysis of projected public safety needs and projected impacts to the capacity of these services.

c) An infrastructure plan, representing the synthesis of the analysis and including a proposed program or set of guidelines to support sustainable growth.

iv. Design, with:

a) An analysis of projected impacts to neighboring properties and public spaces, including potential shadow, wind, and lighting impacts, impacts of height

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and massing, and impacts to historic resources.

b) An analysis of transition areas between the institution and adjoining neighborhoods, including identification of key character defining components of the surrounding context.

c) An analysis of existing Crime Prevention Through Environmental Design issues and identification of how these principles would be addressed as part of the proposed campus development.

d) A conceptual built environment/public realm plan, representing the synthesis of the analysis and including a set of guidelines for urban design, landscape, open space, and streetscape treatments, with particular attention to the treatment of edges (both within and abutting the IOZ boundary) to achieve compatible transitions.

v. Neighborhood engagement, with:

a) A plan for ongoing community engagement that represents best practices, promotes collaborative problem solving around community concerns, fosters transparency, and identifies mechanisms for neighborhood feedback and institutional accountability.

b) A property management framework that identifies the institution's process for handling operational property issues with neighbors.

c) Strategies for assuring communication pertaining to property acquisition and disposition in surrounding neighborhoods.

d) A set of construction management principles to apply to all institutional construction, that represent best practice, aim to minimize short- and long-term construction impacts on surrounding residents and businesses, and ensure a clear communication strategy is in place in advance of construction.

D. Standards of review. The IDP shall:

1. Address all content requirements, unless explicitly modified by the Planning Authority or Planning Board.

2. Reflect the issues/topics identified in the required public process.

3. Demonstrate consistency with the City's Comprehensive Plan and the purpose of

this ordinance.

4. Demonstrate how the property ownership, proposed growth, and requested regulatory framework relate to the institution's mission.
5. Demonstrate that traffic and parking impacts have been anticipated and that the proposed parking provision is justified as based on an assessment of options for reducing traffic and parking demands.
6. Outline an approach to open space, natural, and historic resources that supports preservation and enhancement.
7. Demonstrate that potential cumulative environmental impacts have been anticipated and can be minimized or satisfactorily mitigated.
8. Demonstrate that utility impacts have been anticipated and can be minimized or satisfactorily mitigated.
9. Reflect a comprehensive design approach that ensures appropriate transitions with the existing or future scale and character of the neighboring urban fabric.
10. Promote compatibility with existing or future uses in adjacent neighborhoods, maintain housing, and support local amenities.
11. Anticipate future off-site improvements that would support the integration of the institution into the community and city-wide infrastructure.
12. Conform with the standards of Article 16 for designated landmarks or for properties within designated historic districts or designated historic landscapes, if applicable. When proposed adjacent to or within 100 feet of designated landmarks, historic districts, or historic landscapes, the IDP shall be generally compatible with the major character-defining elements of the landmark or portion of the district in the immediate vicinity.
13. Incorporate strategies to support clear communication and ongoing public engagement between institutions and nearby neighbors.

E. **Approval.** Upon finding that an eligible institution's IDP meets the standards of review, the Planning Board shall approve, approve with conditions, or deny an IDP.

F. **Monitoring.** The IDP shall establish a schedule for reporting on IDP implementation at regular intervals of not more than ten years from the date of approval of the initial or amended IDP, and identify thresholds for IDP amendments.

G. **Amendments.** An approved IDP shall guide campus development unless and until amended. If at any time the eligible institutions request minor amendments to an approved IDP, the Planning Authority may approve such minor amendments, provided that they do not constitute a substantial alteration of the IDP and do not affect any condition or requirement of the Planning Board. The applicant shall apply with a written statement of the proposed amendment and proposed amended IDP to the Planning Authority, whose decision as to whether the amendment is minor shall be final. Major amendments shall be reviewed by the Planning Board. When the IDP is amended, the baseline data in the IDP shall be updated as appropriate.

8.3.5 Regulatory framework

A. **Purpose.** The regulatory framework translates

the IDP into a set of clear and specific zoning requirements for the IOZ that constitute the text and map amendments to the City's Land Use Code and zoning map. The zoning requirements are anticipated to include parameters that guide the growth and change of the institution as well as broad strategies to address potential impacts, with plans and details to be developed under site plan review.

B. Applicability. The regulatory framework shall apply only to properties that are within the IOZ boundary and to which the eligible institution holds right, title, or interest. For these properties, the Institutional Overlay Zone shall supersede the underlying zoning, and all new institutional development shall be conducted in compliance with the regulatory framework and the approved Institutional Development Plan. Properties located within the Institutional Overlay Zone not subject to right, title, or interest of the eligible institution shall continue to be governed by the regulations of the underlying zoning designation.

C. Uses. Institutional uses, including hospitals and higher education facilities, shall be permitted, as shall uses that are functionally integrated with, ancillary to, and/or substantively related to supporting the primary institutional use, consistent with the applicable approved IDP.

D. Content. The regulatory framework shall reflect the information and analysis of the IDP. The content shall be tailored to address the issues associated with the institution and its neighborhoods. The regulatory framework should be succinct and use tables and graphics to address the following, if applicable:

1. *Zoning boundary of the IOZ.* The area to which the regulations apply, as shown on the zoning map, subject to other provisions of this ordinance (i.e. the map amendment to the City's zoning map).
2. *Phasing and schedules.* Requirements that relate to proposed phases; a chart showing the schedule or thresholds for submitting an amended IDP (or elements of an IDP, such as a Transportation Demand Management (TDM) Plan).
3. *Uses*. Clarification, as necessary, on permitted uses.
4. *Dimensional requirements.* Graphics, sketches, or standards, including details for transition zones within the IOZ boundary.
5. *Transportation.* Elements such as Transportation Demand Management Plan (TDM) trip reduction targets or contribution to area-wide TDM measures; broad parameters for ensuring pedestrian, vehicular, bicycle and transit access and safety; parking ratios and management strategies; thresholds for access improvements.
6. *Environment.* The approach to the inclusion of open space and preservation of environmentally-sensitive areas.
7. *Mitigation measures.* The broad approach to identified mitigation measures, which would be addressed in greater detail in the site plan review process; thresholds for addressing deficiencies; goals for preservation/protection.
8. *Design.* Graphics and standards to clarify building placement and envelope (height and massing); guidelines for integration of site features; required treatments for transition zones and treatment for all edges (both within and abutting the IOZ boundary); guidelines for establishing

campus identity.

9. *Neighborhood integration.* Thresholds and strategies for neighborhood engagement; mitigation of impacts on neighboring properties, including construction impacts; buffering requirements; objectives for pedestrian linkages and safety; other requirements that address community concerns.
10. *Monitoring.* A schedule for regular monitoring reports on IDP implementation in accordance with the IDP.

E. Standards of review. The regulatory framework shall:

1. Be consistent with the Comprehensive Plan and the Institutional Development Plan.
2. Provide a clear zoning framework, using graphics and tables as appropriate, to apply to future site plan reviews.
3. Provide specific regulatory statements as appropriate that respond to concerns raised during the required public involvement.
4. Outline measurable goals and thresholds for improvements or other actions identified in the IDP to be advanced in subsequent site plan applications.

F. Approval/adoption. The Planning Board shall review the proposed regulatory framework against the standards of review and make a recommendation on the institution's IOZ designation and regulatory framework to the City Council for adoption as part of this Land Use Code.

G. Amendments. A regulatory framework and IOZ boundary as adopted by the City Council shall remain in force unless and until amended. Amendments to a regulatory framework and/or IOZ boundary may be brought forth by the City or eligible institution. Proposed amendments to the IOZ boundary or regulatory framework shall be reviewed by the Planning Board and adopted by the City Council subject to the provisions of this ordinance.

8.3.6 Maine Medical Center Institutional Overlay Zone Regulatory Framework

A. Applicability. All development proposed by Maine Medical Center (MMC) within the boundary of the MMC Institutional Overlay Zone (IOZ) shall be consistent with the approved Institutional Development Plan (IDP), consistent with the Comprehensive Plan, and meet applicable standards of the Land Use Code, unless such standards are superseded by the following regulatory framework. This regulatory framework shall govern future development by MMC within the IOZ unless amended by the Portland City Council upon formal application of MMC. The MMC Institutional Overlay Zone shall have the boundaries depicted in Figure 8-C, and shall include the properties listed in Table 8-**B**.

B. Updates and amendments. It is intended that the IDP will be updated on a regular basis to ensure that the data is current and that the document remains accurate. Accordingly, monitoring reports will be filed every three years and shall include a summary of progress on IDP implementation and of acquisitions and divestment since the date of IDP approval. At the time of the submission of the monitoring report, MMC shall identify any updates to the IDP which may result from updated master planning, changes in baseline information, or changes in the adjacent neighborhoods which

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Note: Refer to Table 8-C for a list of permitted uses.

FIGURE 8-C: MMC IOZ BOUNDARY

TABLE 8-B: LIST OF PROPERTIES INCLUDED IN THE MMC IOZ

Map#	Legal Description	Address	Acreage	Ownership
1	64-A-2-8-9-11/74-A-7/75-A-6	222 St John St.	4.6516	Owned by others
2	68-D-1-3-13-14-16	180 St John St.	0.9494	Owned by others
3	65-G-1	950 Congress St.	0.4628	Owned by others
4	64-B-1	275 St John St.	0.4163	Owned by others
5	65-G-2	942 Congress St.	0.0659	Owned by others
6	65-G-3	940 Congress St.	0.0482	Owned by others
7	65-G-4	274 Valley St.	0.0667	Owned by others
8	65-G-5	268-270 Valley St.	0.0978	MMC
9	64-B-2	262-266 Valley St.	0.0895	MMC
10	65-H-1	932 Congress St.	0.1864	MMC
11	65-H-9	261 Valley St.	0.2185	MMC
12	65-H-2	930 Congress St.	0.1040	MMC
13	65-H-5	52 Gilman St.	0.2384	MMC
14	65-H-8	44 Gilman St.	0.1128	MMC
15	65-E-22	85 Gilman St.	0.0565	Owned by others
16	65-E-32	85 Gilman St.	0.0282	Owned by others
17	65-E-24	81 Gilman St.	0.1653	Owned by others
18	65-E-28	919 Congress St.	0.1059	Owned by others
19	65-E-29-30	909 Congress St.	0.3233	Owned by others
20	65-E-19	22 Forest St.	0.0826	Owned by others
21	65-E-21	18 Forest St.	0.0831	Owned by others
22	65-E-23	14 Forest St.	0.0826	Owned by others
23	65-E-25	12 Forest St.	0.0883	Owned by others
24	53-I-1-2-3-12	887 Congress St.	1.3400	MMC
25	53-X-1	Congress St. Pedestrian Walkway	---	MMC
26	53-D-7/54-H-1/64-C-1	22 Bramhall St.	12.563	MMC
27	54-C-6	34 Ellsworth St.	0.1341	MMC
28	54-C-10	40 Ellsworth St.	0.1155	MMC
29	54-I-1	308 Brackett St.	2.5200	MMC
30	63-B-8	214 Vaughan St.	0.1983	MMC

Properties owned by MMC are listed under MMC or MMC Realty Corp.
MMC will not extend its functionally-related Bramhall campus hospital operations beyond the boundary of the IOZ within the City of Portland without further amendment to the IDP. This includes any expansion of functionally-related operations that displace residential uses outside of the IOZ boundary. A functional relationship is defined as uses or activities that are traditionally or customarily linked to the day-to-day operations of the MMC Bramhall Campus that would relocate a significant proportion of the total employee population or activities.

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affect MMC, to allow the IDP to remain current. Updates and minor amendments not described below shall be reviewed administratively by the Planning Authority.

1. Minor amendments that impact phasing of the long-term development blocks or change the approach to parking, transportation, neighborhood engagement or design shall be reviewed by the Planning Board for consistency with the objectives of the IDP. In addition to consistency with the objectives of the IDP, review of phasing and development program amendments shall focus on integration with the campus and impacts on transportation orinfrastructure. This review may occur simultaneously with the site plan review of an anticipated project.
2. Major amendments shall be reviewed by the Planning Board and are required under the following circumstances:
   a. A change to the regulatory framework is required.
   b. The IDP is no longer representative of the institutional mission or approach to community as a result of redevelopment in the area or City upgrades to neighborhood planning (such as roadway changes, infrastructure upgrades, community design, lighting).
   c. Development proposed by MMC is inconsistent with the master facility plan, transportation plan intent, design plan intent, or environment and infrastructure plan intent identified in the IDP.
3. Annual monitoring reports will be submitted for MMC's Transportation Demand Management (TDM) Plan. TDM monitoring reports shall include a summary of progress towards targets established in the TDM Plan.

TABLE 8-C: PERMITTED USES

Healthcare facilities, including but not limited to the following ancillary and/or supporting uses:

- Hospital
- Medical Office/Clinic
- Laboratory Center / Services
- Research and Development (R&D) Laboratory or Facility
- Educational Facility / Conference Center
- Administrative / Business Office
- Accessory Service or Trade Uses
- Guest House
- Multi-family Housing for Healthcare Staff and Students
- Rehab / Skilled Nursing Facility
- Retail
- Restaurant/Cafe
- Employee Service Amenities
- Day Care Center
- Fitness Center or Gymnasium
- Parking Lot or Garage
- Bicycle Storage
- Heliport
- Antenna Station
- Outdoor use areas, such as green areas, parks, gardens, art installations, and other active and passive non-commercial recreation spaces

C. **Uses.** In addition to the uses permitted in the underlying zone, the uses in Table 8-C are permitted as a matter of right. In recognition that MMC is part of a mixed-use area of the city, with important existing services and businesses that serve the local and wider community, healthcare facility development

fronting onto Congress Street and St. John Street shall activate the public realm, to the extent able, with uses such as service and retail/restaurant, landscaping, active building entrances, pocket parks, etc., on the ground or other publicly accessible level, consistent with the design intent contained in the approved IDP. In areas identified in the IDP as "Priority zone for commercially oriented/retail uses," usable ground floor retail, restaurant, or comparable community-oriented use that provides services to local residents and employees both during the day and evening hours is required. In areas labeled "Street activation through location of windows, entrances, etc.," usable ground floor retail, restaurant, or community-oriented use is encouraged to the extent practicable. Such uses, where constructed or facilitated as part of a healthcare related development, are expressly permitted whether ancillary or supporting the healthcare facility or not, and shall be open and welcoming to the general public in addition to employees or visitors of MMC.

D. Dimensional requirements. The MMC Institutional Overlay Zone shall have the dimensional requirements listed in Table 8-D and depicted in Figures 8-C and 8-D.

E. Design. New buildings within the IOZ shall adhere to the design guidelines set forth in Chapter 5: Design of the IDP and the site plan standards of Article 13.

F. Signs

1. At the time of first site plan review following IDP approval, a unified campus-wide signage plan shall be submitted for review and approval by the Planning Authority. Any update to such plan due to a change in name or logo shall not require amendment to the IDP.

2. Signs shall be designed in accordance with the campus-wide signage plan. All signs shall be designed in proportion and character with building facades and adjacent street typology. All signs shall be coordinated with the building and landscaping design and be constructed of appropriate permanent, high quality materials and finishes.

G. Transportation

1. *Transportation Demand Management* (*TDM*)

a. At the time of the first site plan review following IDP approval, MMC shall submit a campus-wide TDM Plan substantially in accordance with those TDM objectives and strategies identified in the approved Institutional Development Plan. The TDM Plan may be phased into short-, mid-, and long-term actions to allow for progressive implementation over time.

b. The TDM Plan shall be designed to provide transportation choice with the goal of reducing parking demand and single-occupancy vehicle trips to and from MMC by employees and visitors.

c. The TDM Plan shall establish parking and trip reduction targets associated with the short-term (0-2 years), mid-term (2-5 years), and the long-term (5+ years), as well as a data collection plan.

2. *Parking*. Parking requirements in the IOZ shall be established at the time of site plan review based on a parking study that

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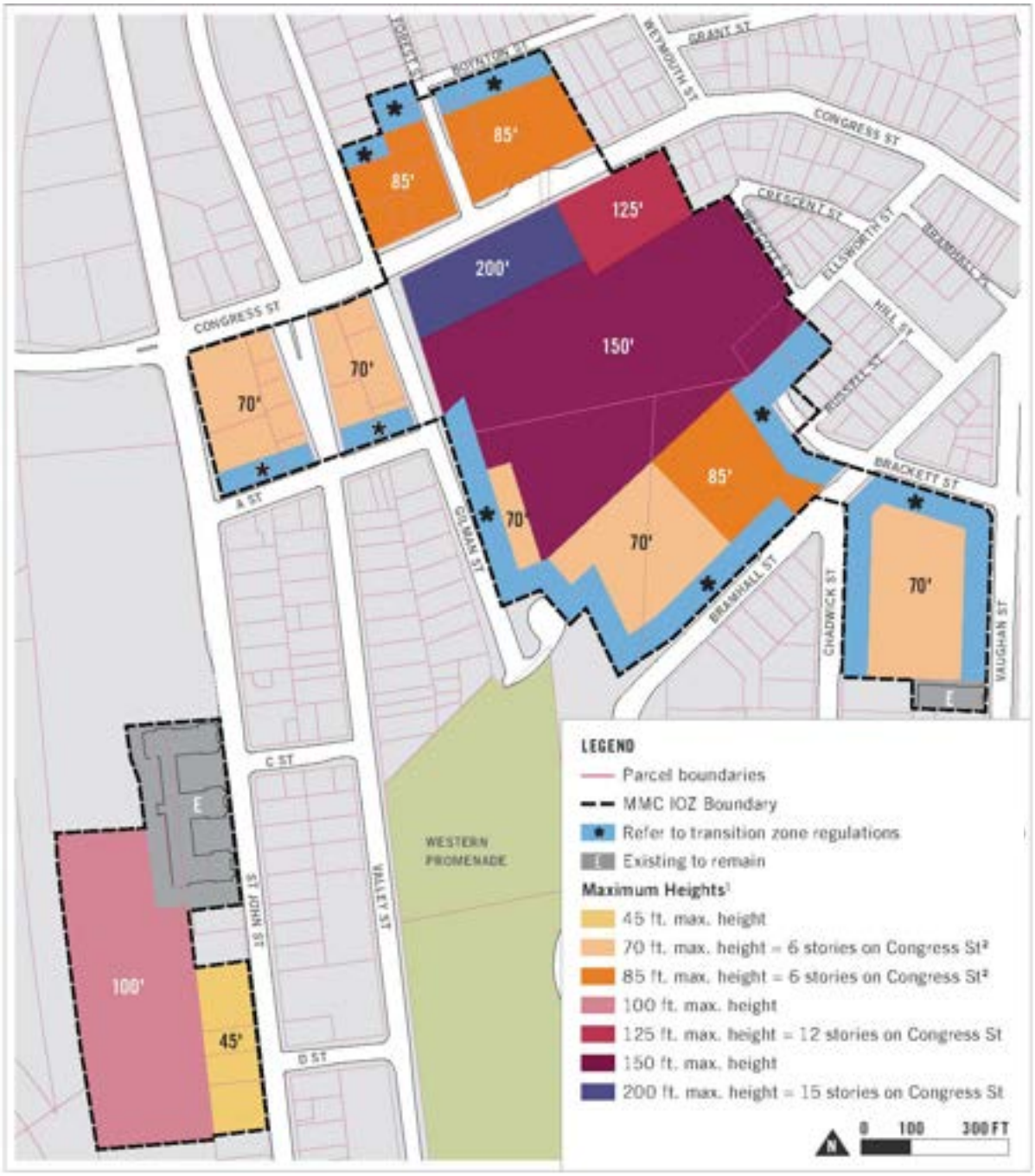
TABLE 8-D: MMC IOZ DIMENSIONAL REQUIREMENTS

Building heights (max.)	Max. building heights for new buildings within the IOZ shall be governed by the Maximum Building Heights Map in Figure 8-D, or by the transition zones clause of this table for those buildings located in transition zones. Refer to IDP "Chapter 5. Design" for methodology on determining heights.
Building heights (min.)	Three stories, except in transition zones, where the minimum building height shall be two stories. Minimum building heights shall not apply to building awnings, associated kiosks, pavilions or similar building components.
Building length (max.)	Length of proposed parking garage at 222 St John St shall not exceed 500 feet as measured roughly parallel to St John St.
Building setbacks (min.)	Minimum building setbacks shall be governed by the Minimum Setbacks Map in Figure 8-E. Additional requirements are listed in the transition zones and Congress Street build-to zone sections of this table.
Congress Street build-to zone[1]	A build-to zone is identified for some properties that abut Congress Street. See Minimum Setbacks Map in Figure 8-E for the location of build-to zone. i. The Congress Street build-to zone extends between 0 to 40 feet from the right-of-way boundary. ii. Buildings located in these parcels must have a minimum of 70% of the façade facing Congress Street located within the build-to zone.
Transition zones	Transition zones are identified inside the IOZ boundary in areas where the IOZ abuts or is located across a public right-of-way from a residential zone or a historic-designated district. See Maximum Building Heights Map in Figure 8-D for location of transition zones. i. Transition zones shall extend 50 feet into the parcel from the parcel boundary. ii. Transition zones that abut a Residential zone with or without an intervening public right-of-way shall have a maximum height limit that matches the maximum height permitted within that Residential zone. iii. In areas where the IOZ abuts a residential zone without an intervening public right-of-way, minimum side and rear yard requirements of the abutting residential zone apply within the IOZ boundary, unless noted otherwise in Minimum Setbacks Map in Figure 8-E.

[1]A "build-to zone" is the area on the lot where all or a portion of the street-facing building facade must be located, measured as a minimum and max. yard (setback) range from the public right-of-way boundary.



Notes: 1. Minimum building heights also apply. Refer to Table 8-D.
2. For buildings with residential use above the ground floor, the following height maximums apply: 70 ft. maximum height = 7 stories, and 85 ft. maximum height = 8 stories.

FIGURE 8-D: MAXIMUM BUILDING HEIGHTS

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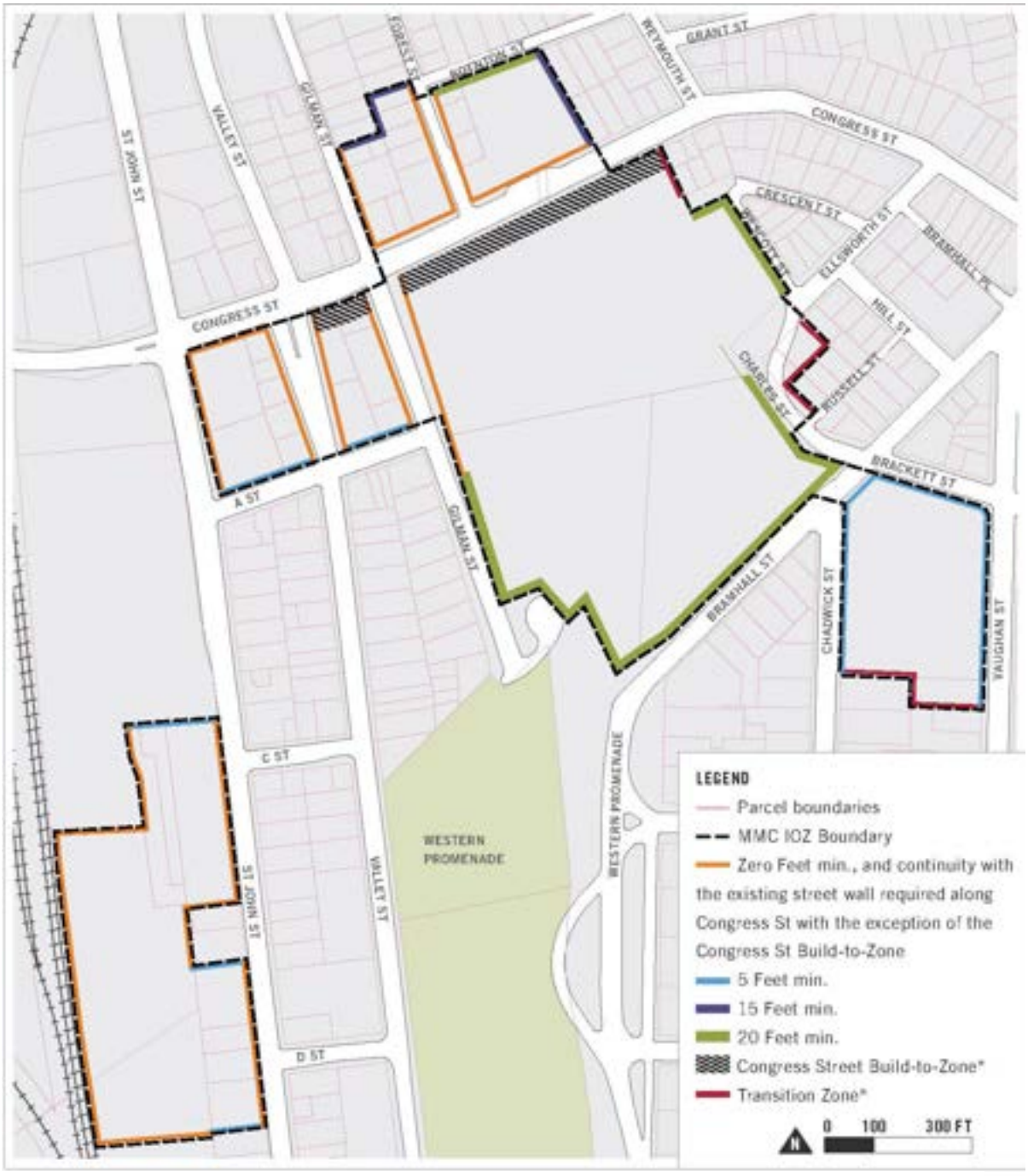

* Refer to Table 8-D Dimensional Requirements

FIGURE 8-E: MINIMUM SETBACKS

includes a campus-wide analysis of demand and supply. The parking demand study shall determine parking requirements and shall be sufficient to alleviate parking pressure on surrounding neighborhoods. Parking studies developed by MMC shall integrate parking and trip reduction achievements and data contained in the TDM Plan.

H. Environment. Development proposed by MMC shall be designed to integrate with the surrounding context, including open space and pedestrian networks and infrastructure.

I. Mitigation measures. MMC shall mitigate site plan impacts to off-premise infrastructure in a manner proportionate to those impacts. Mitigation may include financial or in-kind contributions to existing or planned City projects focused on mitigating the impacts of MMC development. Mitigation contribution shall be determined based on the City's standard procedure in effect at the time of site plan review.

J. Neighborhood integration and engagement

1. For the purpose of keeping surrounding residential areas appraised of its future development plans, and to address any neighborhood issues related to the operations of the MMC Bramhall campus, MMC shall adhere to the ongoing community engagement principles identified in the approved Institutional Development Plan.

2. MMC shall conduct ongoing community engagement, including the formation of a Neighborhood Advisory Committee comprised of representatives of MMC, the Parkside neighborhood, the West End neighborhood, the Western Promenade Neighborhood Association, the St. John Valley neighborhood, the Libbytown neighborhood, and the City.

K. Construction management

1. At the time of site plan review, MMC shall submit a construction management plan substantially in accordance with those construction management principles identified in the approved Institutional Development Plan for review and approval by the Planning Authority.

2. The construction management plan shall include a construction schedule, as well as strategies for managing neighborhood communication and noise, air quality, traffic, and parking impacts associated with the construction as set forth on the construction management template developed by the City and attached and incorporated to the IDP as Appendix A.

L. Other requirements

1. *Helipad.* Proposed changes to MMC's helipads, including changes to preferred flight routes, shall be reviewed and approved by the Planning Authority in accordance with the approved Institutional Development Plan.

2. *Snow ban parking.* When the City of Portland declares a snow parking ban, MMC shall make parking available to neighbors in a designated parking area on or near its campus upon the following condition: Due to the patterns of patient flow in the hospital, the hours of snow ban parking for registered vehicles during an announced City of Portland snow parking bans are 6:00 p.m. until 6:00 a.m. Vehicles

that are not moved out of these parking areas by the applicable time each morning are subject to towing at the owner's expense.

3. *Healthy communities.* Recognizing that a stable residential and commercial environment is key to the health of any neighborhood, MMC commits to supporting its existing and future neighbors in the St. John Valley, Parkside, West End, Western Prom, and Libbytown neighborhoods. Accordingly, MMC shall implement and participate in the healthy communities programs as described below.

a. Caring Community Grants. MMC shall develop an annual grant program with available funds of up to $30,000. Goals, priorities, eligibility requirements, program guidelines, and allocation approach will be developed by the MMC Neighborhood Advisory Committee, as described in Chapter 6 of the IDP approved on September 26, 2017. Neighborhood associations or other entities located or operating in the St. John Valley, Parkside, West End, Western Promenade, and Libbytown neighborhoods may apply for grant funding relating to the following initiatives:

i. Neighborhood investment and Infrastructure: Focused on creating strong, safe, accessible and vibrant neighborhoods.

ii. Quality of life: Focused on improving access to recreation, arts or cultural experiences in the neighborhoods.

iii. Diversity and inclusion: Focused on fostering the building of relationships and understanding among diverse groups, including capacity building and outreach activities.

iv. Public Safety: Focused on supporting public safety programs through training programs, equipment or other means in the neighborhoods.

v. Environmental sustainability: Focused on preventing waste, increasing recycling or supporting other programs that work to improve the environment.

b. Healthy Neighborhoods Program. MMC shall initiate and adopt a memorandum of understanding (MOU) by and between MMC, the City of Portland, and other community partners establishing a Healthy Neighborhoods program. Such a program shall be designed to fund and execute housing and community improvement and development programs in St. John Valley and the other neighborhoods surrounding MMC's Bramhall Campus.

8.3.7 The Roux Institute at Northeastern University Overlay Zone Regulatory Framework

A. Applicability. All development proposed by the Roux Institute at Northeastern University

("Roux Institute") within the boundary of the Roux Institutional Overlay Zone (IOZ) shall be consistent with the approved Institutional Development Plan (IDP), consistent with the Comprehensive Plan, and meet applicable standards of the Land Use Code, unless such standards are superseded by the following regulatory framework. This regulatory framework shall govern future development by the Roux Institute within the IOZ unless amended by the Portland City Council upon formal application of the Roux Institute. The Roux Institutional Overlay Zone shall have the boundaries depicted below and shall include the approximately thirteen-acre property located at 1 Bean Pot Circle and identified as parcels 447-A001 and A002 in the City's assessing records.

FIGURE 8-F: ROUX INSTITUTIONAL OVERLAY ZONE BOUNDARY

B. Phasing and monitoring

1. The Roux Institute campus will be developed in phases, as set forth in the IDP. The IDP will be updated on a regular basis to ensure that the data is current and that the document remains accurate. Accordingly, monitoring reports will be filed every three years and shall include a summary of progress on IDP implementation and of acquisitions and divestment since the date of IDP approval. At the time of the submission of the monitoring report, any updates to the IDP shall be identified which may result from updated master planning, changes in baseline information, or changes in the adjacent neighborhood which affect the campus, to allow the IDP to remain current. Updates and minor amendments not described below shall be reviewed administratively by the Planning Authority.
2. At completion of each phase, the Roux Institute campus shall have the appearance of a complete and comprehensive design. Permanent and meaningful public space shall be established in the first phase to ensure public benefit. Interim conditions shall be designed for a pleasant pedestrian experience through planting, lighting, wayfinding, graphics, artwork, or ornamental fencing to provide screening, buffers, and enhancement. Interim areas of the site which are not actively used for parking or construction staging will be appropriately landscaped or accommodate gathering on lawns or other aesthetically hardened spaces.
3. Minor amendments that change the approach to parking, transportation,

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neighborhood engagement or design shall be reviewed by the Planning Board for consistency with the objectives of the IDP. This review may occur simultaneously with the site plan review of a proposed project.

4. Major amendments shall be reviewed by the Planning Board and are required under the following circumstances:
   a. A change to the regulatory framework is required.
   b. The IDP is no longer representative of the institutional mission or approach to community as a result of redevelopment in the area or City upgrades to neighborhood planning (such as roadway changes, infrastructure upgrades, community design, lighting).
   c. A change in approach to parking, transportation, neighborhood engagement or design is inconsistent with the objectives of the IDP, resulting in a modification to the applicable objectives.
5. Review of major amendments may occur simultaneously with the site plan review of the proposed project.

C. Uses

1. The Roux Institute **c**ampus will encompass a variety of uses to support the mission of the Institute. Campus uses will include classrooms and laboratories, housing, faculty offices, dining areas, convening spaces, fitness centers, retail facilities, entrepreneurial spaces, light manufacturing, incubator space, research and design facilities, hotel, and office space. The mixture of uses is intended to support collaboration with private industry, other institutions, and community organizations. A range of rental housing options will provide on-site opportunities for students, faculty, staff, and their families, easing some of the housing pressure and traffic that might otherwise result from new residents attracted to Portland by the institute. Housing units not occupied by residents affiliated with the Roux Institute may be made available to the public to further assist in easing the housing pressure.
2. The Roux Institute campus will be designed to include uses that will welcome neighbors to the campus, including publicly available open space, waterfront access, recreational opportunities, restaurant, dining, small neighborhood grocery, and/or other limited retail options.
3. In addition to the uses permitted in the underlying zone, laboratory and research facilities, low-impact industrial uses, and high-tech manufacturing shall also be permitted as a matter of right in all buildings that are located within the IOZ and on land owned or leased by the Roux Institute.
4. Ground floor retail, restaurant, or comparable community-oriented uses that provide services to local residents, students, faculty and staff shall be expressly permitted whether ancillary to or supporting the educational institution, and shall be open and welcoming to the general public.
5. Within the boundary of the IOZ, hotels shall be limited as follows:

a. No more than one hotel shall be located in the IOZ.

b. The hotel shall contain no more than 130 rooms.

c. The hotel shall be no more than eight stories in height, not including structured parking. There shall be no more than two levels of above grade structured parking beneath the first floor of the hotel. Nothing herein is intended to preclude the co-location of hotel use and structured parking on one or more levels of the hotel.

6. Notwithstanding any of the above, residential and commercial uses that are not water-dependent shall not be permitted on the pier.

D. Dimensional requirements

1. *Applicability.* All principal buildings and structures located within the IOZ and located on land owned or leased by the Roux Institute shall be subject to the dimensional requirements of the underlying zone, except where modified by the provisions of this section.

2. *Rules of measurement*

a. Publicly accessible corridor: A corridor accessible to the general public that is open to the sky or enclosed with a minimum width of 20 feet. Enclosed portions of publicly accessible corridors shall have a minimum height of 30 feet.

b. Street wall: Within the Roux IOZ the term "street wall" shall mean a wall or portion of a wall that includes the principal entry to a building facing a street, public right-of-way, major pedestrian access routes, or open spaces. Orientation of the principal entry to a building shall be determined by the applicant.

3. *Maximum building heights.* Maximum building heights for new principal buildings in the IOZ shall be governed by the Roux IOZ Height Map (Figure 8-G).

4. *Minimum and maximum street wall heights.* New principal buildings in the IOZ shall rise to a minimum street wall height of 45 feet and may rise to a maximum street wall height of 105 feet.

5. *Stepback requirements*. At a height not lower than the minimum street wall height or higher than the maximum street wall height, a stepback with a minimum depth of at least 10 feet shall be provided. Required stepbacks shall only apply to a building's street wall.

6. *Building length requirements*

a. For buildings with a length greater than 250 feet, a continuous, publicly accessible corridor that connects two streets, public rights-of-way, major pedestrian or bicycle access routes, or open spaces shall be provided, with the precise location to be identified, defined, and reviewed under site plan review. Building length shall be measured at grade in a straight line between the outer corners of the designated street wall.

b. Publicly accessible corridors need not be linear and may have necessary grade changes.

c. Any building wall situated along a publicly accessible corridor shall be

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designed to provide sufficient architectural and graphic amenities to provide visual interest, transparency between interior activities and pedestrian activity, or active uses and relate the building, and its use to passersby.

d. Publicly accessible corridors shall:
  - **i.** Include bicycle and pedestrian amenities such as benches and other seating;
  - **ii.** Be illuminated to levels that are adequate but not excessive for the safety, comfort, and conveniences of occupants and users of the site, and
  - **iii.** Provide access to the public during regular operating hours of the institute.

e. The Roux Institute may close off public access to a publicly accessible corridor during special events or when determined necessary by the institute for security or public safety purposes.

7. *Transitions and buffers*

a. The campus is surrounded by existing buffers, with I-295 to the west, state-owned vacant parcels to the north, the rail corridor and marine business to the east, and Casco Bay to the south. In addition to the existing buffers, development shall further ease the transition to and from the campus.

b. Public open space will ease transition from the smaller scale of Sherwood Street. A transition onto the campus will also be accomplished through thoughtful façade design at the pedestrian level. Potential nuisance features like dumpsters, air handlers, and parking will be appropriately screened. Buildings will avoid blank walls to respect the adjacent neighborhood and facilitate a sense of permeability and welcome.

c. The shoreline transition area between the buildings and the water will serve as meaningful public open space. Building facades facing the water will be considered public-facing, with views designed for interest from the water and Eastern Promenade Trail.

d. The transition area between the campus and I-295 contains a height limitation of 75 feet along the edge and between the highway and the B&M Cannery Building, preserving the historic view of the building from the highway and easing the transition to the greater allowable building heights in the center of campus.

e. The transition area along the edge of the campus adjacent to the rail corridor also contains a height limitation of 75 feet along the edge of the property closest to the residential neighborhood, further easing the transition to the greater allowable building heights at the center of campus, mitigating shadow impacts to adjacent properties.

1. *: Above height of 75 feet, no building floorplate shall exceed 35,000 square feet.
2. Above height of 50 feet, no two buildings shall be closer than 40 feet apart.
3. Building heights for buildings that span two or more height zones shall be measured by calculating the highest point (as defined in the Land Use Code) of that portion of the building within a particular height zone. If the roof is sloped, height is measured at the midpoint of that portion of the slope located within the particular height zone.

FIGURE 8-G: HEIGHT OVERLAY MAP

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E. Transportation

1. *Transportation demand management (TDM)*

a. At the time of the first site plan review following IDP approval, the developer shall submit a campus-wide TDM Plan substantially in accordance with those TDM objectives and strategies identified in the approved IDP. The TDM Plan may be phased into short-, mid-, and long term actions to allow for progressive implementation over time.

b. The TDM Plan shall be designed to provide transportation choice with the goal of reducing parking demand and single-occupancy vehicle trips to and from the Roux Institute campus and from the Roux Institute campus by students, faculty, staff, institutional partners, and visitors.

c. The TDM Plan shall establish parking, mode share, and trip reduction targets associated with each phase of development, as well as a data collection plan.

d. Annual monitoring reports will be submitted for the TDM Plan. TDM monitoring reports shall include a summary of progress towards targets established in the TDM Plan. If deficiencies are identified, they will be resolved in accordance with the site plan approval.

2. *Traffic movement permit (TMP)*

a. Any development that will generate over 100 passenger car equivalents will trigger TMP review which will determine applicable mitigation for that development program. There are contributions anticipated to area-wide elements to support trip reduction targets, such as contribution to the development of shared use path infrastructure and support for additional transit service to the campus. The TMP review may consider an individual site plan or may cover more than one site plan. Each of the TMP submissions and review will continue to contemplate capacity for multimodal connections to continue to reduce automobile trips.

b. Mode shares and trip reduction targets have been identified in the IDP and will be updated and modified with each TMP submission as necessary.

3. *Bicycle and pedestrian access and safety*

a. A Transportation, Access, and Circulation Plan has been provided in the IDP. At the time of the first site plan review, the developer shall submit an updated Plan. Where possible, the bicycle and pedestrian access routes shall connect to established bicycle and/or pedestrian facilities. The developer shall look to establish new bicycle and pedestrian bicycle and/or pedestrian facilities where feasible.

b. The site and building design shall not prohibit the enhancement of transit service to and from the site.

c. Bicycle, pedestrian, transit, and motorized vehicular facilities proposed to and from the site shall

provide sufficient capacity and allow for safe connections for modes of transportation.

d. Sherwood Street shall be improved to accommodate bicycles and pedestrians within the existing right-of-way. Separate sidewalks and bicycle lanes shall be provided where feasible.

4. *Parking*. Parking requirements in the IOZ, including but not limited to parking ratios, shall be established at the time of site plan review for each phase of development based on a parking study that includes a campus-wide analysis of demand and supply. Parking studies shall integrate parking and trip reduction achievements and data contained in the TDM Plan. Parking requirements shall be determined in accordance with the requirements in the Land Use Code in effect at the time of site plan review.

5. *Circulation*

a. The campus shall contain a bike and pedestrian circulation network which includes a perimeter access loop, an internal system of pathways and a major campus "promenade" which will link campus developments, the upland, and the waterfront.

b. The perimeter access path for bicycle and pedestrians will serve to connect the campus to primary site entry points from the community and provide a continuous recreational loop. Where appropriate, the perimeter access path will be enhanced by wayfinding, lighting, landscaping, and safe crossings at vehicular intersections. Where possible, building facades will respond to the perimeter access path for views into the building and periodic activation to building entrances.

c. Internal campus circulation pathways will connect major open spaces, buildings entrances, and outdoor plazas to create a network of multiple pathways including the perimeter access path. Pathways will be located along or oriented toward facades that have active programs, architectural articulation, appropriately scaled entrances, and windows. Pathways will avoid traveling along stretches of undifferentiated or blank facades back doors or service areas. Pathways will be generally lower-velocity systems than the access loop. Where appropriate, the internal campus circulation pathways will be enhanced by wayfinding, lighting, landscaping, and safe crossings at vehicular intersections.

d. The campus promenade will serve as a major organizing feature connecting the upland and the water and providing access to open spaces, allowing views of the principal campus of buildings, and connecting to the internal campus circulation pathways and perimeter access path. The promenade will be enhanced by lighting, wayfinding, landscape buffers, and open spaces. Viewsheds and topography along the promenade will emphasize the Roux Institute and

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Burnham & Morrill (B&M) Cannery Building, pier, and other principal buildings and spaces.

F. Environment

1. The IOZ shall contain a minimum of three acres of public open space designed to enhance waterfront access and provide bicycle/pedestrian network connectivity. This open space requirement shall be met at the completion of construction of the first site plan approval and shall be maintained at all phases of development. The three acres need not be contiguous and may be provided in new and/or different locations following completion of development phases. The public open space shall be meaningful space, functioning as recreation areas, social gathering spaces, or natural buffers consisting of a diverse mix of native woody and herbaceous vegetation. The method of assuring public access to the public open space shall be determined at site plan review.

2. A Sustainability and Resilience Charter will be created by the Roux Institute for the campus. The charter shall contain sustainability goals related to development categories such as energy, water, transportation, equity, and resilience and may be revised over time in response to evolving technology and industry standards. The charter will require all development on the campus to utilize critical components of industry standard benchmarking systems such as LEED, SITES, WELL, ILFI, and Passive House. The charter will be submitted to the Planning Authority prior to submission of the first site plan application. Proposed site plans shall be consistent with the goals outlined in the charter.

3. Development shall utilize lighting designs required for safety and comfort and that minimize impact to the night sky in accordance with light pollution reduction standards in ANSI/ASHRAE/IESNA 90.1-2007 or its most current edition.

4. Development shall be carried out in such a way as to minimize the impacts of sea level rise, protecting infrastructure and site features by designing to a minimum of 2-feet above the Base Flood Elevation (BFE) as shown on the most current FEMA Flood Insurance Rate Map.

5. The shoreline edge and immediate adjacent upland shall be protected through shoreline armoring and vegetation to prevent erosion and enhance natural resource protection. Vegetation shall consist of a diverse mix of native woody and herbaceous vegetation. Work in coastal wetlands and significant wildlife habitats (as defined by the Maine Department of Environmental Protection) will be minimized to the maximum extent practicable and shall comply with all applicable local, state and federal permitting requirements in effect at the time.

6. Design of exterior building envelopes will be in developed in conjunction with the American Bird Conservancy and Cornell Ornithology Lab standards to mitigate bird strikes to the extent practicable. All buildings will have bird-safe facades with

an American Bird Conservancy threat factor of 30 or better.

G. Mitigation measures

1. Site plan impacts to off-premise infrastructure shall be mitigated in a manner proportionate to those impacts. Mitigation may include financial or in-kind contributions to existing or planned City projects focused on mitigating the impacts of the development. Mitigation contribution shall be determined based on the City's standard procedure in effect at the time of site plan review.

2. Impacts to natural resources shall be mitigated in accordance with local, state and federal permitting standards in effect at the time.

H. Design

1. All buildings within the IOZ shall adhere to the design guidelines set forth in the IDP.

I. Neighborhood integration

1. *Neighborhood engagement*

a. For the purposes of keeping surrounding residential areas apprised of its future development plans, and to address any neighborhood issues related to the operations of the Roux Institute campus, the Roux Institute shall adhere to the ongoing neighborhood engagement principles identified in the IDP.

b. Ongoing community engagement shall be conducted, including the continuation of neighborhood forums and maintenance of the Roux Institute campus website.

c. A Community Advisory Group shall be created for the purpose of sharing information on project development, planning, and seeking input. To the extent practicable, the group shall be comprised of representatives of interested groups such as the East Deering Neighborhood, East Deering Neighborhood Association, East Deering Neighborhood for Responsible Development, Front Street Area Neighborhood, a tenant representative from Portland Housing Authority's Washington Gardens and Front Street developments, recreation, parks and trails, including the Friends of Payson Park, from sustainability, rail, bicycle/pedestrian, public transit, Portland Harbor, Portland Public Schools, including a Presumpscot School parent, higher education, and the business community.

d. A designated community contact shall be engaged to be the point of contact for providing information to the neighborhood and receiving feedback.

2. *Construction management.* At the time of site plan review, Northeastern University shall submit a Construction Management Plan substantially in accordance with the construction management principles identified in the Institutional Development Plan for review and approval by the Planning Authority.

J. Historic preservation

1. *Historic preservation review.* The B&M Cannery Building has been designated as a local historic landmark. The area of designation includes the B&M Cannery Building, as well as the area of the former

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Codfish Building and pier. The Historic Preservation Board's review of activity within the site of the former Codfish Building and pier is limited to review of any activity that would require a Certificate of Appropriateness that is proposed on a newly constructed pier. A Certificate of Appropriateness will not be required for the demolition of the Codfish Building or construction of a new pier and related infrastructure, including future alterations to the pier structure.

2. *Required interpretive elements.* Northeastern University shall include interpretive element(s) on top of or within the surface of the new pier that convey the history and significance of the Codfish Building. Prior to construction of said elements, the University shall submit the proposal to the Historic Preservation Board for its review and approval. The interpretive elements shall be designed in a manner that does not interfere with the use and functionality of the pier as a marine passenger facility and for water access by the Roux Institute and the public.
3. *100-foot review exemption.* The B&M Cannery Building is exempt from Subsection 13.6.4(E)(2) for review of development within 100 feet of a landmark.

8.4 ISLAND TRANSFER STATION OVERLAY

8.4.1 Purpose

The purpose of the Island Transfer Station Overlay Zone is to establish a location for a transfer station for municipal solid waste and municipal public works activities. This zone shall be established through a conditional rezoning process in order to ensure the imposition of appropriate conditions for the protection of neighboring properties.

8.4.2 Permitted uses

A. Municipal solid waste facilities, including compactors and storage bins, provided that the compactor shall be located within a fully enclosed structure.
B. Recycling facilities, provided that all recycling areas shall be buffered and screened from neighboring properties.
C. Municipal garages, material storage, and parking for vehicles.
D. Maintenance of municipal vehicles and equipment.
E. Minor wind energy systems co-located with public industrial or utility facilities, subject to the applicable standards within Article 6.

8.4.3 Conditions

Requirements for setbacks and any operational limitations shall be established as part of the conditional rezoning process.

8.5 PEDESTRIAN ACTIVITIES DISTRICT (PAD) OVERLAY

8.5.1 Purpose and applicability

The purpose of the Pedestrian Activities District (PAD) Overlay is to ensure that key areas within the City, as identified on the PAD Overlay Zone map (Figure 8-H), are maintained as active, walkable, pedestrian-oriented activity centers. As such, the overlay requires that street-level frontages within those areas identified on the PAD Overlay Zone map should be occupied with active uses as identified in this section.

8.5.2 Use restrictions

A. Within the PAD Overlay Zone, a minimum of 75% of the street level frontage, measured as a percentage of total building length excluding areas of vehicular and pedestrian egress, and any mechanical or electrical equipment rooms servicing the building, shall consist of the uses specified below. Such uses shall occupy a minimum of 40 feet in depth, measured from the street facing façade of the building.

1. Bars
2. Cultural facilities
3. General services
4. Governmental uses
5. Hotels
6. Low-impact industrial, provided that only retail sales of products produced on site, or eating and drinking areas shall be located within the required active use area.
7. Restaurants, including food preparation areas visually oriented toward the street.
8. Retail
9. Specialty food services, provided that only retail sales of products produced on site, or eating and drinking areas shall be located within the required active use area.
10. Studios for artists and craftspeople.
11. Theaters and performance halls, provided that only ticket and refreshment sales, lobbies, lounges and entrances shall be located within the required active use area.
12. Other uses may be allowed, provided the applicant can demonstrate to the Building Authority that the proposed use is substantially similar to a use listed above and will generate pedestrian interest and activity.

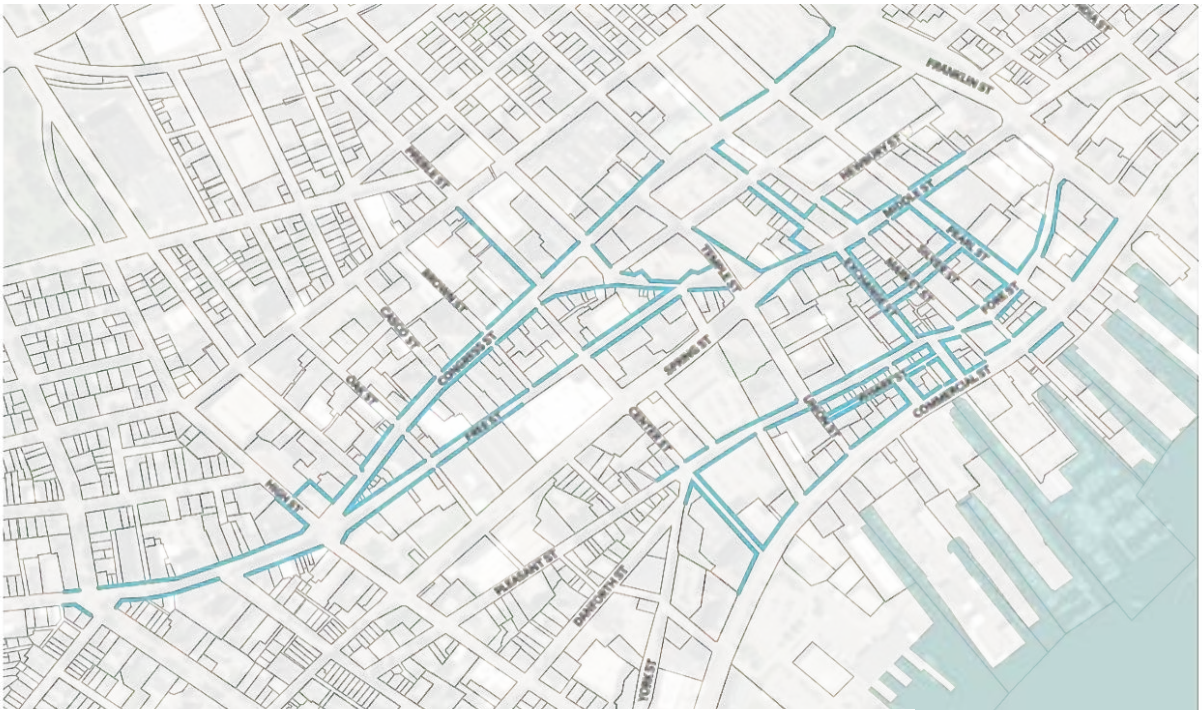

FIGURE 8-H: PEDESTRIAN ACTIVITIES DISTRICT (PAD) OVERLAY

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B. First floor windows shall be transparent with uses visible from the public right-of-way.

C. For buildings that have frontage on more than one street located within the PAD overlay zone, the above requirements apply to each frontage. In no event shall any required active use area be used for storage or service entrances, including loading docks, dumpsters and compactors, except as provided in Subsection 8.5.4.

8.5.3 Conditional uses

Any use permitted in the B-3 zone may be authorized as a conditional use subject to the floor area and transparency requirements of Subsection 8.5.2, provided that the Planning Authority shall be substituted for the Board of Appeals as the reviewing authority. Such uses shall meet the general conditional use standards of Section 6.5.2, and the following conditions and standards:

A. The applicant shall prove by competent evidence (including but not limited to reliable documentation of advertising, real estate brokerage efforts, and other sales mechanisms) that the space has been actively marketed, and, in the case of new construction, available for permitted uses in the PAD Overlay Zone for a period of six months and that it has been unable to market the space for a permitted use in accordance with Subsection 8.5.2.

B. The Planning Authority may impose reasonable conditions concerning the design, appearance, use, and extent of use of the space along the street frontage to ensure maximum pedestrian compatibility and interest.

C. Notwithstanding the above, the Planning Authority may authorize a reduction in the percentage of required ground floor pedestrian-oriented uses where the physical limitations of an existing building so require. Any such reduction shall be the least necessary to provide relief and shall include mitigating design factors.

8.5.4 Exceptions

For buildings that have 40 feet or less of frontage on a street within the PAD Overlay Zone, the ground floor area requirements for permitted uses under Subsection 8.5.2 shall be reduced to 50% of the frontage where required to accommodate a service entrance. For buildings that have frontage on more than one street located within a PAD Overlay Zone, only one such frontage shall be permitted to reduce the required active use area to 50% of the frontage.

8.6 UNIVERSITY OF SOUTHERN MAINE OVERLAY

8.6.1 Purpose

The intention of the University of Southern Maine Overlay Zone is to establish an overlay zone in which an existing university campus can be continued and reasonably expanded within defined boundaries, in addition to those uses permitted in the underlying zone or zones. The purpose of this section is to recognize the unique qualities of a university campus while at the same time protecting the value and integrity of established neighborhoods.

8.6.2 Location and applicability

The University of Southern Maine Overlay Zone is intended to encompass and define the University of Southern Maine campus west of Forest Avenue. Properties in the University of Southern Maine Overlay Zone shall continue to be governed by the

regulations applicable to the underlying zone except as specifically modified by this section.

8.6.3 Permitted uses

A. In addition to the permitted uses allowed in the underlying zones and notwithstanding anything to the contrary in the use regulations for the underlying zones, post-secondary schools and university uses are permitted in the University of Southern Maine Overlay Zone, including, but not limited to:

1. Classrooms.
2. Laboratory and research facilities.
3. Student unions.
4. Dining halls.
5. Bookstores.
6. Auditoriums.
7. Concert and lecture halls.
8. Gymnasiums.
9. Libraries.
10. Outdoor use areas, such as "quads", greens, parks, gardens, art installations, and other active and passive noncommercial recreation spaces.
11. Faculty and student housing.
12. Parking lots and garages.
13. Community meeting spaces.
14. Administrative and faculty offices.
15. Transportation facilities.
16. Maintenance facilities.
17. Utility buildings.
18. Student health services.
19. Daycare facilities, nursery schools, and kindergartens.
20. Other buildings, structures and uses customarily incidental to a university.

B. On lots fronting on Chamberlain Avenue and Exeter Street, university uses shall be limited to faculty housing, graduate student housing, faculty offices, and administrative offices.

8.6.4 Conditional uses

The following uses are permitted as provided in Section 6.5:

A. Minor wind energy systems, subject to the standards of subsection 6.4.41.

8.6.5 Dimensional requirements

University buildings and structures shall be subject to the dimensional requirements of the underlying zone, except as follows:

A. **Minimum setbacks.** Minimum setbacks shall be the same as in the underlying zone, except as shown on the University Campus Overlay Setback Map, incorporated herein by reference. Side and rear setbacks shall not be required between buildings on contiguous lots owned by the university on the condition that such contiguous lots shall be considered merged and shall not be separately conveyed unless required setbacks in the underlying zones are provided.

B. **Maximum building height.** Maximum building height shall be the same as in the underlying zone, except as shown on the University Campus Overlay Height Map, incorporated herein by reference.

C. **Minimum building height.** All new freestanding buildings in height zone B and height zone C must be built to a height of at least 35 feet or designed and constructed so that they can be expanded to 35 feet or higher. As used in this paragraph, the term "new freestanding building" means any building which is not an addition to or expansion of a building which existed on the date of

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enactment of the University of Southern Maine Overlay Zone. Minimum building height provisions shall not apply to maintenance facilities, utility buildings, information kiosks, additions to and/or relocations of designated historic structures, and transportation facilities, including bus shelters, parking attendant booths, and other similar structures.

D. Maximum impervious surface ratio. A maximum of 66% of the total land area within the University of Southern Maine Overlay Zone, exclusive of public streets, shall be impervious.

E. Maximum coverage by buildings. 40% of the total land area within the University of Southern Maine Overlay Zone, exclusive of public streets, shall be covered by building footprint.

8.6.6 Parking

The amount of parking required for any university building or building addition shall be determined by the Planning Board during site plan review, based on an analysis of campus-wide parking demand and supply, pursuant to a comprehensive university parking management plan, and treating all contiguous land (including land on opposite sides of the street) owned by the university as one lot. In determining the amount of parking required for any university building, the Planning Board may take into account such factors as:

A. The availability of off-campus parking and shuttle transportation to and from such off-campus facilities.

B. The ratio of commuter students to resident students.

C. The use of centrally located on-campus parking facilities so situated that students, faculty, staff and visitors arriving on campus can reasonably be expected to park in the central facilities and walk to their various on-campus destinations during the course of a school day.

D. Shared use of a single parking facility by two or more buildings when the peak parking demand period for such buildings do not overlap.

E. Development and implementation of a parking management plan which discourages on-street parking. On-street parking shall not be used to satisfy the university's parking demand.

F. Development and implementation of programs designed to reduce the number of automobiles parking on campus, such as ride share programs and incentives for use of bicycles and public transportation.

8.6.7 Loading

The amount of loading area required for any university building shall be determined by the Planning Board during site plan review, based on a campus-wide analysis, treating all contiguous lots owned by the university as one lot. In determining the amount of loading space required for any university building, the Planning Board may take into account such factors as:

A. The use of centrally located on-campus loading facilities so situated that vehicles making deliveries can load and unload in the central facilities, provided no single location is overburdened with loading facilities.

B. Shared use of a single loading facility by two or more buildings.

C. Impacts of the loading area on adjacent uses outside the University of Southern Maine Overlay Zone.

8.6.8 Signage

Signs shall comply with the requirements of Article

19, except as those regulations are modified or augmented below:

A. Signs shall be designed in accordance with signage standards promulgated by the university, providing for a unified and ADA-compliant campus-wide system for identification, orientation, and regulatory signage.

B. Banners are allowed as follows:

1. Generic banners containing the logo and colors of the university, used for decorative purposes.

2. Banners used for advertising university events, which can be displayed for a maximum of four weeks prior to and one week following the event.

8.6.9 Design principles and standards

All development in the University of Southern Maine Overlay Zone is subject to the requirements contained within the City of Portland *Design Manual*.

8.7 WAYNFLETE SCHOOL OVERLAY

8.7.1 Purpose

The intent of this section is to establish a Waynflete School Overlay Zone which protects the value and integrity of established residential neighborhoods, establishes clearly defined boundaries beyond which residential conversions cannot occur and results in no net loss of dwelling units, while allowing Waynflete School, an existing private day school, to continue and reasonably augment its existing uses and programs, thereby maintaining compatible development at medium densities appropriate to the existing neighborhood patterns. As used in this section, the term "Waynflete School" includes any successor institution that operates as a private day school.

8.7.2 Location and applicability

The Waynflete School Overlay Zone, as shown on the zoning map, is intended to encompass and define Waynflete School's principal campus on the Portland peninsula. Properties in the Waynflete School Overlay Zone shall continue to be governed by the regulations applicable to the underlying zone except as specifically modified by this section.

8.7.3 Subdistricts

The Waynflete School Overlay Zone consists of two subdistricts. Except where otherwise specified in this Section 8.7, all provisions of this Waynflete School Overlay Zone apply in both subdistricts. The subdistricts, as shown on the Waynflete School Overlay Zone subdistrict map, incorporated herein by reference, are as follows:

A. The Campus Core subdistrict defines the interior core of the campus and is intended to allow compact development of school uses, with specific space and bulk regulations designed to accommodate school uses.

B. The Campus Edge subdistrict is intended to preserve residential character along the streets bordering the campus by limiting the amount of residential space which can be converted to school uses, by maintaining a number of dwelling units within the subdistrict which equals the number of dwelling units existing in the subdistrict at the time of enactment of this Overlay Zone, and by encouraging mixed-use buildings along the street frontages. The space and bulk regulations of the RN-3 zone continue to apply within the Campus Edge subdistrict.

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8.7.4 Permitted uses

In addition to the permitted uses allowed in the underlying zones and notwithstanding anything to the contrary in the use regulations for the underlying zones, the following uses are permitted in the Waynflete School Overlay Zone:

A. School uses. Elementary, middle and secondary school uses including, but not limited to, the following:

1. Classrooms.
2. Laboratory facilities.
3. Dining halls.
4. Auditoriums.
5. Concert and lecture halls.
6. Gymnasiums.
7. Libraries.
8. Outdoor use areas, such as "quads", greens, parks, gardens, art installations, and other active and passive recreation spaces.
9. Parking lots and structures.
10. Community meeting spaces.
11. Administrative and faculty offices.
12. Transportation facilities.
13. Maintenance facilities.
14. Utility buildings.
15. Student health services.
16. Bookstores.
17. Accessory uses which are customarily incidental and subordinate to the location, function and operation of a private day school.

B. Residential uses. Faculty or staff housing, which shall be considered a residential use, and not a school use, for all purposes under this overlay zone.

8.7.5 Prohibited uses

A. Boarding schools.

B. Dormitories.

8.7.6 Residential conversions prohibited

A. Conversions of existing residential buildings within the Waynflete School Overlay zone shall be prohibited.

B. The existing houses at 11 Fletcher Street, 3 Storer Street, 305 Danforth Street, and 299 Danforth Street shall not be relocated from their locations existing as of January 20, 2010. This provision shall not apply to garages.

C. At no time shall the number of dwelling units within the Waynflete School Overlay Zone be reduced below four (the number existing at the time of enactment of this Overlay Zone).

8.7.7 Dimensional requirements

Buildings and structures in the Waynflete School Overlay Zone shall be subject to the applicable dimensional requirements of the underlying zones, except as follows:

A. Minimum setbacks shall be the same as in the underlying zone, except that side and rear setbacks shall not be required between buildings on contiguous lots owned or occupied by Waynflete School on the condition that such contiguous lots shall be considered merged and shall not be separately conveyed unless required yard dimensions in the underlying zones are provided.

B. Minimum street frontage shall be the same as in the underlying zone, except that all the land within the Waynflete School Overlay Zone owned or occupied by Waynflete School shall be considered a single lot for the purpose of complying with minimum street frontage.

C. Maximum coverage by buildings shall be the same as in the underlying zone, except that in

the Campus Core subdistrict the maximum coverage by buildings shall be 40% and all the land within the Campus Core subdistrict owned or occupied by Waynflete School shall be considered a single lot for the purpose of calculating maximum coverage by buildings.

8.7.8 Parking

The amount of parking required for any change of use, new building, or building addition within the zone shall be determined during site plan review, based on an analysis of school-wide demand and supply, pursuant to a comprehensive school-wide Transportation Demand Management Plan (TDM), and treating all land owned by Waynflete School within the Waynflete School Overlay Zone as one lot. Any existing parking management or TDM plan approved as part of a previous approval shall remain in effect until revised or updated pursuant to this section. In determining the amount of parking required for any building within the Waynflete School Overlay Zone, the Planning Authority or the Planning Board may take into account such factors as:

A. The use of centrally located on-campus parking facilities so situated that students, faculty, staff and visitors arriving on campus can reasonably be expected to park in the central facilities and walk to their various on-campus destinations during the course of a school day.

B. Shared use of a single parking facility by two or more buildings when the peak parking demand periods for such buildings do not overlap.

C. Development and implementation of a parking management plan which discourages on-street parking.

D. Development and implementation of a TDM plan subject to the review and approval of the Planning Authority or the Planning Board. The TDM plan shall employee elements such as public transit initiatives, parking cash-out, car sharing, car and van pooling incentives, provision of bicycle and pedestrian commuting accommodations, guaranteed ride home programs, employee surveys, newsletters, alternative transportation information sharing, and other such strategies that reduce single occupancy vehicle trips to and from Waynflete school. Waynflete School shall follow the standards and guidelines for developing a TDM plan found in the TDM section of the City of Portland *Technical Manual*.

8.7.9 Loading

The amount of loading area required for any building within the Waynflete School Overlay Zone shall be determined by the Planning Board during site plan review, based on a campus-wide analysis, treating all land owned by Waynflete School within the Waynflete School Overlay Zone as one lot. In determining the amount of loading space required for any building within the Waynflete School Overlay zone, the Planning Board may take into account such factors as:

A. The use of centrally located on-campus loading facilities so situated that vehicles making deliveries can load and unload in central facilities, provided no single location is overburdened with loading facilities.

B. Shared use of a single loading facility by two or more buildings.

C. Impacts of the loading area on adjacent uses outside the Waynflete School Overlay Zone.

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8.7.10 Signage

Signs shall comply with the requirements of Article 19.

8.7.11 Restrictions

Notwithstanding the conditional use provisions for institutional uses within the RN-3 or RN-5 zones, Waynflete School cannot locate a school use listed in Subsection 8.7.4 on any lot in the RN-3 or RN-5 zones outside the boundaries of the Waynflete School Overlay Zone that was occupied by a residential use or structure on or after January 20, 2010. This restriction does not prevent Waynflete School from seeking a conditional use permit for a school use, where otherwise allowed by the zoning regulations, on lots outside the Waynflete School Overlay Zone that were not occupied by a residential use or structure on or after January 20, 2010.

9 FORM-BASED ZONES

9.1 INDIA STREET FORM-BASED ZONE

9.1.1 Purpose

The India Street Form-Based Code is different than traditional zoning, placing the primary emphasis on a building's physical form and its relationship to the street, and de-emphasizing land use. The intent of the India Street Form-Based Code Zone is to establish a zone that encourages a vibrant, walkable, mixed-use urban district, preserves and values the existing historic neighborhood fabric, and fosters and supports local businesses and residential areas. The goal of the India Street Form-Based Code is the creation and preservation of an active and human-scale public realm and the reinforcement of existing neighborhood character through good streetscape design. The components of the form-based code include the guiding principles, Regulating Plan, subdistricts, general development standards, dimensional requirements, building design standards, diagrams, and definitions.

9.1.2 General guiding principles

The general guiding principles set forth here shall be applicable to all subdistricts within the India Street Form-Based Code Zone:

A. The street is a coherent space, with consistent building and streetscape character on both sides of the street. This agreement of buildings and streetscape across the street contributes to a clear public space and district identity.

B. The street wall is visually well defined. Land should be clearly public or private. Buildings contribute to the vital and safe public space while providing a clear boundary to the private, protected realm.

C. Street walls are engaged with the street environment. Buildings are inviting places that interact with and contribute to the street vitality. Inactive edges, vehicle storage, garbage, and mechanical equipment should be kept away from the street. Shared infrastructure, to the extent practicable, including, but not limited to, service alleys, parking areas, stormwater treatment, public transportation facilities, and driveways, shall be utilized.

D. Buildings are designed for the urban environment. Buildings must be designed for the urban situation within the subdistrict which often includes mixed-uses. Buildings are positioned near the street and facades are oriented to the street.

E. Respect historic character. If a property is within the India Street Historic District, Article 16 is applicable. New construction, building additions, or alterations in the India Street Historic District shall reflect and complement the character-defining features and elements of the existing historic development to which it is visually related.

9.1.3 Applicability

A. The requirements set forth in this Section 9.1 shall apply to all new development, primary and accessory structures, including building additions within the India Street Form-Based Code Zone as designated on the India Street Regulating Plan.

B. A waiver of the requirements listed below may be granted if it can be demonstrated to the satisfaction of the

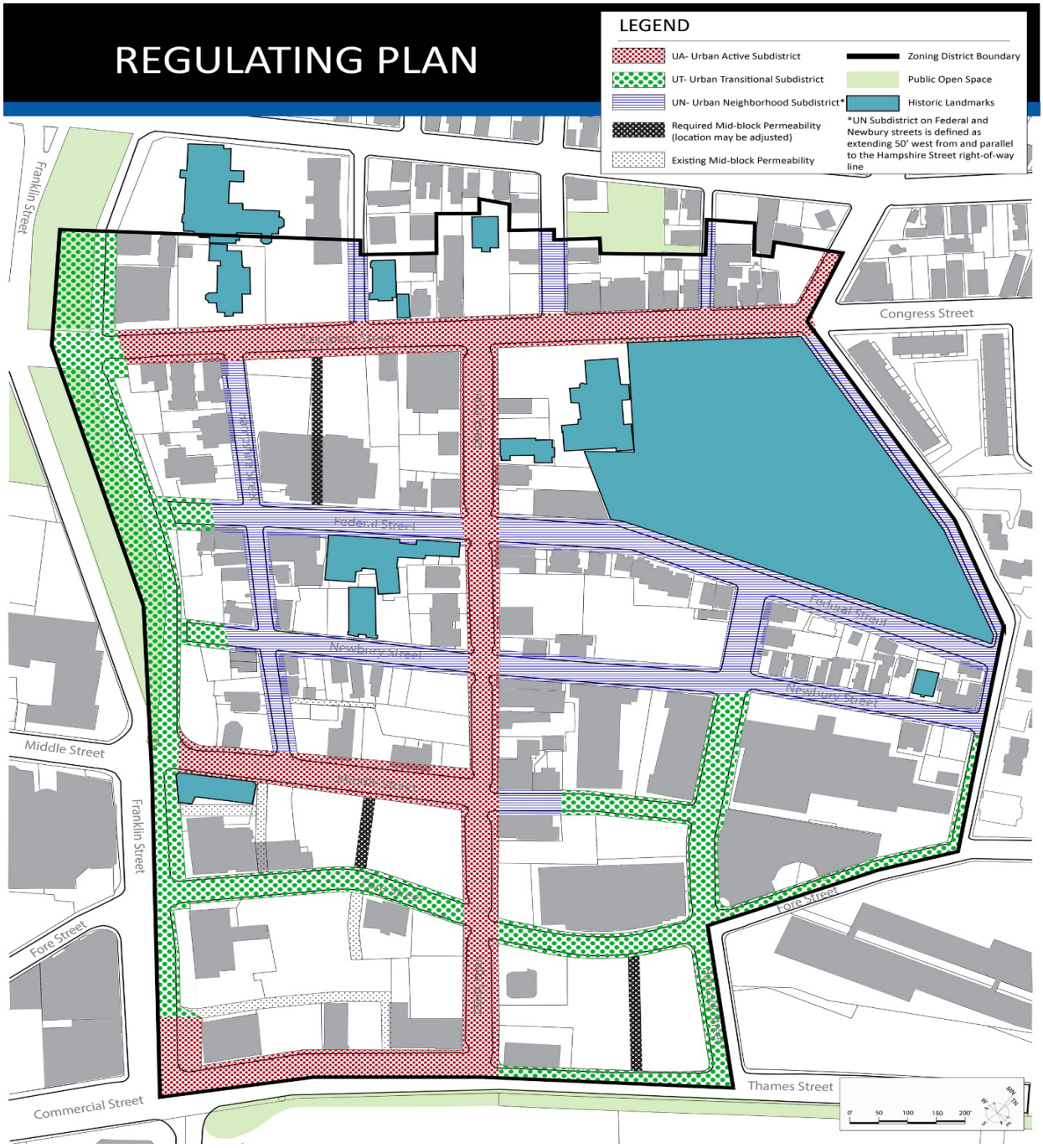

FIGURE 9-A: IS-FBC REGULATING PLAN

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Planning Authority that the requirements in Subsection 9.1.3(C) below have been met:

1. Building orientation.
2. Blank façade length (max.).
3. Fenestration, ground floor facade area.
4. Building entry frequency, orientation, or elevation.
5. Garage door setback or width.
6. Additional building length – ground floor partition or module requirements.

C. A waiver request must meet the following requirements:

1. The intent of the IS-FBC Zone as stated in Subsections 9.1.1 and 9.1.8.
2. Be the least adjustment necessary to satisfy the practical, programmatic, or functional needs of the proposed development.
3. At least one of the following applies:
   - **a.** The proposed zoning alternative better achieves the zone and subdistrict intent.
   - **b.** The zone or subdistrict intent will not be met by applying the requirement in this particular circumstance.
   - **c.** There is a legal or practical necessity or unique conditions.
   - **d.** Unique site factors make the zoning requirement impractical or cost prohibitive.

9.1.4 Establishment of subdistricts

The India Street Form-Based Code Zone as shown on the Regulating Plan is divided into three subdistricts:

A. Urban Neighborhood (UN) Subdistrict.

B. Urban Transitional (UT) Subdistrict.

C. Urban Active (UA) Subdistrict.

9.1.5 Regulating Plan

The Regulating Plan shows the location of the zone boundary and subdistricts subject to regulation by the IS-FBC Zone.

9.1.6 General development standards

A. Prohibited uses

1. Correctional pre-release facilities.
2. Funeral homes.
3. Drive-through facilities.
4. High-impact industrial uses.
5. Auto service stations.
6. Truck terminals.
7. Recycling and solid waste disposal services.
8. Storage and parking facilities for Class 1 flammable and combustible liquids (having an aggregate total of more than 100 gallons) but excluding storage that is part of a motorized vehicle or pleasure craft facility.

B. Performance standards. All uses permitted within this Article 9 shall conform to the mixed-use and B-2/B-2b zone performance standards established in Section 6.8. Where no zone is specified, the performance standard applies.

C. Siting standards

1. *Mid-block permeability*
   - **a.** On lots with frontage on two streets roughly parallel to Commercial/Thames Street, for each and every 200 feet in street line length of lot, a full break between structures of at least 20 feet in width shall be provided roughly perpendicular to Commercial/Thames Street and within the middle third of the applicable street frontage. (See Figure 9-F.)

b. Is encouraged in any location that connects existing public or private alleys, passages, or streets.

c. Any development providing mid-block permeability with public access in the form of a continuous path of travel with a minimum clear width of 10 feet between two streets is eligible for one additional story of up to 12 feet in height under the provisions of Subsection 9.1.6(D). Public access shall be defined through a legal agreement such as an easement or license.

d. For locations where mid-block permeability is required, refer to the Regulating Plan.

2. *Frontage requirements*

a. Minimum street frontage: 30 feet

b. Building length measurement shall not include porches, decks, or balconies that are appended to the principal structure.

c. In the case of a corner lot or lot bounded by at least three streets, maximum building lengths may not be exceeded in order to meet front yard setbacks.

d. Additional building length is allowed beyond the maximum building length under the following circumstances and according to Table 9-A:

i. Attached buildings: An unlimited number of attached buildings having up to 30 feet of street-facing building length is allowed. A party wall condition is required at least every 30 feet and for the entire height of each building. (See Table 9-A Additional Building Length – Attached Buildings.)

ii. Ground floor partitions: Additional building length is permitted with the provision of ground floor partitions where the following conditions are met. (See Table 9-A Additional Building Length – Ground Floor Partitions.):

a) Partitions must extend from the facade at least 2/3rds of the building depth.

b) Partitions must be architecturally expressed on the building exterior.

c) Each module created by partition must have at least one functional, street-facing entry.

TABLE 9-A: ADDITIONAL BUILDING LENGTH

Subdistrict	Attached Buildings	Ground Floor Partitions	Massing Variation	Structured Parking Exception
UN	Unlimited run	Not allowed	Not allowed	Not allowed
UT	Unlimited run	200 ft. max. length; 2 modules	200 ft. max. length	200 ft. max. length
UA	Unlimited run	150 ft. max. length; 3 modules	Not allowed	150 ft. max. length

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d) Modules created by partition shall be sized to have reasonable function and proportion in relation to overall building length.

e) In the UA subdistrict, number of modules are required based on building length. In a building with a length greater than 50 feet but less than 100 feet, at least two modules are required. In a building with a length greater than 100 feet but less than or equal to 150 feet, at least three modules are required.

f) Massing Variation: Additional building length is permitted where at least 30% and up to 40% of the total façade building length is set back at least 20 feet. (See Table 9-A Additional Building Length – Massing Variation.)

g) Structured Parking Exception: Additional building length for one facade without partition walls is allowed for the use of ground-level structured parking.

TABLE 9-B: WALL/FENCE DIMENSIONAL REQUIREMENTS

Location	Height	Visual Permeability
Within front yard	6 ft. max.	Required above 2 ft. from sidewalk grade
Side or rear yard	8 ft. max.	n/a

3. *Setbacks*

a. Lots with a street frontage of less than 35 feet are exempt from providing side yards but only where required yard is perpendicular to the frontage that is less than 35 feet.

b. Where new construction or building additions create a side yard of less than five feet, a maintenance easement is required where a combination of the side yard and easement must be at least five feet. Party wall conditions are exempt from providing a maintenance easement. Corner lots may only apply the side yard reduction to one required side yard.

c. Building facades within 10 feet of a corner are exempt from setback requirements in order to allow special corner architectural treatments.

d. Subdivision developments consisting of horizontally attached buildings on individual lots are not required to have side yards between buildings where a party wall condition will exist, but shall be required to meet the applicable side setbacks at the external and internal subdivision lot boundaries between buildings that are not attached to each other.

4. *Landscaping and screening*

a. Surface parking areas shall be screened from view from sidewalks, public rights-of-way, and public open spaces using landscaping, walls, fencing, or a combination thereof.

TABLE 9-C: HEIGHT BONUSES

Subdistrict	Pre-Bonus Height (max.)	Mid-Block Permeability[1]	Green Roof	Height With Bonus (max.)	Bonus Floor Stepback[2] (min.)
UN	45 ft. and 4 stories	n/a	n/a	57 ft. up to 5 stories	15 ft.
UT	65 ft. and 6 stories	1 story up to 12 ft.	1 story up to 12 ft.	77 ft. up to 7 stories	15 ft.
UA (Congress Street and Commercial Street only)	50 ft. and 4 stories	1 story up to 12 ft.	1 story up to 12 ft.	62 ft. up to 5 stories	15 ft.

[1] Must be publicly accessible in the form of a continuous path with a minimum clear width of 10 feet.
[2] Measured from the ground floor building edge facing any public right-of-way.

b. Walls and fences shall meet the dimensional requirements in Table 9-B.

5. *Building additions.* Building additions are exempt from story minimums or maximums in order to match existing building in number of stories. All other subdistrict height standards shall apply including height minimums and maximums in feet.

D. Height standards

1. *Height bonus applicability.* Only one height bonus may be applied per structure.

2. If a frontage faces a UT street, UN street, or allowed UA street according to Table 9-C, then the portion of the building facing that street is eligible for a height bonus. For lots with multiple frontages where a frontage faces an ineligible street, the bonus story must be stepped back at least 35 feet from ineligible street line. (See Subsection 9.1.8(D).)

3. One additional story of up to 12 feet in height is allowed for any development providing a green roof, where:

a. At least 50% of the cumulative lot area is pervious.

b. At least 50% of the cumulative roof area is a green roof. Green roof area may be applied towards the 50% lot area requirement. Maintenance shall be assured by a maintenance plan and maintenance agreement approved by the Planning Authority.

4. For affordable housing projects in which over 75% of units are low-income or workforce units, maximum heights may be increased by 12 feet.

E. Parking standards

1. Parking shall be provided as per Article 18.

2. In the case of a building addition, non-conforming existing surface parking may remain. In the case of new construction, surface parking must be brought into conformance with IS-FBC standards.

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9.1.7 Subdistrict dimensional requirements

A. Urban Neighborhood (UN) subdistrict

The intent of this subdistrict is to maintain and promote a small-scale, less active urban fabric. Buildings may be more private in character and have smaller footprints with building types including, but not limited to, single-family, townhouses, duplexes, triple-deckers, and double-triples. Building frontages may be less transparent and entries may be raised above sidewalk level with frontage types including raised, recessed doorways, porches, and stoops. The streetscape has variable setbacks and

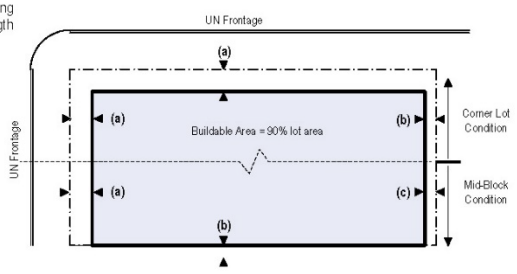
SITING STANDARDS	
Orientation - Principal Frontage	determined by applicant
Lot Coverage	90% max
FRONTAGE REQUIREMENTS	
Building Length - Principal facade	50' max.
Building Length - Secondary fac.	50' max.
BLANK FACADE length (max)	15'
Additional Building Length	(see also Table 9-A)
ATTACHED BUILDINGS	unlimited run
Ground Floor Partitions	not allowed
Massing Variation	not allowed
Structured Parking Exception	not allowed
SETBACKS	
Principal Building	
(a) Front Yard	5' max.
Setback Applicability (see Figure 9-G)	75% of total building length must meet front yard setback
(b) Side Yard*	5' min. - May be reduced provided that the cumulative side yards are not less than 10'
(c) Rear Yard	10' min.
Accessory Building Front Yard	5' min.
Side Yard	5' min.
Rear Yard	5' min.
BUILDING ENTRIES (SEE ALSO BDS)	
Frequency at frontage	at least 35'
Principal Entries	
Orientation	any orientation allowed
Elevated Stoop (> 1 step)	allowed
HEIGHT STANDARDS	
Principal Building	
Building Height Min.	25', at least 2 stories
Building Height Max.	45', up to 4 stories
Accessory Building	
Building Height Max.	25'
PARKING STANDARDS	
Surface Parking Location	35' min. setback from street
Within Side Yard	20' max in width per lot; may not exceed 50% of frontage length
Garage at frontage (attached or detached)	
Garage Door Setback (min)	5'
Garage Door Opening (max)	9' up to 40% of facade length
	20' max. limit
Notes and Exceptions	

* Reduced side yards and zero lot lines are allowed under certain conditions (see Subsection 9.1.7(B)(3) Setbacks)

UN

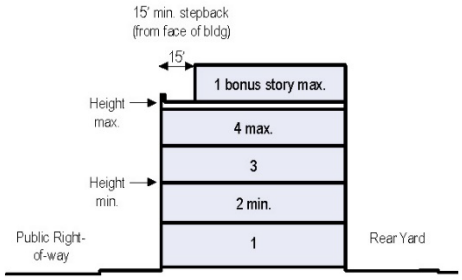
SITING STANDARDS

1. The FACADES and ELEVATIONS of Principal Buildings shall be distanced from the lot lines as shown.
2. FACADES shall be built along the frontage lines to the length specified in the table.



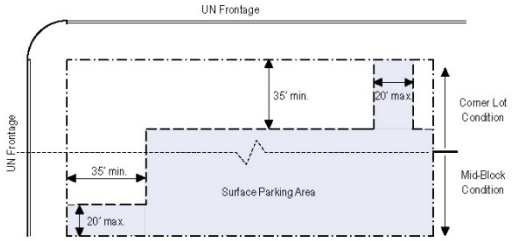
HEIGHT STANDARDS

1. Height shall be measured as specified in Article 7.
2. Number of stories excludes attics and raised basements.



PARKING STANDARDS

1. Surface parking areas may be provided within the shaded area shown.



landscaping with many buildings within one block and streets tend to be narrow.

B. Urban Transitional (UT) subdistrict

The intent of this subdistrict is to encourage higher density, mixed-use building types that accommodate any use. Building frontages are a mix of activity level, have larger footprints, and the most flexibility of height and scale. Building ground floor spaces tend to accommodate flexible and changing uses with frontage types including doorways, forecourts, arcades, and storefronts. The streetscape may be less active than the UA subdistrict with wide sidewalks, street trees, and

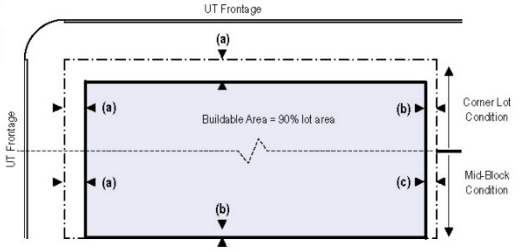
UT

SITING STANDARDS	
Orientation - Principal Frontage	determined by applicant
Lot Coverage	90% max
FRONTAGE REQUIREMENTS	
Building Length	100' max.
BLANK FACADE length (max)	30'
Additional Building Length	(see also Table 9-A)
ATTACHED BUILDINGS	unlimited run
Ground Floor Partitions	200' max., 2 modules
Massing Variation	200' max.
Structured Parking Exception	200' max.
SETBACKS	
Principal Building	
(a) Front Yard	10' max.
Setback Applicability (see Figure 9-G)	75% of total building length must meet front yard setback
(b) Side Yard*	10' min. - May be reduced provided that the cumulative side yards are not less than 20'
(c) Rear Yard	10' min.
(d) STEPBACK (adjacent to UN)	10' min. stepback after 45' height
Accessory Building Front Yard	5' min.
Side Yard	5' min.
Rear Yard	5' min.
BUILDING ENTRIES (SEE ALSO BDS)	
Frequency at frontage	at least 95'
Principal Entries	
Orientation	any allowed
Elevated Stoop (>1 step)	allowed
HEIGHT STANDARDS	
Principal Building	
Building Height Min.	3 stories
Building Height Max.	65', up to 6 stories
Ground Story Height	n/a
Accessory Building	
Building Height Max.	25'
PARKING STANDARDS	
Surface Parking Location	35' min. setback from street
Garage at frontage (attached or detached)	
Garage Door Setback (min)	10'
Garage Door Opening (max)	9' up to 40% of facade length
	20' max. limit
Notes and Exceptions	

* Reduced side yards and zero lot lines are allowed under certain conditions (see Subsection 9.1.7(B)(3) Setbacks)

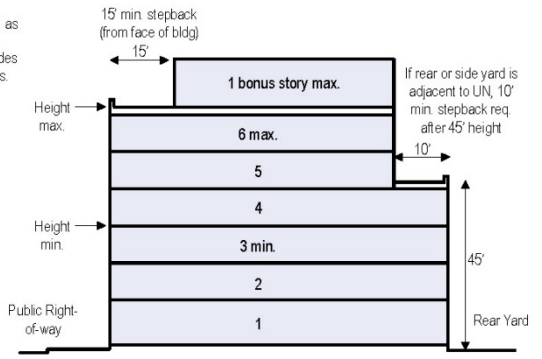
SITING STANDARDS

1. The FACADES and ELEVATIONS of Principal Structures shall be distanced from the lot lines as shown.
2. FACADES shall be built along the frontage lines to the length specified in the table.



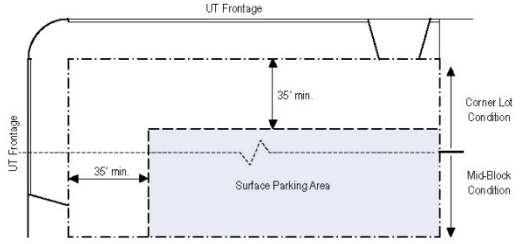
HEIGHT STANDARDS

1. Height shall be measured as specified in Article 7.
2. Number of stories excludes attics and raised basements.



PARKING STANDARDS

1. Surface parking areas may be provided within the shaded area as shown.



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setbacks and stepbacks providing relief from large building masses.

C. Urban Active (UA) subdistrict

The intent of this subdistrict is to maintain and promote a moderate-scale, diverse, mixed-use neighborhood with vibrant streets and active ground floor spaces. Buildings are more active and engage the street at the ground level. Building frontages are transparent and entries are at sidewalk level with frontage types including storefronts and recessed doorways. The

UA

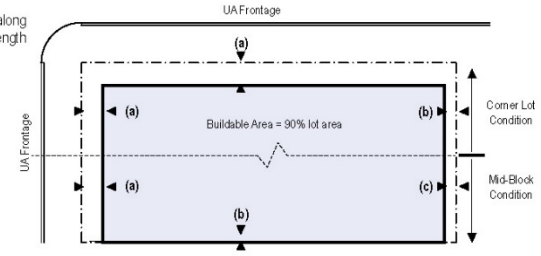
SITING STANDARDS	
Orientation - Principal Frontage	face a UA street
Lot Coverage	90% max
FRONTAGE REQUIREMENTS	
Building Length	50' max.
BLANK FACADE length (max)	15'
Additional Building Length	(see also Table 9-A)
ATTACHED BUILDINGS	unlimited run
Ground Floor Partitions	150' max., up to 3 modules
Massing Variation	not allowed
Structured Parking Exception	150' max.
Fenestration, ground floor	60-90% (see BDS) facade area
SETBACKS	
Principal Building	
(a) Front Yard*	5' max.
Setback Applicability (see Figure 9-G)	75% of total building length must meet front yard setback
(b) Side Yard**	5' min. - May be reduced provided that the cumulative side yards are not less than 10'
(c) Rear Yard	10' min.
Accessory Building Front Yard	5' min.
Side Yard	5' min.
Rear Yard	5' min.
BUILDING ENTRIES (SEE ALSO BDS)	
Frequency at frontage	at least 40'
Principal Entries	
Orientation	at least 1 facing UA street or corner
Elevated Stoop (>1 step)	not allowed
HEIGHT STANDARDS	
Principal Building	
Building Height Min.	3 stories
Building Height Max.	50', up to 4 stories
Accessory Building	
Building Height Max.	25'
PARKING STANDARDS	
Surface Parking Location	35' from street
Garage at frontage (attached or detached)	
Garage Door Setback	20' min. from street
Garage Door Opening (max)	n/a
Notes and Exceptions	

* Up to 10'0" max. front yard setback is allowed if ground plane at frontage is a continuation of the accessible public right-of-way

** Reduced side yards and zero lot lines are allowed under certain conditions (see Subsection 9.1.7(B)(3) Setbacks)

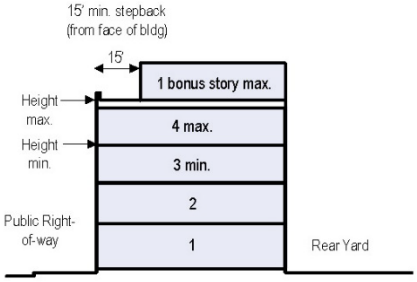
SITING STANDARDS

1. The FACADES and ELEVATIONS of Principal Buildings shall be distanced from the lot lines as shown.
2. FACADES shall be built along the frontage lines to the length specified in the table.



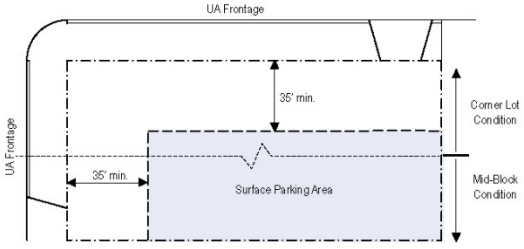
HEIGHT STANDARDS

1. Height shall be measured as specified in Article 7.
2. Number of stories excludes attics and raised basements.



PARKING STANDARDS

1. Surface parking areas may be provided within the shaded area as shown.

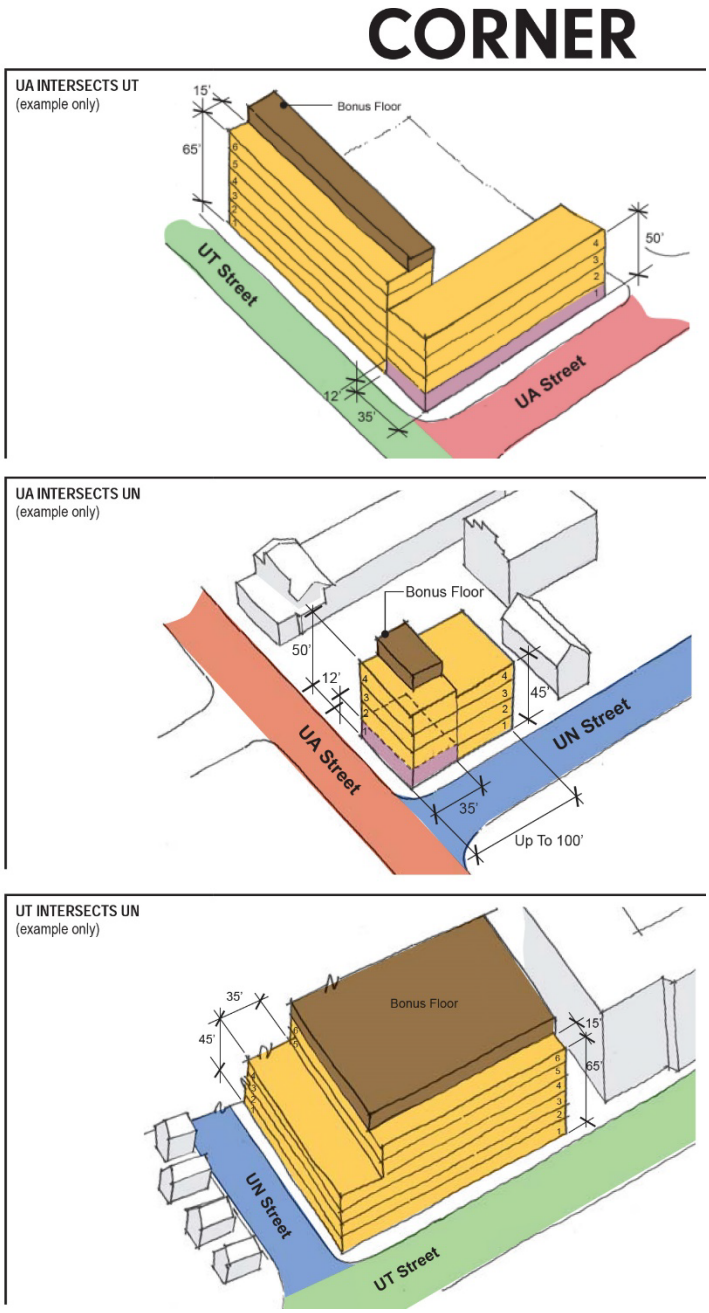


streetscape has steady street planting, and buildings set close to the street providing a consistent street wall.

D. Corner conditions

For corner lots where two subdistricts intersect at a street corner, the dimensional requirements and building design standards of the "dominant" subdistrict shall apply 35 feet deep into the lot measured from the dominant lot line along its

ORIENTATION	
• Corner lots shall be treated as having street frontage on all streets regardless of building orientation	
• Principal Building shall designate a Principal Frontage and Secondary Frontage*	
• In the case of a corner lot having UA frontage, the Principal Frontage must face a UA street*	
SETBACKS	
(a) Front Yard (1st Lot Layer)	according to subdistrict
(b) Side Yard	according to subdistrict
Building facades within 10' of a corner are exempt from setback requirements in order to allow special architectural treatments.	
UA INTERSECTS UT	
Dominant Subdistrict (35' deep)	UA
Orientation - Principal Frontage	UA street
Dominant Building Design Standards (applicable 35' deep)	
Ground Story Height	12' min. clear
Fenestration, ground floor	60-90% (see BDS) facade area
(measured as a percentage of the FACADE that is 2' above sidewalk grade)	
UA INTERSECTS UN	
Dominant Subdistrict (35' deep)	UA
Orientation - Principal Frontage	UA street
Building Length - UN FACADES	100' max.
Dominant Building Design Standards (applicable 35' deep)	
Ground Story Height	12' min. clear
Fenestration, ground floor	60-90% (see BDS) facade area
(measured as a percentage of the FACADE that is 2' above sidewalk grade)	
UT INTERSECTS UN	
Dominant Subdistrict (35' deep)	UN
Orientation - Principal Frontage	determined by applicant
• Corner lots shall be treated as having street frontage on all streets regardless of building orientation	
UN INTERSECTS UN	
Building Length maximums:	
Principal Frontage	30' max.
Secondary Frontage	50' max.
Notes and Exceptions	
* Does not have to correspond to legal building address	



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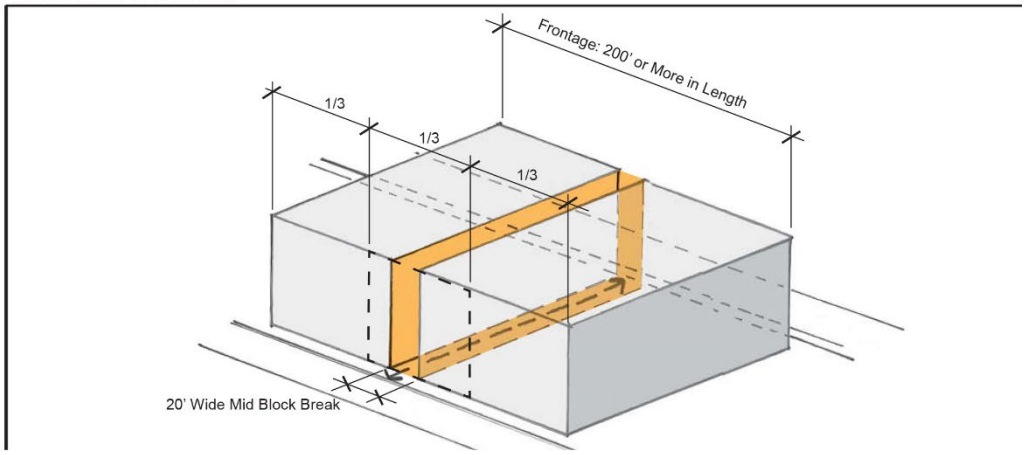
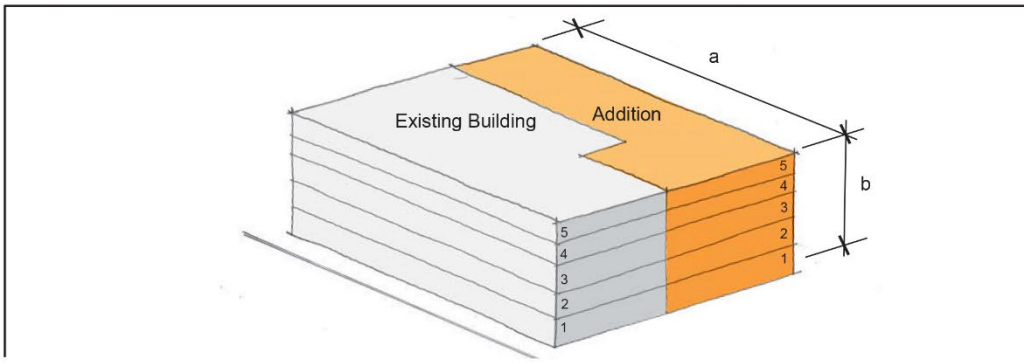
associated street frontage or public ways including required mid-block permeability. Otherwise, dimensional requirements shall be according to the subdistrict onto which the building façade faces.

MID-BLOCK PERMEABILITY



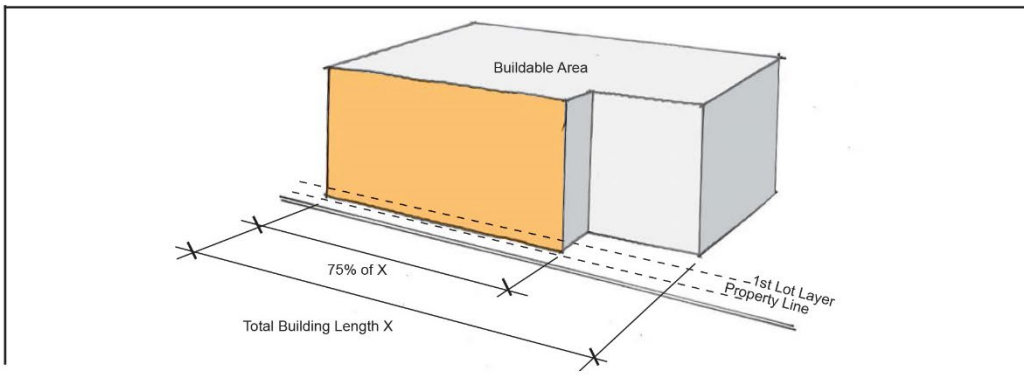
ADDITION



a - Addition length may match but not exceed the length of existing building to which it is an addition. All other Subdistrict Dimensional Requirements apply.

b - Addition height may match existing building in number and height of stories. All other Subdistrict Height Standards apply.

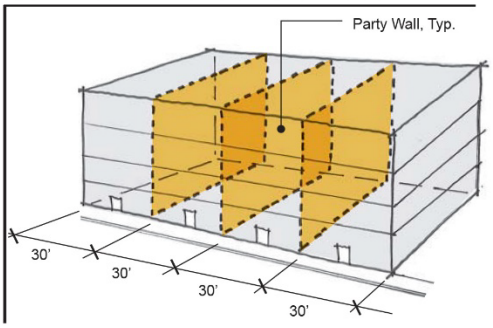
BUILDING LENGTH - 1st LOT LAYER



At least 75% of the total building length must be within the 1st LOT LAYER.

FIGURE 9-B: DIMENSIONAL REQUIREMENTS ILLUSTRATED

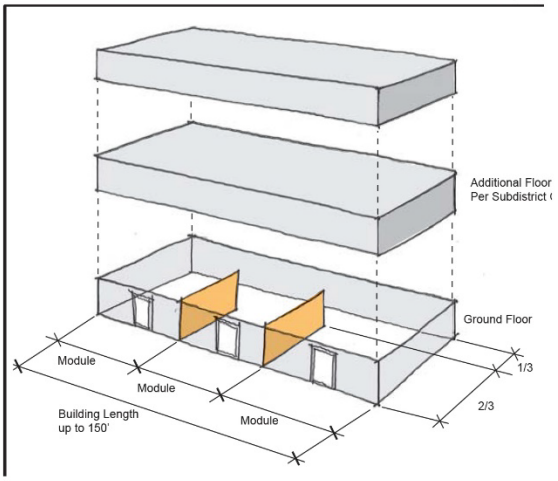
ADDITIONAL BUILDING LENGTH - ATTACHED BUILDINGS



An unlimited number of ATTACHED BUILDINGS having up to 30' street-facing building length is allowed.

A PARTY WALL condition is required at least every 30' and for the entire height of each building.

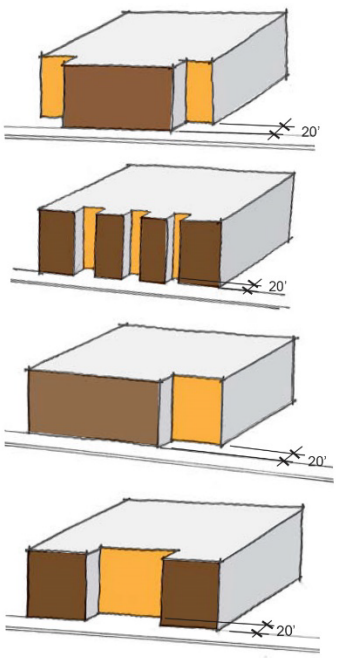
ADDITIONAL BUILDING LENGTH - GROUND FLOOR PARTITIONS (UA)



Additional Building Length is permitted up to 150' with the provision of a least two Ground Floor Partitions

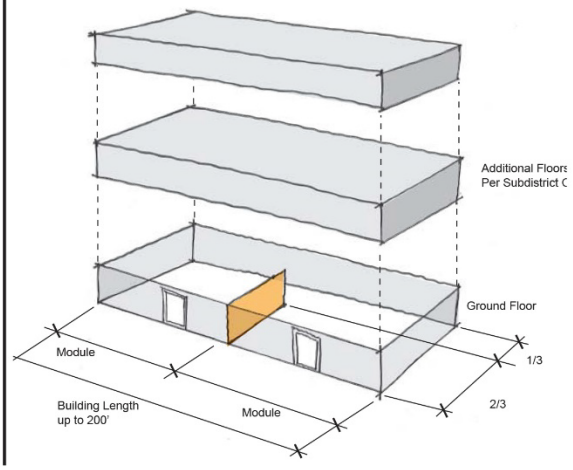
See General Development Standards and BDS for additional requirements.

ADDITIONAL BUILDING LENGTH - MASSING VARIATION (UT)



Additional building length is permitted where at least 30% and up to 40% of the total building length is setback to the 3rd LOT LAYER (20').

ADDITIONAL BUILDING LENGTH - GROUND FLOOR PARTITIONS (UT)



Additional Building Length is permitted up to 200' with the provision of at least one Ground Floor Partition.

See General Development Standards and the BDS for additional requirements.

9 FIGURE 9-B (CONT.): DIMENSIONAL REQUIREMENTS ILLUSTRATED

ING BOARD REVIEW

10 WATERFRONT ZONES

10.1 IN GENERAL

Portland's waterfront zones were developed to support a wide range of industries unique to the city's maritime environment that rely upon access to the working waterfront. Competing demands for limited access require a more exhaustive use list, specialized performance standards, and a unique set of dimensional restrictions that are unlike those of other zones. Given this high degree of specialization, Article 10 should generally be viewed in isolation from other articles within the Land Use Code, with the exception of waterfront-specific definitions, listed within Article 3. Uses listed within this article may typically be considered part of a larger generic use category as defined within Article 3. These specific uses are listed only for the purposes of this article, and do not indicate whether such uses are permitted or conditional in any other zone. In the case of any overlap or conflict with uses defined elsewhere within this Code, the use as referenced within this article shall control within the waterfront zones.

10.2 EASTERN WATERFRONT PORT ZONE (EWPZ)

10.2.1 Purpose

A. The Eastern Waterfront Port Zone is created to support deepwater-dependent activity within the context of the established waterfront. The transport of goods and passengers by water is an important component of both the local and regional economies and this transport and other forms of marine industry are dependent upon land and piers with direct access to Portland Harbor. Given the existing pier infrastructure, proximity to deep water, and urban context, Portland's Eastern Waterfront is uniquely situated to support a wide range of water-dependent industry and commerce through a variety of marine activities.

B. The support and expansion of Portland's marine industry requires piers, uplands, and circulation consistent with the transportation purpose and use of marine facilities. The growth of Portland's marine passenger industry also requires supporting services and activities to provide a safe, convenient, and enjoyable travel experience for users of marine passenger facilities. Non-marine uses that complement the marine passenger industry, are compatible with existing and future water-dependent uses, and provide opportunities for residents and visitors alike to enjoy the Eastern Waterfront throughout the year, are encouraged.

C. The primary use of the deep-water resources shall be for the berthing and support of large vessels. Non-marine uses that complement and support the deepwater infrastructure and do not conflict or compete for limited space with existing or anticipated deepwater-dependent uses are encouraged. Existing and future pier infrastructure and upland support areas should be designed and maintained to support a variety of marine uses and be responsive to future technologies and trends in the marine industry.

D. Given the need to nurture and support deepwater-dependent uses and the need for non-deepwater-dependent uses to complement the marine passenger industry and to support the maintenance and repair of pier infrastructure, the Eastern Waterfront Port Zone recognizes the following hierarchy of uses:

1. The first priority of this zone is to protect and support existing and potential deepwater-dependent uses (those uses requiring a minimum of 15 feet of water depth).
2. The second priority is to allow shallow water-dependent and other permitted marine uses, so long as they do not interfere with deepwater-dependent uses, either directly by displacement or indirectly by placing incompatible demands on the zone's infrastructure.
3. Other uses specified herein are allowed only if they do not interfere with and are not incompatible with higher priority uses.

10.2.2 No adverse impact on marine uses

No use shall be permitted, approved or established in this zone if it will have an impermissible adverse impact on future marine development opportunities. A proposed non-water-dependent component of a development will have an impermissible adverse impact if it will result in any one or more of the following:

A. The proposed use will displace an existing water-dependent use.

B. The proposed use will reduce existing commercial vessel berthing space.

C. The proposed use, structure or activities, including but not limited to access, circulation, parking, dumpsters, exterior storage or loading facilities, and other structures, will unreasonably interfere with the activities and operation of existing water-dependent uses or significantly impede access to vessel berthing or other access to the water by water-dependent uses.

D. The siting of a proposed use will substantially reduce or inhibit existing public access to marine or tidal waters.

10.2.3 Permitted uses

Subject to a determination that the proposed use meets the standards of Subsection 10.2.2, the following uses are permitted in the Eastern Waterfront Port Zone:

A. Marine passenger

1. Intermodal marine passenger facilities.
2. Cruise ship home port and port-of-call berthing and support.
3. International and domestic ferries.

B. Marine commercial

1. Transient and long-term commercial berthing.
2. Marine-related warehousing.
3. Marine-related construction, manufacturing, fabrication, salvage, and repair.
4. Storage and repair of fishing equipment.
5. Ship and other marine vessel construction, building, servicing, and repair.
6. Boat and marine equipment storage.
7. Harbor and marine supplies and services, chandleries, and ship supply such as fueling and bunkering of vessels.
8. Public, non-profit, or commercial marine transportation and excursion services, including captained charter services, sport fishing, and water taxis.
9. Ship and off-shore support services, including but not limited to tug boats, pilot boats, and chandleries.
10. Facilities for marine pollution control, oil spill cleanup, and servicing of marine sanitation devices.

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11. Marinas located east of the eastern boundary of the parcel of land owned by the City of Portland pursuant to a deed from the State of Maine dated February 1982 and recorded in the Cumberland County Registry of Deeds at Book 4916, Page 26.
12. Marine office, including but not limited to offices of owners of marinas, wharves or their agents, naval architects, and seafood brokers.

C. Commercial

1. Professional, business, government, and general office located in upper floors of structures existing as of September 18, 2006.
2. Temporary events, except festivals as otherwise governed under paragraph (3) listed below. Buildings, piers and lands within the EWPZ may be used for temporary public and private events including but not limited to exhibitions, conferences, meetings, and trade shows under the following conditions:
   a. Temporary events occupying more than 10,000 square feet of building or outdoor space shall not exceed a combined total of 60 days between May 1st to October 31st.
   b. No temporary event may continue for more than 14 days of continuous operation.
   c. Any temporary event that anticipates more than 5,000 people in attendance on any single day shall provide and be subject to a parking management plan. The parking management plan shall be submitted for the review and approval of the public works authority at least 60 days prior to the first day of the event.
3. Festivals subject to City license.
4. Street vendors licensed pursuant to Chapter 19 of the City of Portland Code of Ordinances.

D. Public

1. Fire, police, and emergency services.
2. Governmental agency emergency operations/crisis centers.
3. Research, military, and visiting attraction vessel berthing.
4. Landscaped pedestrian parks, plazas, and other similar outdoor pedestrian spaces, including without limitation pedestrian and/or bicycle trails.

E. Other

1. A facility for non-profit organizations whose facility may include offices, classrooms, equipment, equipment rentals, storage, and bathrooms for the public.
2. Accessory uses customarily incidental and subordinate to the location, function, and operation of permitted uses, such as food service establishments, newsstands, and other similar uses. Individual accessory uses shall not exceed 1,000 square feet in area, and all accessory uses shall not exceed 2,000 square feet in area, or 25% of the total area of the principal use. Such accessory uses shall provide goods or services that are supportive of the principal use and its clientele.

10.2.4 Conditional uses

A. The uses identified in Section 10.2.4(C) below shall be allowed as conditional uses in the

Eastern Waterfront Port Zone, subject to the standards of Section 6.5 of this Code, with the following exceptions:

1. Notwithstanding Subsection 6.5.1, or any other provision of this code, the Planning Board shall be substituted for the Board of Appeals as the review authority.
2. In addition to the provisions of Subsection 6.5.2, such uses shall not impede or preclude existing or potential water-dependent development within the zone, shall allow for adequate right-of-way access to the water, shall be compatible with marine uses, and shall meet all additional standards set forth below.

B. Conditional use standards

1. *Marine compatibility.* The proposed use shall be compatible with existing and potential marine uses in the vicinity, as required by Subsection 10.2.8(M) and (N).
2. *Parking and traffic circulation.* All applications for conditional use in the EWPZ shall submit a parking and circulation plan for review and approval by the Planning Board. The parking and circulation plan shall show the location of all existing and proposed structures, travel ways, and parking under the common ownership and/or control of the subject pier or property. The plan shall demonstrate that the parking and circulation of the conditional use does not interfere with the functional marine utility of the property and otherwise meets the standards and conditions of the EWPZ.

C. Conditional uses

1. *Marine*
   - **a.** Marine products, wholesaling, and retailing.
   - **b.** Ice-making services.
   - **c.** Marine freight facilities providing service for, and/or intermodal transfer of, container and breakbulk freight.
   - **d.** Marine educational facilities.
   - **e.** Seafood retailing, wholesaling, packaging, and shipping.
   - **f.** Seafood processing for human consumption, subject to the performance standards applicable to the I-L zone as listed in Section 6.8.
   - **g.** Commercial marinas serving commercial and recreation boats located west of the eastern boundary of the parcel of land owned by the City of Portland pursuant to a deed from the State of Maine dated February 1982 and recorded in the Cumberland County Registry of Deeds at Book 4916, Page 26, provided that such facilities are located in areas that do not conflict with the navigation and handling of deepwater-dependent vessels accessing existing or potential deepwater berthing.
   - **h.** Fish byproducts processing, provided that:
     - **i.** Any fish byproducts processing facility has a valid rendering facility license under Chapter 12 of the Portland City Code of Ordinances.
     - **ii.** Any fish byproducts facility shall employ current and appropriate odor control technology to eliminate or minimize detectable

odors from such a process, and in no case shall odors exceed the odor limitation performance standards of the IM zone in Subsection 6.8.7.

iii. The processing other material wastes or byproducts shall not be deemed a lawful accessory use permitted herein.

2. *Commercial*

a. Structured parking available to the general public.

b. Professional, business, government and general offices uses in upper floors of structures constructed after September 18, 2006.

c. Passenger support services supporting a marine passenger use listed under Subsection 10.2.3(A). The total ground floor area occupied by any combination of the following uses (regardless of ownership) shall not exceed 35% of the gross floor area of the principal associated marine passenger use and no more than 35,000 square feet cumulative within the EWPZ:

i. Retail.

ii. Restaurants/food service other than street vendors.

iii. Retail service.

iv. Passenger information services.

3. *Industrial.* The following industrial uses are permitted provided that such uses shall conform to the IM zone performance standards set forth in Section 6.8 in addition to the performance standards of Subsection 10.2.8. Where redundant or contradictory performance standards exist, the more restrictive standard applies.

a. Non-marine-related warehousing in structures existing as of September 18, 2006.

b. Facilities for combined marine and general construction.

c. Industrial uses as permitted in the IL zone in structures existing as of September 18, 2006, excluding all auto repair service facilities.

4. *Public*

a. Public utility substations, including but not limited to electrical transformers, sewage and stormwater pumps, and telecommunication switching stations, are permitted under the following conditions:

i. The facility is located more than 100 feet from the water's edge.

ii. The facility occupies no more than 50 square feet of structure above ground.

iii. The facility provides no dedicated on-site parking and all subsurface elements of the facility are installed and operated such that land occupied by the facility is otherwise useable and made available for marine-related uses, including but not limited to parking, travel ways, and/or storage.

iv. The facility shall be sized, sited and screened to minimize visual impact and prominence from public ways.

b. Maritime museums, limited to 5,000 square feet of ground floor footprint.

5. *Parking for non-marine uses.* On-site parking for non-marine commercial and industrial uses is allowed as a conditional use subject to the following:

a. Notwithstanding Article 18 and Article 13 of this Land Use Code, no parking shall be allowed in this zone for non-marine uses unless the applicant can demonstrate that the number of parking spaces on-site exceeds the number of parking spaces needed to accommodate the demand for marine and water-dependent uses that are permitted by Subsections 10.2.3 and 10.2.4 which are or may be located on the subject property. (See editor's note below.) The remainder of parking required, if any, for such non-marine uses shall be provided off-site.

b. For the purposes of this section, vacant ground floor space should be considered to have a parking demand similar to other space housing an existing water-dependent use elsewhere on the subject property, or on a comparable property.

D. The following uses shall be permitted only upon the issuance of a conditional use permit subject to the provisions of Section 6.5, and any special provisions, standards, or requirements specified below:

1. Wind energy systems.

2. Solar energy systems.

10.2.5 Prohibited uses

Uses, whether floating or fixed to land, that are not enumerated in Subsections 10.2.3 or 10.2.4 as permitted or conditional uses are prohibited. Those uses that are specifically prohibited shall include, without limitation:

A. Residential uses.

B. Amusement/theme parks.

C. Bulk freight facilities.

D. On-site gambling casinos not accessory to and located aboard either a ferry or inter-port cruise ship.

10.2.6 Contract or conditional rezoning

In addition to those marine and non-marine uses authorized in Subsections 10.2.3 and 10.2.4, an applicant may apply to locate a non-marine use not otherwise permitted, if the reviewing body finds the applicant has met the standards of Subsection 10.2.2, the performance standards of Subsection 10.2.8, the applicable standards of contract/conditional rezoning contained in Section 5.3, and conforms to the following requirements:

A. Standards for contract or conditional rezoning:

1. All non-marine uses shall be those permitted or conditionally permitted in the B-5 zone, and not specifically prohibited in Subsection 10.2.5 above. Any hotel, inn, or other similar transient lodging establishment proposed shall be located landward of the spring tide line and westerly of the extension of the India Street right-of-way.

2. The aggregate ground floor area of any development permitted hereunder located within 100 feet of the pier edge or working edge of the hardened shoreline shall be occupied by at least 50% of one or more

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marine uses set forth in Subsections 10.2.3 and 10.2.4. Circulation areas and areas occupied for accessory parking serving marine uses shall not be used as the basis for calculating the required 50%.

3. The development is consistent with the Comprehensive Plan, and without the non-marine use component proposed, the site could not otherwise support an economically viable water-dependent use.
4. The project's public benefits outweigh its potential negative impacts, provided that such public benefits include one or more of the following: protection of existing water-dependent uses, preservation of future water-dependent use development opportunities, contribution to the development of and/or on-going maintenance of the marine infrastructure for commercial vessels, and visual and physical access to the waterfront for the general public.
5. The non-marine portion of the development will not significantly restrict air or light for marine uses located in the immediate vicinity; will not create significant adverse local climatic effects on marine uses such as an undue increase of winds or shadowing; and will not adversely affect the efficient operation of marine uses, such as by producing less efficient traffic, parking or circulation patterns.
6. The rezoning contains adequate provisions and/or conditions to ensure that on-site water-dependent infrastructure remains occupied by commercial marine use(s) listed in Subsections 10.2.3 and 10.2.4 and that said use is not abandoned after the project is developed.

B. Notwithstanding the off-street parking standards of Article 13, all on-site parking constructed or used for non-marine uses allowed only by contract or conditional rezoning shall be subject to the conditional use provisions Subsection 10.2.4(C)(5). Additionally, the total amount of parking shall be established by the City Council in the conditional or contract rezoning agreement after consideration of the Planning Board's recommendation.

10.2.7 Dimensional requirements.

In addition to the generally applicable provisions of Article 7 of this Land Use Code, lots in the EWPZ shall be subject to the following requirements:

A. **Minimum lot size:** None
B. **Minimum frontage:** None
C. **Minimum yard dimensions:**
   1. *Front setback:* None
   2. *Side setback:* None
   3. *Rear setback:* None
   4. *Setback from pier line:* Notwithstanding the above requirements, a minimum setback of 25 feet from the edge of any pier, wharf or working edge of the hardened shoreline shall be required for any structure, provided that marine offices, as defined in Section 10.2.3(B)(12), may be located up to five feet from the edge of any pier, wharf, or working edge of the hardened shoreline. The setback area may be utilized for water-dependent uses, and public uses and activities, subject to the provisions of Subsections 10.2.2 and 10.2.4, and shall not be utilized for non

water-dependent uses, or for off-street parking. The edge of any pier, wharf or bulkhead shall include any attached apron(s).

D. Maximum impervious surface: 100%

E. Maximum building height: 45 feet, except as follows:

1. For purposes of this subsection only, moveable elements such as cranes and gantries, connection devices such as conveyors or bridges, and floating vessels shall not be subject to the space and bulk requirements, but shall be subject to a determination by the Federal Aviation Administration that the location of such equipment will not create a hazard to air traffic.

2. Rooftop appurtenances may exceed the maximum height limit of 45 feet providing that their design and placement is either fully screened or integrated into the architecture of the structure on which they sit.

3. The applicant shall provide a determination from the Federal Aviation Administration that structures and equipment in excess of 45 feet will not exceed the applicable height guidelines for the runway approach and will not create a conclusive evidence that the proposed development will not create a hazard.

10.2.8 Performance standards

Development in the Eastern Waterfront Port Zone shall comply with the following standards:

A. Outdoor storage of materials. Outdoor storage of commodities and materials accessory to normal conduct of business shall be entirely contained, including runoff contaminants and residual material, within a designated area.

B. Noise

1. The level of sound, measured by a sound level meter with frequency weighting network (manufactured according to standards prescribed by the American National Standards Institute, Inc.), inherently and recurrently generated within the EWPZ between the hours of 7:00 p.m. and 7:00 a.m. from facilities or operations commenced on or after July 1, 1988, shall not exceed 55 decibels on the A scale at or within the boundaries of any residential zone, except for sound from construction activities, sound from traffic on public streets, sound from temporary activities such as festivals, sound created as a result of, or relating to, an emergency, including sound from emergency warning signal devices, and maritime navigation signals.

2. In measuring sound levels under this subsection, sounds with a continuous duration of less than 60 seconds shall be measured by the maximum reading on a sound level meter set to the A weighted scale and the fast meter response (L maxfast). Sounds with a continuous duration of 60 seconds or more shall be measured on the basis of the energy average sound level over a period of 60 seconds (LEQ1).

3. In addition to the sound level standards otherwise established, facilities or operations established or built in the EWPZ on or after July 1, 1988, shall employ

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best practicable sound abatement techniques to prevent tonal sounds and impulse sounds or, if such tonal and impulse sounds cannot be prevented, to minimize the impact of such sounds in residential zones. Tonal sound is defined as a sound wave usually perceived as a hum or which because its instantaneous sound pressure varies essentially as a simple sinusoidal function of time. Impulse sounds are defined as sound events characterized by brief excursions of sound pressure, each with a duration of less than one second.

C. **Vibration.** Vibration inherently and recurrently generated shall be imperceptible without instruments at lot boundaries. This shall not apply to vibration resulting from activities aboard a vessel or from railroad vehicle activities, or from activities on a pile-supported pier.

D. **Federal and state environmental regulations.** All uses shall comply with federal and state environmental statutes and regulations regarding emissions into the air, except where provisions of this code are more stringent.

E. **Discharges into harbor areas.** No discharge into harbor water areas shall be permitted, unless permitted by the Maine Department of Environmental Protection under a waste discharge license and as approved by the Department of Public Works in accordance with Chapter 24, Article III of the City of Portland Code of Ordinances. All private sewage disposal or private wastewater treatment facilities shall comply with the provisions of Chapter 24, Article II of the City of Portland Code of Ordinances and federal and state environmental statutes and regulations regarding wastewater discharges.

F. **Storage of vehicles.** Storage of any unregistered automotive vehicle on the premises for more than 10 days shall not be permitted.

G. **Landfill of docking and berthing areas.** Landfill of docking and berthing areas shall be governed by 38 M.R.S. § 471-478, and permitted only if the landfill does not reduce the amount of linear berthing areas or space, or berthing capacity. If approved, construction shall be undertaken using methods approved by the Department of Public Works and shall be accomplished in a manner so as to ensure that a stable and impermeable wall of acceptable materials will completely contain the fill material and will not permit any fill material to leach into docking areas or navigable waters.

H. **Off-street parking and loading.** Off-street parking and loading shall be exempt from the standards of Article 18.

I. **Shoreland and Floodplain Management regulations.** Any lot or a portion of a lot located in a Shoreland Overlay Zone as identified on the City zoning map or in a flood hazard area shall be subject to the requirements of Articles 11 and 12.

J. **Lighting.** All lighting on the site shall be shielded such that direct light sources shall not interfere with vessels transiting the harbor, nor have an unreasonable adverse impact on adjacent residential zones, and shall be compliant with the site lighting standards of the City of Portland *Technical Manual*.

K. **Signs.** Signs shall be permitted as set forth in Article 19.

L. Storage of pollutants and oily wastes. On-premises storage of pollutants and oily wastes shall not be permitted for more than 45 days.

M. Compatibility of non-marine uses with marine uses. Non-marine uses, structures, and activities, including but not limited to access, circulation, parking, dumpsters, exterior storage, and loading facilities or other structures shall neither unreasonably interfere with the existence or operation of marine uses nor significantly impede access to vessel berthing or other access to the water by existing or potential marine uses.

N. Functional utility of piers and access to the water's edge. All development, whether for marine or non-marine uses, shall anticipate current and future needs of water-dependent uses to functionally access the water's edge for the transfer of goods, materials, and passengers between berthed vessels and land bound vehicles. Provisions for the storage and movement of goods, materials, and passengers shall be designed into all waterside development and internal circulation routes shall be maintained or otherwise provided as an element of any development.

10.3 WATERFRONT CENTRAL ZONE (WCZ)

10.3.1 Purpose

A. The Waterfront Central Zone was created to protect and support water-dependent and marine-related uses to ensure their present and future viability as key features of Portland's waterfront. The Waterfront Central Zone recognizes the following hierarchy of uses:

1. The first priority of this zone is to protect and support existing and potential water-dependent uses in a setting that ensures their continued economic viability.

2. The second priority is to encourage other marine and marine-related support uses provided they do not interfere with water-dependent uses, either directly by displacement or indirectly by placing incompatible demands on the zone's infrastructure.

3. Non-marine uses are encouraged provided that they do not interfere with and are not incompatible with first and second priority uses. Non-marine uses are beneficial to the waterfront economy because they provide the financial return to property owners necessary for the maintenance and improvement of marine infrastructure.

B. Water-dependent and marine-related support uses include unique activities and operational needs not shared by other commercial and industrial uses in the city. The first and second priority uses established in the WCZ may result in noise, odor, dust, hours of operation, parking and traffic patterns, and traffic control needs that are necessary for the convenient and successful conduct of such uses. Other specified uses are permitted in the Waterfront Central Zone, provided that they do not significantly interfere with the activities and operation of water-dependent and marine-related support uses. Such uses shall be, and are assumed to be, aware of the impacts associated with marine uses and therefore shall accept and be tolerant of them. Other specified uses in the zone shall accommodate the needs of higher priority uses as established in this section, provided such higher priority uses are not detrimental to public health and safety, and

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are conducted in accordance with best practices customary in the trade.

C. Commercial Street is recognized as an important economic center for the city and region. Marine-compatible uses are encouraged to locate and grow along Commercial Street, while higher priority water-dependent and marine uses are protected on the waterfront.

10.3.2 Commercial Street Subdistrict

A. Purpose. The Commercial Street Subdistrict (CSSD) is a portion of the Waterfront Central Zone where new and existing development may be occupied with 100% non-marine uses, as listed within Subsection 10.3.3(B).

B. Geographic limits. The geographic limits of the CSSD are defined by parcels of land and piers within the Waterfront Central Zone located on the landward side of a line established 125 feet south of the southerly sideline of Commercial Street and modified as follows:

1. The seaward limit of the CSSD extends to a line 300 feet south of the southerly sideline of Commercial Street in the area between the easterly and westerly sideline of Long Wharf. Additionally, all areas subject to this provision are set back landward at least 25 feet from the average high tide line of Portland Harbor and associated coastal wetlands.
2. Where the 125 foot offset intersects with the footprint of a building existing as of May 2019 and such intersection leaves 75% or more of the building within the CSSD, the entire building shall be considered included in the CSSD. All offset distances are measured horizontally.

C. Demonstration of location. All applicants for development within the CSSD are responsible for demonstrating their location within the CSSD according to the findings of a site specific land survey conducted by a professional land surveyor licensed by the State of Maine. The limits of the CSSD shall be shown on all site plans and subdivision plats for proposed development within the CSSD.

10.3.3 Permitted uses

The following uses are permitted within the Waterfront Central Zone.

A. Marine

1. Marine products wholesaling, distribution and retailing.
2. Marine repair services and machine shops.
3. Tugboat, fireboat, pilot boat and similar services.
4. Harbor and marine supplies and services, chandleries, and ship supply such as fueling and bunkering of vessels.
5. Marine industrial welding and fabricating.
6. Shipbuilding and facilities for construction, maintenance, and repair of vessels.
7. Commercial marine transport and excursion services, including ferries, captained charter services, sport fishing, and water taxis.
8. Cargo handling facilities, including docking, loading, and related storage.
9. Boat repair yards.
10. Boat storage facilities, excluding rack storage facilities (Boat rack storage facilities are included as a conditional use).
11. Seafood processing and retailing.
12. Seafood packing and packaging.
13. Seafood loading and seafood distribution.

14. Fabrication, storage, and repair of fishing equipment.
15. Ice-making services.
16. Facilities for marine construction and salvage.
17. Facilities for marine pollution control, oil spill cleanup, and servicing of marine sanitation devices.
18. Fabrication of marine-related goods.
19. Fishing and commercial vessel berthing.
20. Non-commercial berthing of a maximum of 50 linear feet per pier. A non-commercial berth may not displace a commercial berth. Parking for any non-commercial berthing is subject to the provisions of Subsection 10.3.9(G).
21. Marine office, including but not limited to offices of owners of wharves or their agents, and naval architects, and seafood brokers.
22. Public landings.
23. Marine research, education, and laboratory facilities.
24. Bait sales and processing.
25. Harbor security and emergency response services including but not limited to Harbor Master, Marine Patrol and Coast Guard.
26. Commercial parking for water-dependent use business owners and employees.

B. Non-marine commercial and industrial uses.

1. Professional, business, government, and general offices, except for offices for health care practitioners or health clinics which are only permitted in the CSSD.
2. Cabinet and carpentry shops, studios for artists and crafts people.
3. Intermodal transportation facilities.
4. Cold storage facilities.
5. Commercial kitchens.
6. Outside accessory activities.

C. Public

1. Landscaped pedestrian parks, plazas, and other similar outdoor pedestrian spaces, including without limitation pedestrian and/or bicycle trails.

D. Other

1. Accessory uses customarily incidental and subordinate to the location, function, and operation of permitted uses, such as food service establishments, newsstands, and other similar retail and service support uses shall only be permitted as accessory uses if they are part of and located within the lot lines of the following principal uses:
   a. Marine products wholesaling, distribution and retailing.
   b. Commercial marine transport and excursion services, including ferries, captained charter services, sport fishing, and water taxis.
   c. Seafood processing and retailing.
   d. Public landings.
2. Individual accessory uses shall not exceed 1,000 square feet in area, and all accessory uses shall not exceed 2,000 square feet in area, or 25% of the total area of the principal use, whichever is less. Such accessory uses shall provide goods or services that are supportive of the principal use and its clientele.

E. Uses permitted only within the Commercial Street Subdistrict

1. Retail and service establishments, including craft and specialty shops.

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2. Restaurants, provided that full meal service shall be the primary function of the restaurant, and full meal service shall be continued up until the hours of closing.
3. Banking services without drive-up facilities.
4. Museums and art galleries.
5. Street vendors licensed pursuant to Chapter 19.
6. Offices of health care practitioners or health care clinics.
7. Personal service establishments.

10.3.4 Conditional uses

The uses identified in below shall be allowed as conditional uses in the Waterfront Central Zone, subject to the standards below, as well as applicable standards within Article 6 of this Code. Notwithstanding any other provision of this Code, the Planning Board shall be substituted for the Board of Appeals as the review authority.

A. Commercial marine conditional uses

1. Fish by-products processing, provided that:
   a. Any fish by-products processing facility has a valid rendering facility license under Chapter 12 of the City of Portland Code of Ordinances.
   b. Any existing fish by-products facility shall employ current and appropriate odor control technology (and any new fish by-product use shall employ current, available odor control technology) to eliminate or minimize detectable odors from such a process, and in no case shall odors exceed the odor limitation performance standards of Section 6.8.7.
   c. The processing of other material wastes or by-products shall not be deemed a lawful accessory use under any other provision of this article.
2. Boat rack storage facilities, provided that:
   a. No parking for the use is provided on-site.
   b. Boat rack structures shall not exceed 10,000 square feet of building footprint.

B. Utility substations. Public utility substations, including but not limited to electrical transformers, sewage, and stormwater pumps, and telecommunication switching stations, are permitted under the following conditions:

1. The facility is located more than 100 feet from the water's edge.
2. The facility occupies no more than 50 square feet of structure above ground.
3. The facility provides no dedicated on-site parking and all subsurface elements of the facility are installed and operated such that land occupied by the facility is otherwise usable and made available for marine uses, including but not limited to parking, travel ways, and/or storage.
4. The facility shall be sized, sited and screened to minimize visual impact and prominence from public ways.

C. Wind energy systems

10.3.5 Prohibited uses

Uses which are not enumerated in either Subsections 10.3.3 or 10.3.4 as permitted or conditional uses are prohibited. Uses enumerated in Subsection 10.3.3(E) shall be considered prohibited uses outside of the Commercial Street Subdistrict. Those uses that are prohibited shall include, without limitation:

A. Residential uses.

B. Hotels, motels, hostels, bed and breakfasts, inns, lodging houses, tourist homes, short-term rentals, or boatels.

C. Auditoriums, civic centers, convention centers, or other meeting facilities not accessory to an otherwise permitted use.

D. Drinking establishments, private clubs, or non-profit social and recreational clubs.

E. Ground mounted telecommunication towers, antennas, and/or disks.

F. Drive-up services for any use other than a permitted marine use, not including boat rack storage facilities.

G. Auto service stations.

H. Laundry and dry-cleaning services.

I. Convenience stores with gas pumps.

J. Commercial parking for non-marine uses.

10.3.6 Dimensional requirements

In addition to the generally applicable provisions of Article 7 of this Land Use Code, lots in the Waterfront Central Zone shall be subject to the following requirements:

A. Minimum lot size: None

B. Minimum frontage along Commercial Street: 75 feet, with a minimum lot width of 50 feet, measured parallel with Commercial Street, for the full depth of the lot located within the CSOZ.

C. Minimum yard dimensions:

1. *Front setback:* None
2. *Side setback:* None
3. *Rear setback:* None
4. *Setback from pier edge:* Notwithstanding the above requirements, a minimum first-floor setback of 10 feet from the edge of any pier, wharf, or bulkhead shall be required for any structure, exclusive of structurally necessary posts supporting upper floors, and deck-mounted equipment for loading and unloading vessels. The edge of any pier, wharf, or bulkhead shall include any attached apron(s). Floats, rafts, and/or barges not structurally integral to the pier, wharf, or bulkhead may not be used to satisfy this requirement. Parking for non-marine uses shall not occupy the 10-foot setback.

D. Maximum lot coverage: 100%

E. Maximum building height: 50 feet. Except as provided below, a structure in the Waterfront Central Zone shall provide no more than three habitable floors. Rooftop appurtenances and/or enclosed or open mechanical installations shall be allowed over the third floor.

F. Minimum ground floor clearance: Any new building proposed to be larger than 300 square feet and located more than 35 feet from the southerly sideline of Commercial Street shall provide no less than 15 feet of first floor to ceiling vertical clearance to promote marine industrial use potential. New buildings less than 300 square feet or additions to existing multistory buildings are exempt from this provision but shall provide the maximum ground floor clearance practicable.

G. Non-marine use building exception for habitable floors and minimum ground floor clearance: For newly constructed non-marine use buildings within the Commercial Street Subdistrict, four habitable floors are allowed, and ground floor clearance minimums shall not apply.

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10.3.7 Development standards

A. Standards for non-marine uses located outside of the Commercial Street Subdistrict. Non-marine uses located outside of the CSSD shall be subject to the following:

1. *55% marine use required on ground floors.* At least 55% of the leasable ground floor area of all buildings on a lot shall be occupied by marine uses.

2. *55% marine use required for all open areas.* After subtracting areas used for common circulation drives, at least 55% of the remaining area of the lot not occupied by a building shall be occupied by marine uses, not including boat rack storage facilities.

3. *Ground floor vacancies and change of occupancy offered to water-dependent/marine uses.* Ground floor vacant space and areas proposed for a change of occupant outside of the CSSD shall not be filled with any non-marine use without adequate opportunity for marine uses to occupy the space.

a. On any lot or portion of a lot outside of the CSSD, each time a ground floor occupant departs or gives notice to depart from the lot, the space, along with any associated parking spaces to be vacated, shall be made available to new marine occupants. Prior to renting to a non-marine user the property owner shall advertise for a new marine occupant for not less than a 180-day period in targeted media and by other means reasonably calculated to reach marine users (e.g. local marine trade publications, marine trade websites, waterfront bulletins.) Should one or more marine users apply, the property owner shall make the space available to a marine occupant, in accordance with terms and rates generally consistent with comparable space in the 55% marine use portion of the zone (outside of the CSSD.) The property owner may stop advertising sooner than the end of the 180-day period if a lease is signed with a marine user. Should no marine user apply by the end of the 180-day period, the owner may fill the space with a non-marine user provided that the new non-marine occupant will not cause the lot to exceed the non-marine use occupancy maximum of 45% of the ground floor area or open area.

b. Uses inventoried: To demonstrate adherence to the 55% marine use requirement, the applicant shall submit to the Planning Authority, upon request, an inventory which lists each occupant (tenant or otherwise), as well as a map which depicts the location of each occupant. The map shall show all ground level space, including buildings, parking, open areas and submerged lands associated with the subject lot. For each occupant, the property owner shall indicate the square footage of area occupied and whether the occupant is a marine use as defined herein. For vacant space, the last previous occupant shall be listed, along with the date of departure.

c. Prior to changes of occupancy and/or as part of applications for new development outside of the CSSD, the property owner or applicant shall provide proof of compliance with the requirements of this section as a condition of approval.

4. *Pier or bulkhead edge reserved for marine uses.* Notwithstanding any provision of this ordinance to the contrary, excepting only the portion of any pier which might be used for non-commercial berthing, all berthing and/or dockage space and associated floats plus the entire linear edge of that portion of every pier or bulkhead which is adjacent to greater than zero feet of water depth at mean low water, to a minimum setback line of at least 10 feet from the edge of the pier, bulkhead, or engineered shoreline may only be used or occupied by one or more marine uses. Said edge shall be the seaward extent of any engineered shoreline or working deck of any pier or wharf.

B. Commercial Street Subdistrict standards. Non-marine uses in the CSSD shall be subject to the the following standards:

1. *Vessel access.* Non-marine uses allowed under this provision shall not disrupt or block access to vessel berthing and shall otherwise adhere to the performance standards of this zone described in Subsection 10.3.9.

2. *Maximum setback for new development on lots with 75 or more feet of Commercial Street frontage.* Any new non-marine development constructed subject to this provision which is located on a lot with 75 or more feet of frontage along the Commercial Street right-of-way shall be located with its front façade no further than 35 from the southerly sideline of the Commercial Street right-of-way. Furthermore, any such development shall orient its front façade and its primary pedestrian entrance toward Commercial Street and no vehicular circulation or parking may occupy the land or pier area between the front façade of the building and Commercial Street. Non-marine development subject to this provision on lots with fewer than 75 feet of frontage along the Commercial Street right-of-way, changes of use within existing buildings, and/or building additions of less than 5,000 square feet of new development to existing buildings are exempt from the maximum setback provisions established herein.

3. *Investment in marine infrastructure.* All applicants for site plan review or a change of use permit for non-marine development in the CSSD are required to invest in marine infrastructure as a condition of development, provided that the total project costs exceed $250,000. The value of the investment shall be not less than 5% of total project costs over $250,000 for constructing non-marine space and associated site improvements in the CSSD. Required investment may occur by one or both of the following methods:

a. Direct investment in marine infrastructure located on the same lot: Investment shall be for the benefit of marine uses within the same lot as the

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proposed non-marine development. Investment may include dredging, pile replacement, new or replaced structural decking (but not pavement resurfacing), new or replaced fendering systems, new or replaced floats, pier expansions, permanent conversions of recreational berthing to commercial berthing, bulkhead or seawall repair or improvements, or any combination of similar improvements. Plans for the marine infrastructure investment shall be submitted to the Planning Authority with the application for site plan review or change of use permit and shall include details and a commitment as to how the marine infrastructure will be utilized by marine users. The marine infrastructure improvements shall be completed prior to the issuance of a certificate of occupancy for the non-marine development project.

b. Financial contribution: If direct investment in marine infrastructure is not made, the developer shall make a financial contribution to the City's Waterfront Loan and Investment Fund.

10.3.8 No contract or conditional rezoning permitted

No contract or conditional rezoning applications may be approved in the Waterfront Central Zone.

10.3.9 Performance standards

A. Outdoor storage of materials. Outdoor storage of commodities and materials accessory to normal conduct of business, except pilings and/or cranes, shall be permitted to a maximum height of 45 feet, and such materials shall be entirely contained, including runoff contaminants and residual material, within a designated area within the lot boundaries.

B. Noise. The level of sound, measured by a sound level meter with frequency weighting network (manufactured according to standards prescribed by the American National Standards Institute, Inc.), inherently and recurrently generated within the Waterfront Central Zone shall not exceed 75 decibels on the A scale at the boundaries of any lot, except for sound from construction activities, sound from traffic on public streets, sound from temporary activities such as festivals, and sound created as a result of, or relating to, an emergency, including sound from emergency warning signal devices. In measuring sound levels under this subsection, sounds with a continuous duration of less than 60 seconds shall be measured by the maximum reading on a sound level meter set to the A weighted scale and the fast meter response (L maxfast). Sounds with a continuous duration of 60 seconds or more shall be measured on the basis of the energy average sound level over a period of 60 seconds (LEQ_1).

C. Entertainment businesses. Businesses with entertainment licenses shall be subject to the standards of Subsection 6.8.14.

D. Vibration. Vibration inherently and recurrently generated shall be imperceptible without

instruments at lot boundaries. This shall not apply to vibration resulting from activities aboard a vessel or from railroad vehicle activities, or from activities on a pile supported pier.

E. **Discharges into harbor areas.** No discharge into harbor water areas shall be permitted, unless permitted by the Maine Department of Environmental Protection under a waste discharge license and as approved by the Department of Public Works in accordance with Chapter 24, Article III of the City of Portland Code of Ordinances. All private sewage disposal or private wastewater treatment facilities shall comply with the provisions of Chapter 24, Article II of the City of Portland Code of Ordinances and federal and state environmental statutes and regulations regarding wastewater discharges.

F. **Storage of vehicles.** Storage of any unregistered automotive vehicle on the premises for more than 60 days shall not be permitted.

G. **Landfill of docking and berthing areas.** Landfill of docking and berthing areas shall be governed by 38 M.R.S. § 480-A through 480-HH, and permitted only if the landfill does not reduce the amount of linear berthing areas or space, or berthing capacity. If approved, construction shall be undertaken using methods approved by the Department of Public Works and shall be accomplished in a manner so as to ensure that a stable and impermeable wall of acceptable materials will completely contain the fill material and will not permit any fill material to leach into docking areas or navigable waters.

H. **Off-street parking and loading.** Off-street parking and loading shall be exempt from the standards of Article 18.

I. **Shoreland and Floodplain Management regulations.** Any lot or a portion of a lot located in a Shoreland Overlay Zone as identified on the City zoning map or in a flood hazard area shall be subject to the requirements of Articles 11 and 12.

J. **Lighting.** All lighting on the site shall be shielded such that direct light sources shall not unreasonably interfere with vessels transiting the harbor nor have an unreasonable adverse impact on adjacent residential zones.

K. **Storage of pollutants and oily wastes.** On-premises storage of pollutants and oily wastes shall not be permitted for more than 45 days.

L. **Urban design.** Construction of new structures located within 35 feet of the southerly edge of Commercial Street between Maine Wharf and the easterly property line of the City fish pier shall conform to the guidelines set forth in the *City of Portland Design Manual*, unless such structures are also located within 100 feet of the water. Such structures that are also located within 100 feet of the water shall conform to the extent practicable to the *City of Portland Design Manual*.

M. **Pier and wharf expansions.** In addition to meeting Harbor Commission and Coast Guard requirements for navigation, any expansion or extension of a pier and or wharf in the Waterfront Central Zone shall demonstrate its compatibility with fixed route ferry service and emergency vessel operations.

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N. Public view protection

1. Any new development in the Waterfront Central Zone shall perform a public view impact analysis for review and approval by the Planning Board or Planning Authority as a condition of site plan approval. The analysis shall:
   a. Demonstrate the project's adherence to the View Corridor Protection Plan within the City of Portland Design Manual to the extent practicable.
   b. Promote the public's visual access to the water through sensitive building placement.
2. The Planning Board or Planning Authority shall find at a minimum that the proposed development:
   a. Retains street corridor views as extended across Commercial Street from the Portland peninsula.
   b. Retains panoramic views of the water from Commercial Street to the extent practicable.
   c. Where loss of existing public views to the water is shown to be necessary for the reasonable development of the site, the developer provides alternative public views to the water through newly established view corridors or publicly accessible pedestrian ways. Such pedestrian ways shall not interfere with existing or potential water-dependent uses, nor shall they endanger the public through uncontrolled proximity to industrial activity.

O. Operations and access management plan

1. Any new development, including changes of use or expansion of uses in the Waterfront Central Zone, shall submit a scaled plan and accompanying narrative that demonstrates waterfront access and functional accommodation for water-dependent uses. The plan shall demonstrate consistency with the hierarchy of waterfront uses, as further detailed in Subsection 10.3.1, with non-marine and marine-related uses being subordinate in placement and disposition to water-dependent uses, and designed so as not to impede access to the pier edge and vessel berthing nor interfere with marine operations.
2. The plan shall, at a minimum, illustrate the following information:
   a. Location of all existing and proposed structures, rights-of-way, common circulation drives, access-ways, sidewalks, pier edges, floats, and docks, showing the entire lot in the context of its respective pier.
   b. Existing and proposed off-street parking, labeled with associated uses.
   c. Facilities for the loading and unloading of goods and materials.
   d. Regularly occurring exterior activities including but not limited to the storage of material, equipment and vehicles, yard area, outdoor seating, and on-site waste management.
   e. Signage showing parking use, wayfinding, and posted operational restrictions.

f. Plan narrative detailing how the standards listed below are achieved, tenant/landlord communication protocols, private enforcement actions to be employed to ensure plan compliance, and the responsible parties representing the property owner.

3. The operations and access management plan shall be reviewed by the Planning Authority.

4. In addition to the information above, the plan shall demonstrate compliance with the following standards:

a. Off-street parking is subject to the limitations described in Subsection 10.3.7 (A)("55% Rule"). Off-street parking spaces intended for use by water-dependent uses shall be sited as close as reasonably possible to associated vessels and/or ground-floor lease area.

b. Proposals for new non-marine parking, accessory to an otherwise permitted use in the WCZ, shall submit a parking analysis for all uses on the subject lot, justifying the number of non-marine spaces based upon the proposed use and demonstrating sufficient parking supply for marine uses. If sufficient parking is not available to marine uses, off-street parking for non-marine uses shall not be permitted.

c. Off-street parking, loading facilities, and access ways designated for water-dependent uses shall be exclusive to such uses, except that, if not being occupied by water-dependent tenants, such parking may be made available to non-marine uses between the hours of 5:00 p.m. and 2:00 a.m. Any such shared parking arrangements shall be documented in the operations and access management narrative described above, and clearly signed on-site.

d. All properties providing commercial berthing shall demonstrate reasonable opportunities to load and unload vessels from the subject lot.

e. Facilities for the loading and unloading of goods shall account for the frequency of use and vehicle type and, to the extent possible, minimize impacts to pedestrian and vehicle circulation patterns.

f. Provisions for the storage and movement of goods and materials shall be designed into all pier edge development. Circulation routes shall be maintained or otherwise provided as an element of all development. The siting, design, and circulation of non-marine uses, particularly those allowed on first floors, shall accommodate reasonable access for pedestrians, vehicles, and freight transfer to and from berthed vessels.

g. Non-marine uses shall provide a dedicated pedestrian route between the proposed use and Commercial Street, and shall seek to minimize conflict with vehicle traffic.

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10.4 WATERFRONT PORT DEVELOPMENT ZONE (WPDZ)

10.4.1 Purpose

Transport of goods by water to and from Portland is an important component of both the local and regional economies. As such, the Port of Portland is integral to the City's economic, cultural and fiscal health. The Waterfront Port Development Zone (WPDZ) aims to support the ongoing success of the Port by regulating the development of land directly connected to the dredged deep-water channel of the Fore River and Portland Harbor. Activities within the WPDZ are primarily limited to those requiring deep water access and contributing to port operations. Non-marine activities may be permitted if they do not adversely affect marine uses.

10.4.2 No adverse impact on marine uses

No use shall be permitted in the WPDZ if it will have an adverse impact on future marine development. A proposed development is deemed to have an adverse impact if it will result in any one or more of the following:

A. The proposed use will displace an existing water-dependent use.

B. The proposed use will reduce existing commercial vessel berthing space.

C. The proposed use and any associated structure(s) or site elements including but not limited to access, circulation, parking, dumpsters, exterior storage, or loading facilities, will unreasonably interfere with the activities and operation of existing water-dependent uses or significantly impede access to vessel berthing or other access to the water by water-dependent uses.

D. The siting of a proposed use will substantially reduce or inhibit existing public access to marine or tidal waters.

10.4.3 Permitted uses

Subject to a determination that the proposed use meets the standards of Subsection 10.4.2, the uses in Table 10-A are permitted (●) or conditional (◐) in the Waterfront Port Development Zone.

10.4.4 Conditional use standards

Conditional uses shall be permitted in the Waterfront Port Development Zone provided that notwithstanding Section 6.5 or any other provision of this code, the Planning Board shall be substituted for the Board of Appeals as the review authority. In addition to the provisions of Section 6.5, such uses shall:

A. Not impede or preclude existing or potential water-dependent development on other lots.

B. Allow for adequate access to the water.

C. Be compatible with water-dependent and marine uses.

D. Operationally support one or more water-dependent use(s), or be located in a building or structure that is physically adaptable or relocatable to make way for future development of water-dependent uses.

E. Meet any additional performance and dimensional standards set forth below.

10.4.5 Prohibited uses

Uses which are not enumerated in Table 10-A as permitted or conditional uses are prohibited. Those uses that are prohibited shall include, without limitation:

A. Residential uses.

B. Hotels or motels, or boatels.

TABLE 10-A: WPDZ PERMITTED AND CONDITIONAL USES

Marine	Marine repair services and machine shops	●
	Tugboat, fireboat, pilot boat, and similar services	●
	Harbor and marine supplies and services and ship supply, such as fueling and bunkering of vessels	●
	Shipbuilding and facilities for construction, maintenance, and repair of vessels	●/◐[1]
	Marine cargo handling facilities, including docking, loading and related storage	●/◐[1]
	Boat repair yards	●/◐[1]
	Facilities for marine construction and salvage	●/◐[1]
	Facilities for marine pollution control, oil spill cleanup, and servicing of marine sanitation devices	●
	Marine retail and wholesale sales, including yacht brokerage	◐
	Boat storage facilities	●/◐[1]
	Seafood processing	◐
	Seafood packing and packaging	◐
	Fabrication, storage, and repair of fishing equipment	◐
	Ice-making services	◐
	Fabrication of marine-related goods	◐
	Fish by-products processing, provided that any fish by-product processing facility has a valid rendering facility license under Chapter 12 and the processing of other material wastes or by-products shall not be deemed a lawful accessory use under any other provision of this article.	◐
	Commercial berthing	●
Industrial	Intermodal transportation facilities principally for vessels with regularly scheduled destination service or for railroad transportation service	●/◐[1]
	Marine cargo container and chassis maintenance and repair	●
	Facilities for combined marine and general construction	◐[1]
	Cold storage facility, warehousing, and storage of goods which are awaiting shipment via cargo carriers	◐[1]
	Low impact industrial uses, including but not limited to bakeries, breweries, bottling, printing and publishing, pharmaceuticals, machine shops, manufacture of products, assembly of electrical components, tool and die shops, and the packaging of food, provided that such uses shall be subject to the performance standards of the I-M zone	◐
Public	Public uses including pedestrian and bicycle trails	●
	Utility substations, including sewage collection and pumping stations, water pumping stations, transfer stations, telephone electronic equipment enclosures and other similar structures, provided that such structures are located more than 100 feet from the water.	◐
Other	Off-street parking lots, excluding parking structures	◐
	Accessory uses customarily incidental and subordinate to the location, function, and operation of permitted uses[2]	●
	Minor solar energy systems	●
	Minor wind energy systems	◐

[1] Uses that may be located in buildings that exceed the maximum permitted height. Uses marked ●/◐ will be considered permitted uses when occupying buildings with a maximum height equal to or less than the maximum applicable height allowable under the permitted use dimensional standards, and conditional uses when above that height.

[2] Food service establishments, including food trucks and other similar retail and service support uses shall only be permitted as accessory uses if each individual use does not exceed 1,000 SF in floor area, and the total of all such uses does not exceed 2,000 SF in floor area; and further provided that such accessory uses provide goods or services that are supportive of the principal use and its clientele.

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TABLE 10-B: WPDZ DIMENSIONAL REQUIREMENTS

	Permitted Use Dimensional Standards	Conditional Use Dimensional Standards
Setbacks (min.)	N/A	N/A
Lot size (min.)	N/A	5 acres, limited to 1 building greater than the maximum applicable height allowed under the permitted use dimensional standards.
Setback from pier line, wharf, or bulkhead (including any attached aprons)(min.)[1]	5 ft.	5 ft.
Lot coverage (max.)	50% east of a line projected due south from the centerline intersections of W. Commercial Street and the easterly most Cassidy Point Drive.	
	100% west of a line projected due south from the centerline intersections of W. Commercial Street and the easterly most Cassidy Point Drive.	
Building height (inclusive of roof forms and rooftop appurtenances)(max.)[2]	55 ft. east of a line projected due south from the centerline intersections of West Commercial Street and the easterly most Cassidy Point Drive and west of Casco Bay Bridge.	60 ft. west of the Casco Bay Bridge[7], except as follows: 75 ft. in the area east of a line projected due south from the centerline intersections of W. Commercial Street and the easterly most Cassidy Point Drive and west of Casco Bay Bridge, on lots 5 contiguous acres or larger.[4] 130 ft. for bulk storage[3] facilities west of the projection of the westerly most Cassidy Point Drive segment.
	60 ft. west of a line projected due south from the centerline intersections of West Commercial Street and the easterly most Cassidy Point Drive.	
	In no case may any heights exceed 50ft within 100ft of W. Commercial Street and all area of the WPDZ east of the Casco Bay Bridge.[5]	
Building length (max.)[6]	450 ft.	450 ft.
		300 ft. within 100ft of W. Commercial Street and all area of the WPDZ east of the Casco Bay Bridge.
	300 ft. within 100 ft. of W. Commercial Street and all areas of the WPDZ east of the Casco Bay Bridge.	300 ft. for buildings or portions of buildings exceeding the maximum applicable height allowed under the permitted use dimensional standards.

[1] The setback area may be used for activities related to the principal uses in the structure, but shall not be used for off-street parking.
[2] Buildings and/or structures shall be limited to an absolute height measured from average grade with no portion of the structural roof system or roof top appurtenances exceeding the limits set forth under Table 10-B with the exception of moveable elements or connection devices as listed under Subsection 10.4.7
[3] Bulk storage dedicated to materials delivered or awaiting transportation to a site by waterborne transportation.
[4] A projection of the street centerline shall consist of an extension of the centerline to the water side boundary of the WPDZ.
[5] Height limitations east of the Casco Bay Bridge are intended to protect vistas of the harbor from public open space.
[6] As measured by a line parallel with the southern edge of the West Commercial Street right-of-way.
[7] Only those conditional uses so designated in Note 1 of the Waterfront Port Development Zone Use Table 10-A may be located in buildings taller than 60 ft.

C. Auditoriums, civic centers, convention centers, or other meeting facilities.
D. Restaurants and bars.
E. Marinas, including marina associated boat storage facilities.
F. Truck terminals.

10.4.6 Dimensional requirements

In addition to the generally applicable provisions of Article 7 of this Land Use Code, lots in the Waterfront Port Development Zone shall be subject to the requirements of Table 10-B.

10.4.7 Additional bulk, height, and location standards.

Moveable elements or connection devices may exceed the maximum height limits set forth in Table 10-B, subject to the following:

A. Moveable elements such as cranes and gantries, and connection devices such as conveyors or bridges shall not be subject to the space and bulk requirements, but shall be subject to a determination by the Federal Aviation Administration that the location of such equipment will not create a hazard to navigation.
B. The applicant shall provide a determination from the Federal Aviation Administration that structures and equipment will not exceed the applicable height guidelines for the runway approach and will not create a hazard to navigable airspace. Such a determination shall be accepted as conclusive evidence that the proposed development will not create a hazard.
C. For each lot, at least one view corridor of at least 90 feet in width shall be left unbuilt to preserve a clear line of sight between West Commercial Street and the water.

10.4.8 Performance standards

Proposals in the Waterfront Port Development Zone that qualify for site plan review shall submit, in addition to site plan submission requirements (if applicable), an impact mitigation narrative summarizing how the project meets the applicable performance standards. All uses in the Waterfront Port Development Zone shall comply with the following standards:

A. Outdoor storage of materials. Outdoor storage of commodities and materials accessory to normal conduct of business, except pilings and/or cranes, shall be permitted to a maximum height of 45 feet, and such materials shall be entirely contained, including runoff contaminants and residual material, within a designated area within the lot boundaries.
B. Noise.
1. The level of sound, measured by a sound level meter with frequency weighting network (manufactured according to standards prescribed by the American National Standards Institute, Inc.), inherently and recurrently generated within the Waterfront Port Development Zone between the hours of 7:00 p.m. and 7:00 a.m. from industrial facilities or operation commenced on or after July 1, 1988, shall not exceed 55 decibels on the A scale at or within the boundaries of any residential zone, except for sound from construction activities, sound from traffic on public streets, sound from temporary activities such as festivals, and sound created as a result of, or relating to, an emergency, including sound from emergency warning signal devices.

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2. In measuring sound levels under this subsection, sounds with a continuous duration of less than 60 seconds shall be measured by the maximum reading on a sound level meter set to the A weighted scale and the fast meter response (L maxfast). Sounds with a continuous duration of 60 seconds or more shall be measured on the basis of the energy average sound level over a period of 60 seconds (LEQ1).
3. In addition to the sound level standards otherwise established, facilities or operations established or built in the Waterfront Port Development Zone on or after July 1, 1988, shall employ best practicable sound abatement techniques to prevent tonal sounds and impulse sounds or, if such tonal and impulse sounds cannot be prevented, to minimize the impact of such sounds in residential zones. Tonal sound is defined as a sound wave usually perceived as a hum or which because its instantaneous sound pressure varies essentially as a simple sinusoidal function of time. Impulse sounds are defined as sound events characterized by brief excursions of sound pressure, each with a duration of less than one second.

C. **Vibration.** Vibration inherently and recurrently generated shall be imperceptible without instruments at lot boundaries. This shall not apply to vibration resulting from activities aboard a vessel or from railroad vehicle activities, or from activities on a pile supported pier.

D. **Federal and state environmental regulations.** All uses shall comply with federal and state environmental statutes and regulations regarding emissions into the air, except where provisions of this Land Use Code are more stringent.

E. **Discharges into harbor areas.** No discharge into harbor water areas shall be permitted, unless permitted by the Maine Department of Environmental Protection under a waste discharge license and as approved by the Department of Public Works in accordance with Chapter 24, Article III of the City of Portland Code of Ordinances. All private sewage disposal or private wastewater treatment facilities shall comply with the provisions of Chapter 24, Article II of the City of Portland Code of Ordinances and federal and state environmental statutes and regulations regarding wastewater discharges.

F. **Storage of vehicles.** Storage of any unregistered automotive vehicle on the premises for more than 60 days shall not be permitted.

G. **Landfill of docking and berthing areas.** Landfill of docking and berthing areas shall be governed by 38 M.R.S. § 471 through 478, and permitted only if the landfill does not reduce the amount of linear berthing areas or space, or berthing capacity. If approved, construction shall be undertaken using methods approved by the Department of Public Works and shall be accomplished in accordance with the provisions of this Land Use Code and in a manner so as to ensure that a stable and impermeable wall of acceptable materials will completely contain the fill material and will not permit any fill material to leach into docking areas or navigable waters.

H. **Off-street parking.** Off-street parking and loadingshall be exempt from the standards of Article 18.

I. **Shoreland and Floodplain Management regulations.** Any lot or portion of a lot located in a Shoreland Overlay Zone as identified on the City zoning map or in a flood hazard area shall be subject to the requirements of Articles 11 and 12.

J. **Lighting.** All lighting on the site shall be shielded such that direct light sources shall not unreasonably interfere with vessels transiting the harbor nor have an unreasonable adverse impact on adjacent residential zones.

K. **Signs.** Signs shall be permitted as set forth in Article 19.

L. **Storage of pollutants and oily wastes.** On-premises storage of pollutants and oily wastes shall not be permitted for more than 45 days.

M. **Compatibility of non-marine uses with marine uses.** Non-marine uses, structures and activities, including but not limited to access, circulation, parking, dumpsters, exterior storage and loading facilities or other structures shall neither unreasonably interfere with the existence or operation of marine uses nor significantly impede access to vessel berthing or other access to the water by existing or potential marine uses.

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11 SHORELAND OVERLAY ZONE

11.1 PURPOSE

The purpose of this article is to further the maintenance of safe and healthful conditions; prevent and control water pollution; protect fish spawning grounds, aquatic life, bird and other wildlife habitat; protect buildings and lands from flooding and accelerated erosion; protect archaeological and historic resources; protect commercial fishing and maritime industries; protect freshwater and coastal wetlands; control building sites, placement of structures, and land uses; conserve shore cover and visual as well as actual points of access to inland and coastal waters and natural beauty, as appropriate in an urbanized environment; and to anticipate and respond to the impact of development in shoreland areas.

11.2 APPLICABILITY

A. This article applies to all land areas, uses, structures, and land use activities in all zones of the city within:

1. 250 feet, horizontal distance, of the normal high-water line of any river,
2. 250 feet, horizontal distance, of the upland edge of a coastal wetland, including all areas affected by tidal actions,
3. 250 feet, horizontal distance, of the upland edge of a freshwater wetland,
4. 75 feet, horizontal distance, of the normal high-water line of a stream,

and any other areas as added to Shoreland Zoning Overlay by order of the City Council.

B. This article also applies to any structure built on, over or abutting a dock, wharf, or pier, or other structure extending beyond the normal high-water line of a water body, meaning for the purposes of this article any river or stream, or within a wetland.

C. For the purposes of this article, wetlands shall include coastal and freshwater wetlands as defined in Article 3.

D. The Shoreland Overlay Zone shall include a Resource Protection subdistrict, which shall consist of areas in which development would adversely affect water quality, productive habitat, biological ecosystems, or scenic and natural values. This subdistrict shall include the following areas when they occur within the limits of the Shoreland Overlay Zone, except that areas which are currently developed shall not be included:

1. Floodplains along rivers defined by the 100-year floodplain as designated on the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps or Flood Hazard Boundary Maps, or the flood of record, or in the absence of these, by soil types identified as recent floodplain soils. This zone shall also include 100-year floodplains adjacent to tidal waters as shown on FEMA's Flood Insurance Rate Maps or Flood Hazard Boundary Maps.
2. Areas of two or more contiguous acres with sustained slopes of 20% or greater.
3. Areas of two or more contiguous acres supporting wetland vegetation and hydric soils, which are not part of a freshwater or coastal wetland as defined, and which are not surficially connected to a water body during the period of normal high water.
4. Land areas along rivers subject to severe bank erosion, undercutting, or river bed movement, and lands adjacent to tidal waters which are subject to severe erosion

or mass movement, such as steep coastal bluffs.

11.3 REVIEW PROCEDURE

11.3.1 Review authority

Development activities within the Shoreland Overlay Zone shall be reviewed by the Building Authority and/or the reviewing authority designated under Article 13 of this Land Use Code for compliance with the requirements and standards of this article.

11.3.2 Review procedure

A. Every applicant for a site plan or building permit within the Shoreland Overlay shall submit a written application, including a scaled plan, on a form provided by the review authority. Plans shall be prepared by qualified professionals, based upon a boundary survey.

B. All applications shall be signed by an owner or individual who can show evidence of right, title or interest in the property or by an agent, representative, tenant, or contractor of the owner with authorization from the owner to apply for a permit hereunder, certifying that the information in the application is complete and correct.

C. All applications shall include preconstruction photographs and, no later than 20 days after completion of the development, postconstruction photographs of the shoreline vegetation and development site.

D. If the property is not served by a public sewer, a valid plumbing permit or a completed application for a plumbing permit, including the site evaluation approved by the Building Authority, shall be submitted whenever the nature of the proposed structure or use would require the installation of a subsurface sewage disposal system.

11.3.3 Rules of measurement

For the purposes of this article:

A. Footprint shall be measured as the entire area of ground covered by the structure(s) on a lot, including but not limited to cantilevered or similar overhanging extensions, as well as unenclosed structures, such as patios and decks.

B. Height shall be measured as vertical distance between the mean original (prior to construction) grade at the downhill side of the structure and the highest point of the structure, excluding chimneys, steeples, antennas, and similar appurtenances that have no floor area, except that with respect to existing principal or accessory structures, including legally existing nonconforming structures, located within an area of special flood hazard that have been or are proposed to be relocated, reconstructed, replaced or elevated to be consistent with the minimum elevation required in Article 12, height shall be measured as the vertical distance between the bottom of the sill of the structure to the highest point of the structure, excluding chimneys, steeples, antennas and similar appurtenances that have no floor area.

C. Lot area shall be measured as the area of land enclosed within the boundary lines of a lot, minus land below the normal high-water line of a water body or upland edge of a wetland and areas beneath roads serving more than two lots.

D. Setback shall be the nearest horizontal distance from the normal high-water line of a water

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body or tributary stream, or upland edge of a wetland, to the nearest part of a structure, road, parking space or other regulated object or area.

11.4 LAND USE STANDARDS

11.4.1 Principal and accessory structures

A. Setbacks

1. All principal and accessory structures shall be setback at least 75 feet horizontal distance from the normal high-water line of a river, stream, or tributary stream, or the upland edge of a wetland within the Shoreland Overlay Zone, except that in the following zones the setback shall be as indicated below:

a. *B-3, B-5, I-L on-peninsula, and I-M on-peninsula:* 25 feet.

b. *I-B, WCZ, WPDZ, EWPZ:* No setback required. However, pier edge setbacks shall apply in the EWPZ, the WCZ, and the WPDZ.

2. For principal structures, setback measurements shall be taken from the top of a coastal bluff that has been identified on coastal bluff maps as being "highly unstable" or "unstable" by the Maine Geological Survey.

3. In all cases, accessory detached structures of less than 100 square feet of floor area shall be permitted with no setback, provided that such structures shall be used only for the storage of fish, bait, and related equipment. No setback shall be required for piers, docks, retaining walls, or any other structures which require direct access to the water as an operational necessity, nor to other water-dependent uses.

4. Notwithstanding the requirements of this section, stairways or similar structures may be allowed with a permit from the Building Authority to provide shoreline access in areas of steep slopes or unstable soils, provided that:

a. The structure is limited to a maximum of four feet in width.

b. The structure does not extend below or over the normal high-water line of a water body or upland edge of a wetland, unless permitted by the Department of Environmental Protection pursuant to 38 M.R.S. § 480 C.

c. The applicant demonstrates that no reasonable access alternative exists on the property.

B. Finished floor elevation. The lowest floor elevation or openings of all buildings and structures including basements shall be elevated at least one foot above the elevation of the 100-year flood, the flood of record, or in the absence of these, the flood as defined by soil types identified as recent floodplain soils.

C. Non-vegetated lot area.

1. With the exception of the EWPZ, WCZ, WPDZ, B-3, B-5, B-6, I-B, I-L (on-peninsula), and I-M zones (on-peninsula), non-vegetated surfaces shall not exceed a total of 20% of the portion of the lot located within the Shoreland Overlay Zone. This limitation does not apply to public boat launching facilities regardless of the zone in which the facility is located.

2. For the purposes of this article, non-vegetated surfaces shall include, but are not limited to structures, driveways, parking areas, and other areas from which vegetation has been removed. Naturally occurring ledge and rock outcroppings are not counted as non-vegetated surfaces for lots existing on March 24, 1990 and in continuous existence since that date.

11.4.2 Piers, docks, wharves, bridges, other structures and uses extending over or below the normal high-water line of a water body or within a wetland, and shoreline stabilization

A. For the purposes of this subsection, temporary shall mean structures which remain in or over the water for less than seven months in any period of 12 consecutive months and permanent shall mean structures which remain in or over the water for 7 months or more in any period of 12 consecutive months.

B. No more than one pier, dock, wharf or similar structure extending or located below the normal high-water line of a water body is allowed on a single lot, with the exception that this provision shall not apply in the WCZ, EWPZ, and WPDZ.

C. Access from shore shall be developed on soils appropriate for such use and constructed so as to control erosion.

D. The location shall not interfere with existing developed or natural beach areas.

E. The facility shall be located so as to minimize adverse effects on fisheries.

F. The facility shall be no larger in dimension than necessary to carry on the activity and shall be consistent with surrounding character and uses.

G. New permanent structures, and expansions thereof, projecting into or over water bodies shall require a permit from the Department of Environmental Protection pursuant to the National Resources Protection Act, 38 M.R.S. § 480-C. Permits may also be required from the Army Corps of Engineers and Board of Harbor Commissioners if located in navigable waters.

H. New permanent piers and docks on non-tidal waters shall not be permitted unless it is clearly demonstrated to the review authority that a temporary pier or dock is not feasible, and a permit has been obtained from the Department of Environmental Protection, pursuant to the Natural Resources Protection Act.

I. No new structure shall be built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high-water line of a water body or within a wetland unless the structure requires direct access to the water as an operational necessity. Where such a structure is permitted under this subsection, such structures shall not exceed 20 feet in height above the pier, wharf, dock, or other structure. This subsection shall not apply in the WCZ, EWPZ, WPDZ, and I-B zones.

J. A structure constructed on a float or floats is prohibited unless it is designed to function as, and is registered with the Maine Department of Inland Fisheries and Wildlife as, a watercraft.

K. No existing structures built on, over or abutting a pier, dock, wharf, or other structure extending beyond the normal high-water line of a water body or within a wetland shall be converted to residential dwelling units in any zone.

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TABLE 11-A: SHORELAND TREE STAND RATING SYSTEM

Diameter (at 4½ ft. above ground level)	Points
2 in. - <4 in.	1
4 in. - <8 in.	2
8 in. - <12 in.	4
12 in. or greater	8

L. Vegetation may be removed in excess of the standards in Subsection 11.4.3(A) of this article in order to conduct shoreline stabilization of an eroding shoreline, provided that approval is obtained from the review authority. Construction equipment must access the shoreline by barge when feasible as determined by the review authority. When necessary, the removal of trees and other vegetation to allow for construction equipment access to the stabilization site via land must be limited to no more than 12 feet in width. When the stabilization project is complete the construction equipment accessway must be restored to its pre-development state. Revegetation must occur in accordance with Subsection 11.4.3(C).

11.4.3 Vegetation and clearing

A. Clearing or removal of vegetation

1. The clearing or removal of vegetation standards of this subsection shall not apply to those portions of public recreational facilities adjacent to public swimming areas. Cleared areas in these locations shall be limited to the minimum amount necessary.

2. In the Resource Protection subdistrict, the cutting or removal of vegetation shall be limited to that which is necessary for uses expressly authorized in the underlying zone.

3. Other than cutting or removal of vegetation as provided for in this subsection, timber harvesting shall not be permitted. For purposes of this subsection, timber harvesting is defined as the cutting and removal of timber for the primary purpose of selling or processing forest products. The cutting or removal of trees in the Shoreland Overlay Zone on a lot that has less than two acres within the Shoreland Overlay Zone shall not be considered timber harvesting. Cutting or removal of such trees shall be regulated pursuant to this subsection.

4. For purposes of this subsection, vegetation is defined as all live trees, shrubs, and other plants including without limitation, trees both over and under four inches in diameter, measured at four and one half feet above ground level.

5. In all areas other than the Resource Protection subdistrict, a buffer strip of vegetation shall be preserved, except where clearance is required for development of permitted uses, within a strip of land extending 75 feet, horizontal distance, from the normal high-water line of a river, stream, or tributary stream, or the upland edge of a coastal wetland or freshwater wetland within the Shoreland Overlay Zone, in accordance with the following:

a. There shall be no cleared opening greater than 250 square feet in the forest canopy or other existing

vegetation if a forested canopy is not present as measured from the outer limits of the tree or shrub crown. Notwithstanding this limitation, a single footpath not to exceed six feet in width as measured between tree trunks and/or shrub stems is allowed for accessing the shoreline provided that a cleared line of sight to the water through the buffer strip is not created.

b. Selective cutting of trees within the buffer strip is allowed provided that a well distributed stand of trees and other vegetation is maintained. For the purposes of this subsection, a "well-distributed stand of trees" adjacent to a water body, tributary stream or wetland shall be defined as maintaining a minimum rating score of 16 or more in any 25-foot by 50-foot rectangle area as determined by the rating system in Table 11-A. The following shall govern in applying the point system in Table 11-A:

- **i.** The 25-foot by 50-foot rectangular plots must be established where the landowner or lessee proposes clearing within the required buffer;
- **ii.** Each successive plot must be adjacent to, but not overlap a previous plot.
- **iii.** Any plot not containing the required points must have no vegetation removed except as otherwise allowed by this ordinance.
- **iv.** Any plot containing the required points may have vegetation removed down to the minimum points required or as otherwise allowed by this ordinance.
- **v.** Where conditions permit, no more than 50% of the points on any 25-foot by 50-foot rectangular area may consist of trees greater than 12 inches in diameter.

6. For the purposes of this subsection, "other natural vegetation" is defined as retaining existing vegetation under three feet in height and other ground cover and retaining at least five saplings less than two inches in diameter at four and one half feet above ground level for each 25-foot by 50-foot rectangular area. If five saplings do not exist, no woody stems less than two inches in diameter can be removed until five saplings have been recruited into the plot. Notwithstanding the above provisions, no more than 40% of the total volume of trees four inches or more in diameter, measured at four and one half feet above ground level may be removed in any ten-year period.

7. In order to protect water quality and wildlife habitat, existing vegetation under three feet in height and other groundcover, including leaf litter and the forest duff layer, shall not be cut, covered, or removed, except to provide a footpath or other permitted uses as described in this subsection.

8. Pruning of tree branches on the bottom one third of the tree is allowed.

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9. In order to maintain a buffer strip of vegetation when the removal of storm damaged or hazard trees results in the creation of cleared openings exceeding 250 square feet, these openings shall be replanted with native tree species in accordance with Subsection 11.4.3(D) unless existing new tree growth is present.
10. In order to maintain the vegetation in the shoreline buffer, clearing or removal of vegetation for allowed activities, including associated construction and related equipment operation, within or outside the shoreline buffer, must comply with the requirements of Subsection 11.4.3(A)5.
11. Selective cutting of not more than 40% of the volume of trees four inches or more in diameter, measured at four and one half feet above ground level, shall be allowed within any ten-year period at distances greater than 75 feet, horizontal distance, from the normal high-water line of any river, stream, or tributary stream, or the upland edge of a wetland. Tree removal in conjunction with the development of permitted uses shall be included in the 40% calculation. For the purposes of these standards, volume may be considered to be equivalent to basal area. In no event shall cleared openings for any purpose, including but not limited to, principal and accessory structures, driveways, lawns, and sewage disposal areas, exceed in the aggregate 25% percent of the lot area within the Shoreland Overlay Zone or 10,000 square feet, whichever is greater, including land previously cleared. This provision applies to the portion of a lot within the Shoreland Overlay Zone, including the buffer area.
12. Legally existing nonconforming cleared openings may be maintained but shall not be enlarged, except as allowed by this article.
13. Fields and other cleared openings which have reverted to primarily shrubs, trees, or other woody vegetation shall be regulated under the provisions of this subsection.

B. Exemptions to clearing and vegetation removal requirements.

1. The clearing and removal of vegetation standards of Subsection 11.4.3(A) shall not apply in the following zones: EWPZ, WCZ, WPDZ, B-3, B-5, B-6, I-L (on peninsula), and I-M (on peninsula), except that the following standards do apply:
   a. Within a strip extending 75 inland from the normal high water line, there shall be no cleared opening or openings, except for approved construction, and a well-distributed stand of vegetation shall be retained.
   b. Selective cutting of no more than 40% of the trees four and one half inches or more in diameter, measured at four and one half feet above ground level, is allowed in any 10-year period, as long as a well-distributed stand of trees and other natural vegetation results.
2. The following activities are exempt from the clearing and vegetation removal standards set forth in Subsection 11.4.3(A), provided that all other applicable requirements of this article are met, and

the removal of vegetation is limited to that which is necessary:

a. The removal of vegetation that occurs at least once every two years for the maintenance of legally existing areas that do not comply with the vegetation standards in this chapter, such as but not limited to cleared openings in the canopy or fields. Such areas shall not be enlarged, except as allowed by this section. If any of these areas, due to lack of removal of vegetation every two years, reverts back to primarily woody vegetation, the requirements of Subsection 11.4.3(A) apply:

b. The removal of vegetation from the location of allowed structures or allowed uses, when the shoreline setback requirements of section 11.4.1 are not applicable;

c. The removal of vegetation from the location of public swimming areas associated with an allowed public recreational facility;

d. The removal of vegetation associated with allowed agricultural uses, provided best management practices are utilized, and provided all requirements of Subsection 11.4.14 are complied with;

e. The removal of vegetation associated with brownfields or Voluntary Response Action Program (VRAP) projects provided that the removal of vegetation is necessary for remediation activities to clean-up contamination on a site that is part of a state or federal brownfields program or a Voluntary Response Action Program pursuant 38 M.R.S. section 343-E, and that is located along a coastal wetland or a river.

f. The removal of non-native invasive vegetation species, provided the following minimum requirements are met:

i. If removal of vegetation occurs via wheeled or tracked motorized equipment, the wheeled or tracked motorized equipment is operated and stored at least 25 feet, horizontal distance, from the shoreline, except that wheeled or tracked equipment may be operated or stored on existing structural surfaces, such as pavement or gravel;

ii. Removal of vegetation within 25 feet, horizontal distance, from the shoreline occurs via hand tools; and

iii. If applicable clearing and vegetation removal standards are exceeded due to the removal of non-native invasive species vegetation, the area shall be revegetated with native species to achieve compliance.

g. The removal of vegetation associated with emergency response activities conducted by the Maine Department of Environmental Protection, the U.S. Environmental Protection Agency, the U.S. Coast Guard, and their agents.

C. Revegetation requirements. When revegetation is required in response to violations of the vegetation standards set forth

in Subsection 11.4.3(A), to address the removal of non- native invasive species of vegetation, or as a mechanism to allow for development that may otherwise not be permissible due to the vegetation standards, including removal of vegetation in conjunction with a shoreline stabilization project, the revegetation must comply with the following requirements.

1. The property owner must submit a revegetation plan, prepared with and signed by a qualified professional, that describes revegetation activities and maintenance. The plan must include a scaled site plan, depicting where vegetation was, or is to be removed, where existing vegetation is to remain, and where vegetation is to be planted, including a list of all vegetation to be planted.
2. Revegetation must occur along the same segment of shoreline and in the same area where vegetation was removed and at a density comparable to the pre-existing vegetation, except where a shoreline stabilization activity does not allow revegetation to occur in the same area and at a density comparable to the pre-existing vegetation, in which case revegetation must occur along the same segment of shoreline and as close as possible to the area where vegetation was removed:
3. If part of a permitted activity, revegetation shall occur before the expiration of the permit. If the activity or revegetation is not completed before the expiration of the permit, a new revegetation plan shall be submitted with any renewal or new permit application.
4. Revegetation activities must meet the following requirements for trees and saplings:
   a. All trees and saplings removed must be replaced with native noninvasive species;
   b. Replacement vegetation must at a minimum consist of saplings;
   c. If more than three trees or saplings are planted, then at least three different species shall be used;
   d. No one species shall make up 50% or more of the number of trees and saplings planted;
   e. If revegetation is required for a shoreline stabilization project, and it is not possible to plant trees and saplings in the same area where trees or saplings were removed, then trees or sapling must be planted in a location that effectively reestablishes the screening between the shoreline and structures; and
   f. A survival rate of at least 80% of planted trees or saplings is required for a minimum five year period.
5. Revegetation activities must meet the following requirements for woody vegetation and other vegetation under three feet in height:
   a. All woody vegetation and vegetation under three feet in height must be replaced with native noninvasive species of woody vegetation and vegetation under three feet in height as applicable;
   b. Woody vegetation and vegetation under three feet in height shall be

planted in quantities and variety sufficient to prevent erosion and provide for effective infiltration of stormwater;

c. If more than three woody vegetation plants are to be planted, then at least three different species shall be planted;

d. No one species shall make up 50% or more of the number of planted woody vegetation plants; and

e. Survival of planted woody vegetation and vegetation under three feet in height must be sufficient to remain in compliance with the standards contained within this chapter for a minimum of five years

6. Revegetation activities must meet the following requirements for ground vegetation and ground cover:

a. All ground vegetation and ground cover removed must be replaced with native herbaceous vegetation, in quantities and variety sufficient to prevent erosion and provide for effective infiltration of stormwater;

b. Where necessary due to a lack of sufficient ground cover, an area must be supplemented with a minimum four inch depth of leaf mulch and/or bark mulch to prevent erosion and provide for effective infiltration of stormwater; and

c. Survival and functionality of ground vegetation and ground cover must be sufficient to remain in compliance with the standards contained within this chapter for a minimum of five years.

D. Hazard trees, storm-damaged trees, and dead tree removal

1. Hazard trees in the Shoreland Overlay Zone may be removed without a permit after consultation with the Building Authority and City Arborist if the following requirements are met:

a. Within the shoreline buffer required under Subsection 11.4.3(A)5, if the removal of a hazard tree results in a cleared opening in the tree canopy greater than 250 square feet, replacement with native tree species is required, unless there is new tree growth already present. New tree growth must be as near as practicable to where the hazard tree was removed and be at least two inches in diameter, measured at four and one half feet above the ground level. If new growth is not present, then replacement trees shall consist of native species and be at least four feet in height, and be no less than two inches in diameter. Stumps may not be removed.

b. Outside of the shoreline buffer, when the removal of hazard trees exceeds 40 percent of the volume of trees four inches or more in diameter, measured at four and a half feet above ground level in any 10 year period, and/or results in cleared openings exceeding 25% of the lot area within the Shoreland Overlay Zone, or 10,000 square feet, whichever is greater, replacement with native tree

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species is required, unless there is new tree growth already present. New tree growth must be as near as practicable to where the hazard tree was removed and be at least two inches in diameter, measured at four and one half feet above the ground level. If new growth is not present, then replacement trees shall consist of native species and be at least two inches in diameter, measured at four and one half feet above the ground level.

c. The removal of standing dead trees, resulting from natural causes, is permissible without the need for replanting or a permit, as long as the removal does not result in the creation of new lawn areas, or other permanently cleared areas, and stumps are not removed. For the purposes of this provision dead trees are those trees that contain no foliage during the growing season.

d. The Building Authority or City Arborist may require the property owner to submit an evaluation from a licensed forester or arborist before any hazard tree can be removed within the Shoreland Overlay Zone.

e. The Building Authority or City Arborist may require more than a one–for-one replacement for hazard trees removed that exceed eight inches in diameter measured at four and one half feet above the ground level.

2. Storm-damaged trees in the Shoreland Overlay Zone may be removed without a permit after consultation with the Building Authority or City Arborist if the following requirements are met:

a. Within the shoreline buffer, when the removal of storm-damaged trees results in a cleared opening in the tree canopy greater than 250 square feet, replanting is not required, but the area shall be required to naturally revegetate, and the following requirements must be met:

i. The area from which a storm-damaged tree is removed does not result in new lawn areas, or other permanently cleared areas;

ii. Stumps from the storm-damaged trees may not be removed;

iii. Limbs damaged from a storm event may be pruned even if they extend beyond the bottom one-third of the tree; and

iv. If after one growing season, no natural regeneration or regrowth is present, replanting of native tree seedlings or saplings is required at a density of one seedling per every 80 square feet of lost canopy.

b. Outside of the shoreline buffer, if the removal of storm damaged trees exceeds 40% of the volume of trees four inches or more in diameter, measured at four and one half feet above the ground level in any 10 year period, or results, in the aggregate, in cleared openings exceeding 25% of the lot area within the Shoreland Overlay Zone or 10,000 square feet, whichever is greater, and no natural

regeneration occurs within one growing season, then native tree seedlings or saplings shall be replanted on a one-for-one basis.

11.4.4 Erosion and sedimentation control

A. All activities which involve filling, grading, excavation or other similar activities which result in unstabilized soil conditions and which require a permit shall require a written soil erosion and sedimentation control plan in accordance with Maine Erosion and Sediment Control Handbook for Construction: Best Management Practices, published by the Cumberland County Soil and Water Conservation District and the Maine Department of Environmental Protection and the City of Portland *Technical Manual*. The plan shall be submitted to the review authority for approval and shall include, where applicable, provisions for:

1. Mulching and revegetation of disturbed soil.
2. Temporary runoff control features such as hay bales, silt fencing, or diversion ditches.
3. Permanent stabilization structures such as retaining walls or riprap.

B. In order to create the least potential for erosion, development shall be designed to fit with the topography and soils of the site. Areas of steep slopes where high cuts and fills may be required shall be avoided wherever possible, and natural contours shall be followed as closely as possible.

C. Erosion and sedimentation control measures shall apply to all aspects of the proposed project involving land disturbance and shall be in operation during all stages of the activity. The amount of exposed ground area at every phase of construction shall be minimized to reduce the potential for erosion.

D. Any exposed ground area shall be temporarily or permanently stabilized within one week from the time it was last actively worked, by use of riprap, sod, seed, and mulch, or other effective measures. In all cases, permanent stabilization shall occur within nine months of initial exposure. The following standards shall also be met:

1. Where mulch is used, it shall be applied at a rate of at least one bale per 500 square feet and shall be maintained until a catch of vegetation is established.
2. Anchoring the mulch with netting, peg, and twine or other suitable method may be required to maintain the mulch cover.
3. Additional measures shall be taken where necessary in order to avoid siltation into the water. Such measures may include the use of staked hay bales, and/or silt fences.

E. Natural and man-made drainage ways and drainage outlets shall be protected from erosion from water flowing through them. Drainage ways shall be designed and constructed in accordance with the City of Portland *Technical Manual*.

F. When an excavation contractor will perform an activity that requires or results in more than one cubic yard of soil disturbance, the person responsible for management of erosion and sedimentation control practices at the site must be certified in erosion control practices by the Maine Department of Environmental Protection. This person must be present at the site each day earth-moving activity occurs for a duration that is sufficient to ensure that proper

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erosion and sedimentation control practices are followed. This is required until erosion and sedimentation control measures have been installed, which will either stay in place permanently or stay in place until the area is sufficiently covered with vegetation necessary to prevent soil erosion. The name and certification number of the person who will oversee the activity causing or resulting in soil disturbance shall be included on the permit application. This requirement does not apply to a person or firm engaged in agriculture or timber harvesting if best management practices for erosion and sedimentation control are used; and municipal, state and federal employees engaged in projects associated with that employment.

11.4.5 Soils

All land uses shall be located on soils in or upon which the proposed uses or structures can be established or maintained without causing adverse environmental impacts, including severe erosion, mass soil movement, improper drainage, and water pollution, either during or after construction. Proposed uses requiring subsurface wastewater disposal and commercial or industrial development or other similar intensive land uses shall require a soils report based on an on-site investigation and prepared by state certified professionals. Certified persons may include Maine Certified Soil Scientists, Maine Registered Professional Engineers, Maine State Certified Geologists and other persons who have training and experience in the recognition and evaluation of soil properties. The report shall be based upon the analysis of the characteristics of the soil and surrounding land and water areas, maximum ground water elevation, presence of ledge, drainage conditions, and other pertinent data which the evaluator deems appropriate. The soils report shall include recommendations for a proposed use to counteract soil limitations where they exist.

11.4.6 Water quality

No activity shall deposit on or into the ground or discharge to the waters of the state any pollutant that by itself or in combination with other activities or substances will impair designated uses or the water classification of the water body, tributary stream or wetland.

11.4.7 Archaeological sites

Any proposed land use activity involving structural development or soil disturbance on or adjacent to sites listed on, or eligible to be listed on, the National Register of Historic Places, as determined by the Department of Planning and Urban Development, shall be submitted by the applicant to the Maine Historic Preservation Commission for review and comment at least 20 days prior to action being taken by the review authority. The review authority shall consider comments received from the commission prior to rendering a decision on the application. Such sites shall also comply with all applicable provisions of Article 16 of this chapter.

11.4.8 Installation of public utility service

No public utility of any kind shall install services to any new structure located in the Shoreland Overlay Zone unless written authorization attesting to the validity and currency of all local permits required under this Code has been issued by the Building Authority. Following installation of service, the public utility shall provide written documentation to

the Building Authority that installation has been completed.

11.4.9 Essential services

A. Where feasible, the installation of essential services shall be limited to existing public ways and existing service corridors.

B. The installation of essential services, other than road-side distribution lines and within existing service corridors, is not allowed in a Resource Protection subdistrict or within 75 feet of the normal high-water line of a stream, except to provide services to a permitted use within the underlying zone, or where the applicant demonstrates that no reasonable alternative exists. Where allowed, such structures and facilities shall be located so as to minimize any adverse impacts on surrounding uses and resources, including visual impacts.

C. Damaged or destroyed public utility transmission and distribution lines, towers, and related equipment may be replaced or reconstructed without a permit.

11.4.10 Roads and driveways

A. Roads and driveways shall be setback a minimum of 75 feet from the normal high-water line of a river, stream, or tributary stream, or upland edge of a coastal or freshwater wetland within a Shoreland Overlay Zone, except:

1. In the EWPZ, WCZ, WPDZ, B-3, B-5, I-L (on-peninsula) and I-M (on-peninsula), roads and driveways shall be setback as established for structures in those zones as specified in Subsection 11.4.1(A).

2. If no other reasonable alternative exists, the review authority may reduce the road and/or driveway setback requirement to no less than 50 feet, horizontal distance, upon clear showing by the applicant that appropriate techniques will be used to prevent sedimentation of the water body, tributary stream or wetland. Such techniques may include, but are not limited to, the installation of settling basins, and/or effective use of additional ditch relief culverts and turnouts place so as to avoid sedimentation of the water body, tributary stream, or wetland.

3. On slopes greater than 20%, the road and/or driveway setback shall be increased by 10 feet, horizontal distance, for each five percent increase in slope above 20%.

4. Subsection 11.4.10(A) does not apply to approaches to water crossings or to roads or driveways that provide access to permitted structures and facilities located nearer to the shoreline or tributary stream due to an operational necessity, excluding temporary docks for recreational uses. Roads and driveways providing access to permitted structures within the setback area shall comply fully with the requirements of Subsection 11.4.10 except for that portion of the road or driveway necessary for direct access to the structure.

B. Existing public roads may be expanded within the legal road right of way regardless of their setback from a waterbody, tributary stream, or wetland.

C. New roads and driveways are prohibited in a Resource Protection subdistrict except that the review authority may grant approval to construct a road or driveway to provide access

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TABLE 11-B: DRAINAGE SPACING

Grade (%)	Spacing
0-2	250 ft.
3-5	200-135 ft.
6-10	100-80 ft.
11-15	80-60 ft.
16-20	60-45 ft.
21+	40 ft.

to permitted uses within the district. A road or driveway may also be approved by the review authority in a Resource Protection subdistrict, upon a finding that no reasonable alternative route or location is available outside the district. When a roadway or driveway is permitted in a Resource Protection subdistrict,

the road and/or driveway shall be setback as far as practicable from the normal high-water line of a water body, tributary stream, or upland edge of wetland.

D. Road and driveways banks shall be no steeper than slope of two horizontal to one vertical and shall be graded and stabilized in accordance with the provisions for erosion and sedimentation control contained in Subsection 11.4.4.

E. Road and driveway grades shall be no greater than 10% except segments of less than 200 feet.

F. In order to prevent road and driveway surface drainage from directly entering water bodies, tributary streams, or wetlands, roads and driveways shall be designed, constructed, and maintained to empty onto an unscarified buffer strip at least 50 feet plus two times the average slope in width between the outflow point of the ditch or culvert and the normal high-water line of a water body, tributary stream, or upland edge of a wetland. Surface drainage which is directed to an unscarified buffer strip shall be diffused or spread out to promote infiltration of the runoff and to minimize channelized flow of the drainage through the buffer strip.

G. Ditch relief (cross drainage) culverts, drainage dips, and water turnout shall be installed in a manner effective in directing drainage onto unscarified buffer strips before the flow gains sufficient volume or head to erode the road, driveway, or ditch. To accomplish this, the following shall apply:

1. Ditch relief culverts, drainage dips, and associated water turnouts shall be spaced along the road or driveway at intervals no greater than indicated in Table 11-B.
2. Drainage dips may be used in place of ditch relief culverts only where the grade is 10% or less.
3. On sections having slopes greater than ten 10%, ditch relief culverts shall be placed at approximately a 30 degree angle downslope from a line perpendicular to the centerline of the road or driveway.
4. Ditch relief culverts shall be sufficiently sized and properly installed in order to allow for effective functioning, and their inlet and outlet ends shall be stabilized with appropriate materials.
5. Ditches, culverts, bridges, dips, water turnouts, and other storm water runoff control installations associated with roads and driveways shall be maintained on a regular basis to assure effective functioning.

11.4.11 Parking areas

Parking areas shall be set back a minimum of 75 feet from the normal high-water line of a river, stream, or tributary stream, or the upland edge of a coastal wetland or freshwater wetland within the Shoreland Overlay Zone except:

A. In the EWPZ, WCZ, WPDZ, B-3, B-5, I-L, and I-M zones, parking setbacks shall be as established for structures in those zones, as specified in Subsection 11.4.1(A).

B. Where the review authority finds that no other reasonable alternative exists further from the shoreline or tributary stream, the review authority may reduce the parking setback requirement to no less than 50 feet in the OS-R and I-B zones to the least amount necessary for construction, provided that the applicant proves by a preponderance of the evidence that appropriate techniques will be used to prevent sedimentation of the water body.

C. Parking areas shall be adequately sized for the proposed use and shall be designed to prevent stormwater runoff from flowing directly into a water body, tributary stream, or wetland, and where feasible, to retain all runoff on site.

11.4.12 Septic waste disposal

All subsurface sewage disposal systems shall be installed in conformance with the State of Maine Subsurface Wastewater Disposal Rules and the following:

A. Clearing or removal of woody vegetation necessary to site a new system and any associated fill extensions, shall not extend closer than 75 feet, horizontal distance, from the normal high-water line of a water body or the upland edge of a wetland.

B. A holding tank is not allowed for a first-time residential use in the Shoreland Overlay Zone.

11.4.13 Stormwater runoff

All new construction and development shall be designed to be in compliance with the City of Portland *Technical Manual* to minimize stormwater runoff from the site in excess of the natural predevelopment conditions. Where possible, existing natural runoff control features, such as berms, swales, terraces, and wooded areas shall be retained in order to reduce runoff and encourage infiltration of stormwater. Stormwater runoff control systems shall be maintained as necessary to ensure proper functioning.

11.4.14 Agriculture

A. All spreading or disposal of manure shall be accomplished in conformance with the Manure Utilization Guidelines published by the Maine Department of Agriculture on November 1, 2001, and the Nutrient Management Law (7 M.R.S. §§ 4201-4209).

B. Manure shall not be stored or stockpiled within 75 feet, horizontal distance, of water bodies, tributary streams, or wetlands. All manure storage areas within the Shoreland Overlay Zone must be constructed or modified such that the facility produces no discharge of effluent or contaminated stormwater.

C. Agricultural activities involving tillage of soil greater than 40,000 square feet in surface area within the Shoreland Overlay Zone shall require a conservation plan to be filed with the Planning Authority.

D. There shall be no new tilling of soil within 75 feet, horizontal distance, from water bodies and coastal wetlands or within 25 feet,

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horizontal distance, of tributary streams and freshwater wetlands when such new tilling, by itself or combined with all other contiguous tillage, shall exceed 40,000 square feet in surface area. Operations in existence on the effective date of this section and not in conformance with these provisions may be maintained but shall not be expanded. When the new tilling, by itself or combined with all other contiguous tillage, shall total 40,000 square feet or less, the tillage shall be set back a minimum of 25 feet from all water bodies, tributary streams, or wetlands.

E. Newly established livestock grazing areas shall not be permitted within 75 feet, horizontal distance, of water bodies and coastal wetlands or within 25 feet, horizontal distance, of tributary streams and wetlands. Livestock grazing associated with ongoing farm activities and which are not in conformance with the above setback provisions may continue, provided such grazing is conducted in accordance with a soil and water conservation plan filed with the Planning Authority.

11.5 SUPPLEMENTAL SITE PLAN STANDARDS

11.5.1 Site plan standards

The Planning Board or Planning Authority shall approve a site plan located within a Shoreland Overlay Zone if it finds that the following standards, in addition to the standards set forth in Article 13, are met:

A. The proposal will maintain safe and healthful conditions.

B. The proposal will not result in water pollution, erosion, or sedimentation to surface waters.

C. The proposal will adequately provide for the disposal of all wastewater.

D. The proposal will not have an adverse impact on spawning grounds, fish, aquatic life, bird, or other wildlife habitat.

E. The proposal will conserve shore cover and visual, as well as actual, points of access to inland and coastal waters.

F. The proposal will protect archaeological and historic resources.

G. The proposal will not adversely affect existing commercial fishing or maritime activities.

H. The proposal will avoid problems associated with floodplain development and use.

I. The proposal is in conformance with the standards set forth in this article.

11.6 NONCONFORMING STRUCTURES

11.6.1 Increase in nonconformity

For the purposes of this section, increase in nonconformity of a structure shall mean any change in a structure or property which causes further deviation from the dimensional standard(s) creating the nonconformity such as, but not limited to, reduction in water body, tributary stream or wetland setback distance, increase in lot coverage, or increase in height of a structure. Property changes or structure expansions which either meet the dimensional standard or which cause no further increase in the linear extent of nonconformance of the existing structure shall not be considered to increase nonconformity. For example, there is no increase in nonconformity with the setback requirement for water bodies, wetlands, or tributary streams if the expansion extends no further into the required setback area than does any portion of the existing nonconforming structure. Hence, a structure may be expanded laterally provided that the expansion extends no closer to the water body, tributary stream, or wetland than the closest

portion of the existing structure from that water body, tributary stream, or wetland. Included in this allowance are expansions which in-fill irregularly shaped structures.

11.6.2 Expansions

A. For the purposes of this section, an expansion of a structure shall mean an increase in the footprint or height of a structure, including all extensions such as, but not limited to: attached decks, garages, porches, and greenhouses.

B. All new principal and accessory structures, excluding functionally water-dependent uses, must meet the water body, tributary stream, or wetland setback requirements contained in Subsection 11.4.1. A nonconforming structure may be added to or expanded after obtaining a permit from the Building Authority if such addition or expansion does not increase the nonconformity of the structure and is in accordance with 1 and 2 below.

1. Expansion of any portion of a structure within 25 feet of the normal high-water line of a water body, tributary stream, or upland edge of a wetland is prohibited, even if the expansion will not increase nonconformity with the water body, tributary stream or wetland setback requirement. Expansion of an accessory structure that is located closer to the normal high-water line of a water body, tributary stream, or upland edge of a wetland than the principal structure is prohibited, even if the expansion will not increase nonconformity with the water body, tributary stream, or wetland setback requirement.

2. Notwithstanding subsection (1) above, if a legally existing nonconforming principal structure is entirely located less than 25 feet from the normal high-water line of a water body, tributary stream, or upland edge of a wetland, that structure may be expanded as follows, as long as all other applicable land use standards are met and the expansion is not prohibited by Subsection 11.6.2 due to an increase in the nonconformity. The maximum total footprint for the principal structure may not be expanded to a size greater than 800 square feet or 30% larger than the footprint that existed on January 1, 1989, whichever is greater. The maximum height of the principal structure may not be made greater than 15 feet or the height of the existing structure, whichever is greater.

3. All other legally existing nonconforming principal and accessory structures that do not meet the water body, tributary stream, or wetland setback requirements of Subsection 11.4.1 may be expanded or altered as follows, as long as other applicable land use standards are met and the expansion is not prohibited by Subsection 11.6.2(C)1, above.

a. For nonconforming structures located less than 75 feet from the normal high-water line of a water body, tributary stream, or upland edge of a wetland, the maximum combined total footprint for all structures may not be expanded to a size greater than 1,000 square feet or 30% larger than the footprint that existed on January 1, 1989, whichever is greater. The

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maximum height of any structure may not be made greater than 20 feet or the height of the existing structure, whichever is greater.

b. In addition to the limitations in subsection (a) above, for structures that are legally nonconforming due to their location within the Resource Protection subdistrict when located at less than 250 feet from the normal high-water line of a water body or the upland edge of a wetland, the maximum combined total footprint for all structures may not be expanded to a size greater than 1,500 square feet or 30% larger than the footprint that existed at the time the Resource Protection subdistrict was established on the lot, whichever is greater. The maximum height of any structure may not be made greater than25 feet or the height of the existing structure, whichever is greater, except that any portion of those structures located less than 75 feet from the normal high-water line of a water body, tributary stream, or upland edge of a wetland must meet the footprint and height limits in Subsection 11.6.2(C)2 and Subsection 11.6.2(C)3.a, above.

4. An approved plan for expansion of a nonconforming structure must be recorded by the applicant with the Cumberland County Registry of Deeds within 90 days of approval. The recorded plan must show the existing and proposed footprint of the nonconforming structure, the existing and proposed structure height, the footprint of any other structures on the parcel, the Shoreland Overlay Zone boundary and evidence of approval by the Building Authority.

11.6.3 Foundations

Whenever a new, enlarged, or replacement foundation is constructed under a nonconforming structure, the structure and new foundation must be placed such that the setback requirement is met to the greatest practical extent as determined by the Building Authority, basing its decision on the criteria specified in Subsection 11.6.4.

11.6.4 Relocation

A nonconforming structure may be relocated within the boundaries of the parcel on which the structure is located provided that the site of relocation conforms to all setback requirements to the greatest practical extent as determined by the Building Authority, and provided that if the structure is not connected to a public sewer system, the applicant demonstrates that the present subsurface sewage disposal system meets the requirements of State law and the State of Maine Subsurface Wastewater Disposal Rules, or that a new system can be installed in compliance with the law and said rules and further provided that the relocation meets the following standards:

A. In no case shall a structure be relocated in a manner that causes the structure to be more nonconforming.

B. In determining whether the building relocation meets the setback to the greatest practical extent, the Building Authority shall consider the size of the lot, the slope of the land, the potential for soil erosion, the location of other structures on the property and on adjacent

properties, the location of the septic system and other on-site soils suitable for septic systems, and the type and amount of vegetation to be removed to accomplish the relocation.

C. When it is necessary to remove vegetation within the water or wetland setback area in order to relocate a structure, the Building Authority shall require replanting of native vegetation to compensate for the destroyed vegetation in accordance with Subsection 11.4.3(C). In addition, the area from which the relocated structure was removed must be replanted with vegetation. Replanting shall be required as follows:

1. Trees removed in order to relocate a structure must be replanted with at least one native tree, three feet in height, for every tree removed. If more than five trees are planted, no one species of tree shall make up more than 50% of the number of trees planted. Replaced trees must be planted no further from the water or wetland than the trees that were removed. Other woody and herbaceous vegetation, and ground cover, that are removed or destroyed in order to relocate a structure must be re-established. An area at least the same size as the area where vegetation and/or ground cover was disturbed, damaged, or removed must be reestablished within the setback area. The vegetation and/or ground cover must consist of similar native vegetation and/or ground cover that was disturbed, destroyed or removed.

2. Where feasible, when a structure is relocated on a parcel the original location of the structure shall be replanted with vegetation which may consist of grasses, shrubs, trees, or a combination thereof.

11.6.5 Reconstruction or replacement

Any nonconforming structure which is located less than the required setback from a water body, tributary stream, or wetland and which is removed, damaged, or destroyed, regardless of the cause, by more than 50% of the market value of the structure before such damage, destruction, or removal may be reconstructed or replaced provided that a permit is obtained within two years of the date of said damage, destruction, or removal, and provided that such reconstruction or replacement is in compliance with the water body, tributary stream or wetland setback requirement to the greatest practical extent as determined by the Building Authority in accordance with the purposes of this ordinance and the following standards:

A. In no case shall a structure be reconstructed or replaced so as to increase its nonconformity. If the reconstructed or replacement structure is less than the required setback it shall not be any larger than the original structure, except as allowed pursuant to Subsection 11.6.1 above, as determined by the nonconforming footprint of the reconstructed or replaced structure at its new location.

B. If the total footprint of the original structure can be relocated or reconstructed beyond the required setback area, no portion of the relocated or reconstructed structure shall be replaced or constructed at less than the setback requirement for a new structure.

C. When it is necessary to remove vegetation in order to replace or reconstruct a structure,

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vegetation shall be replanted in accordance with Subsection 11.6.4(C).

D. Any nonconforming structure which is located less than the required setback from a water body, tributary stream, or wetland and which is removed by 50% or less of the market value, or damaged or destroyed by 50% or less of the market value of the structure, excluding normal maintenance and repair, may be reconstructed in place if a permit is obtained from the Building Authority within one year of such damage, destruction, or removal.

E. In determining whether the building reconstruction or replacement meets the setback to the greatest practical extent the Building Authority shall consider, in addition to the criteria in Subsections 11.6.4 and 11.6.5(A) through (D) above, the physical condition and type of foundation present, if any.

11.6.6 Elevation of structures in flood hazard areas

The height of a structure that is a legally existing nonconforming principal or accessory structure may be raised to, but not above, the minimum elevation necessary to be consistent with the local floodplain management elevation requirement or to three feet above base flood elevation, whichever is greater, as long as the structure is relocated, reconstructed, replaced or elevated within the boundaries of the parcel so that the water body or wetland setback requirement is met to the greatest practical extent. This subsection applies to structures that:

A. Have been or are proposed to be relocated, reconstructed, replaced or elevated to be consistent with the local floodplain management elevation requirement; and,

B. Are located in an area of special flood hazard.

12 FLOODPLAIN MANAGEMENT

12.1 PURPOSE

Certain areas of the City of Portland, Maine are subject to periodic flooding, causing serious damage to properties within these areas. Relief is available in the form of flood insurance as authorized by the National Flood Insurance Act of 1968. Therefore, the City of Portland, Maine has chosen to become a participating community in the National Flood Insurance Program and agrees to comply with the requirements of the National Flood Insurance Act of 1968 (P.L. 90-448), as amended from time to time an as delineated in this article. It is the intent of the City of Portland to require the recognition and evaluation of flood hazards in all official actions relating to land use in the floodplain areas having special flood hazards.

The National Flood Insurance Program, established in the aforesaid act, provides that areas of the city having a special flood hazard be identified by the Federal Emergency Management Agency and that floodplain management measures be applied in such flood hazard areas. This article establishes a Flood Hazard Development Permit system and review procedure for development activities in the designated flood hazard areas of the city. The purposes of this article are to reduce future flood risks and losses, protect against financial and human loss resulting from flood disasters, and to control the placement of structures, construction materials, and methods used to minimize potential property damage due to flooding. The City of Portland has the legal authority to adopt land use and control measures to reduce future flood losses pursuant to Title 30-A M.R.S. § 2001-3007, 4352, 4401-4407, and Title 38 M.R.S. § 440.

12.2 APPLICABILITY

This article applies to all land areas, uses, structures, and land use activities lying in the special flood hazard areas, Zones A, AE, AO, AH, and VE, as identified by the Federal Emergency Management Agency in a report entitled *Flood Insurance Study - Cumberland County, Maine,* with accompanying "Flood Insurance Rate Map," dated June 20, 2024. This *Flood Insurance Study* with accompanying maps, and any subsequent amendments thereto, including Letters of Map Revision approved by FEMA, is hereby adopted by reference and declared to be a part of this Land Use Code.

12.3 STRUCTURE AND DEVELOPMENT TYPES

12.3.1 Structure types

A. For the purposes of this article, structure shall mean a walled and roofed building. A gas or liquid storage tank that is principally above ground is also a structure.

B. Accessory structure shall mean a structure which is on the same parcel of property as a principal structure and the use of which is incidental to the use of the principal structure.

C. The following types of structures shall have the following meanings:

1. *Agricultural structure*. Structures that are used exclusively for agricultural purposes or uses in connection with the production, harvesting, storage, raising, or drying of agricultural commodities and livestock. Structures that house tools or equipment used in connection with these purposes or uses are also considered to have agricultural purposes or uses.
2. *Elevated building*. A non-basement building that is:

a. Built, in the case of a building in Zones A, AE, AO, or AH, so that the top of the elevated floor, or in the case of a building in Zones VE or Coastal AE, to have the bottom of the lowest horizontal structural member of the elevated floor, elevated above the ground level by means of pilings, columns, posts, or piers; and,

b. Adequately anchored to not impair the structural integrity of the building during a flood of up to two feet above the magnitude of the base flood.

In the case of Zones A, AE, AO, or AH, elevated building also includes a building elevated by means of fill or solid foundation perimeter walls with hydraulic openings sufficient to facilitate the unimpeded movement of flood waters, as required in Subsection 12.4.5(N) In the case of Zones VE or Coastal AE, elevated building also includes a building otherwise meeting the definition of elevated building, even though the lower area is enclosed by means of breakaway walls, if the breakaway walls meet the standards of subsection 12.4.5(R)(2)(c)(iii).

3. *Historic structure.* Any structure that is:

a. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

b. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary of the Interior to qualify as a registered historic district;

c. Individually listed on a Maine state inventory of historic places at such time that one is created; or,

d. Designated as a local landmark or identified as a contributing property under Article 16.

4. *Manufactured home.* A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term manufactured home also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days.

5. *Manufactured home park or subdivision.* A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale. Existing manufactured home park or subdivision shall mean a manufactured home park or subdivision that was recorded in the deed registry prior to July 17, 1986.

12.3.2 Development classifications

A. Development. Any human-made change to improved or unimproved real estate. This includes, but is not limited to, buildings or other structures; mining, dredging, filling, grading, paving, excavation, drilling operations or storage

of equipment or materials; and the storage, deposition, or extraction of materials.

B. **New construction.** Structures for which the "start of construction" commenced on or after July 17, 1986 and includes any subsequent improvements to such structures. For purposes of this article, start of construction shall mean the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, substantial improvement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, or modification of any construction element, whether or not that alteration affects the external dimensions of the building.

C. **Minor development.** All development that is not new construction or a substantial improvement, such as repairs, maintenance, renovations, or additions, whose value is less than 50% of the market value of the structure. It also includes, but is not limited to: accessory structures as provided in subsection 12.4.5(L), mining, dredging, filling, grading, paving, excavation, drilling operations, storage of equipment or materials, deposition or extraction of materials, public or private sewage disposal systems or water supply facilities that do not involve structures; and non-structural projects such as bridges, dams, towers, fencing, pipelines, wharves, and piers

D. **Substantial damage.** Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damage condition would equal or exceed 50% of the market value of the structure before the damage occurred.

E. **Substantial improvement.** Any, reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure before start of construction of the improvements. This term includes structures which have incurred substantial damage, regardless of the actual work performed. The term does not, however, include:

   1. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions.
   2. Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued

designation as a historic structure, and a variance is obtained from the Zoning Board of Appeals.

12.4 FLOOD HAZARD DEVELOPMENT PERMIT

12.4.1 Permit required

A. The Zoning Administrator shall be designated as the local floodplain administrator. The floodplain administrator shall have the authority to implement the commitment made to administer and enforce the requirements for participation in the National Flood Insurance Program.

B. Before any construction or other development as defined Subsection 12.3.2, including the placement of manufactured homes, begins within any areas of special flood hazard, a Flood Hazard Development Permit shall be obtained from the Building Authority, except as established in Section 12.5. This permit shall be required prior to issuance of a building permit, if one is required, and shall be in addition to any other permit, site plan, and subdivision review which may be required pursuant to the codes and ordinances of the City of Portland. If only a site plan is required for a development, the Flood Hazard Development Permit shall be obtained prior to approval of the site plan.

12.4.2 Filing of application

The application for a Flood Hazard Development Permit shall be submitted in writing to the Building Authority and shall include the following:

A. A final site plan, where applicable, showing information as required by Article 13.

B. A final subdivision plat, where applicable, providing information as required in Article 14.

C. The name, address, and phone number of the applicant, owner, and contractor.

D. A map with address indicating the location of the development site.

E. A plan showing the location of existing and proposed development, including but not limited to specific dimensions of existing and proposed structure(s), wastewater disposal facilities, water supply facilities, areas to be cut and filled, and the dimensions of the lot.

F. A statement of the intended use of any structure and/or development.

G. A statement of the cost of the development including all materials and labor.

H. A statement of the type of wastewater disposal system proposed.

I. Specification of dimensions of the proposed structure and/or development.

J. For new construction and substantial improvements, the elevation in relation to the National Geodetic Vertical Datum (NGVD), North American Vertical Datum (NAVD), or to a locally established datum for Zone A only, of the:

1. Base flood at the proposed site of all new or substantially improved structures, which is determined:

a. In Zones AE, AO, AH, , and VE from data contained in the *Flood Insurance Study — Cumberland County, Maine*.

b. In Zone A:

i. From any base flood elevation data from federal, state, or other technical sources (such as FEMA's Quick-2 model, FEMA 265), including information obtained pursuant to Subsection 12.4.5(M) and 12.4.4.(B)4, or

ii. In the absence of all data described in Subsection

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12.4.2(J)(1)(b)(i), information to demonstrate that the structure shall meet the elevation requirement in Subsections 12.4.5(H)(4)(b), 12.4.5(I)(4)(b), or 12.4.5(J)(4)(b).

2. Highest and lowest grades at the site adjacent to the walls of the proposed building.

3. Lowest floor, including basement, and whether or not such structures contain a basement.

4. Lowest machinery and equipment servicing the building.

5. Level, in the case of nonresidential structures only, to which the structure will be floodproofed.

K. For new construction and substantial improvements, a description of an elevation reference point established on the site of all new developments for which elevation standards apply as required in Subsection 12.4.5.

L. For new construction and substantial improvements, a written certification by:

1. A professional land surveyor that the grade elevations shown on the application are accurate.
2. A professional land surveyor, registered professional engineer or architect that the base flood elevation shown on the application is accurate

M. For new construction and substantial improvements, the following certifications as required in Subsection 12.4.5 by a registered professional engineer or architect:

1. A floodproofing certificate (FEMA form FF-206-FY-22-153, as amended) to verify that the floodproofing methods for any nonresidential structures will meet the floodproofing criteria of Subsection 12.4.5(I); and other applicable standards of Subsection 12.4.5.

2. A V-Zone Certificate to verify that the construction in coastal high hazard areas, Zones VE and Coastal AE, will meet the criteria of Subsection 12.4.5(R); and other applicable standards in Subsection 12.4.5.

3. A Hydraulic Openings Certificate to verify that engineered hydraulic openings in foundation walls will meet the standards of Subsection 12.4.5(N)(2)(a)

N. A certified statement from a registered professional engineer or architect that bridges will meet the standards of Subsection 12.4.5(O)

O. A certified statement from a registered professional engineer or architect that containment walls will meet the standards of Subsection 12.4.5(P).

P. A description of the extent to which any watercourse will be altered or relocated as a result of the proposed development.

Q. A statement of construction plans describing in detail how each applicable development standard in Subsection 12.4.5 will be met.

R. Cross section(s) of the site acceptable to the Public Works Authority.

12.4.3 Fee

A nonrefundable Flood Hazard Development Permit fee as established by the City Council for all minor development and for all new construction and substantial improvements shall be paid to the Building Authority, and a copy of a receipt for the same shall accompany the application. An

additional fee may be charged if the Code Enforcement Officer, Planning Board, and/or Board of Appeals needs the assistance of a professional engineer or other expert. The expert's fee shall be paid in full by the applicant within 10 days after the City submits a bill to the applicant. Failure to pay the bill shall constitute a violation of the ordinance and be grounds for issuance of a stop work order. An expert shall not be hired by the City at the expense of an applicant until the applicant has either consented to such hiring in writing or been given an opportunity to be heard on the subject. An applicant who is dissatisfied with a decision to hire expert assistance may appeal that decision to the Board of Appeals.

12.4.4 Review procedure

A. Upon determination by the Building Authority that an application is complete, the Building Authority shall coordinate review of the application by the City to assure that proposed developments are reasonably safe from flooding. No permit shall be issued until the Building Authority finds that the development proposal is in compliance with the standards of this article. Compliance with the provisions of this article shall be required prior to beginning any development as defined herein.

B. The Building Authority shall, when reviewing subdivisions under Article 14 and other proposed developments that require review under Article 13 or federal law, state law, or local ordinances or regulations and all projects on five or more acres, or in the case of manufactured home parks divided into two or more lots, assure that:

1. All such proposals are consistent with the need to minimize flood damage.

2. All public utilities and facilities, such as sewer, gas, electrical and water systems are located and constructed to minimize or eliminate flood damages.

3. Adequate drainage is provided so as to reduce exposure to flood hazards.

4. All proposals include base flood elevations, flood boundaries and, in a riverine floodplain, floodway data. These determinations shall be based on engineering practices recognized by the Federal Emergency Management Agency.

5. Any proposed development plan must include a condition of plan approval requiring that structures on lots in the development be constructed in accordance with Subsection 12.4.5 of this article. Such requirement shall be included in any deed, lease, purchase and sale agreement, or document transferring or expressing an intent to transfer any interest in real estate or structure, including but not limited to a time-share interest. The condition shall clearly articulate that the municipality may enforce any violation of the construction requirement. The construction requirement shall also be clearly stated on any map, plat, or plan as part of the approval process.

C. In the review of all Flood Hazard Development Permit applications for compliance with the standards herein:

1. The Building Authority shall utilize:

a. The base flood and floodway data contained in the *Flood Insurance Study – Cumberland County, Maine,* as described in Section 12.2.

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b. In special flood hazard areas where base flood elevation and floodway data are not provided in the above cited study, the Building Authority shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from federal, state, or other technical sources, including information obtained pursuant to Subsection 12.4.2(J)(1)(b)(i), 12.4.5(M), and 12.4.4(B)(4), in order to administer this article.

c. When a base flood elevation is established in a Zone A by methods outlined in Section 12.4.2(J)(1)(b)(ii), that data shall be submitted to the Maine Floodplain Management Program.

2. The Building Authority shall make interpretations of the location of boundaries of special flood hazard areas shown on the maps described in Section 12.2.

3. Prior to approval of issuance of the Flood Hazard Development Permit, the Building Authority shall determine that all necessary permits have been obtained from those federal, state, and local authorities from which prior approval is required by federal or state law, including but not limited to Section 404 of the Federal Water Pollution Control Act Amendments of 1972 (33 U.S.C. 1344 as may be amended from time to time), provided, however, that conditional approval may be granted pending proof of receipt of any required permits, but no Flood Hazard Development Permit shall be finally issued until proof of issuance of all such other permits is received by the Building Authority.

4. The Building Authority shall notify adjacent municipalities, the Maine Department of Environmental Protection and the Maine Floodplain Management Program, prior to any alteration or relocation of a watercourse, and submit copies of such notifications to the Federal Emergency Management Agency.

5. The Building Authority shall maintain, as a permanent record, copies of all Flood Hazard Development Permit applications, corresponding permits issued, and data relevant thereto, including reports of the Board of Appeals on variances granted under the provisions of Section 12.7 of this article, and copies of elevation certificates, floodproofing certificates, certificates of compliance, and certifications of design standards required under the provisions of Sections 12.4 and 12.6.

12.4.5 Review standards

All development in areas of special flood hazard shall meet the following standards:

A. All development. All development shall:

1. Be designed or modified and adequately anchored to prevent flotation (excluding piers and docks), collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.

2. Use construction materials that are resistant to flood damage.

3. Use construction methods and practices that will minimize flood damage.

4. Use electrical, heating, ventilation, plumbing, and air conditioning equipment, and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during flooding conditions.

B. Water supply. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems.

C. Sanitary sewage systems. All new and replacement sanitary sewage systems shall be designed and located to minimize or eliminate infiltration of flood waters into the system and discharges from the system into flood waters.

D. On-site waste disposal systems. On site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during floods.

E. Altered or relocated watercourses. All development associated with altered or relocated portions of a watercourse shall be constructed and maintained in such a manner that no reduction occurs in the flood carrying capacity of the watercourse.

F. Utilities. New construction or substantial improvement of any structure (including manufactured homes) located within:

1. Zones A, AE, AO, and AH shall have the bottom of all electrical, heating, plumbing, ventilation and air conditioning equipment, permanent fixtures and components, HVAC ductwork and duct systems, and any other utility service equipment, facilities, machinery, or connections servicing a structure, elevated to at least two feet above the base flood elevation.
2. Zone VE shall meet the requirements of Subsection 12.4.5(R)(2)(a).

G. Physical changes to the natural landscape. Certain development projects, including but not limited to, retaining walls, sea walls, levees, berms, and rip rap, can cause physical changes that affect flooding conditions.

1. All development projects in Zones AE, Coastal AE, and VE that cause physical changes to the natural landscape shall be reviewed by a qualified professional to determine whether or not the project changes the base flood elevation, zone, and/or the flood hazard boundary line. For the purposes of this article, qualified professional shall mean an individual either licensed by the State of Maine or qualified in another manner to perform the specified work in accordance with all applicable design standards and codes, and whose qualifications indicate that the work as designed and as performed will not increase flood risk to public safety. If the qualified professional is not licensed by the State of Maine, the local permitting authority shall request that the qualified professional identify their qualifications in writing.
   a. If the qualified professional determines, through the use of standard practices, that the project would not necessitate a Letter of Map Revision (LOMR), a certified statement shall be provided.
   b. If the qualified professional determines that the project may cause a change, a hydrologic and hydraulic

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analysis that meets current FEMA standards shall be performed.

2. If the hydrologic and hydraulic analysis performed indicates a change to the base flood elevation, zone, and/or the flood hazard boundary line, the applicant may submit a Conditional Letter of Map Revision (C-LOMR) request to the Federal Emergency Management Agency for assurance that the as-built project will result in a change to the Flood Insurance Rate Map. Once the development is completed, a request for a Letter of Map Revision (LOMR) shall be initiated; or
3. If the hydrologic and hydraulic analysis performed show a change to the base flood elevation, zone, and/or the flood hazard boundary line, as soon as practicable, but no later than six months after the completion of the project, the applicant shall submit the technical data to FEMA in the form of a Letter of Map Revision request.

H. **Residential.** New construction or substantial improvement of any residential structure located within:

1. Zones AE, AO, and AH shall have the lowest floor (including basement) elevated to at least two feet above the base flood elevation.
2. Zones AO and AH shall have adequate drainage paths around structures on slopes, to guide flood water away from the proposed structures.
3. Zone AO shall have the lowest floor (including basement) elevated above the highest adjacent grade:
   a. At least two feet higher than the depth specified in feet on the Flood Insurance Rate Map, or
   b. At least three feet if no depth number is specified.
4. Zone A shall have the lowest floor (including basement) elevated:
   a. To at least two feet above the base flood elevation utilizing information obtained pursuant to Subsections 12.4.2(J)(1)(b)(i))(), 12.4.4(C), or 12.4.4(B)(4), or
   b. In the absence of all data described above, to at least two feet above the highest adjacent grade to the structure.
5. Zones VE and Coastal AE shall meet the requirements of Subsection 12.4.5(R).

I. **Nonresidential.** New construction or substantial improvement of any nonresidential structure located within:

1. Zones AE, AO, and AH shall have the lowest floor (including basement) elevated to at least two feet above the base flood elevation, or together with attendant utility and sanitary facilities shall:
   a. Be floodproofed to at least two feet above the base flood elevation so that below that elevation the structure is watertight with walls substantially impermeable to the passage of water;
   b. Have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and
   c. Be certified by a registered professional engineer or architect that

the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section. Such certification shall be provided with the application for a Flood Hazard Development Permit, as required by Subsection 12.4.2(M)(N), and (O) and shall include a record of the elevation above mean sea level to which the structure is floodproofed.

2. Zones AO and AH shall have adequate drainage paths around structures on slopes, to guide flood water away from the proposed structures.

3. Zone AO shall have the lowest floor (including basement) elevated above the highest adjacent grade:

a. At least two feet higher than the depth specified in feet on the Flood Insurance Rate Map; or

b. At least three feet if no depth number is specified; or

c. Together with attendant utility and sanitary facilities be floodproofed to meet the elevation requirements of this subsection and floodproofing standards of Subsection 12.4.5(I).

4. Zone A shall have the lowest floor (including basement) elevated:

a. To at least two feet above the base flood elevation utilizing information obtained pursuant to Subsections 12.4.2(K)(1)(b)(i), 12.4.4(C), 12.4.4(B)(4); or

b. In the absence of all data described in Subsection 12.4.5(I)(4)(a), to at least two feet above the highest adjacent grade to the structure, or

c. Together with attendant utility and sanitary facilities, be floodproofed to two feet above the base elevation established in Subsection 12.4.5(I)(4)(a) or (b) above and meet the floodproofing standards of Subsection 12.4.5(I)(1)(a), (b), and (c).

5. Zones VE and Coastal AE shall meet the requirements of Subsection 12.4.5(R).

J. Manufactured homes. New or substantially improved manufactured homes located within:

1. Zones AE, AO, and AH shall:

a. Be elevated such that the lowest floor is at least two feet above the base flood elevation;

b. Be on a permanent foundation, which may be poured masonry slab or foundation walls, with hydraulic openings, or may be reinforced piers or block supports, any of which support the manufactured home so that no weight is supported by its wheels and axles; and

c. Be securely anchored to an adequately anchored foundation system to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to:

i. Over the top ties anchored to the ground at the four corners of the manufactured home, plus two additional ties per side at intermediate points (manufactured homes less than 50 feet long require one additional tie per side).

ii. Frame ties at each corner of the home, plus five additional ties along each side at intermediate points (manufactured homes less than 50 feet long require four additional ties per side).

iii. All components of the anchoring system shall be capable of carrying a force of 4,800 pounds.

2. Zones AO and AH shall have adequate drainage paths around structures on slopes, to guide flood water away from the proposed structures.

3. Zone AO shall have the lowest floor (including basement) elevated above the highest adjacent grade:
   a. At least two feet higher than the depth specified in feet on the Flood Insurance Rate Map, or
   b. At least three feet if no depth number is specified, and
   c. Meet the anchoring requirements of Subsection 12.4.5(J)(1)(c).

4. Zone A shall:
   a. Be elevated on a permanent foundation, as described in Subsection 12.4.5(J)(1)(b), such that the lowest floor (including basement of the manufactured home is at least two feet above the base flood elevation utilizing information obtained pursuant to Subsection 12.4.2(J)(1)(b)(i), 12.4.4(C), or 12.4.4(B)(4), or
   b. In the absence of all data described in Section 12.4.5(J)(4)(a), to at least two feet above the highest adjacent grade to the structure, and
   c. Meet the anchoring requirements of Subsection 12.4.5(J)(1)(c).

5. Zones VE and Coastal AE shall meet the requirements of Subsection 12.4.5(R).

K. **Recreational vehicles.** Recreational vehicles located within:

1. Zones A, AE, AO, and AH shall either:
   a. Be on the site for fewer than 180 consecutive days, and
   b. Be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only be quick disconnect type utilities and security devices, and has no permanently attached additions, or
   c. Be permitted in accordance with the elevation and anchoring requirements for manufactured homes in Subsection 12.4.5(J)(1).

2. Zones VE and Coastal AE shall meet the requirements of either Subsection 12.4.5(K)(1)(a) and(b), or 12.4.5(R).

L. **Accessory structures.** New construction or substantial improvement of accessory structures, as defined in Subsection 12.3.1, shall be exempt from the elevation criteria required Subsections 12.4.5(H) and (I) if all other requirements of Subsection 12.4.5 and all the following requirements are met.

1. Accessory structures located within Zones A, AE, AO, AH shall:
   a. Meet the requirements of Subsection 12.4.5(A)(1) to (4) as applicable.
   b. Be limited in size to a one-story two-car garage.
   c. Have unfinished interiors and not be used for human habitation.

d. Have hydraulic openings, as specified in Subsection 12.4.5(N)(2), in at least two different walls of the accessory structure.

e. Be located outside the floodway.

f. When possible be constructed and placed on the building site so as to offer the minimum resistance to the flow of flood waters and be placed further from the source of flooding than is the primary structure.

g. Have only ground fault interrupt electrical outlets. The electric service disconnect shall be located above the base flood elevation and when possible outside the special flood hazard area.

h. Be located outside the Coastal AE Zone.

2. Accessory structures in Zones VE and Coastal A shall meet the requirements of Subsection 12.4.5(R).

M. Floodways

1. In Zone AE riverine areas, encroachments, including fill, new construction, substantial improvement, and other development shall not be permitted within a regulatory floodway designated on the Flood Insurance Rate Map unless a technical evaluation certified by a registered professional engineer is provided demonstrating that such encroachments will not result in any increase in flood levels within the city during the occurrence of the base flood discharge.

2. In Zones A and AE riverine areas for which no regulatory floodway is designated, encroachments, including fill, new construction, substantial improvement, and other development shall not be permitted in the floodway as determined in (3) below, unless a technical evaluation certified by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing development and anticipated development:

a. Will not increase the water surface elevation of the base flood more than one foot at any point within the city.

b. Is consistent with the technical criteria contained in FEMA's guidelines and standards for flood risk analysis and mapping.

3. In Zones A and AE riverine areas for which no regulatory floodway is designated, the regulatory floodway is determined to be the channel of the river or other watercourse and the adjacent land areas to a distance of 1/2 the width of the floodplain as measured from the normal high-water mark to the upland limit of the floodplain. Encroachments, including fill, new construction, substantial improvement, and other development shall not be permitted unless a technical evaluation certified by a registered professional engineer is provided meeting the requirements of (2) above.

N. Hydraulic openings/flood vents. New construction or substantial improvement of any structure in Zones A, AE, AO, and AH that meets the development standards of Subsection 12.4.5, including the elevation requirements of Subsection 12.4.5(H), (I), or (J)

and is elevated on posts, columns, piers, piles, or crawl spaces may be enclosed below the base flood elevation requirements provided all the following criteria are met or exceeded:

1. Enclosed areas are not basements as defined in Article 3.

2. Enclosed areas shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood water. Designs for meeting this requirement must either:

- **a.** Be engineered and certified by a registered professional engineer or architect, or
- **b.** Meet or exceed the following minimum criteria:
  - **i.** A minimum of two openings having a total net area of not less than one square inch for every square foot of the enclosed area;
  - **ii.** The bottom of all openings shall be below the base flood elevation and no higher than two feet above the lowest grade.
  - **iii.** Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the entry and exit of flood waters automatically without any external influence or control such as human intervention, including the use of electrical and other non-automatic mechanical means.

3. The enclosed area shall not be used for human habitation.

4. The enclosed areas are usable solely for building access, parking vehicles, or storing of articles and equipment used for maintenance of the building.

O. Bridges. New construction or substantial improvement of any bridge in Zones A, AE, AO, AH, and VE shall be designed such that:

1. When possible, the lowest horizontal member (excluding the pilings, or columns) is elevated to at least two feet above the base flood elevation.
2. A registered professional engineer shall certify that:
   - **a.** The structural design and methods of construction shall meet the elevation requirements of this section and the floodway standards of Subsection 12.4.5(M).
   - **b.** The foundation and superstructure attached thereto is anchored to resist flotation, collapse, and lateral movement due to the effects of wind and water loads acting simultaneously on all structural components. Water loading values used shall be those associated with the base flood.

P. Containment walls. New construction or substantial improvement of any containment wall shall meet the following requirements by zone:

1. Zones A, AE, AO, AH, and VE shall:

- **a.** Have the containment wall elevated to at least two feet above the base flood elevation;
- **b.** Have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.
- **c.** Be certified by a registered professional engineer or architect that

the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section. Such certification shall be provided with the application for a Flood Hazard Development Permit, as required by Subsection 12.4.2(M), (N), and (O).

2. Zones AO and AH shall have adequate drainage paths around containment walls on slopes, to guide flood water away from the proposed walls.

3. Zone AO shall have the top of the containment wall elevated above the highest adjacent grade:

a. At least two feet higher than the depth specified in feet on the Flood Insurance Rate Map, or

b. At least three feet if no depth number is specified, and

c. Shall meet the requirements of Subsection 12.4.5(P)(1)(b) and (c).

Q. Wharves, piers, and docks. New construction or substantial improvement of wharves, piers, and docks are permitted in and over water and seaward of the mean high tide if the following requirements are met:

1. In Zones A, AE, Coastal AE, AO, and AH, permanent wharves, piers, and docks shall comply with all applicable local, state, and federal regulations, must be reasonably safe from flooding, and shall not increase flood risk or

2. In Zone VE, permanent wharves, piers, and docks shall have a qualified professional develop or review the structural design and specifications, must be designed to be reasonably safe from flooding, and shall not increase flood risk.

R. Coastal floodplains

1. All new construction located within Zones AE and VE shall be located landward of the reach of mean high tide except as provided in Subsection 12.4.5(R)(8).

2. New construction or substantial improvement of any structure located within Zones VE or Coastal AE shall:

a. Have the bottom of all electrical, heating, plumbing, ventilation and air conditioning equipment, permanent fixtures and components, HVAC ductwork and duct systems, and any other utility service equipment, facilities, machinery, or connections servicing a structure, elevated to at least two feet above the base flood elevation. Systems, fixtures, equipment, and components shall not be mounted on or penetrate through walls intended to break away under flood loads.

b. Be elevated on posts or columns such that:

i. The bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated to two feet above the base flood elevation.

ii. The pile or column foundation and the elevated portion of the structure attached thereto is anchored to resist flotation, collapse, and lateral movement due to the effects of wind and

water loads acting simultaneously on all building components.

iii. Water loading values used shall be those associated with the base flood. Wind loading values used shall be those required by applicable state and local building standards.

c. Have the space below the lowest floor:
   i. Free of obstructions, or
   ii. Constructed with open wood lattice work or insect screening intended to collapse under wind and water without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting piles or columns, or
   iii. Constructed with non-supporting breakaway walls which have a design safe loading resistance of not less than 10 or more than 20 pounds per square foot.

d. Require a registered professional engineer or architect to:
   i. Develop or review the structural design, specifications, and plans for the construction, which must meet or exceed the technical criteria contained in the *Coastal Construction Manual* (FEMA-55).
   ii. Certify that the design and methods of construction to be used are in accordance with accepted standards of practice for meeting the criteria of Subsections 12.4.5(R)(2)(b), (c), and (d).

3. The use of fill for structural support in Zones VE and Coastal AE is prohibited.
4. Human alteration of sand dunes within Zones VE and Coastal AE is prohibited unless it can be demonstrated that such alterations will not increase potential flood damage.
5. The area below the lowest floor may be used solely for parking vehicles, building access, and storage.
6. Physical changes to the natural landscape in Zone VE are subject to the minimum requirements of Subsection 12.4.5(G).
7. Wharves, piers, and docks in Zone VE are subject to the requirements of Subsection 12.4.5(Q).
8. Lobster sheds and fishing sheds may be located seaward of mean high tide and shall be exempt from the elevation requirement in Subsection 12.4.5(I) only if reviewed and approved as a conditional use by the Zoning Board of Appeals, as provided in Section 12.5, and if all the following requirements of Subsections 12.4.5(A), (M), and (N) are met:
   a. The conditional use shall be limited to low value structures such as metal or wood sheds 200 square feet or less and shall not exceed more than one story.
   b. The structure shall be securely anchored to the wharf or pier to resist flotation, collapse, and lateral movement due to the effect of wind and water loads acting simultaneously on all building components.

c. The structure will not adversely increase wave or debris impact forces affecting nearby buildings.

d. The structure shall have unfinished interiors and shall not be used for human habitation.

e. Any mechanical, utility equipment and fuel storage tanks must be anchored and either elevated or floodproofed to two-feet above the base flood elevation.

f. All electrical outlets shall be ground fault interrupt type. The electrical service disconnect shall be located on shore above the base flood elevation and when possible outside the special flood hazard area. If a flood hazard permit application is granted, the applicant shall be notified in writing that flood insurance is not available for structures located entirely over water or seaward of mean high tide.

12.4.6 Permit

A. Upon determination that the development or substantial improvement plan is in compliance with this article, the Building Authority shall issue one of the following Flood Hazard Development Permits based on the type of development:

1. *Two-part Flood Hazard Development Permit for elevated structures*. Part I shall authorize the applicant to build a structure to and including the first horizontal floor only above the base flood level. At that time the applicant shall provide the Code Enforcement Officer with an "under construction" elevation certificate (FEMA form FF-206-FY-22-152) completed by a professional land surveyor based on the Part I permit construction, "as built," for verifying compliance with the elevation requirements of Subsections 12.4.5(H), (I), (J), or (R). Following review of the elevation certificate data, which shall take place within 72 hours of receipt of the application, or as soon as practicable thereafter, the Code Enforcement Officer shall issue Part II of the Flood Hazard Development Permit. Part II shall authorize the applicant to complete the construction project.

2. *Flood Hazard Development Permit for floodproofing of nonresidential structures.* This permit shall apply for nonresidential structures that are new construction or substantially improved nonresidential structures that are not being elevated but that meet the floodproofing standards of Subsection 12.4.5(I)(1). The application for this permit shall include a floodproofing certificate signed by a registered professional engineer or architect.

3. *Flood Hazard Development Permit for minor development.* This permit shall apply for all other development and building permits that are not new construction or a substantial improvement, such as repairs, maintenance, renovations, or additions, whose value is less than 50% of the market value of the structure. This includes, but is not limited to: accessory structures as provided for in Subsection 12.4.5(L), mining, dredging, filling, grading, paving, excavation, drilling operations, storage of

equipment or materials, deposition or extraction of materials, public or private sewage disposal systems or water supply facilities that do not involve structures, and nonstructural projects such as bridges, dams, towers, fencing, pipelines, wharves, and piers.

B. For development that requires review and approval as a conditional use, as provided for in this article, the Flood Hazard Development Permit application shall be acted upon by the Zoning Board of Appeals as required under Section 12.5.

12.5 CONDITIONAL USE REVIEW

12.5.1 Review authority

The Zoning Board of Appeals shall hear and approve, approve with conditions, or disapprove all applications for conditional uses provided for in this article. An applicant informed by the Building Authority that a conditional use approval is required shall file an application for the permit with the Zoning Board of Appeals.

12.5.2 Review procedure

A. The Flood Hazard Development Permit application with additional information attached addressing how each of the conditional use criteria specified in this article will be satisfied may serve as the application for the conditional use review.

B. Before deciding any application, the Zoning Board of Appeals shall hold a public hearing on the application within thirty days of their receipt of the application.

C. If the Zoning Board of Appeals finds that the application satisfies all relevant requirements of this article, the Zoning Board of Appeals must approve the application or approve with conditions within 45 days of the date of the public hearing.

D. A conditional use approval issued under the provisions of this article shall expire if the work or change involved is not commenced within 180 days of the approval by the Zoning Board of Appeals.

E. The applicant shall be notified by the Zoning Board of Appeals in writing over the signature of the Chair of the Board of Appeals that flood insurance is not available for structures located entirely over water or seaward of mean high tide.

12.5.3 Expansion of conditional uses

No existing building or use of premises may be expanded or enlarged without approval under this section if that building or use was stablished or constructed under a previous conditional use approval or if it is a building or use which would require a conditional use approval if being newly-established or constructed under this article.

12.6 CERTIFICATE OF COMPLIANCE

A. A certificate of compliance shall be signed by the Building Authority stating that a structure is in compliance with all of the provisions of this article.

B. No land in an area of special flood hazard shall be occupied or used in violation of this article, and no structure in such an area which is developed or substantially improved shall be occupied until a certificate of compliance is issued by the Building Authority. Said certificate of compliance shall be issued only after the Building Authority has received all permits and

certificates from the applicant as required by this article.

C. For new construction or substantial improvement of any elevated structure, the applicant shall submit to the Building Authority:

1. An elevation certificate (FEMA form FF-206-FY-22-152) completed by a professional land surveyor for compliance with Subsection 12.4.5(H), (I), (J), or (R).

2. For structures in Zones VE and Coastal AE, a written certification by a registered professional engineer or architect shall be provided to the Building Authority stating that the design and methods of construction used are in compliance with the applicable provisions of Subsection 12.4.5(R)(2)(b), (c), and (d).

D. The applicant shall submit written notification to the Building Authority that the development is complete and complies with the provisions of this article.

E. Within 10 working days, the Building Authority shall review the elevation certificate (FEMA form FF-206-FY-22-152) and the applicant's written notification and, upon determination that the development conforms with the provisions of this article, shall issue a certificate of compliance.

12.7 VARIANCES AND APPEALS

12.7.1 Authority

A. The Zoning Board of Appeals of the City of Portland may, upon written application of an aggrieved party, hear and decide appeals where it is alleged that there is an error in any order, requirement, decision, or determination made, or failure to act, in the administration or enforcement of the provisions of this article.

B. The Board of Appeals may authorize variances, meaning the granting of relief from the provisions of this article, as authorized in Subsection 2.3.11 except:

1. As otherwise expressly provided in Subsection 2.3.11(E).

2. Variances shall not be granted within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.

12.7.2 Standards

Subsection 2.3.11 notwithstanding, variances from the requirements of this article shall be granted only upon:

A. A showing of good and sufficient cause.

B. A determination that should a flood comparable to the base flood occur, the granting of a variance will not result in increased flood heights, additional threats to public safety, or public expense, or create nuisances, cause fraud or victimization of the public, or conflict with existing local laws or ordinances.

C. A showing that the issuance of the variance will not conflict with other state, federal, or local laws or ordinances.

D. A determination that failure to grant the variance would result in "undue hardship," which in this subsection means:

1. That the land in question cannot yield a reasonable return unless a variance is granted.

2. That the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood.

3. That the granting of a variance will not alter the essential character of the locality.
4. That the hardship is not the result of action taken by the applicant or a prior owner.

E. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief, and the Zoning Board of Appeals may impose such conditions to a variance as is deemed necessary.

12.7.3 Standards for specific variances

A. Variances may be issued for new construction, substantial improvements, or other development for the conduct of a functionally-dependent use provided that:
1. The criteria in Subsection 12.7.2 and 12.4.5(M) are met.
2. The structure or other development is protected by methods that minimize flood damage during the base flood and create no additional threats to public safety.

B. Variances may be issued for the repair, reconstruction, rehabilitation, or restoration of historic structures upon the determination that:
1. The development meets the criteria of Subsection 12.7.2.
2. The proposed repair, reconstruction, rehabilitation, or restoration will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

C. Variances may be issued for new construction and substantial improvement of agricultural structures being used for the conduct of agricultural uses provided that:
1. The development meets the criteria of Subsection 12.7.2 and Subsection 12.4.5 are met.
2. The development meets the criteria of Subsection 12.4.5(M) and (N).

12.7.4 Notice to applicants

Any applicant who meets the criteria of Subsections 12.7.2 and 12.7.3(A), (B), or (C) shall be notified by the Board of Appeals in writing with the signature of the Chair of the Board of Appeals that:

A. The issuance of a variance to construct a structure below the base flood level will result in greatly increased premium rates for flood insurance up to amounts as high as $25 per $100 of insurance coverage.

B. Such construction below the base flood level increases risks to life and property.

C. The applicant agrees in writing that the applicant is fully aware of all the risks inherent in the use of land subject to flooding, assumes those risks and agrees to indemnify and defend the municipality against any claims filed against it that are related to the applicant's decision to use land located in a floodplain and that the applicant individually releases the municipality from any claims the applicant may have against the municipality that are related to the use of land located in a floodplain.

12.7.5 Record of variances

The Board of Appeals shall submit to the Building Authority a report of all variance actions, including justification for the granting of the variance and an authorization for the Building Authority to issue a

Flood Hazard Development Permit, which includes any conditions to be attached to said permit.

12.7.6 Appeal procedure

A. An administrative appeal may be taken to the Board of Appeals by an aggrieved party within 30 days after receipt of a written decision of the Building Authority.

B. Upon being notified of an appeal, the Building Authority shall transmit to the Board of Appeals all of the documents constituting the record of the decision appealed from.

C. The Board of Appeals shall hold a public hearing on the appeal within 35 days of its receipt of an appeal request.

D. The person filing the appeal shall have the burden of proof.

E. The Board of Appeals shall decide all appeals within 35 days after the close of the hearing and shall issue a written decision on all appeals.

F. Any aggrieved party who participated as a party during the proceedings before the Board of Appeals may take an appeal to Superior Court in accordance with state laws within 45 days from the date of any decision of the Board of Appeals.

12.8 RECORDS & REPORTING

A. The Building Authority shall maintain, as a permanent record, copies of all Flood Hazard Development Permits issued, certificates of compliance and data relevant thereto, including reports of the Board of Appeals on variances granted hereunder.

B. The Building Authority shall be responsible for filing such annual reports regarding participation in the National Flood Insurance Program as may be required by FEMA. Said annual reports shall include, but not be limited to, a report on implementation of this article and on any variances granted hereunder. A copy of such annual reports shall also be sent to the Maine Floodplain Management Program.

12.9 PENALTIES

It shall be the duty of the Building Authority to enforce the provisions of this ordinance pursuant to Title 30-A M.R.S. § 4452. The penalties contained in Title 30-A M.R.S. § 4452 shall apply to any violation of this ordinance. In addition to any other actions, the Building Authority, upon determination that a violation exists, shall submit a declaration to the Administrator of the Federal Insurance Administration requesting a denial of flood insurance. The valid declaration shall consist of:

A. The name of the property owner and address or legal description of the property sufficient to confirm its identity and location.

B. A clear and unequivocal declaration that the property is in violation of a cited state or local law, regulation, or ordinance.

C. A clear statement that the public body making the declaration has authority to do so and a citation to that authority.

D. Evidence that the property owner has been provided notice of the violation and the prospective denial of insurance. A clear statement that the declaration is being submitted pursuant to Section 1316 of the National Flood Insurance Act of 1968, as amended.

12.10 DISCLAIMER OF LIABILITY

The degree of flood protection required by the ordinance is considered reasonable but does not imply total flood protection.

13 SITE PLAN

13.1 PURPOSE

Pursuant to Portland's Comprehensive Plan, this article advances the vision for a sustainable city with shared goals for the environment, community, and economy. This article complements the zoning and subdivision regulations of this Land Use Code.

13.2 APPLICABILITY

13.2.1 Site plan approval required

A. All development meeting any one of the thresholds of Table 13-A shall require site plan approval prior to commencing any work or undertaking any alteration or improvement of the site.

B. A final, approved site plan is a prerequisite to issuance of building, street opening, or certificate of occupancy permits for development subject to the provisions of this article. No such permit shall be issued until such permit is determined to be consistent with the final, approved site plan and any conditions of approval. In the event of any inconsistency between the approved site plan and any permit issued, the approved site plan shall control, provided, however, site plan approval shall not excuse failure to meet any independent requirement of any other law or ordinance. Neither the acceptance of any application nor any determination or approval hereunder shall authorize the issuance of a permit under Chapter 6 of the City of Portland Code of Ordinances for any use which would violate the provisions of Articles 6, 7, 8, 9 and 10 of this Land Use Code.

13.2.2 Exceptions

A. The Planning Authority may grant written authorization for the release of a demolition or interior building permit for a development subject to this article upon written request of the applicant describing the extent of proposed work, provided that final plans have been submitted by the applicant. Any exterior demolition requires a performance guarantee for site stabilization.

B. The Planning Authority may grant written authorization for advanced site work, provided that final plans have been submitted by the applicant. Such permission shall be granted only after submission of a written request describing the proposed scope of work to be conducted on the site and a determination by the Planning Authority that the request is reasonable, time is imperative, and the work will not compromise any aspect of the ensuing review process. All such work shall be done in compliance with information provided as part of the site plan application including, but not limited to, an erosion control plan. Such written permission shall not be required if the only work proposed is the digging of test pits. Advanced site work shall require a performance guarantee.

13.3 PROJECT CLASSIFICATION

13.3.1 Site plan

The Planning Authority shall classify each development proposal as a major or minor site plan application according to the classifications in Table 13-A. The Planning Authority may, due to the anticipated impacts of a project, classify any project

TABLE 13-A: SITE PLAN CLASSIFICATIONS

	Minor	Major
New construction or additions[1]	Single- to four-family development 1,000 – 10,000 SF 1,000 – 20,000 SF in industrial zones 1,000 – 50,000 SF in TOD zones and IS-FBC zone	Multi-family development of five or more units > 10,000 SF > 20,000 SF in industrial zones and TOD zones > 50,000 SF in IS-FBC zone
Creation of disturbed area	1,000 SF - 3 ac.	> 3 ac.
Site alterations	Alteration of watercourse or wetland	--
Creation of impervious surface	1,000 SF – 1 ac.	> 1 ac.
Construction or paving of parking	5 – 25 parking spaces	> 25 vehicles
Change of use[2]	10,000 – 20,000 SF	> 20,000 SF

[1] Includes cumulative expansion of building floor area within a three-year period.
[2] Includes any change in use of an existing building, whether or not alterations are involved, from any use in the following list to any other use on the list, with the exception that changes of use to residential shall be considered exempt: (A) Industrial, (B) Residential, (C) Institutional, (D) Commercial/Service, (E) Water-dependent use and marine use.

a review level higher than otherwise indicated in Table 13-A.

13.3.2 Phased site plan

An applicant may elect to submit a phased site plan application for a large, multi-phase development program consisting of multiple buildings and site improvements on a site of one acre or more of total land area which is designed to be cohesive and integrated within the surrounding context.

13.4 REVIEW AND APPROVAL AUTHORITY

The review and approval authority for site plans shall be determined based on the classification of the project as shown in Table 13-B. At any point in the review process, the applicant may request that the Planning Authority reclassify the application to the next highest review level.

13.5 REVIEW PROCEDURES

13.5.1 Pre-application meeting

Applicants for site plan review are encouraged to schedule a pre-application meeting. The purpose of this meeting is to familiarize the applicant with the City of Portland, site plan submittal requirements,

TABLE 13-B: REVIEW AND APPROVAL AUTHORITY

Plan Classification	Review Authority
Minor	Planning Authority
Major	Planning Board

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review procedures, and applicable review standards. A pre-application meeting shall not confer pending proceeding status under Title 1 M.R.S. § 302. No decisions relative to the plan shall be made at the pre-application meeting, nor shall any advice or information provided by the City be construed as a decision.

13.5.2 Application, plans, and submittals

All applicants shall submit a site plan application to the Planning Authority in such form as prescribed by the Planning Authority. A payment of a nonrefundable application fee, as established by the City Council to cover administrative costs, shall accompany each application.

13.5.3 Staff completion check

A. The Planning Authority shall determine whether the application, plans, and submittals meet the submittal requirements of the *Technical Manual*. If the application is deemed incomplete or not in compliance with Articles 6, 7, 8, 9, or 10, the Planning Authority shall inform the applicant in writing of the finding and the additional plans or submittals required to complete the application. A review of the application will not be conducted until the application is found complete.

B. Once the application is determined to be complete, receipt of application notices shall be sent to all property owners within 500 feet of the subject property lines.

13.5.4 Staff review

When the application is determined to be complete, the plans and submittals shall be reviewed by the Planning Authority and other departments of the City of Portland as appropriate against the review standards of this article. If the application qualifies as a minor site plan review and is determined to meet all applicable standards of this article, the Planning Authority shall approve the application. Otherwise, written comments from reviewers shall be provided to the applicant. Written comments shall include a staff recommendation to provide a revised plan and submittals, schedule a Planning Board workshop, or schedule a public hearing.

TABLE 13-C: SITE PLAN REVIEW PROCEDURES

	Minor	Major	Public Notice Requirement
Pre-application meeting	◐	◐	
Site plan, application, plans, and submittals	●	●	
Staff completion check	●	●	●
Staff review	●	●	
Neighborhood outreach		●	●
Planning Board workshop		◐	●
Revised plans and submittals	●	●	
Final staff review & recommendation	●*	●	
Planning Board public hearing		●*	●

● Required ◐Recommended * Decision point: approve/approve with conditions/deny

13.5.5 Neighborhood outreach

Applicants for major site plan review shall conduct neighborhood outreach, either through neighborhood meeting(s) or another method approved by the Planning Authority, in accordance with the following:

A. Timing and location. The neighborhood outreach shall be conducted no less than 21 calendar days before a workshop or, in the case that no workshop is required, a public hearing on the application. The outreach shall be conducted in a manner that is accessible to stakeholders within the City of Portland neighborhood where the project is proposed. All costs associated with the neighborhood outreach shall be borne by the applicant.

B. Notice. The applicant shall mail notice to all property owners within 500 feet of the subject property boundaries, at least 10 calendar days prior to the neighborhood outreach or event. The notice shall contain a brief description of the proposal and information about how to access the neighborhood outreach (e.g. the date, time, and place of the neighborhood meeting or event or other relevant information regarding approved forms of neighborhood outreach). A digital copy of the neighborhood notice shall be sent to the Planning Authority, which shall be distributed to the City's list of interested citizens.

C. Outreach procedures

1. *Record of participants.* The applicant shall keep a record of neighborhood participants in the outreach. A copy of this record shall be submitted to the Planning Authority prior to final review.
2. *Record of presenters and/or representatives.* The applicant shall keep a record of all presenters and/or representatives of the applicant participating in the outreach.
3. *Content.* The neighborhood outreach shall include an explanation of the proposal and provide an opportunity for public questions and comment.
4. *Record of feedback.* The applicant shall keep a record of feedback generated through the neighborhood outreach. In addition to any comments, questions, data, or other feedback collected, this record shall also include the start and end time(s) of the outreach and a list of the specific plans, documents, or drawings that were shared. A copy of this record shall be submitted to the Planning Authority prior to final review. Any other individual or entity also may submit comments on the neighborhood meeting to the Planning Authority.

13.5.6 Review costs

A. Applicants shall pay a fee to cover the review costs and administrative costs incurred by the City. The fee shall be based upon the actual hours of review time and prevailing hourly rate for reimbursement of City costs, and shall be invoiced periodically by the City.

B. No land use permits or applications of any kind shall be processed, reviewed or issued, and no building permits of any kind shall be issued, for any project whose permit fee is governed by this article unless all charges due under this article have been paid and the developer is otherwise in compliance with the City Code of Ordinances.

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13.5.7 Notice of public meeting

A. For all applications that are subject to Planning Board review, the applicant shall be responsible for posting a notice of public meeting sign on the property where the development is to occur. The dimensions, construction, and content of the sign shall be in accordance with standards established by the Planning Authority.

B. The sign shall be posted at least ten days prior to the public workshop date, in the case that a workshop is required, and ten days prior to the public hearing date, and shall be removed from the site no more than three days following the workshop or hearing.

C. Once the required notice of public meeting signage is posted, the applicant shall submit a completed certification of posting form to the Planning Authority.

D. In the event that a required notice of public meeting sign is obstructed, removed, or made illegible, it shall be the responsibility of the applicant to promptly reset or replace the sign, though failure to do so shall not invalidate the review.

13.5.8 Planning Board workshop

Where applicable, Planning Board workshops shall be scheduled on a date that follows the neighborhood outreach and initial staff review. Workshops shall be informational and shall not result in any formal approval or disapproval of the project. At a workshop, the Planning Board shall discuss the plans and submittals, consider the staff review with respect to the review standards of this article, hear public comments and questions, and provide direction to the applicant regarding issues to be addressed.

13.5.9 Revised plans and submittals

Where staff or Planning Board review has found that plans and submittals fail to comply with the review standards of this article, applicants shall provide revised plans and submittals to the Planning Authority. The Planning Authority shall determine whether the revised plans and submittals meet the submittal requirements of the City of Portland *Technical Manual*.

13.5.10 Final staff review and recommendation

When determined to be complete, the revised plans and submittals shall be reviewed by the Planning Authority and other City departments as appropriate against the review standards of this article. Written comments from reviewers shall be provided to the applicant. In the case of a major site plan review, comments shall include a staff recommendation to either approve, approve with conditions, or deny the revised site plan and submittals. In the case of a minor site plan application, following staff review, the Planning Authority shall approve, approve with conditions, or deny the revised site plan application based on the review standards of this article.

13.5.11 Planning Board public hearing

Applicants for major site plan review must appear before the Planning Board for a public hearing. The hearing shall be scheduled on a date that meets all public noticing requirements contained in Article 2. At the hearing, the Planning Board shall approve, approve with conditions, or deny an application, based upon the review standards of this article.

13.5.12 Lapse in application

A site plan application must be diligently pursued from the date of submission. Notwithstanding the submission of a complete application, any applicant shall provide additional information, studies, or reports from qualified professionals when determined by the Planning Board or the Planning Authority to be reasonably necessary to make any of the determinations required by this article. Failure to submit required information within 120 days of the date upon which the written request was made shall cause the application to expire and be deemed null and void.

13.6 SITE PLAN REVIEW STANDARDS

The reviewing authority shall not approve a site plan application unless the development proposal meets applicable standards of the City of Portland *Technical Manual,* the City of Portland *Design Manual,* and the standards below.

13.6.1 Transportation standards

A. Impact on surrounding street systems. The provisions for vehicular loading and unloading, parking, and vehicular and pedestrian circulation on the site and onto adjacent public streets and ways and the incremental volume of vehicular, bicycle, pedestrian, and transit traffic will not:

1. Create or aggravate any significant hazard to safety on the surrounding street network.
2. Substantially increase congestion on any street without mitigation proportionate to the level of impact.

B. Access and circulation

1. *In general*
   - **a.** All development subject to this article shall provide safe and reasonable access and internal circulation for all users of the site and shall comply with the transportation systems and street design standards of the *Technical Manual*.
   - **b.** Shared circulation, parking, and transportation infrastructure shall be provided to the extent practicable, with utilization of joint curb cuts, walkways, service alleys, bus pull-out areas, and related infrastructure shared with abutting lots and roadways. Easements for access for abutting properties and shared internal access points at property lines shall be provided where possible to facilitate present or future sharing of access and infrastructure.
   - **c.** Continuous internal walkways shall be provided between existing or planned public sidewalks adjacent to the site, transit stops and street crossings, and building entrances on the site.
   - **d.** Where the site abuts or includes an existing or planned publicly accessible trail, a connection to or integration of such trail shall be provided to the extent practicable, including rights of public access.
   - **e.** Points of access and egress shall be located to avoid conflicts with turning movements and traffic flows.

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2. *Curb and sidewalks*

a. All development shall provide curb and sidewalks along all frontages, installed to specifications as described in the transportation systems and street design standards of the *Technical Manual*.

b. Where sidewalks already exist but are in substandard condition, they shall be repaired or replaced in conformance with Chapter 25 of the City of Portland Code of Ordinances and the transportation systems and street design standards of the *Technical Manual*

c. An applicant may request a waiver from sidewalk installation requirements if they meet two or more applicable waiver criteria as listed below:

i. There is no reasonable expectation for pedestrian usage coming from, going to, and traversing the site.

ii. There is no sidewalk in existence or expected within 1000 feet and the construction of sidewalks does not contribute to the development of pedestrian-oriented infrastructure.

iii. A safe alternative walking route is reasonably available, for example, by way of a sidewalk on the other side of the street that is lightly traveled.

iv. The reconstruction of the street is specifically identified and approved in the first or second year of the current Capital Improvement Program (CIP) or has been funded through an earlier CIP or through other sources.

v. The street has been constructed or reconstructed without sidewalks within the last 24 months.

vi. Strict adherence to the sidewalk requirement would result in the loss of significant site features related to landscaping or topography that are deemed to be of a greater public value.

d. An applicant may request a waiver from curb installation requirements if they meet two or more applicable waiver criteria as listed below:

i. The cost to construct the curbing, including any applicable street opening fees, is in excess of 5% of the overall project cost.

ii. The reconstruction of the street is specifically identified and approved in the first or second year of the current CIP or has been funded through an earlier CIP or through other sources.

iii. The street has been rehabilitated without curbing in the last 60 months and the proposed use and design of the site does not necessitate the installation of curbing.

iv. Strict adherence to the curb requirement would result in the loss of significant site features

related to landscaping or topography that are deemed to be of a greater public value.

v. Runoff from the development site or within the street does not require curbing for stormwater management.

C. Public transit access

1. All residential development consisting of 20 or more dwelling units and all commercial and institutional developments of at least 20,000 square feet gross floor area shall provide a transit shelter adjacent to or within the public right-of-way along its frontage, or at a nearby high-volume transit stop without a transit shelter, when the following criteria are met:

a. The development is proposed along an existing public transit route on a principal or minor arterial roadway, as shown in the Federal Street Classification Map.

b. The nearest existing transit shelter on the route is more than ¼ mile from the site, measured along rights-of-way.

2. Transit facilities shall be connected to the public sidewalk system.

3. All or some of this standard may be waived if the review authority determines that the development is not anticipated to generate public transit usage due to particular characteristics of the development or proposed use.

D. Parking

1. *Vehicular parking*

a. Developments shall comply with the parking standards of Article 18.

b. Where provided, parking spaces and aisles shall not be located in front and corner side yards, unless the applicant can demonstrate that site constraints preclude the location of parking elsewhere on the site.

c. Where provided, parking spaces and aisles shall meet applicable dimensional standards as detailed in the transportation systems and street design standards of the *Technical Manual*.

2. *Bicycle parking*

a. All development shall provide secure bicycle parking in accordance with the parking requirements of Article 18 and the transportation systems and street design standards of the *Technical Manual*.

b. The review authority may reduce the required number of bicycle parking spaces if it is determined, based on evidence submitted by the applicant, that the proposed development is expected to generate reduced demand for bicycle parking due to particular site characteristics or proposed uses.

3. *Snow storage*

a. All developments shall include areas for snow storage or provide an acceptable snow removal plan.

b. Snow storage areas may not encroach on adjacent properties, public ways, and pedestrian walkways, and shall not be located where they would adversely impact the functionality of stormwater management systems.

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Landscaping in designated snow storage areas shall be such that it can withstand the snow pile.

4. *Electric Vehicle (EV) charging*. All development shall meet applicable EV standards as provided in Section 1 of the *Technical Manual*.

E. Transportation Demand Management (TDM)

1. The following types of development shall design and implement a Transportation Demand Management (TDM) plan:
   a. All commercial, institutional, or mixed-use developments of 50,000 square feet or more in total floor area.
   b. All commercial or institutional uses designed to accommodate 100 or more employees or, for educational institutions, 100 or more students.
2. The TDM Plan shall comply with the standards for transportation studies and plans as contained in the *Technical Manual*.

13.6.2 Environmental quality standards

A. Preservation of significant natural features

1. All development shall preserve and protect significant natural features by incorporating the principles of Low-Impact Development (LID) in accordance with the LID standards of the *Technical Manual*.
2. Where complete preservation of significant natural features substantially compromises development of the site as otherwise permitted by zoning, the review authority may reduce the requirement in accordance with the LID standards of the *Technical Manual* provided that the applicant implements preservation measures to the extent practicable and demonstrates compliance with applicable state and federal regulations.
3. The site plan shall include adequate measures to protect significant natural features to be preserved from construction impacts, in accordance with the LID standards of the *Technical Manual*.

B. Site landscaping and buffers

1. *On-site landscaping*.
   a. All development subject to this article shall provide a minimum of one shade tree consisting of species identified on the City of Portland Recommended Tree list or six plantings, defined as one shrub, one ornamental grass, and/or three perennials, per 5,000 square feet of lot area in accordance with the landscaping standards of the *Technical Manual*.
   b. Existing vegetation to be preserved on the site may be counted towards this requirement as described in the landscaping and landscape preservation standards of the *Technical Manual*.
   c. Where site constraints prevent the planting of required shade trees or plantings at the development site, the reviewing authority may approve an alternative as described in the landscaping standards of the *Technical Manual*.
2. *Buffers and screening*
   a. Loading and servicing areas, trash and recycling areas, storage areas, and roof- and ground-mounted utility structures, except for renewable energy systems, shall be screened

from view from public sidewalks, streets and adjacent properties by dense evergreen and deciduous landscaping, fencing, architectural screening products, masonry walls, building walls, or a combination thereof.

b. Where immediately visible from the right-of-way, surface parking areas shall be screened with dense evergreen and deciduous landscaping, fencing, or masonry wall in accordance with the landscaping standards of the *Technical Manual*.

c. For nonresidential development abutting a residential zone, an evergreen, densely landscaped buffer of not less than 10 feet in depth and six feet tall is required along the side abutting the residential zone. In cases where architectural fencing is used, the depth of the landscaped buffer may be reduced, so long as the fencing is at least six feet in height and a mix of evergreen and deciduous trees spaced no further than 20 feet apart is planted abutting the residential zone.

d. All residential development shall provide and/or preserve evergreen vegetated buffers where necessary to buffer the development from detrimental impacts of existing surrounding development.

3. *Parking and vehicle display lot landscaping*

a. Developments with more than five parking spaces shall include at least one tree for every 750 square feet of uncovered asphalt parking area (including drive aisles), planted in landscaped islands to screen, shade, and break up parking. Trees and shrubs in parking lots may be in informal groups, straight rows, or concentrated in clusters as described in the landscaping standards of the *Technical Manual*.

b. Landscaped islands shall be distributed so that uninterrupted pavement does not exceed forty parking spaces.

c. Where site constraints prevent implementation of all or a portion of required parking lot landscaping, as determined by the review authority, the reviewing authority may approve an alternative as described in the landscaping standards of the *Technical Manual*.

4. *Non-vehicular hardscape*. All uncovered paving for non-vehicular use, including pathways and patios, must either have a minimum Solar Reflective Index (SRI) of 33 initially and 28 once aged three years or include one tree for every 750 SF of asphalt paving..

5. *Street trees*

a. All development shall include one street tree per 25-35 linear feet of frontage along a city right-of-way or private roadway as specified in the landscaping standards of the *Technical Manual*. The provision of measures to enhance tree survival (such as raised planters, irrigation, and

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structural soils as recommended by the City Arborist) shall be required.

b. Where the applicant can demonstrate that site constraints prevent the planting of required street trees in the city right-of-way, the review authority may permit an alternative subject to the landscaping standards of the *Technical Manual*.

c. Where the proposed development includes the removal of an existing street tree determined by the City Arborist to be a heritage or feature mature tree, the applicant shall be required to contribute to the Tree Fund at the designated rate in the *Technical Manual* so that the total replacement cost is significantly higher than planting a new street tree/contributing for a new street tree.

C. Water quality, stormwater management, and erosion control

1. All development shall be designed to minimize total area of impervious surface on the site and both the volume and rate of runoff from the lot. Provisions for stormwater management shall demonstrate the following:

a. Any stormwater draining onto or across the lot in its pre-improvement state will not be impeded or re-directed so as to create ponding on, or flooding of, adjacent lots.

b. Any increase in volume or rate of stormwater draining from the lot onto an adjacent lot or City property following the improvement can be handled on the adjacent lot or City property without creating ponding, flooding or other drainage problems and that the owner of the lot being improved has the legal right to increase the flow of stormwater onto the adjacent lot or City property.

c. Any increase in volume or rate of stormwater draining from the lot into the City's storm sewer system can be accommodated in the system without creating downstream problems or exceeding the capacity of the storm sewer system.

2. All development shall comply with the stormwater management standards of the *Technical Manual*.

3. Development shall not pose a risk of groundwater contamination either during or post-construction, as described in the stormwater management and water supply standards of the *Technical Manual*.

4. Applicants shall demonstrate that subsurface and/or any adjacent slope conditions are suitable to support the development, and where determined necessary, shall prepare a geotechnical study to demonstrate that the development as designed will not adversely impact the development site or any abutting property. Soil surveys and/or geotechnical studies shall be prepared in accordance with the requirements of the *Technical Manual*.

13.6.3 Public infrastructure and community safety standards

A. Consistency with City master plans

1. All developments shall be designed so as to be consistent with City Council-approved master plans and facilities plans and with off-premises infrastructure.
2. The site plan shall include suitable easements, rights, and improvements to connect or continue off-premises public infrastructure as may be required by the review authority.

B. Public safety and fire prevention

1. All development shall incorporate the following public safety principles for Crime Prevention through Environmental Design (CPTED) into site design to enhance the security of public and private spaces and to reduce the potential for crime:
   a. Natural surveillance that promotes visibility of public spaces and areas.
   b. Access control that promotes authorized and/or appropriate access to the site.
   c. Territorial reinforcement that promotes a sense of ownership and responsibility through environmental design.
2. All developments shall be designed to provide adequate emergency vehicle access to the site and comply with the Public Safety standards of the *Technical Manual*.

C. Public utilities

1. The development shall not overburden sanitary sewers and storm drains, water lines or supply, or other public infrastructure and utilities. Development shall provide adequate utility infrastructure on-site and in connection to surrounding locations and facilities.
2. Electrical service shall be underground unless otherwise specified for industrial uses, or if it is determined to be unfeasible due to extreme cost, the need to retrofit properties not owned by the applicant, or complexity of revising existing overhead facilities.
3. All sanitary sewer lines, storm drains, water lines, and other utilities proposed as part of the development shall be designed to conform with the sanitary sewer and storm drain and water supply standards of the *Technical Manual*.
4. All development within 200 feet of a public sanitary collection and treatment system shall connect sanitary sewer lines into the nearest available public sewer. If a public sanitary collection and treatment system is not available, a private wastewater system may be used according to the requirements of Chapter 24 of the City Code and the sanitary sewer and storm drain standards of the *Technical Manual*.
5. All residential development of 20 units or more, commercial development, and industrial development shall provide for the temporary storage and timely removal of all trash and recyclable materials including, at a minimum, paper, corrugated cardboard, plastics, and metals. Storage containers for recyclable materials shall be separated from trash containers. All exterior storage of trash and recyclables shall be screened from view from public sidewalks, streets, and adjacent properties.

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13.6.4 Site design standards

A. Massing, ventilation, wind, and heat impact

1. The bulk, location, or height of proposed buildings and structures shall not result in health or safety problems from a reduction in ventilation to abutting structures or changes to the existing wind climate that would result in unsafe wind conditions for users of the site and/or adjacent public spaces.
2. Development shall locate all HVAC venting mechanisms to direct exhaust away from public spaces and residential properties directly adjacent to the site.
3. In proposed buildings or additions with an aggregate roof area greater than 2,000 square feet, measured horizontally, and, for residential projects, greater than nine residential units, a minimum of 75% of the roof area must meet the following "cool roof" Solar Reflective Index (SRI) standards:
   a. Roofs with a slope less than 2:12: SRI of 82+ (initial)/64+ (3-year aged)
   b. Roofs with a slope greater than 2:12: SRI of 25+ (initial)/25+ (3-year aged)

   Roof areas covered by shade structures with an SRI of 39+, including photovoltaic panels that shade the roof, area considered exempt from roof area calculations for the purposes of this standard.

B. Shadow. All development over 65 feet in height shall be designed to avoid and/or mitigate the adverse impacts of shadows cast by new structures or building additions from falling on publicly accessible open space in accordance with the shadow standards of the *Technical Manual*.

C. Snow and ice loading. All development shall be designed to prevent significant amounts of accumulated snow and ice from loading or falling onto adjacent properties or public ways.

D. View corridors. The massing, location, and height of development shall not substantially obstruct public view corridors identified in the City of Portland *Design Manual*.

E. Historic resources

1. When a development affects a designated landmark or lies within a designated historic district or historic landscape district, such development shall be required to obtain historic preservation approval under Article 16.
2. All development shall document and protect state or local archaeological resources known to exist or discovered on the site.
   a. Protection may include leaving archaeological resources untouched beneath a new development through adaptation of foundation design or architectural layout.
   b. Where the applicant can demonstrate that complete protection is not feasible, the applicant shall excavate and document archeological resources. Such measures shall be conducted in consultation with the City's historic preservation program and Maine Historic Preservation Commission. For resources of state significance, excavation and documentation shall be conducted by a qualified professional, in

coordination with Maine Historic Preservation Commission. Local archeological resources may or may not be recognized by the Maine Historic Preservation Commission as significant and shall include the following:

- **i.** Original seawall structure located landward of Commercial Street.
- **ii.** Inactive historic family cemetery plots.
- **iii.** Historic railroad beds including but not limited to the Portland-Lewiston interurban railroad.
- **iv.** Original structure and/or landforms associated with the Cumberland and Oxford Canal.
- **v.** Buried portions of colonial and post-colonial period structures or built features located on the Portland Peninsula predating the Great Fire of 1866.
- **vi.** Pre-colonial occupation sites identified by shell middens or other evidence.
- **vii.** Sites listed or eligible for listing on the National Register of Historic Places.

c. In order to preserve archeological resources, the review authority may waive standards listed in the City of Portland *Technical Manual* where necessary if it is determined that such a waiver would not jeopardize the health, safety, or welfare of the development's occupants, the public, or the natural environment.

F. Exterior lighting

1. *Site lighting*

a. All exterior site lighting shall be full cutoff with no light emitted above the horizontal plane or spilled onto adjacent properties. Illumination levels shall be adequate but not excessive for the safety, comfort, and convenience of occupants and users of the site, and shall conform to the lighting standards of the *Technical Manual*.

b. Where light from a proposed development may adversely impact adjacent residential properties, exterior lighting shall employ building-side shielding.

2. *Architectural and specialty lighting.*

a. Architectural and specialty lighting of such features as architectural details, monuments, public art, or other site features shall be designed to illuminate specific details or attributes only and shall meet the lighting standards of the *Technical Manual*.

b. Up-lighting by any method is prohibited except for public buildings and parklands; clock towers and steeples; landscape features; designated historic landmarks; flags of state, federal, or national jurisdictions; and public art. Such light fixtures, brackets, conduits, and all other components shall be designed by a lighting professional and shall be scaled and placed to minimize their visibility and installed in accordance

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with the lighting standards of the *Technical Manual*.

3. *Street lighting.* All development shall provide municipal street lighting adequate for the safety and comfort of pedestrians, bicyclists, and motorists and, where applicable, conforming to specific lighting district requirements as specified in the street lighting standards of the *Technical Manual*.

G. **Noise and vibration.** All heating, ventilation and air conditioning equipment (HVAC), air handling units (AHU), emergency generators, and similar equipment shall meet applicable state and federal emissions requirements and shall be located to the interior of the site, away from abutting properties.

H. **Signage and wayfinding**

1. On-site directional traffic signage may be provided to enable users to safely and easily navigate into, around and out of the site.
2. Signage shall not adversely affect visibility at intersections on or off the site.

I. **Design standards**

1. Development of certain types and/or proposed in certain zones, as specified in the City of Portland *Design Manual*, shall meet the design standards of the *Design Manual* in order to ensure that building and site design contribute to and enhance the goals and policies for specific zones within the city. The City of Portland *Design Manual* is incorporated by reference as part of this Land Use Code.
2. If the development is located in a historic district or associated with a historic landmark, the standards of Article 16 shall supersede.

13.7 WAIVERS

13.7.1 Waiver requests

An applicant for site plan review may request a waiver with respect to the submittal requirements or review standards of this article. If a waiver is requested, the applicant shall document the rationale for the waiver request within the application.

13.7.2 Waiver criteria

Except for where waiver criteria are provided for individual review standards, the review authority, if it finds that extraordinary conditions exist or that undue hardship may result from strict compliance with the submittal requirements or review standards of this article, may vary these regulations so that substantial justice may be done and the public interest secured, provided that such variation will not have the effect of nullifying the intent of this article.

13.8 PHASING

A major site plan may be divided into two or more phases. Each phase must be at least 20% of the total development and in addition, show the entire tract or parcel. Each phase of such project shall be independent of subsequent phases and shall conform to all standards of this article in the event that subsequent phases do not go forward.

13.9 CONDITIONS OF APPROVAL

Notwithstanding the review standards of this article, the review authority may impose any condition upon its approval of any site plan to minimize or abate any adverse impact of the proposed

development on the value or utility of other private property, or public property or facilities, to the extent feasible; to bring the development into compliance with the review standards of this article; or to minimize any other adverse environmental effects of the proposed development.

13.10 POST-APPROVAL PROCEDURES

13.10.1 Final plans

Following final site plan approval and prior to issuance of any building permit, the developer shall submit final plans meeting all the conditions of the site plan approval, including without limitation all streets, sewers, drainage structures, and landscaping. Thereafter, limited and minor departures from the approved site plan shall be approved by the Public Works Authority and/or Planning Authority as field changes pursuant to Section 13.13. Amendments or revisions to the approved site plan shall be reviewed by the Planning Authority pursuant to Section 13.12.

13.10.2 Performance and defect guarantees

The following performance and defect guarantee requirements shall apply:

A. Performance guarantee required. Following approval of site plan applications and prior to the issuance of a building permit, the developer shall post with the City a performance guarantee in the form and amount specified herein, specifying the completion of the required site plan improvements within two years from the origination date of such guarantee. In no case shall the term of such guarantee be for a period of less than one year, nor shall any performance guarantee expire between October 30 and April 15 of the following year.

B. Inspection fees. At the same time that the developer posts a performance guarantee, the developer shall also pay to the City an inspection fee as determined by the City Council. If a performance guarantee is extended beyond its original expiration date, then an additional inspection fee in an amount to be determined by the City shall be required.

C. Single- and two-family development. All single- and two-family development is exempt from performance guarantee requirements except when those projects complete construction in the winter, and site work is incomplete due to weather conditions. A performance guarantee will then be required that is sufficient to complete the remaining site work as approved on the site plan. The performance guarantee must be reviewed and approved by the Planning Authority prior to the release of a certificate of occupancy. All single- and two-family development is subject to inspection fees, as specified herein.

D. Performance guarantee amount

1. The performance guarantee shall be equal in value to 100% of the estimated cost of the required site improvements as shown on the approved site plans, as a condition of planning approval, as required in the City of Portland Code of Ordinances, and/or as required by the City of Portland *Technical Manual*.
2. The performance guarantee amount shall be estimated by the applicant or representative using the cost estimate spreadsheet provided by the City and shall be submitted for review and approval to the Planning Authority. Costs to be included in the estimate, and which shall be

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covered by the performance guarantee include items such as: street and sidewalk improvements including street lights, monuments, curbing, ramps and detectible warning panels, and striping; earth work and grading; utilities infrastructure and connections including sewer, stormwater, and water service; exterior site lighting; erosion control measures as shown on the approved erosion and sedimentation control plan; open space and recreation amenities; and final site stabilization and landscaping.

3. The Planning Authority may waive all or any portion of this requirement if it determines that the property owner has a proven record of satisfactory performance and sufficient financial capability or when the overall cost of the project fails to justify the administration of a performance guarantee.

E. Phased projects. If a project is reviewed and approved as a phased project, the corresponding performance guarantee may also be phased. A separate performance guarantee shall be posted for each phase. Each phase of such project shall be independent of subsequent phases and shall conform to all standards of this article in the event that subsequent phases do not go forward.

F. Advanced site work

1. No public utility, water district, sanitary district or any utility company of any kind shall install services to any lot in a subdivision which has not received Planning Board approval.
2. On a case-by-case basis, permission for advanced site work may be granted by the Planning Authority under Section 13.2.2(B). Such permission is solely within the discretion of the Planning Authority.

G. Acceptable forms of performance guarantee. The performance guarantee, in the amount approved by the Planning Authority, shall be a letter of credit, an escrow account with a responsible financial institution, or the deposit to the City of Portland Finance Department and shall be in conformance with the templates and forms made available by the City. If the performance guarantee is a deposit to the City, the City shall hold such funds in a noninterest bearing account until criteria for performance guarantee release have been satisfied. The performance guarantee shall be in the name of the City and shall be approved by the finance director as to financial sufficiency and the corporation counsel as to proper form and legal sufficiency.

H. Performance guarantee reductions.

1. Up to three times during the construction of a project, upon request of the developer, a performance guarantee may be reduced by the value equal to the estimated cost of the completed improvements. In no case shall any performance guarantee be reduced by any line item on the cost estimate spreadsheet where improvements remain to be completed. Requests shall be submitted on the cost estimate spreadsheet for review and approval by the Planning Authority.
2. In no case shall any performance guarantee be reduced to an amount equal to or less than the required defect guarantee until all criteria set forth for converting to the defect guarantee have

been met, as approved by the Planning Authority.

I. **Extension of the performance guarantee.** If the Planning Authority and/or the Public Works Authority has reasonable doubt concerning the stability or proper construction of the required site improvements, the developer shall be required to reconstruct or otherwise address the issues to the City's satisfaction. If the performance guarantee is scheduled to expire before the extent or necessity for such further work can be determined, the developer shall be required to extend the performance guarantee covering such improvements, or secure a new guarantee, for a period and amount deemed necessary by the Planning Authority and/or the Public Works Authority.

J. **Performance guarantee release/conversion to defect guarantee.**

1. No performance guarantee shall be released until all fees generated by the project are paid to the City, including but not limited to engineering, inspection, and administrative fees. The guarantor shall not be released from the guarantee except and until authorized in writing by the Planning Authority.
2. For roadway extension projects, no performance guarantee shall be released until the Department of Public Works has performed a final inspection of the roadway and determined satisfactory completion of the required improvements. Additionally, no performance guarantee shall be released until the City is in receipt of a petition for street acceptance, deemed complete and satisfactory by Corporation Counsel and/or the Department of Public Works. The petition for street acceptance must include a warranty deed (with metes and bounds description) to the property within each street of the subdivision or roadway extension and any other improvements intended for City maintenance.
3. Upon the satisfactory completion of the required site improvements and compliance with all conditions of approval including the submission of as-built drawings as applicable, the Planning Authority will authorize in writing, conversion to the defect guarantee. The defect guarantee shall be 10% of the original performance guarantee amount and shall remain in place for a period of one year. The defect guarantee shall ensure the workmanship and the durability of all materials used in the construction of the required site improvements. The Planning Authority may authorize the defect guarantee to be released at any time within the one-year period, provided all required site improvements have been constructed and in-place for one year or more and the workmanship and the durability of all materials has been inspected and confirmed to be satisfactory.

K. **Acceptable forms of defect guarantee.** The defect guarantee, 10% of the original performance guarantee amount approved by the Planning Department, shall be a letter of credit, an escrow account with a responsible financial institution, or the deposit to the City of Portland finance department and shall be in conformance with the templates and forms

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made available by the City. If the defect guarantee is a deposit to the City, the City shall hold such funds in a noninterest bearing account until the criteria for performance guarantee release have been satisfied. The performance guarantee shall be in the name of the City and shall be approved by the finance director as to financial sufficiency and the corporation counsel as to proper form and legal sufficiency.

L. Use of the performance guarantee. In the event that a development site is abandoned or the site improvements do not meet City standards as approved in the site plan, the performance guarantee may be utilized to stabilize, secure, complete construction, and/or restore the site as may be necessary, including, but not limited to, revegetation of areas, grading, and fencing.

13.10.3 Inspection fee

At the same time that the developer posts a performance guarantee, the developer shall also pay to the City a site plan improvement inspection fee equal to two percent of the estimated costs of required site improvements for which a performance guarantee is to be posted. At the conclusion of the project, and before a temporary or permanent certificate of occupancy is issued, the developer shall pay to the City the balance of any inspection fees actually incurred by the City in its review of the project.

13.10.4 As-built plans

Upon completion of a development (excluding single- and two-family development and minor site work as determined by the Planning Authority), the applicant shall submit the as-built plans as specified in the *Technical Manual*.

13.10.5 Certificates of occupancy

No certificate of occupancy shall be issued to any portion of development where, in the opinion of the Planning Authority, the site conditions or work required to complete the development will endanger the health or safety of persons visiting or inhabiting the completed portion. Certificates of occupancy may be granted as follows:

A. Temporary certificates of occupancy

1. Notwithstanding any other provision of the Land Use Code, a certificate of occupancy may be issued for a development or portion of a development which has otherwise been completed in accordance with final site plan approval and all applicable provisions of this Land Use Code where the applicant submits a written request to the Planning Authority stating those improvements which remain to be completed, the reasons why such improvements have not been completed, and the cost and time to complete the remaining work. In no event shall any temporary or permanent certificate of occupancy be issued where:

a. Conditions exist which would justify denial of a certificate of occupancy under Chapter 6 of the City of Portland Code of Ordinances.

b. Required improvements to the City right-of-way remain to be completed by the developer.

c. Access roads, driveways, and pedestrian access required for the building or building(s) for which the

certificate(s) are requested have not been improved to a passable condition.

d. A remaining balance for fees incurred by the City exists.

e. The developer otherwise is in violation of the City Code of Ordinances.

2. Where a temporary certificate of occupancy is sought for a portion of any development prior to the completion of the entire development, the following standards shall be met, in addition to all applicable requirements set forth above, prior to the issuance of any certificate of occupancy:

a. Those parking areas required for the portion of the development for which a certificate of occupancy is sought shall be available for use. Alternative arrangements must be made on-site for parking for any periods during which such parking areas will not be available for use.

b. All foundation plantings and other landscaping required for the portion of a development for which a certificate of occupancy is sought shall be installed prior to the issuance of a certificate of occupancy. This requirement may only be waived where, in the opinion of the Public Works Authority, landscaping improvements cannot practically be completed due to seasonal weather conditions.

c. A performance guarantee shall be in place and in an amount sufficient to cover all remaining required improvements and not less than 10% of the initial performance guarantee amount.

B. Final certificate of occupancy. All improvements which are not completed prior to the issuance of any temporary certificate of occupancy must be completed prior to the completion date specified in the performance guarantee or in the temporary certificate of occupancy, whichever occurs first, in order for a final certificate of occupancy to be issued by the City. Where any person accepts a temporary certificate of occupancy and does not complete the improvements as specified in the certificate, the City is authorized to enter upon such property itself or through its agents or contractors to complete such improvements with no liability therefore and may recover the costs thereof through the mechanic's lien procedure for the improvement of real property to the extent that the performance guarantee may be inadequate.

13.11 EXPIRATION OF APPROVALS

13.11.1 Site plan

Site plans approved under this article shall expire three years from the date of approval unless development has been undertaken in accordance with the approved site plan and site work or building construction is ongoing. Any lapse in construction for a period in excess of 12 months shall result in an expiration of the site plan. Approved amendments to a site plan shall have no effect on the expiration date, which is based upon the original date of approval.

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13.11.2 Phased site plan

The applicant has three years to start site work or building construction undertaken in accordance with the approved phased site plan and seven years to complete the project. Approved amendments shall have no effect on the expiration date, which is based upon the original date of approval. A phased site plan may be extended by the Planning Authority up to two years from date of expiration. Extension requests must be made in writing by the applicant prior to the expiration of the approval.

13.11.3 In case of appeal

Where a site plan approval or any related land use approval granted to the same applicant by any agency of the City with respect to the same development is appealed to any court by an opponent of the development, the applicant shall be granted extensions, beyond the expiration of said approval, where the applicant has exercised due diligence with respect to defending such appeal. Extensions shall not last beyond one year from entry of final judgment.

13.12 AMENDMENTS TO APPROVED PLANS

13.12.1 Field changes

Changes associated with unforeseen difficulties that arise during the course of construction and involving such technical detail as utility location and substitution of equivalent plantings shall be approved by the Public Works Authority and/or the Planning Authority. Field changes shall not involve substantial alteration of the approved plan or conditions imposed by the review authority.

13.12.2 Minor amendments

A. The Planning Authority is authorized to approve minor amendments to site plans. An applicant may request a minor amendment to an approved site plan by submitting a written statement of the proposed amendments and proposed amended plans to the Planning Authority.

B. Minor amendments:

1. Are generally consistent with the approved plan.
2. Do not substantially impact the layout of buildings and open space.
3. Do not significantly alter the program of proposed uses.
4. Do not substantially change access, circulation, or infrastructure on or adjacent to the site.
5. Do not otherwise meet thresholds for site plan review as described in Table 13-A.
6. Do not affect any condition or requirement of the Planning Board.

13.12.3 Major amendments

An applicant may request approval by the review authority of a major amendment to an approved site plan by submitting an application for the amendment to the Planning Authority. Major amendments include changes that exceed the limited criteria for a minor amendment under Subsection 13.12.2.

13.13 CONSISTENCY WITH APPROVED SITE PLANS

13.13.1 Sites to be developed and maintained as depicted

A. Sites shall be developed and maintained as depicted in the approved final site plan and the written submission of the applicant. Any deviations from an approved site plan, including, but not limited to, changes in

topography, vegetation and impervious surfaces as shown on the final site plan or alteration of a parcel which was the subject of site plan approval after May 20, 1974, shall require the prior approval of a revised site plan by the Planning Board or the Planning Authority pursuant to the terms of this article. Any such parcel lawfully altered prior to the enactment date of these revisions shall not be further altered without approval as provided herein. Modification or alteration shall mean and include any deviations from the approved site plan including, but not limited to, topography, vegetation, and impervious surfaces shown on the site plan.

B. All construction or alterations to the site performed under authorization of building permits or certificates of occupancy issued for development within the scope of this Land Use Code shall be in conformance with the approved final site plan or an amendment thereto under Section 13.12. The Planning Authority shall institute or cause to be instituted any and all actions, legal or equitable, that may be appropriate or necessary for the enforcement of this article.

13.13.2 Work pursuant to Chapter 24 or 25

Where work is required pursuant to the terms of Chapters 24 or 25 as part of an approval granted under this article, such work shall be accomplished in the sequence established by the Public Works Authority. Where the Public Works Authority determines that work has been completed prior to the receipt of all approvals required by this article or which is out of sequence or is not in compliance with the standards of Chapters 24 and 25 of the City of Portland Code of Ordinances, a stop work order may be issued. Work shall recommence only after such order has been lifted by the Department of Public Works or the Building Authority on the basis of an approved mitigation plan or action by the developer.

13.13.3 After-the-fact review

Where construction, alteration, or modification to a site is performed without a valid site plan approval, an after-the-fact review shall be performed by the Planning Board or Planning Authority, as applicable.

13.14 APPEALS

13.14.1 Minor site plan

When the Planning Authority has approved, approved with conditions, or disapproved a minor site plan, any person aggrieved may appeal the decision to the Planning Board within 30 calendar days of the date of the written decision of the Planning Authority. Upon the taking of such an appeal, the application shall be reviewed as a new application.

13.14.2 Minor site plan

When the Planning Board has approved, approved with conditions, or disapproved a major site plan, any person aggrieved or the City may appeal the decision to the Superior Court, pursuant to Rule 80B of the Maine Rules of Civil Procedure and 30-A M.R.S §§ 2691 & 4483. Decisions of the Planning Board are final as of the date the written decision is issued.

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14 SUBDIVISIONS

14.1 PURPOSE

This article is adopted pursuant to the terms and provisions of 30-A M.R.S. § 3001 and 4403, as amended. The purpose of this article is to provide for the harmonious and economic development of the city; for the orderly subdivision of land and its development; for the orderly development of the general area surrounding such subdivision; for the coordination of streets within the general area; for adequate provisions for drainage, flood control, light, air, and other public purposes; for the adequate and proper installation of streets, drainage, sanitary sewers, water, and other utilities and facilities; for the dedication to the City of land for streets, alleys, or other public purposes or the transfer to the City of easements or other rights or privileges; for the reservation for the City of land to be acquired for public facilities; and to protect public safety.

14.2 APPLICABILITY

14.2.1 Jurisdiction

A. This article shall govern each and every subdivision of land as defined under 30-A M.R.S. § 4401 and 4402 within the limits of the city unless specifically exempted under this article.

B. When application is made to resubdivide a previously recorded subdivision under the provisions of these regulations, it shall be treated as a new subdivision provided the applicant is the owner of rights in the recorded subdivision.

14.2.2 Enforcement, conveyance, markers, and recording

A. No person may sell, lease, develop or build upon, or convey for consideration, offer or agree to sell, lease, develop or build upon, or convey for consideration any land in a subdivision unless the subdivision has been approved by the Planning Board, and unless a recording plat showing permanent marker locations at all lot corners has been recorded in the Cumberland County Registry of Deeds.

B. No subdivision plan shall be recorded by the Cumberland County Registry of Deeds which has not been approved as required by this article. Approval for the purpose of recording shall appear in writing on the recording plat.

C. No public utility, water district, sanitary district, or any utility company of any kind shall install services to any lot in a subdivision which has not received Planning Board approval.

D. Any person who sells, leases, develops or builds upon, or conveys for consideration any land in a subdivision which has not been approved as required by this article shall be required to submit an after-the-fact subdivision application for each such occurrence. The City may institute proceedings to enjoin any violation of this section.

14.3 REVIEW PROCEDURES

14.3.1 Application

To obtain approval of a proposed subdivision the subdivider or applicant shall submit an application to the Planning Authority in such form as prescribed by the Planning Authority. The application shall meet the submission requirements of the City of Portland *Technical Manual,* including the provisions for a subdivision plat for presentation to the

Planning Board and public, all engineering data and plans necessary for the completion of the required improvements, supplemental submission items, a recording plat, and written submittals demonstrating compliance with the review criteria of this article. A payment of a nonrefundable application fee, as established by the City Council to cover administrative costs and costs of a hearing, shall accompany each application.

14.3.2 Receipt of application notice

A. When an application for subdivision is received or generated by the Planning Authority, it shall give a dated receipt to the applicant and shall notify, by mail, the following, where applicable.
   1. All property owners within 500 feet of the proposed subdivision.
   2. The clerk and the reviewing authority of municipalities that abut or include any portion of a proposed subdivision.

B. The notice hereunder shall include a brief description of the application, the address or location of the property involved and a telephone number at the City where additional information may be obtained. The cost of noticing shall be charged to the applicant.

14.3.3 Neighborhood outreach

An applicant for the subdivision of five or more lots shall conduct neighborhood outreach according to the provisions of Subsection 13.5.5.

14.3.4 Notice of public meeting

A. Prior to any Planning Board workshop or hearing on the subdivision application, the applicant shall be responsible for posting a notice of public meeting sign on the property where the subdivision is to occur. The dimensions, construction, and content of the sign shall be in accordance with standards established by the Planning Authority.

B. The sign shall be posted at least ten days prior to the public workshop or hearing date, and shall be removed from the site no more than three days following the date of the meeting.

C. Once the required notice of public meeting signage is posted, the applicant shall submit a completed certification of posting form to the Planning Authority.

D. In the event that a required notice of public meeting sign is obstructed, removed, or made illegible, it shall be the responsibility of the applicant to promptly reset or replace the sign, though failure to do so shall not invalidate the review.

14.3.5 Review costs

A. The subdivider shall pay a fee to cover the review costs and administrative costs to be incurred by the City. The fee shall be based upon the actual hours of review time and prevailing hourly rate for reimbursement of City costs, and shall be invoiced periodically by the City.

B. No land use permits or applications of any kind shall be processed, reviewed, or issued, no signed subdivision plats shall be released or recorded, and no building permits of any kind shall be issued, for any project whose permit fee is governed by this article unless all charges due have been paid and the developer is otherwise in compliance with the City of Portland Code of Ordinances.

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14.3.6 Timing of subdivision review

A. Within 30 days of receiving an application, staff shall notify the applicant in writing either that the application is complete or, if it is determined to be incomplete, the specific additional materials needed to make it a complete application. After the review authority has determined that a complete application has been filed, it shall notify the applicant and begin its full evaluation of the proposed subdivision.

B. A public hearing shall be commenced within 30 days following the receipt of a complete subdivision application by the review authority. The Planning Board shall render its decision on any application submitted to it within 30 days of a public hearing or such other time as may be mutually agreed to by the Planning Board and the applicant.

14.3.7 Subdivision approval

The Planning Board shall approve, approve conditionally, or disapprove such subdivision application at a public hearing. If approved conditionally, the conditions and reasons shall be stated and given in writing to the subdivider and, if necessary, the Planning Board may require the subdivider to submit a revised subdivision plat. If the Planning Board should disapprove the subdivision plat, the reasons for such action shall be stated and given in writing to the subdivider, and the Planning Board may state the conditions under which the proposed subdivision would be approved.

14.3.8 Recording

A. Prior to the release of a signed, approved recording plat, all current charges due under this article shall be paid.

B. When the recording plat, meeting the requirements of the City of Portland *Technical Manual,* is approved, the subdivider shall pay the actual cost of recording and reproduction.

C. The recording plat shall be recorded in the office of the Cumberland County Registry of Deeds by the subdivider.

D. The registry book and page numbers shall be transcribed on one mylar copy of the recording plat to be sent to the Public Works Authority. Unless the subdivider records the approved recording plat within three years of the Planning Board's approval of the subdivision plat, the recording plat approval shall become null and void. The preceding sentence notwithstanding, if the Planning Board's initial approval of a subdivision is based in part upon the granting of a waiver from any of the applicable subdivision standards, no such waiver shall be valid unless that fact is expressly noted on the face of the recording plat and in a certificate. The recording plat and certificate shall conform to the requirements of 30-A M.R.S. § 4406, and both the recording plat and certificate shall be recorded in the Cumberland County Registry of Deeds within two years of final subdivision approval.

14.3.9 Sectional recordings

Following subdivision plat approval, the Planning Board may permit the subdivision to be divided into two or more sections for recording purposes subject to any conditions that the Board deems necessary in order to ensure the orderly development of the plan. A sectional recording plat shall constitute at least 20% of the total number of lots contained within the approved subdivision, and, in addition, shall show the entire tract or parcel

being subdivided. For the purposes of this article, tract or parcel shall mean all contiguous land under the same ownership, provided that lands located on opposite sides of a public or private road shall be considered each a separate tract or parcel of land unless such road was established by the owner of land on both sides thereof. In these circumstances, if the first section of the plat has been recorded within three years after Planning Board approval, approval of the remaining sections of the plat shall remain in effect for five years after Planning Board approval.

14.4 REVIEW STANDARDS

14.4.1 Standards of review

Before granting approval, the Planning Board shall determine that the proposed subdivision:

A. Will not result in undue water or air pollution. In making this determination, the Planning Board shall at least consider the elevation of land above sea level and its relation to the floodplains; the nature of soils and subsoils and their ability to adequately support waste disposal; the slope of the land and its effect on effluents; the availability of streams for disposal of effluents; and conformity with the applicable state and local health and water resources regulations.

B. Has sufficient water available for the reasonably foreseeable needs of the subdivision.

C. Will not cause unreasonable burden on an existing water supply.

D. Will not cause unreasonable soil erosion or reduction in the capacity of the land to hold water so that a dangerous or unhealthy condition may result.

E. Will not cause unreasonable highway or public road congestion, or unsafe conditions with respect to use of highways or public roads that are existing or proposed.

F. Will provide for adequate sanitary waste and storm water disposal and will not cause an unreasonable burden on municipal services if they are utilized.

G. Will not cause an unreasonable burden on the ability of the City to dispose of solid waste and sewage if municipal services are to be utilized.

H. Will not have an undue adverse effect on significant natural resources and other environmentally sensitive resources, as demonstrated by compliance with the Low-Impact Development standards of the City of Portland *Technical Manual,* historic sites, or any public rights for physical or visual access to the shoreline. For subdivisions within local historic districts, the Planning Board shall apply the standards of Subsection 16.7.3(C). The Planning Board may request that the Historic Preservation Board prepare an evaluation of the proposed subdivision based upon the standards of Subsection 16.7.3(C).

I. Is in conformance with the adopted Comprehensive Plan.

J. The subdivider has adequate financial and technical capacity to meet the standards of this subsection.

K. Whenever situated, in whole or in part, within the watershed of any pond or lake or within 250 feet of any wetland, great pond, or river as defined in Title 38, Chapter 3, Subchapter I, Article 2B, will not adversely affect the quality of such body of water or unreasonably affect the shoreline of such body of water.

L. Will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of groundwater.

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M. Is or is not in a flood prone area, based on the Federal Emergency Management Agency's flood boundary and floodway maps and flood insurance rate maps and/or the City of Portland Coastal Flood Resilience Overlay Zone, and information presented by the applicant. If the subdivision, or any part of it, is in such an area, the subdivider shall determine the 100-year flood elevation and flood hazard boundaries within the subdivision, and/or the applicable SLR-DFE and SLR-BFE per Section 8.1. The proposed subdivision plan must include a condition of plan approval requiring that structures in the subdivision will be constructed in compliance with the provisions of Section 8.1 and Article 12.

N. Will provide for adequate stormwater management as demonstrated by compliance with the stormwater standards of the City of Portland *Technical Manual*.

O. Will not have lots with a lot depth-to-shore frontage ratio greater than 5 to 1 if any lots in the proposed subdivision have shore frontage on a river, stream, brook, great pond, or coastal wetland as these features are defined in Title 38 § 480-B. For purposes of this measurement, shore frontage shall be the length of a lot bordering on a water body or wetland measured in a straight line between the intersections of the lot lines with the shoreline.

P. For any proposed subdivision that crosses municipal boundaries, will not cause unreasonable traffic congestion or unsafe conditions with respect to the use of existing public ways in an adjoining municipality in which part of the subdivision is located.

14.5 TECHNICAL AND DEVELOPMENT STANDARDS

14.5.1 Technical standards

All subdivisions and associated improvements, excluding subdivisions exempted under Section 14.12 of this article, shall, in addition to the criteria listed herein, adhere to all applicable standards of the City of Portland *Technical Manual*, unless formally waived by the Planning Board.

14.5.2 Timing of subdivision improvements

The Department of Public Works shall establish the sequence in which work is to be accomplished. Where it is determined by the Public Works Authority that work has been completed prior to the receipt of all approvals required by this article, or which is out of sequence, or is not in compliance with the standards of this section and of Chapter 25, the Public Works Authority may issue a stop work order. Work shall recommence only after the stop work order has been lifted by the Public Works Authority. Violation of the stop work order shall be considered an offense.

14.5.3 Subdivision names

Subdivision names for plats shall be subject to approval by the Planning Board and shall not duplicate the name of any plat already recorded.

14.5.4 Streets

A. All streets shall be platted along contour elevations which result in minimal grade changes and ensure the greatest visibility wherever practicable, with consideration given for anticipated use of the land. Street grades in all proposed subdivisions shall be subject to approval by the Public Works Authority.

B. The proposed street layout shall be coordinated with the street system of the surrounding areas. All streets must provide for the continuation or appropriate projection of streets in surrounding areas and provide means of ingress and egress for surrounding tracts.

C. When connecting streets within residential neighborhoods, new streets shall contribute to a neighborhood street system characterized by a network of interconnected streets. The layout of subdivision lots, streets, and pedestrian ways shall promote multiple paths of travel to get to destinations within and between neighborhoods by foot and bicycle, as well as auto.

D. Reserve strips or spite strips for unspecified or unacceptable purposes are prohibited.

E. Street right-of-way widths shall be as provided in Chapter 25 of the City of Portland Code of Ordinances and the City of Portland *Technical Manual.* All private streets shall be designed by a professional engineer and shall be built according to accepted engineering standards.

F. Proposed subdivisions along existing, or dedicated, or platted streets where rights-of-way are inadequate shall provide additional land to meet the minimum standards.

G. Streets shall not occupy more land than is necessary to provide access, nor create unnecessary fragmentation of the subdivision into small blocks.

H. All dead-end streets shall provide for a cul-de-sac or, in the case of a dead-end street which will be extended, a temporary turn around at the end of the street, subject to the approval of the Public Works Authority.

I. Sidewalks shall be constructed on each side of each street in accordance with Chapter 25 of the City of Portland Code of Ordinances. Sidewalks to be used by pedestrians are to be so located as to minimize contacts with normal automotive traffic.

J. Curbs shall be constructed on each side of each street. The curbing shall be constructed as provided in Chapter 25 of the City of Portland Code of Ordinances.

14.5.5 Sewers and storm drains

A. All subdivisions shall be provided with adequate storm drain systems within the subdivision separate from any sanitary sewer system required in Chapter 25 of the City of Portland Code of Ordinances. The design of all sewers and storm drains shall be subject to approval by the Public Works Authority.

B. Any natural or manmade areas, systems or facilities designated for stormwater control purposes, and intended for City maintenance shall, except for detention or retention ponds or basins and regularly free flowing watercourses, be structurally enclosed in accordance with the standards of the Public Works Authority, and shall be dedicated with sufficient land for maintenance purposes. Warranty deeds to such areas shall be submitted for acceptance by the City Council at the same time as the acceptance of streets. All such areas as are not intended for City maintenance shall be permanently protected and maintained by private agreement, deed covenant or restriction, as appropriate, in form approved by the Corporation Counsel.

C. The subdivider shall be responsible for the construction of all sewers and storm drains including manholes, catch basins and any other appurtenances as may be deemed necessary by

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the Public Works Authority. All work shall be completed in accordance with the Department of Public Works specifications.

14.5.6 Blocks

A. A maximum block length of 800 feet, measured from the nearest street lines of intersecting streets, shall be observed except where, in the opinion of the Planning Board, conditions justify a departure from this standard. In general, block size should be the maximum, most consistent with the use and shape of the site and the convenience and safety of the occupants.

B. In blocks exceeding 800 feet in length, measured from the nearest street lines of intersecting streets, the Planning Board shall require, where feasible, the reservation of a 20 foot wide easement to the City through the block to provide for the crossing of underground utilities and pedestrian traffic and may further specify, at its discretion, that an accessible foot path be included.

C. The length, width and shape of blocks shall be determined on the basis of:

1. Provision of adequate building sites suitable to the special needs of the type of use contemplated.
2. Zoning requirements as to lot sizes, setbacks and dimensions.
3. Needs for convenient access, circulation, control and safety of street traffic.
4. Limitations and opportunities of topography.

D. The foregoing dimensions may be adjusted by the Planning Board where type of use or topography requires such modification.

14.5.7 Lots

A. Lots shall conform to the provisions of Article 7 and all other relevant provisions of the City of Portland Code of Ordinances.

B. Where easements for public utilities, storm drains, or sanitary sewers are contemplated, the lot lines shall be located in such a manner as to facilitate construction of such facilities and the maintenance thereof.

C. Lots which are reserved or laid out for business, commercial, or industrial purposes shall have sufficient width and depth to accommodate the off-street parking and loading facilities to be provided.

D. Where feasible, side lot lines shall be at right angles to street lines (or radial to curving street lines).

14.5.8 Public open space

A. In all subdivisions, open space may be provided for parks, recreation, and other public use. Where no public open space or recreational areas exist in close proximity to the subdivision, or where a lack of such areas in the subdivision would require its disapproval under Section 14.4, the Planning Board may require provision of land for park or recreational purposes. Such lands may be designated for public or private ownership in accordance with the conditions stated in this subsection, subject to the approval of the Planning Board.

B. If a tract or parcel is intended for public ownership and is so designated on the subdivision plat, the acceptance of such land shall be first recommended by appropriate City departments and the Planning Board, and sent to the City Council for final determination.

C. If a tract or parcel is designed or intended to be owned and used in common for recreational or other public or semi-public purposes, and such intent is so designated on the subdivision plat, appropriate documents in form approved by the Corporation Counsel shall be submitted to the Planning Board. Such documents shall clearly:

1. Set forth the nature of the permanent organization under which common ownership is to be established, including its purpose, how it shall be governed and administered, the provisions made for permanent care and maintenance of the common property for its share of the cost of administering and maintaining such common property.

2. Set forth the extent of common interest held by the owner of each individual parcel in the tract held in common with others.

14.5.9 Access to shoreline

A. In all subdivisions having shore frontage, existing legal rights of public access to the shoreline shall be preserved. The proposed street layout and circulation plan shall be suitably integrated with such existing public access in a manner that reasonably promotes the public use of such access. The proposed street layout and circulation plan shall also be designed to preserve any legal rights to any significant water views and scenic vistas from such rights-of-way.

B. In all subdivisions having any lots within the Shoreland Overlay Zone, legal rights of private access to waters shall, to the extent reasonably feasible, be established for the benefit of all lots within the subdivision not otherwise having such access.

14.5.10 Additional requirements for nonresidential subdivisions

All nonresidential subdivisions, meaning subdivisions not intended for human habitation, such as a commercial or industrial subdivision, must meet the following additional requirements, except as waived by the Planning Board:

A. Proposed industrial parcels shall be suitable in area and dimensions to the commercial or industrial development anticipated.

B. Street rights-of-way and pavement shall be adequate to accommodate the type, weight, and volume of traffic anticipated to be generated.

C. The design and installation of public utilities, including water, sewers, and storm water drainage, shall be adequate to accommodate the anticipated usage.

D. Streets carrying truck traffic shall not normally be extended to the boundaries of adjacent existing or potential residential areas.

14.6 WAIVERS

14.6.1 Request for waivers

A waiver of plat requirements or technical standards shall be applied for in writing by the subdivider. The decision of the Planning Board on such request shall be final.

14.6.2 Waiver standards

A. Except for the requirements set forth in Subsection 14.5.4 pertaining to the provision and construction of curbs and sidewalks, the Planning Board, if it finds that extraordinary conditions exist or that undue hardship may

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result from strict compliance with these regulations, may vary the regulations so that substantial justice may be done and the public interest secured, provided that such variation will not have the effect of nullifying the intent and purpose of the Comprehensive Plan and the regulations of this article.

B. Where the Planning Board or Planning Authority finds that, for each of the requirements listed in (1) and (2) below, two or more of the conditions exist with respect to compliance with the requirements set forth in Subsection 14.5.4 pertaining to the provision and construction of curbs and/or sidewalks, it may waive, in whole or in part, the regulations so that substantial justice may be done and the public interest secured.

1. *Sidewalks*

a. There is no reasonable expectation for pedestrian usage coming from, going to and traversing the site.

b. There is no sidewalk in existence or expected within 1,000 feet and the construction of sidewalks does not contribute to the development of a pedestrian oriented infrastructure.

c. A safe alternative-walking route is reasonably and safely available, for example, by way of a sidewalk on the other side of the street that is lightly traveled.

d. The reconstruction of the street is specifically identified and approved in the first or second year of the current Capital Improvement Program or has been funded through an earlier CIP or through other sources.

e. The street has been constructed or reconstructed without sidewalks within the last 24 months.

f. Strict adherence to the sidewalk requirement would result in the loss of significant site features related to landscaping or topography that are deemed to be of a greater public value.

2. *Curbing*

a. The cost to construct the curbing, including any applicable street opening fees, is in excess of 5% of the overall project cost.

b. The reconstruction of the street is specifically identified and approved in the first or second year of the current Capital Improvement Program or has been funded through an earlier CIP or through other sources.

c. The street has been rehabilitated without curbing in the last 60 months.

d. Strict adherence to the curb requirement would result in the loss of significant site features related to landscaping or topography that are deemed to be of a greater public value.

e. Runoff from the development site or within the street does not require curbing for stormwater management.

C. In no event shall the waiver have the effect of creating potentially hazardous vehicle and pedestrian conflict or nullifying the intent and purpose and policies of the Comprehensive Plan relating to transportation and pedestrian infrastructure and the regulations of this article.

14.6.3 Modifications approved by Public Works

If at any time before or during the construction of the required improvements the subdivider demonstrates to the satisfaction of the project engineer and the Public Works Authority that unforeseen conditions make it necessary or preferable to modify the design of the required improvements, the Public Works Authority may authorize modifications provided that the modifications do not amount to a waiver or substantial alteration of the function of any improvements required by the Planning Board.

14.6.4 Conditions

In granting waivers and modifications, the Planning Board may require such conditions as will, in their judgment, secure substantially the objectives of the standards or requirement so waived or modified.

14.7 GUARANTEES AND ASSOCIATED FEES

14.7.1 Performance guarantee required

Following subdivision approval and prior to the release of the signed recording plat, the subdivider shall post with the City a performance guarantee in the form and amount specified herein, specifying the completion of the required subdivision improvements within two years from the origination date of such guarantee. In no case shall the term of such guarantee be for a period of less than one year, nor shall any performance guarantee expire between October 30 and April 15 of the following year.

14.7.2 Inspection fees

At the same time that the developer posts a performance guarantee, the developer shall also pay to the City an inspection fee as determined by the City Council. If a performance guarantee is extended beyond its original expiration date, then an additional inspection fee in an amount to be determined by the City shall be required.

14.7.3 Establishing the performance guarantee amount

A. The performance guarantee shall be equal in value to 100% of the estimated cost of the required subdivision improvements as shown on the approved subdivision plat, as a condition of Planning Board approval, as required in the City of Portland Code of Ordinances, and/or as required by the City of Portland *Technical Manual*.

B. The performance guarantee amount shall be estimated by the applicant or representative on a form provided by the City and shall be submitted for review and approval to the Planning Authority. Costs to be included in the estimate, and which shall be covered by the performance guarantee include items such as street and sidewalk improvements including street lights, monuments, curbing, ramps, detectible warning panels, and striping; earth work and grading; utilities infrastructure and connections including sewer, stormwater, and water service; exterior site lighting; erosion control measures as shown on the approved erosion and sedimentation control plan; open space and recreation amenities; and final site stabilization and landscaping.

C. The Planning Authority may waive all or any portion of this requirement if it determines that the subdivider has a proven record of satisfactory performance and sufficient financial capability.

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14.7.4 Phased projects

If a project is reviewed and approved as a phased project, the corresponding performance guarantee may also be phased. A separate performance guarantee shall be posted for each phase. Each phase of such project shall be independent of subsequent phases and shall conform to all standards of this article in the event that subsequent phases do not go forward.

14.7.5 Advanced site work

On a case-by-case basis, permission for advanced site work may be granted by the Planning Authority. Such permission is solely within the discretion of the Planning Authority.

14.7.6 Alterations to pending subdivisions

Alterations may be made to a site with a pending subdivision application if:

A. At minimum, a performance guarantee for the proposed site alterations has been posted and final plans have been submitted to the Planning Authority.

B. Written permission has been received from the Planning Authority that such site alterations may proceed pending subdivision approval. Such permission is solely within the discretion of the Planning Authority and shall be granted only after submission of a written request setting forth the work proposed to be done on the site. All such work shall be done in compliance with information provided with the subdivision application. An erosion control plan shall also be submitted when deemed necessary by the Planning Authority. Such written permission shall not be required when the only work proposed is the digging of test pits.

14.7.7 Acceptable forms for the performance guarantee

The performance guarantee, in the amount approved by the Planning Authority, shall be a letter of credit, an escrow account with a responsible financial institution, or the deposit to the City of Portland Finance Department and shall be in conformance with the templates and forms made available by the City. If the performance guarantee is a deposit to the City, the City shall hold such funds in a noninterest-bearing account until criteria for performance guarantee release have been satisfied. The performance guarantee shall be in the name of the City and shall be approved by the Finance Director as to financial sufficiency and the Corporation Counsel as to proper form and legal sufficiency.

14.7.8 Reductions of the performance guarantee

A. Up to three times during the construction of a project, upon request of the subdivider, a performance guarantee may be reduced by the value equal to the estimated cost of the completed improvements. In no case shall any performance guarantee be reduced by any line item on the cost estimate where improvements remain to be completed. Requests shall be submitted on a form provided by the City for review and approval by the Planning Authority.

B. In no case shall any performance guarantee be reduced to an amount equal to or less than the required defect guarantee until all criteria set forth for converting to the defect guarantee have been met, as approved by the Planning Authority.

14.7.9 Extension of the performance guarantee

If the Planning Authority and/or the Public Works Authority has reasonable doubt concerning the stability or proper construction of the required site improvements, the developer shall be required to reconstruct or otherwise address the issues to the City's satisfaction. If the performance guarantee is scheduled to expire before the extent or necessity for such further work can be determined, the developer shall be required to extend the performance guarantee covering such improvements, or secure a new guarantee, for a period and amount deemed necessary by the Planning Authority and/or the Public Works Authority.

14.7.10 Release of the performance guarantee

A. No performance guarantee shall be released until all fees generated by the project are paid to the City, including but not limited to engineering, inspection, and administrative fees. The guarantor shall not be released from the guarantee except and until authorized in writing from the Planning Authority.

B. For subdivisions, no performance guarantee shall be released until the Public Works Authority has performed a final inspection of the roadway and determined satisfactory completion of the required improvements. Additionally, no performance guarantee shall be released until the City is in receipt of a petition for street acceptance, deemed complete and satisfactory by Corporation Counsel and/or the Public Works Authority. The petition for street acceptance must include a warranty deed (with metes and bounds description) to the property within each street of the subdivision or roadway extension and any other improvements intended for City maintenance.

C. Upon the satisfactory completion of the required site improvements and satisfactory compliance with all conditions of approval including the submission of as-built drawings as applicable, the Planning Authority shall authorize, in writing, conversion to the defect guarantee. The defect guarantee shall be 10% of the original performance guarantee amount and shall remain in place for a period of one year. The defect guarantee shall ensure the workmanship and the durability of all materials used in the construction of the required site improvements. The Planning Authority may authorize the defect guarantee to be released at any time within the one-year period, provided all required site improvements have been constructed and in-place for one year or more and the workmanship and the durability of all materials has been inspected and confirmed to be satisfactory.

14.7.11 Improvements required prior to release of guarantee

Prior to the release of the performance guarantee, the subdivider shall have completed the following improvements:

A. All streets shall be graded in conformity with the requirements set out in Section 14.5 and in accordance with Chapter 25 of the City of Portland Code of Ordinances.

B. On all streets, side streets, and alleys, a suitable hard surfaced permanent pavement shall be installed meeting the requirements set forth in Chapter 25 of the City of Portland Code of Ordinances.

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C. Water, gas, sanitary sewer mains, and storm drains shall be constructed prior to the installation of paving with all mains being extended from all lots having sufficient stub outs to avoid subsequent breaking of pavement.

D. Sidewalks and curbs shall be constructed as required in Section 14.5.

E. Adequate storm drains shall be constructed subject to the provisions of Section 14.5 and in accordance with the Public Works Authority specifications.

F. A total of two trees per lot shall be street trees, planted near the street line in full public view on private property, as directed by the City Arborist. Existing healthy trees may be credited toward this requirement, subject to the approval of the City Arborist.

G. Permanent markers shall be set as prescribed by the Public Works Authority.

H. All utility lines shall be placed underground unless otherwise approved by the Planning Board.

I. Street lighting shall be installed in accordance with the standards of the Public Works Authority.

J. A public water supply shall be installed subject to the approval of the Portland Water District.

K. Erosion control measures shall be taken both during and after construction in accordance with the standards of the Public Works Authority.

14.7.12 Acceptable forms for the defect guarantee

The defect guarantee, 10% of the original performance guarantee amount approved by the Planning Authority, shall be a letter of credit, an escrow account with a responsible financial institution, or the deposit to the City of Portland finance department and shall be in conformance with the templates and forms made available by the City. If the defect guarantee is a deposit to the City, the City shall hold such funds in a noninterest-bearing account until criteria for performance guarantee release have been satisfied. The performance guarantee shall be in the name of the City and shall be approved by the Finance Director as to financial sufficiency and the Corporation Counsel as to proper form and legal sufficiency.

14.7.13 Use of the performance guarantee

In the event that a development site is abandoned or the site improvements do not meet City standards as approved in the subdivision plat, the performance guarantee may be utilized to stabilize, secure, complete construction, and/or restore the site as may be necessary, including, but not limited to, revegetation of areas, grading, and fencing.

14.8 CONSTRUCTION RECORDS AND INSPECTION

14.8.1 Inspection of construction

The City shall have the right to enter and inspect the construction site during all phases of the project to ensure compliance with this article.

14.8.2 Required construction records

After approval of the subdivision plat and prior to the construction of any of the subdivision's public improvements, the subdivider shall supply the City Engineer with a complete set of engineering drawings showing all streets, sanitary sewers, and surface water drains, and all appurtenant work within the subdivision.

14.9 TRANSFER OF OWNERSHIP

The purchasing party or other succeeding owner of a subdivision for which a recording plat has received prior approval, but which has not yet been accepted by the City, shall assume full responsibility for completion of the subdivision's improvements until the subdivision street or streets are accepted by the City. The purchaser or other succeeding owner of an unaccepted subdivision shall be required to comply with all the provisions of this article as if he were the original subdivider, and shall become responsible for completing such improvements in the same manner as the original subdivider.

14.10 PLAT AMENDMENTS

The Planning Authority may approve alterations to an approved recording plat when all of the following conditions are met. Otherwise, a new subdivision plat must be submitted to the Planning Board:

A. The rearrangement of lot lines does not increase the number of lots within a block or other subdivision unit or area.

B. The alteration will not affect any street, alley, utility easement or drainage easement.

C. The alteration meets all of the minimum requirements of this Land Use Code and other applicable state and local codes.

D. The alteration is approved by the Public Works Authority and the Fire Department.

Such approved alterations shall be properly recorded in the registry within 30 days thereof or they shall be null and void. Recording of approved alterations also shall be in accordance with the requirements of 30-A M.R.S. § 4406.

14.11 VACATION OF PLATS

Any such plat recorded, or any portion thereof, may be vacated with the consent of the City Council as follows:

A. At any time before the sale of any lot therein, by written instrument, signed by the City and the owners of such subdivision, declaring the same to be vacated and describing therein the part or portion to be so vacated.

B. At any time after the sale of any lot therein and by written instrument, signed by the City and all owners of record of lots shown on the plat, declaring the same to be vacated and describing therein the part or portion to be so vacated.

C. Any instrument so executed vacating all or a portion of any plat shall be duly filed and recorded in the Cumberland County Registry of Deeds. The execution and recording of the instrument described in (B) above shall vest fee simple title to the centerline of the street, alley or easement for public passage so vacated in the owners of abutting properties. Title to property located within the vacated streets, alleys, or easements for public passage shall pass to abutting property owners free and clear of any rights of the public or other owners of lots shown in the plan, but subject to the rights of the owners of any public utility installations which have been previously erected therein.

14.12 EXEMPTIONS

14.12.1 Subdivisions prior to 1979

This article does not apply to subdivisions approved prior to June 6, 1979, nor to subdivisions in existence prior to June 6, 1979, nor to subdivisions which have been legally recorded in the Registry of Deeds prior to June 6, 1979.

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14.12.2 Division by demise, condemnation, order, or gift

A division accomplished by demise; condemnation; order of court; gift to a person related to the donor by blood, marriage, or adoption, unless the intent of such gift is to avoid the objectives of this article; or by transfer of any interest in land to the owner abutting thereon shall not be considered to create a lot or lots for purposes of this article.

14.13 APPEALS

An appeal from any final decision of the Planning Board regarding subdivision approval may be taken by the applicant or their authorized agent to Superior Court in accordance with Rule 80B of the Maine Rules of Civil Procedure.

15 IMPACT FEES

15.1 PURPOSE

The purpose of this article is to ensure that new development in the City of Portland bears a proportional or reasonably-related share of the cost of new, expanded, or replacement infrastructure necessary to service that development through the payment of impact fees dedicated to funding improvements made necessary by development, or the construction of improvements as provided for herein. This ordinance is enacted pursuant to the authority of 30-A M.R.S. § 4354 and 30-A M.R.S. § 3001.

15.2 APPLICABILITY

The following shall be subject to impact fees, with the exception of municipal buildings, which shall be considered exempt:

A. Any new building or addition to existing buildings which results in net new residential dwelling units, nonresidential building square footage, or water/wastewater meters, and

B. Any change of use which results in a net increase in impact fee per Subsection 15.3.6.

15.3 CALCULATION OF IMPACT FEE

15.3.1 In general

Impact fees shall be calculated based on the impact fee schedule in effect at the time of submittal of a complete application for a building permit.

15.3.2 Determination of use

The determination of the applicable land use category in the impact fee schedule shall be made by the Department of Permitting and Inspections with reference to the City of Portland's most recent *Impact Fee Study*. If the proposed development is of a type not listed in the impact fee schedule, then the impact fees applicable to the most nearly comparable type of land use listed in the impact fee schedule shall be used.

15.3.3 Mixed use development

In the event that there is more than one use within a building, impact fees shall be calculated separately for each use.

15.3.4 Redevelopment

In calculating the impact fee for a new building that involves the full or partial demolition of a building housing an existing, legally established use or uses, such new building shall be credited with an amount equal to the fee that would have been charged to the use or uses which occupied the structure at the time of demolition permit. If the impact fee calculation for the post-development condition is greater than the credit, the applicant shall pay the difference. If the impact fee calculation for the post-development condition is less than the credit, then the applicant shall not be required to pay an impact fee. The City shall not grant credits for demolitions for which a permit was issued more than 10 years prior to the complete application for a building permit.

15.3.5 Building additions

In calculating the impact fee for building additions, each developed property shall be credited with an amount equal to the fee that would have been charged to the existing use at the time of the addition of floor area. If the impact fee calculation for the post-development condition is greater than

the credit, the applicant shall pay the difference. If the impact fee calculation for the post-development condition is less than the credit, then the applicant shall not be required to pay an impact fee.

15.3.6 Changes of use

In calculating the impact fee for changes of use, each developed property shall be credited with an amount equal to the fee for the use in the highest fee category that has existed on the developed property within the previous 10 years. If the impact fee calculation for the proposed use is greater than the credit, the applicant shall pay the difference. If the impact fee calculation for the proposed use is less than the credit, then the applicant shall not be required to pay an impact fee.

15.4 ANNUAL ADJUSTMENT OF IMPACT FEE

To account for inflation, there shall be an automatic annual increase in the impact fee schedule reflected in this ordinance every January 1 based on the change in the construction cost index as published by *Engineering News Record*. The fee adjustment shall be calculated by dividing the index amount published on January 1 of the current year by the index amount published on January 1, 2018 and multiplying the resulting ratio by each fee amount. Annual adjustments shall be made available for public reference.

TABLE 15-A: PARKS & RECREATION AND TRANSPORTATION IMPACT FEE SCHEDULE[1]

Land Use Type	Unit of Measure	Parks/Recreation Impact Fee	Transportation Impact Fee
Single-family/Two-family	per unit	$1,126	$2,159
Three-/Four-/Multi-family	per unit	$752	$1,023
Retail/Service	per 1,000 SF GFA	$534	$8,248
Office	per 1,000 SF GFA	$677	$2,800
Industrial	per 1,000 SF GFA	$363	$1,130
Institutional	per 1,000 SF GFA	$645	$3,082
Hotel/Motel	per room	$875	$2,404

[1] Land use types included impact fee schedule correspond to those in the City's most recent *Impact Fee Study*.

TABLE 15-B: WASTEWATER IMPACT FEE SCHEDULE

Meter Size	Capacity Ratio	Impact Fee
5/8 inch	1.00	$1,886
¾ inch	1.50	$2,829
1 inch	2.50	$4,715
1 ½ inches	5.00	$9,430
2 inches	8.00	$15,088
3 inches	16.00	$30,176
6 inches	50.00	$94,300
8 inches	80.00	$150,880

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15.5 MODIFICATION OF IMPACT FEES

15.5.1 Equivalent improvements

A. A required impact fee may be modified, in whole or in part, by the Planning Authority if the Planning Authority finds that:

1. The developer or property owner who would otherwise be responsible for the payment of the impact fee voluntarily agrees to make infrastructure improvements for which the impact fee would be collected or an equivalent improvement approved by the reviewing authority, or

2. The developer or property owner is required, as part of a development approval by the City or a state or federal agency, to make or to pay for infrastructure improvements for which the impact fee would be collected or an equivalent improvement.

B. Credit amounts shall be determined based on plans, details, and cost estimates for the proposed infrastructure improvements for which the credit is requested. Such plans, details, and cost estimates shall be prepared by a licensed professional engineer and submitted at the time of site plan, subdivision, or building permit application. The applicant shall pay for any third-party review of plans, details, or cost estimates. On-site or immediately adjacent improvements providing direct service to a site as required under subdivision or site plan regulations shall not be considered eligible under this subsection.

15.5.2 Substantially-reduced demand

The Planning Authority may modify the payment of a required impact fee, in whole or in part, if it finds that documentation is provided to demonstrate that a proposed use will impose no or substantially-reduced demands on capital facilities for which impact fees have been adopted. Such documentation shall be prepared by a licensed professional engineer or other qualified professional and include a written analysis of the demand for capital facilities generated by the proposed use based on industry standards and the most recent *Impact Fee Study*. Documentation shall be submitted at the time of site plan, subdivision, or building permit application. The applicant shall pay for any third-party review of plans, details, or cost estimates.

15.6 REDUCTION IN FEES FOR AFFORDABLE HOUSING

Any residential development including low-income or workforce housing units and qualifying as an eligible project under Subsection 17.2.2 shall receive a reduction of fees in accordance with Subsection 17.2.2.

15.7 COLLECTION OF IMPACT FEE

The City of Portland shall not issue any certificate of occupancy required under the Land Use Code until the applicant has paid any impact fees required by this ordinance.

15.8 SEGREGATION OF IMPACT FEES FROM GENERAL REVENUES

Impact fees collected pursuant to this ordinance shall be maintained in separate, non-lapsing impact fee accounts for each of the facilities for which impact fees are assessed, and shall be segregated from the City's general revenues. These accounts shall be dedicated for funding of the improvements for which the fee is collected, as determined through the City's most recent *Impact Fee Study*.

Funds from these accounts shall be distributed to City departments solely for the purpose of capital projects identified in the City of Portland's most recent *Impact Fee Study*.

15.9 USE OF IMPACT FEES

Impact fees collected by the City pursuant to this ordinance may be used only for financing facility improvements which the City Council, through the City of Portland's most recent *Impact Fee Study*, has determined are made necessary by new development. The City Council has determined that fees imposed by schedules in this ordinance are reasonably related to the demands created by new development. Impact fees collected pursuant to this ordinance shall be used exclusively for capital improvements, and the City of Portland shall expend funds collected from impact fees solely for the purposes for which they were collected.

15.10 REFUND OF UNUSED IMPACT FEES

Impact fees collected pursuant to this ordinance shall be used by the City according to the schedules for the completion of specific capital improvements as specified in the City of Portland's most recent *Impact Fee Study*, but in no event later than ten years after the date upon which the impact fee was collected. Any impact fees which are not so used and any impact fees collected which exceed the City's actual costs of implementing the infrastructure improvements for which such fees were collected shall be refunded. Refunds shall be paid to the owner of record of the property for which the impact fee was collected, determined as of the date the refund is made.

15.11 REVIEW AND REVISION

The impact fees established in this ordinance are based upon the best estimates of the costs of the construction of the facilities for which the fees are collected as determined through the City's most recent *Impact Fee Study*. The Council may, by amendments to this ordinance, change the amounts of the impact fees from time to time as warranted by new information or changed circumstances.

15.12 ADMINISTRATIVE RULES AND REGULATIONS

The Planning Board is hereby authorized to develop rules and regulations governing the administration of impact fees collected pursuant to this ordinance.

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16 HISTORIC PRESERVATION

16.1 PURPOSE

The purpose of this article is to promote the educational, cultural, economic, and general welfare of the City of Portland by:

A. Creating a mechanism to survey, identify, historically designate, and protect buildings, structures, objects, sites, and areas of historic, cultural, architectural, and archaeological significance consistent with the National Register of Historic Places and the Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation;

B. Establishing standards for review of alterations and new construction affecting historic designations consistent with the Secretary of the Interiors Standards for the Treatment of Historic Properties;

C. Encouraging compatible rehabilitation and new construction affecting historic designations, preventing the unnecessary loss of the community's significant character without stifling change and development;

D. Providing a resource of information and expertise to help those interested in historic designation, and rehabilitation or new construction affecting historic designations; and

E. Fostering civic pride in the city's history as represented in the city's historic designations.

16.2 HISTORIC DESIGNATIONS

16.2.1 Categories of historic designations

A. Landmark. A discrete building, structure, object, or site and any associated area found to have particular or individual significance or prominence. Landmarks may be in or outside of historic districts or historic landscape districts.

B. Historic district. A geographically defined area possessing a significant concentration, linkage, or continuity of buildings, structures, sites, or objects united by past events, culturally, or aesthetically by design, plan, or physical development. The defined area may comprise individual elements separated geographically but linked by association or history.

C. Historic landscape district. A geographically defined area possessing a significant concentration, linkage, or continuity of natural or man-made landscape components including buildings, structures, sites, or objects which are united by past events, culturally, or aesthetically by design, plan or physical development. The defined area shall be owned in its entirety by a unit of federal, state, or local government, or any combination of such ownership at the time of nomination.

16.2.2 Criteria for historic designation

A. Any building, structure, object, site, or area nominated for historic designation must be found to demonstrate significance under at least one of the following:

1. *Significant aspect of heritage.* Value as a significant example of the cultural, historic, architectural, archaeological, or related aspect of the heritage of the City of Portland, State of Maine, New England region, or United States.

2. *Significant events or activities.* Location as a site of a significant historic, prehistoric, or cultural event or activity.

3. *Significant persons.* Identification with a person or persons who significantly

contributed to the cultural, historic, architectural, archaeological, or related aspect of the heritage of the City of Portland, State of Maine, New England region, or United States.

4. *Significant design or construction.* Embody the distinctive characteristics of a significant type, style, design, period, or method of construction.
5. *Significant designer*. Identification as a significant example of the work of an architect, designer, engineer, or builder whose individual work is significant in the history or development of the City of Portland, State of Maine, New England region, or United States.
6. *Significant theme.* Representation of a significant cultural, historic, architectural, archaeological, or related theme expressed through distinctive areas, sites, structures, or objects that may or may not be contiguous.

B. Any nominated building, structure, object, site or area must also be found to retain sufficient integrity of location, design, setting, materials, workmanship, feeling, and association to convey its significance with respect to the applicable criteria for historic designation as defined in Subsection 16.2.2(A).

C. The Planning Board and City Council shall apply the criteria for historic designation of Subsections 16.2.2(A) and (B) above, the historic preservation goals included in the Comprehensive Plan, and may consider the effect of such historic designation on other aspects of the Comprehensive Plan of the City.

D. The Historic Preservation Board, Planning Board, and City Council may refer to the National Register of Historic Places Bulletins in interpreting and applying the criteria for historic designation under Subsections 16.2.2(A) and (B).

16.2.3 Classifications within historic designations

A. The buildings, structures, objects, and sites within a historic designation may be classified as contributing or noncontributing.

B. A contributing classification shall only be applied to a building, structure, object, or site which:

1. Was built at least 50 years prior to the date of district designation, or was built within a period of significance specified in the nomination for historic designation;
2. Is found to have a relationship with or physically embody the qualities that give the historic designation cultural, historic, architectural, or archaeological significance as embodied in the criteria for historic designation from Subsection 16.2.2(A) specified in the nomination for historic designation; and
3. Retains sufficient integrity to communicate that significance as defined in Subsection 16.2.2(B).

C. Where a landmark overlaps with a historic district or historic landscape district, the contributing buildings, structures, objects, and sites of the landmark shall be classified as contributing to the historic district or historic landscape district.

D. If a building, structure, object, or site does not meet Subsection 16.2.3(B) or (C) it shall be classified as noncontributing.

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16.3 NOMINATION, CONSIDERATION, AND HISTORIC DESIGNATION

16.3.1 Procedure

The provisions of this section shall govern the nomination, consideration, and designation of landmarks, historic districts, and historic landscape districts.

16.3.2 Nomination of a historic designation

A. Nomination of a historic designation shall be submitted to the Planning Authority in writing. Nominations shall include the following information:

1. A statement of how the proposed historic designation meets the criteria for historic designation under Subsections 16.2.2(A), (B), and (C).
2. A map showing the location and proposed boundaries of the historic designation.
3. A draft list of the constituent buildings, structures, objects, and sites, indicating their degree of cultural, historic, architectural, or archaeological significance and their classification as contributing or noncontributing within the proposed historic designation.

B. Nominations may be submitted by:

1. Any two members of the Historic Preservation Board on their own initiative;
2. The Planning Authority;
3. In the case of a landmark, one or more owners of the affected property; or
4. In the case of a historic district or historic landscape district, one or more owners of an affected property, provided a minimum of two members of the Historic Preservation Board submit written sponsorship of the nomination to the Planning Authority.

C. Upon nomination, the Planning Authority shall notify the owner(s) of the subject property or properties.

D. A nomination shall be diligently pursued from the date of submission. Nominators shall provide additional information as requested by the Planning Authority or Historic Preservation Board when determined to be reasonably necessary to make any determination required by this article. Failure of nominators to provide a response to the request for additional information within 120 days of the date upon which the written request was made shall cause the nomination to expire.

E. Withdrawal of nominations shall only be at the consent of all parties who submitted the nomination. Consent to withdraw a nomination shall be submitted in writing to the Planning Authority.

16.3.3 Historic Preservation Board review and recommendation

A. A public hearing on the nomination shall be held by the Historic Preservation Board following one or more workshops conducted in accordance with procedures adopted by the Historic Preservation Board.

B. The Historic Preservation Board shall consider all testimony or evidence relating to the nomination from any person who makes written submissions or appears at a workshop or public hearing. The owner of a nominated property shall be allowed reasonable opportunity to present testimony or evidence concerning the applicability of the criteria for historic designation in Subsection 16.2.2.

C. If the Historic Preservation Board finds that documentation and analysis necessary for the consideration of the nomination has not been provided as part of the nomination, such documentation shall be provided prior to further consideration by the Historic Preservation Board.

D. Following the close of the public hearing, the Historic Preservation Board shall make a recommendation to the City Council in the case of a landmark, or to the Planning Board in the case of a historic district or historic landscape district, as to whether the nominated buildings, structures, objects, sites, or areas meet the criteria for historic designation in Subsection 16.2.2. Such recommendation shall be accompanied by a report containing findings by the Historic Preservation Board as to whether the criteria for historic designation in Subsection 16.2.2 have been met, as well as any recommended changes to the scope of the nominated historic designation.

16.3.4 Planning Board review and recommendation

A. The Planning Board shall hold a public hearing to review the nomination of a historic district or historic landscape district and the recommendation from the Historic Preservation Board. The Board may hold one or more workshops prior to the public hearing.

B. All meetings, hearings, and deliberations of the Planning Board to consider the nomination, and recommendation and report of the Historic Preservation Board shall be held in conformity with Article 2.

C. The Planning Board may request that the chair of the Historic Preservation Board, or a member designated by the chair, appear at a meeting to explain the recommendation or report.

D. Following the close of the public hearing, the Planning Board shall make a recommendation to the City Council upon the evidence as to whether the nomination meets the criteria for historic designation in Subsection 16.2.2. Such recommendation shall be accompanied by:

1. The report of the Historic Preservation Board.
2. A report containing findings by the Planning Board as to whether the criteria for historic designation in Subsection 16.2.2 have been met, as well as any recommended changes to the scope of the nomination.

16.3.5 City Council consideration

A. Following the receipt of a Historic Preservation Board recommendation and report in the case of a landmark nomination, or Planning Board recommendation and report in the case of a historic district or historic landscape district nomination, the City Council shall approve or reject the historic designation.

B. The designating order shall include a map of the location and boundaries of the historic designation, and be accompanied by a list of buildings, structures, objects, and sites within the historic designation including their location or address and classification as contributing or noncontributing under Subsection 16.2.3.

C. Notice of City Council action shall be sent to all owners of property within the boundaries of a historic designation within 30 days following the City Council action.

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D. A record of the historic designation, maps of the historic designation boundary, and copies of all nominations and reports shall be maintained by the Planning Authority and be made available to the public online and during ordinary business hours.

16.3.6 Designation

A. Upon designation, all buildings, structures, objects, and sites within the boundary of the historic designation shall be subject to the provision of this article.

B. Demolition, including any act or process that totally destroys any contributing building, structure, object, or site shall be prohibited, with the exception of:

1. Any building, structure, object, or site which has been ordered demolished by the municipal officers or a court, in accordance with 17 M.R.S. § 2851 et seq., its equivalent, as it may be amended from time to time, or
2. Any building, structure, object, or site which has been partially destroyed and is determined by the Planning Authority to represent an immediate hazard to the public health or safety, which hazard cannot be abated by reasonable measures specified by the Planning Authority, including without limitation securing apertures and/or erecting fencing.
3. Any building, structure, object, site, or portion thereof which was approved for demolition under a certificate of economic hardship under Section 16.7.

16.3.7 Amendment or rescission of designation

A. Amendment shall be defined as a change to the historic designation boundary or reclassification of a building, structure, object, or site as contributing or non-contributing in its entirety.

B. Rescission shall be defined as the complete removal of a historic designation.

C. Amendment or rescission of any historic designation shall be upon the request of a person or persons authorized to nominate the property or properties affected as set forth in Subsection 16.3.2, or upon request of the City Council. Such requests shall be submitted in writing to the Planning Authority.

D. Amendment or rescission shall follow the procedure set forth in Section 16.3 for designation. The standards for rescission or amendment applied by the Historic Preservation Board, Planning Board, and City Council shall be limited to those provided in Subsection 16.2.2 (A) and (B). Amendments may include reclassification of a portion of a contributing property to noncontributing status, refinement or correction of design guidelines, maps, and other parts of any designation.

16.3.8 Presumption of contributing classification

Where the historic designation does not specify the classification of a building, structure, object, or site, there shall be a presumption that the building, structure, object, or site is contributing, unless:

A. Documentation can be provided to the Planning Authority that the building, structure, object, or site was constructed within 50 years

of or after the date of historic designation, or after the stated period of significance;

B. The Historic Preservation Board holds a public hearing and finds that the building, structure, object, or site has no significance relating to the criteria for historic designation under Subsection 16.2.2(A) referenced in the nomination for the historic designation, or reports of the Historic Preservation Board, Planning Board or City Council; or

C. The Historic Preservation Board holds a public hearing and finds that the building, structure, object, or site has been lawfully substantially altered within 50 years of or after the date of historic designation, or after the stated period of significance, such that it lacks integrity as defined under Subsection 16.2.2(B).

16.4 INTERIM PROTECTION FOR NOMINATED HISTORIC DESIGNATIONS

16.4.1 Maintenance

From the time of submission of a complete nomination as set forth under Subsection 16.3.2 until the City Council acts upon such nomination, the nomination is withdrawn, or the nomination expires, all buildings, structures, objects, or sites nominated but not yet designated shall be subject to the provisions of Sections 16.8 governing maintenance, to the same extent as if designated.

16.4.2 Protection from demolition

From the time of submission of a complete nomination as set forth under Subsection 16.3.2 until the City Council acts upon such nomination, the nomination is withdrawn, or the nomination expires, all demolition permit applications for any building, structure, object, or site nominated but not yet designated shall be denied unless:

A. The Historic Preservation Board has held a public hearing at the request of the owner of a building, structure, object, or site and has found that the building, structure, object, or site in question would be recommended to be classified as noncontributing to the nominated historic designation and shall be eligible for a demolition permit. The determination of the Historic Preservation Board that the building, structure, object, or site is eligible for a permit shall be conclusive; or

B. The owner has received a certificate of economic hardship under Section 16.7.

16.5 REVIEW PROCESS FOR HISTORIC PRESERVATION APPROVAL

16.5.1 Applicability

A historic preservation approval shall be required prior to undertaking any new construction, additions, exterior alterations, site alterations, signage, or the relocation of buildings, structures, or objects affecting any property within the boundaries of a historic designation as identified in Table 16-A. Historic preservation approval shall also be a condition precedent to the issuance of any permit authorizing any such work as noted above. Notwithstanding the above, the following activities shall be considered exempt:

A. Work consisting solely of ordinary maintenance, being acts of upkeep or repair which do not include a change in the design, material, or outer appearance of a building, structure, object, or site such as repainting of previously painted surfaces or in-kind replacement of materials or plantings.

B. Work consisting solely of emergency repair of a temporary nature.

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C. Work approved under a valid certificate of economic hardship.

D. Work where the Planning Authority determines that the proposed exterior changes are not readily visible at pedestrian heights from any public way or public open space.

E. Installation of new public artworks approved or acquired through the City of Portland Public Art Program.

F. Changes in plantings or vegetation outside of historic landscape districts and minor changes in plantings or vegetation within historic landscape districts.

G. Alterations to existing grave markers or tombs made for the purpose of recognizing additional decedents or installation of grave markers or tombs recognizing new interments within an existing cemetery.

H. Roof-mounted solar energy systems where the system:

1. Is consistent with all other city requirements,
2. Is installed reversibly with no damage to any historic roofing materials,
3. Is not installed on street-facing roof planes on landmarks or contributing buildings or structures, and
4. Any associated electrical equipment is not installed on street-facing facades.

I. Ground-mounted heat pumps and HVAC equipment where:

1. Exterior units are installed at least 30' from public rights-of-way or behind the street-facing facades of the associated building or structure, whichever is a greater distance, and
2. Any associated line hides, conduit, vents, and other equipment or penetrations are not installed on street-facing facades.

J. Installation of temporary buildings, structures, or objects for a period of less than eight consecutive months, unless such installation otherwise meets a threshold for review established in Table 16-A.

K. Demolition of non-contributing buildings, structures, objects, or sites.

L. Relocation of non-contributing buildings, structures, or objects to a property outside any historic designation boundary.

M. Interior work of any kind.

16.5.2 Review classifications

A. Applications shall be subject to administrative or Historic Preservation Board review according to the classifications in Table 16-A.

B. The Planning Authority may, due to the scope or anticipated impacts of a project, reclassify an administrative review to a Historic Preservation Board review.

C. At any point in the review process, an applicant may request that the Planning Authority reclassify the application from administrative to Historic Preservation Board review.

TABLE 16-A: HISTORIC PRESERVATION REVIEW CLASSIFICATIONS

		Administrative Review	Board Review
New construction and additions		≤ 500 SF	> 500 SF
Dormer additions[1]		Affecting ≤ 40% of roof area (in SF)	Affecting > 40% of roof area (in SF)
Alterations to contributing buildings, structures, or objects[2]	Minor alterations	All	--
	Major alterations	≤ 25% of any façade, or where work is based on clear documentation of the historic appearance	> 25% of any facade
Alterations to noncontributing, buildings, structures, or objects[2]	Minor alterations	All	--
	Major alterations	≤ 40% of any facade	> 40% of any facade
Site alterations[3]		All	--
Signage		All	--
Relocation of buildings, structures, or objects[4]		≤ 500 SF	> 500 SF

[1] Dormer additions include any increase in volume which does not interrupt the ridges, eaves, or rakes of an existing building or structure.
[2] Minor alterations include small or routine changes such as required by building code or modern convenience which result in minimal change in exterior appearance of an existing building, structure, or object. Major alterations include changes to existing or introduction of new details or features which affect the scale, form, proportion of openings, ratio of solid to void, rhythm or placement of entrances, color or texture of materials, or relationship to the street of an existing building, structure, or object.
[3] Site alterations include the construction of permanent features such as fences and retaining walls, regrading, hardscaping, and the installation of exterior utilities.
[4] Relocations include the moving of a building, structure, or object on its site or to another site.

16.5.3 Historic Preservation pre-application meeting

Applicants are encouraged to schedule a historic preservation pre-application meeting with the Planning Authority prior to applying for historic preservation review. The purpose of this meeting is to familiarize the applicant with the City of Portland Historic Preservation submittal requirements, applicable review standards, and to confirm the level of review required. A pre-application meeting does not confer pending proceeding status under Title 1 MRSA 302. No decisions relative to the application shall be made at the pre-application meeting, nor shall any advice or information provided by the Planning Authority be construed as a decision.

16.5.4 Applications

Application for historic preservation review shall be made on a form prepared by the City and submitted to the Planning Authority along with the applicable fee. Upon receipt of an application and fee, the Planning Authority shall determine whether the application is complete and the level of review required per Table 16-A.

16.5.5 Costs

All projects shall be subject to fees as established by the City Council to cover the administrative costs of review. Applicants are also required to pay fees to cover the professional and administrative costs for analysis associated with project review, including but not limited to planning, legal, or other services as needed.

16.5.6 Lapse in application

An application for historic preservation review shall be diligently pursued from the date of submission. Applicants shall provide additional information as requested by the Planning Authority or Historic Preservation Board when determined to be reasonably necessary to make any determination required by this article. Failure of an applicant to provide a response to the request for additional information within 120 days of the date upon which the written request was made shall cause the application to expire and be deemed null and void.

16.5.7 Administrative review

An application for historic preservation review subject to administrative review shall be reviewed by the Planning Authority for compliance with the standards of Section 16.6. The Planning Authority may request revised plans and submittals necessary to determine compliance. The Planning Authority shall approve the application, approve the application with conditions, or deny the application.

16.5.8 Historic Preservation Board review

A. An application for historic preservation review subject to Historic Preservation Board review shall be reviewed by the Historic Preservation Board for compliance with the standards of Section 16.6. The Planning Authority may request revised plans and submittals necessary to determine compliance with the standards of Section 16.6 prior to scheduling a Historic Preservation Board workshop or public hearing.

B. The Planning Authority shall schedule the project for review at a workshop or public hearing on a date that meets public noticing requirements and prepare a report for the Historic Preservation Board's consideration which addresses the proposed project's compliance with the standards of Section 16.6.

C. In the case of applications being reviewed at a workshop or workshops prior to the public hearing, they shall be informational and not result in any formal approval or disapproval of the project. At a workshop, the Historic Preservation Board shall review the plans and submittals, consider the staff review with respect to the standards of Section 16.6, hear public comments and questions, and provide direction to the applicant regarding issues to be addressed to bring the application into compliance with the standards of Section 16.6.

D. At a hearing, the Historic Preservation Board shall approve, approve with conditions, or deny the application based on the standards of Section 16.6. Should the Historic Preservation Board deny an application, it shall enter findings of fact concerning the relationship between the application and standards of Section 16.6 within 60 days of the close of the public hearing. Written notice of the determination of the Historic Preservation Board on the application, including a copy of the findings of fact, shall be sent by regular mail to the applicant.

16.5.9 Review process involving major site plans

Site plan review by the Planning Board and historic preservation review by the Planning Authority or Historic Preservation Board shall, to the extent feasible, proceed concurrently. Any proposed major site plan required to obtain historic preservation approval under this article shall be exempt from the design standards included in Article 13, and shall comply with the standards of Section 16.6.

16.5.10 Notice of public meeting

A. For all applications for historic preservation review that are subject to Historic Preservation Board review, the applicant shall be responsible for posting a notice of public meeting sign on the property where the development is to occur. The dimensions, construction, and content of the sign shall be in accordance with standards established by the Planning Authority.

B. The sign shall be posted at least 10 days prior to the public workshop or hearing date, and shall be removed from the property no more than three days following the date of the meeting.

C. Once the required notice of public meeting signage is posted, the applicant shall submit a completed certification of posting form to the Planning Authority.

D. In the event that a required notice of public meeting sign is knocked over or made illegible, it shall be the responsibility of the applicant to promptly reset or replace the sign, though failure to do so shall not invalidate the review.

16.5.11 Conditions of approval

The Planning Authority or Historic Preservation Board may impose conditions upon its approval of any application for historic preservation review to bring the application into compliance with the standards of Section 16.6.

16.5.12 Historic preservation approval

A. The Planning Authority shall approve or approve with conditions by the Planning Authority or the Historic Preservation Board.

B. No historic preservation approval, building, demolition, or other permit shall be issued until all current charges due under this article have been paid. The balance of any remaining review and administrative costs invoiced or incurred after a permit has been issued shall be paid in full by the applicant prior the issuance of any temporary or permanent certificate of occupancy.

C. Prior to historic preservation approval the applicant shall demonstrate sufficient right, title, or interest in the property, technical capacity, and financial capacity to complete any change proposed to be undertaken under the historic preservation approval, upon reasonable request of the Planning Authority.

16.5.13 Expiration of approvals

A. Unless work authorized by a historic preservation approval is commenced or a building permit for the same is issued within three years of the initial date of historic preservation approval, the approval shall expire and shall become null and void.

B. When the approved work also requires a site plan approval under Article 13, the expiration of the historic preservation approval shall be concurrent with the expiration of the site plan approval, even if longer than three years.

C. In the event of litigation arising out of the granting of a historic preservation approval, the approval shall remain valid until one year after the entry of final judgment in the litigation or until the end of the three-year period, whichever is later.

16.5.14 Amendments

A. An applicant may apply for an amendment to a historic preservation approval by submitting an amendment application that includes a written

statement of the proposed amendment, proposed amended plans, and related submittals to the Planning Authority.

B. The Planning Authority is authorized to approve minor amendments under the procedures set forth in Subsection 16.5.7, provided that the proposed amendments:

1. Are generally consistent with the approved plans,
2. Meet all the standards for review of Section 16.6,
3. Do not modify the work such that Historic Preservation Board review would otherwise be required per Table 16-A, and
4. Do not affect any condition or requirement of the Historic Preservation Board.

C. Major amendments include changes that exceed the limited criteria for a minor amendment under Subsection 16.5.14(B). Review procedures shall follow those for a Historic Preservation Board review, set forth in Subsection 16.5.8.

16.6 STANDARDS FOR REVIEW OF APPLICATIONS FOR HISTORIC PRESERVATION REVIEW

16.6.1 Applicability

The following standards shall be applied in reviewing applications for historic preservation approval. When work falls under a set of standards, those standards shall apply to the project. Multiple sets of standards may apply to a single application depending on the proposed scope of work.

16.6.2 *Historic Resources Design Manual*

A. The standards of this article are supplemented by the *Historic Resources Design Manual*. The *Historic Resources Design Manual* may include descriptions, guidelines, and illustrations of how the standards of this article will be interpreted. All provisions of the *Historic Resources Design Manual* shall be consistent with the standards of this article.

B. Amendments to the *Historic Resources Design Manual* shall be adopted by the Historic Preservation Board following a public hearing. The *Historic Resources Design Manual* shall be maintained by the Planning Authority.

16.6.3 Standards for review of alterations to contributing properties

In considering an application involving alterations to contributing buildings, structures, site, or objects, the reviewing authority shall approve the application only upon finding that it meets the following standards:

A. **Compatible use.** When the use of a property is being changed, every reasonable effort shall be made to minimize the alteration of the character-defining features of the building, structure, object, or site.

B. **Retain historic features.** The distinguishing original qualities or character of the building, structure, object, or site shall be retained and preserved. The removal or alteration of any historic material or distinctive architectural features should be avoided when possible.

C. **Historical accuracy.** The building, structure, object, or site shall be recognized as a product of its own time, place, and use. Alterations that have no historical basis or create a false sense of historical development, such as adding conjectural features or elements from other properties, shall not be undertaken.

D. **Acquired significance.** Changes which may have taken place in the course of time are evidence of the history and development of the building, structure, object, or site. Changes that have acquired significance in their own right shall be retained and preserved.

E. **Distinctive features.** Distinctive features, finishes, and construction techniques or examples of skilled craftsmanship which characterize the building, structure, object, or site shall be retained and preserved.

F. **Repair rather than replace.** Deteriorated historic features shall be repaired rather than replaced wherever feasible. Where the severity of deterioration requires replacement of a distinctive feature, the new feature should match the feature being replaced in composition, design, texture, and other visual qualities and, where possible, materials. Repair or replacement of missing historic features should be based on accurate duplications of features, substantiated by documentary, physical, or pictorial evidence.

G. **Surface cleaning.** The surface cleaning of the building, structure, or object, if appropriate, shall be undertaken with the gentlest means possible. Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be undertaken.

H. **Archaeological resources.** Every reasonable effort shall be made to protect and preserve significant archaeological resources affected by or adjacent to any project. If resources must be disturbed, mitigation measures shall be undertaken.

I. **Differentiation and contemporary design.** Alterations and additions shall not destroy the character-defining features of the building, structure, object, or site. New work shall be differentiated from the old and shall be compatible with the size, scale, color, material, and character of the building, structure, object, or site. Contemporary design for alterations and additions shall not be discouraged when such alterations and additions do not destroy significant materials or features that characterize the building, structure, object, or site.

J. **Reversibility.** Wherever possible, new additions or alterations to the building, structure, object, or site shall be undertaken in such a manner that, if such additions or alterations were to be removed in the future, the essential form and integrity of the building, structure, object, or site would be unimpaired.

16.6.4 Standards for review of additions and new construction

In considering an application involving additions or new construction, the reviewing authority shall approve the application only upon finding that it meets the following standards:.

A. **Scale and form**

1. *Height.* The height of the addition or new construction shall be visually compatible with the contributing buildings, structures, objects, and sites of the historic designation when viewed from any street or public open space.
2. *Width.* The width of the addition or new construction shall be visually compatible with the contributing buildings, structures, objects, and sites of the historic designation when viewed from any street or public open space.

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3. *Proportion of principal facades.* The relationship of the width to the height of the principal facades shall be visually compatible with the contributing buildings, structures, objects, and sites of the historic designation when viewed from any street or public open space.
4. *Roof shape.* The roof shape of the addition or new construction shall be visually compatible with the contributing buildings, structures, objects, and sites of the historic designation when viewed from any street or public open space.
5. *Scale.* The size and mass of the addition or new construction in relation to open spaces, windows, doors, porches, and balconies shall be visually compatible with the contributing buildings, structures, objects, and sites of the historic designation when viewed from any street or public open space.

B. Composition of principal facades

1. *Proportion of openings*. The relationship of the width to height of windows and doors shall be visually compatible with the contributing buildings, structures, objects, and sites of the historic designation.
2. *Rhythm of solids to voids.* The relationship of solids to voids in the principal facades shall be visually compatible with the contributing buildings, structures, objects, and sites of the historic designation.
3. *Rhythm of entrances, porches, and other projections or recesses.* The relationship of entrances, porches, and other projections or recesses to sidewalks shall be visually compatible with the contributing buildings, structures, objects, and sites of the historic designation.
4. *Relationship of materials.* The relationship of the color and texture of materials (other than paint color) of the principal facades shall be visually compatible with the predominant materials used on the contributing buildings, structures, objects, and sites of the historic designation.

C. Relationship to street

1. *Walls of continuity.* Facades and site features, such as masonry walls, fences, and landscape masses, shall, when it is a characteristic of the context, form cohesive walls of enclosure along the street to ensure visual compatibility with the contributing buildings, structures, objects, and sites of the historic designation.
2. *Rhythm and spacing along streets.* The relationship of the addition or new construction to the open space between it and adjacent buildings, structures, objects, or sites shall be visually compatible with the contributing buildings, structures, objects, and sites of the historic designation.
3. *Directional expression of principal facades.* The addition or new construction shall be visually compatible with the directional character of the contributing buildings, structures, objects, and sites of the historic designation, whether this be vertical character, horizontal character, or nondirectional character.
4. *Streetscape and pedestrian improvements.* Streetscape and pedestrian improvements and any change in the appearance thereof

located adjacent to any addition or new construction shall not be incongruous with the contributing buildings, structures, objects, and sites of the historic designation.

16.6.5 Standards for review of alterations and additions to noncontributing properties

In considering an application for alterations or additions to a noncontributing building, structure, object, or site, the intent of the review shall be to guide projects toward a more compatible relationship with the surrounding context using the standards for review of additions and new construction set forth in Subsection 16.6.4.

16.6.6 Standards for review of relocation

In considering an application involving relocation of a building, structure, or object, the reviewing authority shall approve the application only upon finding that it meets the following standards:

A. Whether the historic or urban design character and aesthetic interest of the building, structure, or object contribute to its present setting.

B. If located within a district, whether there are definite plans for the area to be vacated and what the effect of those plans is on the character of the surrounding area. In such cases, consideration of additional design guidelines for construction to be imposed as a condition of approval is appropriate.

C. Whether the relocation of the building, structure, or object can be accomplished without significant damage to its physical integrity.

D. Whether the proposed relocation area is compatible with the cultural, historical or architectural character of the building, structure, or object.

16.6.7 Standards for review of signage

In considering an application involving the installation or modification of sign(s) the reviewing authority shall approve the application only upon finding that it meets the following standards:

A. Signs shall be compatible with the subject building, structure, object, and sites.

B. Signs shall be installed in such a manner as to minimize damage to contributing buildings, structures, objects, and sites.

C. If there is a conflict between this standard and the requirements of Article 19, the stricter standard shall apply.

16.7 CERTIFICATE OF ECONOMIC HARDSHIP

16.7.1 Applicability

A. Any applicant who has received a denial under this article or is seeking demolition of a contributing building, structure, object, or site may apply for a certificate of economic hardship from the Board of Appeals.

B. The application shall be submitted to the Planning Authority, together with the applicable fee. In the case of a denial, the application shall be submitted within 60 days of the denial.

16.7.2 Standard to be applied

A. The Board of Appeals shall approve an application for a certificate of economic hardship only upon a determination that the denial of the proposed activity or the proposed demolition will result in the loss of all reasonable use of the building, structure, object, or site.

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B. Where the condition of the building, structure, object, or site is claimed to prevent any reasonable use, the applicant shall establish that such condition is not the result of the acts of neglect of the owner or their predecessors in title under Section 16.8.

16.7.3 Information to be supplied by applicant

A. The applicant shall submit by affidavit the following information, which shall constitute an application:

1. The assessed value of the property and/or the building, structure, object, or site for the two most recent assessments.
2. Real property taxes paid for the previous two years.
3. The amount paid for the property by the owner, the date of purchase, and the party from whom purchased, including a description of the relationship, if any, between the owner and the person from whom the property was purchased.
4. All appraisals obtained within the previous two years.
5. All listings of the property for sale or rent, price asked and offers received within the previous four years.
6. All studies commissioned by the owner as to profitable renovation, rehabilitation, or utilization of any buildings, structures, objects, or site on the property for alternative use.
7. For income-producing property, itemized income and expense statements from the property for the previous two years.
8. Professional assessment from a licensed engineer or architect with experience in rehabilitation of historic buildings, structures, objects, and sites as to the structural soundness of the building, structure, object, or site and its suitability for continued use, or rehabilitation.
9. Estimate of the cost of the alteration, construction, demolition, or removal proposed by the applicant.
10. Estimate of cost that would be incurred to address findings of fact provided by the reviewing authority in issuing a denial of the application for historic preservation review.
11. A statement of the minimum extent of work necessary to allow reasonable use of the building, structure, object, or site.

B. In the event that the information required to be submitted by the applicant is not reasonably available or attainable, the applicant shall file with the affidavit a statement of the information that cannot be obtained and shall describe the reasons why such information is unavailable.

C. The Planning Authority may request that third-party reviewers with applicable expertise to review materials provided by the applicant and prepare a report on their analysis of the application materials. In these cases, the cost of the third-party review shall be charged to the applicant.

D. The Board of Appeals may require additional evidence or supporting materials to inform their decision on the application.

16.7.4 Review

A. The Board of Appeals shall hold a workshop or public hearing on the application within 30 days following receipt of a complete application.

B. The Planning Authority may provide a report or any other information, documentation or evidence or request the Historic Preservation Board to assist the Board of Appeals in considering the extent of variance necessary or reasonable condition to be imposed.

C. The Board of Appeals may continue a proceeding for such additional time as it reasonably takes an applicant, any other interested person, the Historic Preservation Board, or the Planning Board to comply with a request for additional information or evidence. The applicant shall be afforded the right to present rebuttal evidence.

D. The determination by the Board of Appeals shall be made within 30 days following close of the public hearing. The determination shall be accompanied by findings of fact.

16.7.5 Issuance

A. If the determination of the Board of Appeals is that a denial of the historic preservation review application or the prohibition on demolition under Subsection 16.3.6(B) has resulted in the loss of all reasonable use of the building, structure, object, or site then the certificate of economic hardship shall be issued by the Planning Authority within 30 days following the determination.

B. Certificates of economic hardship shall:

1. Limit the scope of work to the minimum extent necessary to allow reasonable use of the building, structure, object, or site; and
2. Not allow for the beginning of any demolition work until the necessary approvals and permits have been attained to allow for the rehabilitation, alteration, or replacement of the building, structure, object, or site.

C. Certificates of economic hardship shall be valid for a period of three years from the date of the determination by the Board of Appeals.

D. Certificates of economic hardship shall not be transferable from the applicant to another subsequent owner of the same property.

16.8 MAINTENANCE

16.8.1 Maintenance of protected structures

A. All contributing buildings, structures, objects, and sites shall be preserved against decay and deterioration by being kept free from the following structural defects by the owner and any other person or persons who may have legal custody and control thereof:

1. Deteriorated or inadequate foundation which jeopardizes its structural integrity.
2. Defective or deteriorated floor supports or any structural members of insufficient size to carry imposed loads with safety which jeopardize its structural integrity.
3. Members of walls, partitions, or other vertical supports that split, lean, list, or buckle due to defective material or deterioration which jeopardize its structural integrity.
4. Structural members of ceilings and roofs, or other horizontal structural members, which sag, split, or buckle due to defective materials or deterioration or are of insufficient size to carry imposed loads with safety which jeopardize its structural integrity.
5. Fireplaces or chimneys which list, bulge, or settle due to defective material or deterioration or are of insufficient size or

strength to carry imposed loads with safety which jeopardize its structural integrity.

6. Lack of weather protection which jeopardizes the structural integrity of the walls, roofs, or foundation.

B. The owner or such other person shall repair such building, structure, object, or site within a specified period of receipt of a written order by the Planning Authority to correct defects or repairs to any building, structure, object, or site as provided by Subsection 16.8.1(A) above, so that such building, structure, object, or site shall be preserved and protected from further deterioration in accordance with the purposes of this article.

C. Any such order shall be in writing, shall state the actions to be taken with reasonable particularity and shall specify dates for compliance, which may be extended by the Planning Authority for reasonable periods to allow the owner to secure financing, labor or materials.

16.9 PENALTIES

16.9.1 Fines for violation

Failure to perform any act required by this article or performance of any act prohibited by this article or of any conditions or any approvals issued hereunder shall constitute a violation and be subject to a fine as provided in 30 A M.R.S. §4452. Each day on which there is failure to perform a required act or on which a violation exists shall constitute a separate violation for purposes of this section.

16.9.2 Withholding of future approvals

Where the applicant has done work or caused work to be done not in compliance with an approval received under this article or without the approvals required under this article, no new application for a historic preservation review shall be considered for the building, structure, object, or site associated with the violation until the work done without approval is brought into compliance with the requirements of this article.

16.9.3 Additional penalties for willful violation or gross negligence

A. In addition to the penalties authorized by Subsections 16.9.1 and 16.9.2, a violation which is intentional, or occurs through gross negligence, shall be subject to the following provisions:

1. No permit shall be issued under Chapter 6 of this Code of Ordinances for any alteration or new construction affecting such property for a period of five years following the last date of the violation, other than permits necessary to correct the violation. However, upon presentation of evidence satisfactory to the Planning Authority that the violation has been corrected, any remaining portion of the five-year prohibition on issuance of a permit may be waived.
2. For a period of 25 years, any alteration or new construction on the property shall be subject to this article, whether or not any remaining building, structure, object, or site on the property continues to have the cultural, historical, architectural, or archaeological character and integrity that caused it to be nominated or designated as a landmark or part of a district.
3. As a condition for any new land use approval, the owner may be required to

rebuild, or replicate the building, structure, object, or site on the property.

B. Subsection 16.9.3(A) above shall not apply to violations which are limited to noncontributing buildings, structures, objects, or sites.

16.10 APPEALS

The applicant, or any person who has participated in opposition to the application and demonstrates a particularized harm caused by the approval of any application associated with this article, may appeal that decision in accordance with Article 2.

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17 HOUSING

17.1 HOUSING PRESERVATION AND REPLACEMENT

17.1.1 Purpose

The purpose of the housing preservation and replacement ordinance is:

A. To promote and facilitate an adequate supply of housing, particularly affordable housing for all economic groups.

B. To limit the net loss of housing units in the city.

C. To preserve housing in zones where housing is permitted in the city for all residents in order to promote the health, safety, and welfare of its citizens.

17.1.2 Applicability

A. Except as otherwise provided in this section, the housing preservation and replacement ordinance shall apply to the loss of three or more dwelling units in a five-year period, provided that such dwelling units were a legally registered residential use as of July 1, 2002. For the purposes of this section, dwelling units shall be as defined in Article 3, but also include rooming units that people rent in or sleep in within lodging houses, dormitories, shelters, and sheltered care group homes.

B. Except as otherwise provided in this section, the housing preservation and replacement ordinance shall also apply to proposals that result in the loss of fewer than three dwelling units which were legally registered residential use as of July 1, 2002 for the purposes of creating surface parking.

C. For the purposes of this section, loss of dwelling units shall mean the elimination or conversion to nonresidential use of a dwelling unit and dwelling units that remain vacant for three years or more or are lost due to demolition unless the vacancy or demolition results from accidents outside of the owner's control, fire, natural disasters, or acts of war.

D. Determination of number of the dwelling units within a structure or structures and the number of units lost will be based on the records of the Building Authority indicating the legal, registered use of the property since July 1, 2002 through the time of application. The actual use of the property for purposes of applicability of this section may be rebutted by the owner by proof of documentary evidence including but not limited to photographs, letters, and sworn affidavits. The Planning Authority may conduct its own investigation of the actual use and shall determine the applicability of this section based on the totality of the evidence.

17.1.3 Exemptions

This section does not apply to:

A. Consolidation, elimination, or reconfiguration of one or more dwelling units within an existing structure, as long as all the resulting units remain as dwelling units after such consolidation, elimination, or reconfiguration, except as provided by (E) below. Conversion of a dwelling unit to a hotel or motel room shall not qualify for the exemption provided by the paragraph.

B. Legally nonconforming dwelling units existing in zones which no longer permit residential uses.

C. Property which has been ordered demolished by the City, pursuant to 17 M.R.S. § 2851, et seq., as amended, except where it is determined by

the Building Authority that the deterioration was caused by neglect or lack of maintenance.

D. Paragraph (A) above notwithstanding, the conversion to a nonresidential use of any dwelling units located on the ground floor of a building within a mixed-use zone.

17.1.4 Planning Authority approval required

Notwithstanding any other provision of this section, a proposal to demolish or to convert three or more dwelling units to a nonresidential use in a zone where such use is otherwise permitted must first obtain approval from the Planning Authority. In addition to any other requirements of the Land Use Code, the applicant must submit a statement certifying the number of dwelling units to be demolished or converted to nonresidential use, as well as a description of the characteristics of each of those units.

17.1.5 Tenant notification requirements

Prior to elimination as a result of demolition or conversion to nonresidential use, the owner shall:

A. Provide the Planning Authority a list containing the name of each tenant currently residing in the dwelling units to be demolished or converted to nonresidential use, as well as verification of compliance with tenant notice requirements of this subsection.

B. Deliver to each tenant who occupies such a dwelling unit a written notice to vacate the unit. The notice shall either be sent by certified mail, return receipt requested, or served in-hand. The notice will grant the tenant not less than 90 days from the date of receipt of the notice to vacate the unit.

C. File proof of service of the notice with the Planning Authority.

17.1.6 Housing replacement requirements

A. The Planning Authority shall require, as a condition of approval, that an owner shall replace any dwelling units that are demolished or converted to nonresidential use.

B. This requirement may be satisfied in any one of the following ways, which may be used in combination:

1. *Construction of units.* The construction of housing units within a new structure or a new addition either on site or off-site.

2. *Residential conversion.* The conversion of a nonresidential building to residential use.

17.1.7 Replacement unit requirement

In addition to the foregoing, all replacement units built pursuant to Subsection 17.1.6.B above shall:

A. Be located within the same United States census block group as the parcel from which the dwelling units are being removed or within 1,500 feet of the dwelling units being removed.

B. Not previously have been on the market as of the date of application.

C. Be situated within a development which has not been a candidate for site plan approval as of the date of the application.

D. Be comparable in size to the units replaced. For the purpose of this section, "comparable in size" means that the aggregate size of the replacement units will be no less than 80% of the size of the aggregate of the original units to be replaced and a similar bedroom mix.

17.1.8 Contribution to the Housing Trust Fund

A. The applicant may meet the requirements of this housing replacement ordinance by depositing $50,000 for each dwelling unit into the City's Housing Trust Fund.

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B. Beginning on January 1, 2004 and annually thereafter, the amount of the contribution shall be adjusted by multiplying this amount originally deposited for each unit by a fraction, the denominator of which shall be the "Consumer Price Index for Urban Wage Earners and Clerical Workers ("CPI-W")," U.S. City Average, "All Items Index," as published by the United States Bureau of Labor Statistics ("the index") for January 1, 2003 year, and the numerator of which shall be the index for the same month in each subsequent year. In the event that the index is not then in existence, the parties shall use such equivalent price index as is published by any successor governmental agency then in existence, or, if none, then by such nongovernmental agency as may then be publishing an equivalent price index, in lieu of and adjusted to the index. If the index shall cease to use 1982-84 equals 100 as the basis of calculation, or if a substantial change is made in the terms or number of items contained in the index, the base index shall be adjusted to conform to such change, using such computation thereof, if available, as shall be employed by the United States Department of Labor in computing same. Notwithstanding anything herein to the contrary, contributions made after January 1, 2004 shall not be less than the amount originally required to be deposited for each rooming or dwelling unit.

17.1.9 Performance guarantee

Owners or affiliates must post a performance guarantee in the form of a letter of credit, or other security acceptable to the City attorney, in the amount equivalent to the amount the applicant would have been required to contribute to the City's Housing Trust Fund if the applicant had chosen that option pursuant to Subsection 17.1.8. Such a performance guarantee shall be valid for no more than three years, after which the full amount due shall be provided to the City's Housing Trust Fund if replacement units satisfying the conditions of this housing replacement ordinance do not have certificates of occupancy.

17.1.10 Partial waiver of replacement requirements

A. Any owner who has applied for site plan review for elimination or conversion to nonresidential use of dwelling units may apply to the Zoning Board of Appeals for a partial waiver from the housing replacement requirements of this section. Such waiver may be a downward adjustment of up to 50% of the owner's housing replacement obligation if the owner establishes to the board's satisfaction that:

1. The proposed development is consistent with the Comprehensive Plan.
2. The proposed development provides significant value and benefit to the immediate and surrounding neighborhood, including, but not limited to, community enhancement, social benefits or job creation.
3. The applicant demonstrates with objective evidence that the imposition of the requirements of this section would impose such an economic burden upon the project relative to its scope that it renders the project impossible to develop.
4. The requested relief does not constitute a grant of a special privilege inconsistent with the limitations upon similar properties.

B. The Zoning Board of Appeals must make positive findings on each of the four criteria above in order for any such adjustment to be valid. An applicant aggrieved of a decision of the Zoning Board of Appeals may appeal a decision under this subsection pursuant to the provisions of Article 2.

17.1.11 Effect of other City ordinances

A. Nothing in this section shall permit the demolition or conversion to nonresidential use of dwelling units in residential property protected by Article 16, except as permitted by that ordinance.

B. A conditional zone may not be used to circumvent the application of this section. The terms of this section shall apply to any conditional zone which involves dwelling units affected by this section. Notwithstanding the foregoing, nothing herein shall be deemed to prevent the City and the applicant from agreeing to terms which exceed those imposed by this section by means of a conditional zone.

17.1.12 Appeals

Any applicant aggrieved by a decision of the Planning Authority under this section may appeal to the Zoning Board of Appeals within 30 days of that decision.

17.2 AFFORDABLE HOUSING

17.2.1 Purpose

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. Therefore, the purpose of this section is to offer incentives to developers to include units of affordable housing within development projects and to require the inclusion of affordable housing units in development projects in certain contexts. In so doing, this section will assist the city in meeting its comprehensive goals for affordable housing, in preventing the overcrowding and deterioration of the limited supply of affordable housing, and promote the health, safety, and welfare of its citizens.

17.2.2 Affordable housing incentives

A. Eligible projects. Under this subsection, eligible projects shall include any development project:

1. That is permissible under the provisions of this Land Use Code in the zone in which it is proposed.
2. That creates new dwelling units, among which is at least one low-income or workforce housing unit for rent or sale, through new construction, substantial alteration of existing structures, adaptive reuse or conversion of a nonresidential 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.

B. Reduction of fees. Notwithstanding any other provision of this Land Use Code or Chapter 6 to the contrary, development fees, including site plan review and inspection fees, subdivision review and inspection fees, impact fees, administrative fees, and construction and permit fees as described in Chapter 6 of the City of Portland Code of Ordinances, shall be reduced by the City for an eligible project in the manner described in Table 17-A. Development

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TABLE 17-A: AFFORDABLE HOUSING FEE REDUCTIONS

% of New Units That are Low-Income or Workforce	Development Fee Discount	Cost of Work (Building Permit) Fees
10% up to but not including 15%	10% reduction	$9.90 per $1,000
15% up to but not including 20%	15% reduction	$9.35 per $1,000
20% up to but not including 25%	20% reduction	$8.80 per $1,000
25% or more	25% reduction	$8.25 per $1,000

TABLE 17-B: BONUSES FOR ELIGIBLE PROJECTS

% Low-income or Workforce Units	Density Permitted[1]
10-19%	1.1 x base
20-29%	1.25 x base
30-49%	1.3 x base
50-74%	2.5 x base
>75%	2.5 x base

[1] "Base" is the number of units allowed under the zoning without this bonus but with any other bonuses applied.

fees do not include any fees charged for review conducted by any party other than the City.

C. **Expedited review.** The Planning Authority shall perform its review of an eligible project in as expedited a manner as is practical, without impairing the scope or thoroughness of the review. The Planning Authority may adopt administrative procedures to prioritize review of eligible projects and facilitate this expedited review. The Planning Board shall make its best efforts to give priority in scheduling workshops and public hearings related to any plans or applications required for an eligible project that are within the Planning Board's jurisdiction, without impairing the scope or thoroughness of its review. At the conclusion of these public meetings, the Planning Board shall promptly issue a decision on all such plans and applications before it for consideration.

D. **Density and height bonuses.** Notwithstanding any other provision of this Land Use Code to the contrary, in order to encourage low-income and workforce units in areas prioritized for growth, eligible projects as defined under Subsection 17.2.2 may avail themselves of the following options:

1. *Density bonuses.* The maximum number of units that would otherwise be allowed under this Land Use Code shall be increased for an eligible project in the manner described in Table 17-B, applicable where residential is allowed as a permitted or conditional use in mainland zones.
2. *Height bonuses.* In mixed use zones, the TOD zones, and the RN-6, for eligible projects in which over 75% of units are low-income or workforce units, maximum heights as permitted under Article 7 shall be increased by 10 feet.
3. *Unit size.* In order to be eligible for this subsection, the low-income and workforce housing units must meet Subsections 17.2.3(C)(2), (3), and (4).
4. *Term of affordability.* Affordable units under this subsection shall be deed-restricted to remain affordable for 30 years or the longest term permitted under federal, state, and local laws, whichever is longer. Such deed restrictions shall be recorded in the Cumberland County Registry of Deeds.

17.2.3 Ensuring workforce housing

A. Purpose. Based on the City's Comprehensive Plan and the City's 2015 housing study, 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 subsection 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. This subsection shall apply to site plan applications that create ten or more new dwelling units for rent or for sale through new construction, substantial alteration of existing structures, adaptive reuse or conversion of a nonresidential use to residential use, or any combination of these elements. This subsection shall not apply to projects that otherwise meet or exceed the standards of 17.2.3(C).

C. Standards. Development projects subject to this subsection shall meet to the following requirements:

1. At least 25% of the units in the project shall meet the definition of workforce housing unit for sale or for rent as defined in Article 3. The project shall have the option of paying a partial fee-in-lieu as per (5) below or providing an additional unit on-site for any fractional value.
2. Projects shall not be segmented to avoid compliance with these provisions.
3. Workforce units must be integrated with the rest of the development, must use a common entrance in the case of mixed market rate and workforce buildings, must provide no indication from the exterior or from areas inside the respective buildings that these units are workforce housing units, and must demonstrate general parity in unit design, finishes, and amenities between market and workforce units in the development. Applications shall include a narrative that addresses parity of workforce and market rate units, a description of workforce and market rate unit attributes and amenities, phasing if applicable, and integration into the respective building and site design.
4. Workforce units need not be the same size as other units in the development but the cumulative number of bedrooms in such units shall be no less than 25% of the total number of bedrooms in the development.
5. As an alternative to providing workforce 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. The fee for affordable units not provided shall be $150,000 per unit, adjusted annually in the same way as the fee under Subsection 17.1.8.
6. Workforce housing units for sale, if converted to workforce housing units for rent, shall become subject to the income limits and other requirements of such units.

TABLE 17-C: MINIMUM TERM OF AFFORDABILITY FOR REQUIRED WORKFORCE UNITS

% of Workforce Units Provided	Minimum Term of Affordability
25%	30 years
50%	20 years
100%	10 years

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7. The term of affordability for the required 25% workforce units provided shall be defined as shown in Table 17-C.
8. Projects shall be subject to an affordable housing agreement with the City of Portland, unless a project is otherwise subject to such an agreement requiring an equal or greater percentage of affordable units at an equal or lower income target level than required by this section.

D. **Density and height bonuses.** Projects that are subject to this subsection shall be eligible for density and height bonuses under Subsection 17.2.2(D).

E. **Implementation guidance.** The Housing & Economic Development Department shall provide guidance on income verification methods, affordable housing agreements, and subsequent monitoring requirements.

F. **Reporting to City Council.** In conjunction with the annual report on the Housing Trust Fund, the Planning Authority shall annually report on developments subject to this subsection, the number of units produced, the amount of fee-in-lieu collected, and the overall effectiveness of this subsection in achieving its stated purpose.

17.2.4 Inclusionary zoning for hotel projects

A. **Purpose.** This subsection is based on City analysis, most specifically the analysis documented in the Greater Portland Council of Government study *Proposed Hotel Linkage Fee: Supportable Range* dated August 29, 2018, that finds that new hospitality developments create a need for new affordable housing. This need is the result of the fact that hospitality developments necessarily create a number of jobs that do not pay employees at a rate sufficient to allow those employees to afford market-rate housing in the City of Portland.

B. **Hotel projects.** For the purposes of this subsection, hotel projects shall include any hotel as defined in Article 3 consisting of 10 or more guest rooms for rent to transient guests or to extended stay guests of up to six months. Any expansion of an existing hotel by 10 or more rooms within any five-year period will also be considered a hotel project.

C. **Low-income housing minimum.** All hotel projects shall provide one unit of low-income housing for rent in the City of Portland for every 28 rooms in the hotel project, which shall meet the standards outlined in Subsections 17.2.3(C)(2), (3), and (4) and in the implementing regulations governing low-income units. Such units shall contain two bedrooms and be a minimum of 900 SF in floor area. This amount shall be rounded up to the nearest increment of 28 rooms. These units shall be deed restricted for the longest period permitted by law, shall not be used for short-term rentals of less than 30 days, and must be provided with distinct entrances from the street to delineate them from the hotel itself.

D. **Fee-in-lieu alternative.** As an alternative to providing low-income housing units under Subsection 17.2.5(D) above, a hotel project may pay a fee-in-lieu of $3,806 per hotel guest room. This amount shall be paid into the City's Housing Trust Fund and used for the purposes set forth in the ordinance and regulations applicable to that trust.

E. **Annual adjustments.** The amounts in Subsection 17.2.5(E) above shall be adjusted

annually in the same way as the fee under Section 17.1.8.

F. **Implementation guidance.** The Housing & Economic Development Department shall provide guidance on income verification methods, affordable housing agreements, and subsequent monitoring requirements.

17.3 JILL C. DUSON HOUSING TRUST FUND

17.3.1 Purpose

The purpose of enacting this section is:

A. To establish a City of Portland Housing Trust Fund for the promotion, retention, and creation of an adequate supply of housing, particularly affordable housing, for all economic groups and to limit the net loss of housing units in the city.

B. To serve as a vehicle for addressing very low, low, and moderate income housing needs through a combination of funds as set out in this article.

17.3.2 Establishment of the Jill C. Duson Housing Trust Fund

The City Council shall establish a special revenue account under the name "City of Portland Jill C. Duson Housing Trust Fund" (Housing Trust Fund). Deposits into the fund shall include:

A. Contributions from the City's housing replacement ordinance under Subsection 17.1.8.

B. In-lieu fees under Subsections 17.2.3 and 17.2.5.

C. Funds appropriated to be deposited into the fund by vote of the City Council.

D. Voluntary contributions of money or other liquid assets to the fund.

E. Any federal, state, or private grant or loan funds provided to the fund.

F. Interest from fund deposits and investments.

G. Repayments of loans made from the fund.

17.3.3 Management of the trust fund

The City Manager, or their designee, shall serve as the manager of the Housing Trust Fund. The responsibilities of the manager, subject to the orders of the City Council, shall include:

A. Maintaining the financial and other records of the Housing Trust Fund.

B. Disbursing and collecting Housing Trust Fund monies in accordance with the Housing Trust Fund annual plan.

C. Monitoring the use of monies distributed to successful applicants for Housing Trust Fund support to assure on-going compliance with the purposes of the fund and the conditions under which these monies were granted or loaned.

17.3.4 Housing Trust Fund annual plan

A. Each fiscal year, the City Council shall adopt a Housing Trust Fund annual plan. The City Manager shall submit to the City Council a recommended Housing Trust Fund annual plan, utilizing the revenues of the Housing Trust Fund as well as any other funds the manager may propose as appropriate. The housing committee of the City Council or such other committee as the council shall designate shall conduct public hearings on the recommended plan and refer the matter to the council for action.

B. The Housing Trust Fund annual plan shall include:

1. A description of all programs to be funded in part or in full by the Housing Trust Fund.
2. A description of how funds from the Housing Trust Fund will be distributed

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among very low-income, low-income and moderate-income households.

3. The amount of funds budgeted for programs funded in part or in full from the Housing Trust Fund.

C. Priority for the expenditure of funds collected pursuant to Section 17.1 shall be given to the creation of new housing stock, through either new construction or conversion of nonresidential buildings to residential use.

17.3.5 Distribution and use of the Housing Trust Fund's assets

A. All distribution of principal, interest, or other assets of the Housing Trust Fund shall be made in furtherance of the public purposes set out in Section 17.1.

B. During each year, the Housing Trust Fund shall disburse as grants or loans so much of the Housing Trust Fund's assets as the City Council in its discretion has approved in the Housing Trust Fund annual plan.

C. Funds shall not be used for City administrative expenses.

D. Funds shall not be used for property operating expenses or supporting services.

E. No grants or loans shall be awarded by the Housing Trust Fund to corporations, partnerships, or individuals who are delinquent at the time of application in the payment of property taxes or other fees to the City of Portland, who have been convicted of arson, who have been convicted of discrimination in the sale or lease of housing under the fair housing laws of the State of Maine, or who have pending violations of current City electrical, plumbing, building, or housing codes or zoning ordinances.

17.3.6 Term of affordability

A. Whenever funds from the Housing Trust Fund are used for the acquisition, construction, or substantial rehabilitation of an affordable rental or cooperative unit, the City of Portland shall impose enforceable requirements on the owner of the housing unit that the unit remain affordable for the remaining life of the housing unit, assuming good faith efforts by the owner to maintain the housing unit and rehabilitate it as necessary. The remaining life of the housing unit shall be presumed to be a minimum of 30 years.

B. Whenever funds from the Housing Trust Fund are used for the acquisition, construction, or substantial rehabilitation of ownership housing, the City of Portland shall impose enforceable resale restrictions on the owner to keep the housing unit affordable for the longest feasible time, while maintaining and equitable balance between the interests of the owner and the interests of the City of Portland.

C. The affordability restriction requirements described in this subsection shall run with the land and the City of Portland shall develop appropriate procedures and documentation to enforce these requirements and shall record such documentation in the Cumberland County Registry of Deeds.

17.4 CONDOMINIUM CONVERSION

17.4.1 Purpose

The purpose of this section is to regulate the conversion of rental housing to condominiums, to minimize the potential adverse impacts of such conversion on tenants, to ensure that such converted housing is safe and decent, and to maintain a reasonable balance of housing

alternatives within the city for persons of all incomes.

17.4.2 Applicability

This section shall apply to the conversion of any rental unit to a condominium unit. For the purposes of this section, developer shall mean any person or other legal entity, but not including an established lending institution unless it is an active participant in a common promotional scheme, who, whether acting as principal or agent, records a declaration of condominium that includes real estate, any portion of which was previously a rental unit.

17.4.3 Protection of tenants

A. Notice of intent to convert. A developer shall give to each tenant, meaning any occupant in lawful possession of a rental unit, whether by lease, sublease, or otherwise, written notice of intent to convert at least one 120 days before the tenant is required by the developer to vacate. If a tenant has been in possession of any unit within the same building for more than four consecutive years, the notice period shall be increased by 30 additional days for each additional year, or fraction thereof, to a maximum of 240 additional days. The notice shall set forth specifically the rights of tenants under (A), (B), and (C) of this subsection and Subsection 17.4.4, and shall contain the following statement:

If you do not buy your apartment, the developer of this project is required by law to assist you in finding another place to live and in determining your eligibility for relocation payments. If you have questions about your rights under the law, or complaints about the way you have been treated by the developer, you may contact the Department of Permitting & Inspections, City of Portland, 389 Congress Street, Portland, Maine 04101.

B. If the notice specifies a date by which the tenant is required to vacate, the notice may also serve as a notice of termination under the applicable law of forcible entry and detainer, if it meets the requirements thereof. The notice shall be hand delivered to the tenant or mailed, by certified mail, return receipt requested, postage prepaid, to the tenant at the address of the unit or such other address as the tenant may provide. The notice shall be effective when actually received. No tenant may be required by a developer to vacate without having been given notice as required herein, except for the reasons specified in the applicable law of forcible entry and detainer, and in accordance with the procedures thereof. The terms of a tenancy, including rent, may not be altered during the notice period, except as expressly provided in a preexisting written lease. If, within 120 days after a tenant is required by a developer to vacate, the developer records a declaration of condominium without having given notice as required herein, the developer shall be presumed to have converted in violation of this article.

C. Option to purchase. For a 60-day period following the giving of notice as required in Subsection 17.4.3(A), the developer shall grant to the tenant an exclusive and irrevocable option to purchase the unit of which the tenant is then possessed, which option may not be assigned. If the tenant does not purchase or contract to purchase the unit during the 60-

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day period, the developer may not convey or offer to convey the unit to any other person during the following 180 days at a price or on terms more favorable than the price or terms previously offered to the tenant, unless the more favorable price or terms are first offered exclusively and irrevocably to the tenant for an additional 60-day period. This subsection shall not apply to any rental unit that, when converted, will be restricted exclusively to nonresidential use. If, within two years after a developer records a declaration of condominium, the use of any such unit is changed such that but for the preceding sentence, this subsection would have applied, the developer shall be presumed to have converted in violation of this article.

17.4.4 Relocation payments

If the tenant does not purchase the unit, the developer shall, before the tenant is required by the developer to vacate, make a cash payment to the tenant in an amount equal to the amount of rent paid by the tenant for the immediately preceding two months, provided that this requirement shall not apply to any tenant whose gross income exceeds 80% of the median income of the Portland SMSA, adjusted for family size, as determined by the U.S. Department of Housing and Urban Development at the time notice is given as required in Subsection 17.4.3. Additionally, the developer shall, upon demand, provide assistance to the tenant in the form of referrals to other reasonable accommodations and in determining the tenant's eligibility for relocation payments as provided herein.

17.4.5 Conversion permit

Before conveying or offering to convey a converted unit, the developer shall obtain a conversion permit from the Building Authority. The permit shall issue only upon receipt of a completed application therefore in a form to be devised for that purpose, payment of a fee of $25,000 per converted unit, to be adjusted annually in the same way as the fee under Chapter 14, Section 17.1.8 of this code, at least $1,000 of which shall be appropriated to the Housing Safety Office for the administration and enforcement of the Rent Stabilization Ordinance, Chapter 6, Articles XII and XIII of this code, and the remainder of which shall be paid into the Jill C. Duson Housing Trust Fund, and a finding, upon inspection, that each unit, together with any common areas and facilities appurtenant thereto, is in full compliance with all applicable provisions of Chapter 6, Articles II, III, and V and Chapter 10, Article II of the City of Portland Code of Ordinances, and the Life Safety Code as adopted by the state. The developer shall post a copy of the permit in a conspicuous place in each unit and shall make copies available to prospective purchasers upon request.

17.4.6 Variation by agreement

No provision of or right conferred by this Section 17.4 may be waived by a tenant, by agreement or otherwise, and any such waiver shall be void. Any attempt to require, encourage, or induce a tenant to waive any provision hereof, or right conferred hereby, shall be a violation of this article. Nothing herein shall be construed to void any term of a lease which offers greater rights than those conferred hereby.

17.5 RELOCATION OF DISPLACED TENANTS

17.5.1 Purpose

The purpose of this section is to encourage the retention of a diverse housing supply throughout the downtown and in areas readily accessible to the downtown, to ensure that persons displaced as the result of redevelopment of residential units to nonresidential uses within the B-3 Downtown Business zone are treated fairly and consistently, and to ensure that persons so displaced will be relocated at the reasonable expense of the developer to comparable housing at a location providing comparable access to services and amenities.

17.5.2 Notice and eligibility for relocation assistance

When a proposed development will result in the displacement of residents of an existing structure, the developer of the property shall give all tenants written notice as set forth below and shall provide relocation assistance as set forth below for any tenant whose gross income is 80% or less of the median income of the Portland SMSA, adjusted for family size, as determined by the U.S. Department of Housing and Urban Development at the time the developer gives the tenant written notice of intent to cause removal of the residential unit. Such written notice shall be given to the tenant at least 120 days before the tenant shall be required to vacate the premises and shall contain the following statement:

> *The developer of this project is required by law to assist you in finding another place to live and in determining your eligibility for relocation payments. If you have questions about your rights under the law, or complaints about the way you have been treated by the developer, you may contact the Department of Planning and Urban Development, City of Portland, 389 Congress Street, Portland, Maine 04101.*

17.5.3 Relocation assistance for all tenants

The developer shall provide, upon demand, assistance to all tenants who will be displaced by the development in the form of referrals to other reasonable accommodations and in determining the tenants' eligibility for relocation payments as provided herein. The developer shall make relocation payments to eligible tenants in accordance with the schedule adopted by the City Council in Subsection 17.5.4.

17.5.4 Schedule of relocation payments for eligible tenants

The developer shall, before the tenant is required by the developer to vacate, make a cash payment to the tenant in an amount equal to the amount of rent paid by the tenant for the immediately preceding two months.

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18 OFF-STREET PARKING & LOADING

18.1 OFF-STREET PARKING

18.1.1 General

Off-street parking, either by means of structured or surface spaces, in addition to being a permitted principal use in certain zones, shall be considered as an accessory use when provided to serve principal uses. The provisions of this article shall apply to parking as an accessory use.

18.1.2 No vehicle parking spaces required

Off-street vehicle parking is not required. However, a Transportation Demand Management Plan is required for certain development actions and uses, per Subsection 13.6.1.

18.1.3 Vehicle parking maximums

A. Table 18-A establishes the maximum number of off-street parking spaces that may be provided for each designated use. In some cases, uses that are considered part of a larger generic use category may be listed with specific parking maximums. These specific uses are listed only for the purposes of this article, and do not indicate whether such uses are permitted or conditional within any zone.

B. In the TOD zones, the maximum total number of off-street parking spaces permitted shall be reduced by 25%.

C. Certain uses listed within Table 18-A are not subject to parking maximums, and are indicated as such where applicable.

D. For any use not listed in Table 18-A, the parking provisions for the most similar use, as determined by the Building Authority or the Planning Authority, shall apply.

E. Exemptions.

1. The waterfront zones in Article 10 shall not be subject to parking maximums.
2. In any zone, any required accessible parking spaces in compliance with the standards of the Americans with Disabilities Act (ADA) shall not be included in the calculation of parking maximums.

F. Permission to exceed parking maximums.

1. A parking maximum may be exceeded by up to 25% if one or more of the following conditions are met:
   - **a.** 10% of the total parking spaces provided are available for public use 24 hours a day, seven days a week.
   - **b.** 20% of the total number of spaces are provided as shared spaces, available for public use from 8:00 a.m. to 6:00 p.m., Monday through Friday.
   - **c.** 20% of the total number of spaces are provided as shared spaces, available for public use from 6:00 p.m. to 8:00 a.m., seven days a week.
2. When public use spaces are provided in order to exceed a parking maximum, the following shall apply:
   - **a.** When located within a parking structure, public use spaces shall be located within the first two floors of the structure.
   - **b.** Signs shall be provided indicating the availability and location of public use spaces.
   - **c.** Shared spaces not available to the public 24 hours a day, seven days a week shall be clearly marked, indicating the hours of availability for public use.

3. A parking maximum may be exceeded without the provision of public use spaces if the reviewing authority finds that a parking study provided by the applicant demonstrates that the number of spaces is necessary for the proposed use of the site.

18.1.4 Rules of calculation

A. Basis of calculation. The maximum number of parking spaces allowed is calculated based upon the principal use or uses of the lot. When two or more principal uses are located on the same lot, the maximum number of spaces is the sum of the separate standards for each use.

B. Floor area. Unless otherwise stated, square footage for off-street parking standards shall be computed based on gross floor area.

C. Fractions. Any fraction shall be rounded down to the nearest whole number.

D. Accessory uses. Off-street parking shall not be calculated separately for accessory uses.

TABLE 18-A: OFF-STREET PARKING MAXIMUMS AND MINIMUM BICYCLE PARKING REQUIREMENTS

	Maximum vehicle spaces	Minimum bicycle spaces
Adult business establishments	1 per 300 SF of floor area	Over 5,000 SF of floor area: 1 per 1,500 SF of floor area
Agriculture	No maximum	--
Airports	No maximum	--
Animal-related services	1 per 300 SF of floor area	Over 5,000 SF of floor area: 1 per 1,500 SF of floor area
Auto, boat, and related dealerships	1 per 300 SF of indoor sales and display area + 6 per service bay	--
Auto service stations	1 per 250 SF of retail floor area + 4 per service bay	--
Bars	1 per 100 SF of indoor floor area + 1 per 300 SF of outdoor seating area	Over 5,000 SF of floor area: 1 per 1,500 SF of floor area
Bed and breakfasts	2 spaces + 1 per guest room	2 spaces
Boathouses and storehouses for fishing equipment	1 per 200 SF of floor area	--
Campgrounds	1.5 per campsite	--
Cemetery	1 per 100 SF of floor area (office and/or chapel/parlor)	--
Child care centers + small child care facilities	1 per 300 SF of floor area	Over 5,000 SF of floor area: 1 per 1,500 SF of floor area
Clinics	No maximum	Over 5,000 SF of floor area: 1 per 1,500 SF of floor area
Communication studios	1 per 300 SF of floor area	Over 10,000 SF of floor area: 1 per 2,500 SF of floor area

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TABLE 18-A: OFF-STREET PARKING MAXIMUMS AND MINIMUM BICYCLE PARKING REQUIREMENTS

	Maximum vehicle spaces	Minimum bicycle spaces
Construction and engineering services	1 per 300 SF of floor area	Over 5,000 SF of floor area: 1 per 1,500 SF of floor area
Cultural facilities	1 per 300 SF of floor area	1 per 2,000 SF of floor area
Dairies	1 per 300 SF of floor area	--
Dwelling, residential	2 spaces per dwelling unit	*Multi-family:* 1 per 2 dwelling units *Other:* none
Elementary, middle, and secondary schools	*Elementary/middle school:* 6 per classroom + 4 per office *High school:* 10 per classroom + 4 per office	1 per 2 classrooms
Emergency shelters	1 per 200 SF of office floor area	--
Exhibition, meeting, and convention halls	1 per 20 persons at maximum capacity	1 per 100 persons at maximum capacity
Food and seafood processing, packing, and distribution	1 per 500 SF of floor area	--
Funeral homes	1 per 100 SF of floor area	Over 5,000 SF of floor area: 1 per 1,500 SF of floor area
General offices	1 per 200 SF of floor area	Over 5,000 SF of floor area: 1 per 1,500 SF of floor area
General services	1 per 300 SF of floor area	Over 5,000 SF of floor area: 1 per 1,500 SF of floor area
Governmental uses	No maximum	--
Greenhouse/nursery (retail)	1 per 250 SF of indoor office/retail sales floor area + 1 per 10,000 SF of growing/stock area (indoor + outdoor)	--
Group home	1 per rooming unit	1 per 4 rooming units
High-impact industrial uses	1 per 500 SF of floor area up to 40,000 SF, then 1 per 2,500 SF of additional floor area (excludes any outdoor storage area)	--
Hospitals	No maximum	1 per 100 beds
Hostels	1 per 4 beds	--
Hotels	1.5 per guest room	--
Impound lots	1 per 200 SF of office floor area	--
Intermodal transportation facilities	*Passenger facilities:* 1 per 500 SF of floor area *Freight facilities:* 1 per 200 SF of office floor area	Over 10,000 SF of floor area: 1 per 2,500 SF of floor area

TABLE 18-A: OFF-STREET PARKING MAXIMUMS AND MINIMUM BICYCLE PARKING REQUIREMENTS

	Maximum vehicle spaces	Minimum bicycle spaces
Laboratory and research facilities	1 per 300 SF of floor area	Over 10,000 SF of floor area: 1 per 2,500 SF of floor area
Lodging house	1 per rooming unit	1 per 4 rooming units
Low impact industrial	1 per 200 SF of floor area	Over 5,000 SF of floor area: 1 per 1,500 SF of floor area
Lumber yards	1 per 200 SF of floor area	--
Marijuana cultivation facilities	1 per 500 SF of floor area up to 40,000 SF, then 1 per 2,500 SF of additional floor area (excludes any outdoor storage area)	Over 10,000 SF of floor area: 1 per 2,500 SF of floor area
Marijuana manufacturing facilities	1 per 500 SF of floor area up to 40,000 SF, then 1 per 2,500 SF of additional floor area (excludes any outdoor storage area)	Over 10,000 SF of floor area: 1 per 2,500 SF of floor area
Marijuana retail store	1 per 300 SF of floor area	Over 5,000 SF of floor area: 1 per 1,500 SF of floor area
Marijuana testing facilities	1 per 300 SF of floor area	Over 10,000 SF of floor area: 1 per 2,500 SF of floor area
Marinas	1 per 2 slips	--
Market gardens	1 per 250 SF of indoor office/retail sales floor area + 1 per 5,000 SF of growing area (indoor + outdoor)	--
Neighborhood nonresidential reuse	1 per 300 SF of floor area	Over 5,000 SF of floor area: 1 per 1,500 SF of floor area
Off-street parking	No maximum	--
Parks and open spaces	No maximum	Over 5,000 SF: 1 per 1,000 SF
Places of assembly	1 per 150 SF of floor area used for assembly purposes	Over 5,000 SF of floor area: 1 per 1,500 SF of floor area
Post-secondary schools	4 per classroom + 4 per office + 1 per 2 students of maximum enrollment	1 per 10 students of maximum enrollment
Printing and publishing	1 per 500 SF of floor area up to 40,000 SF, then 1 per 2,500 SF of additional floor area	--
Recreation and amusement centers	1 per 300 SF of floor area	Over 10,000 SF of floor area: 1 per 2,500 SF of floor area
Recycling facilities	1 per 500 SF of floor area up to 40,000 SF, then 1 per 2,500 SF of	--

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TABLE 18-A: OFF-STREET PARKING MAXIMUMS AND MINIMUM BICYCLE PARKING REQUIREMENTS

	Maximum vehicle spaces	Minimum bicycle spaces
	additional floor area (excludes any outdoor storage area)	
Registered marijuana dispensary	1 per 300 SF of floor area	Over 5,000 SF of floor area: 1 per 1,500 SF of floor area
Residential care facilities (large)	1.5 per dwelling unit or room	1 per 5 dwelling units or rooms
Residential care facilities (small)	2 per dwelling unit or room	1 per 4 dwelling units or rooms
Restaurants	1 per 100 SF of indoor floor area + 1 per 300 SF of outdoor seating area	Over 5,000 SF of floor area: 1 per 1,500 SF of floor area
Retail	1 per 300 SF of floor area	Over 5,000 SF of floor area: 1 per 1,500 SF of floor area
Self-storage facilities	1 per 25 storage units	--
Small-scale marijuana caregiver	*Residential dwelling:* No maximum *Commercial space:* 1 per 300 SF of floor area	--
Social service centers	1 per 300 SF of floor area	Over 5,000 SF of floor area: 1 per 1,500 SF of floor area
Solar energy system	1 per 200 SF of office floor area	--
Solid waste disposal facilities	1 per 500 SF of floor area up to 40,000 SF, then 1 per 2,500 SF of additional floor area (excludes any outdoor storage area)	--
Specialty food service	1 per 300 SF of floor area	Over 5,000 SF of floor area: 1 per 1,500 SF of floor area
Sports complexes	No maximum	Over 5,000 SF of floor indoor floor area: 1 per 1,500 SF of indoor floor area + 1 per 2,500 SF of outdoor area
Stadiums	1 per 15 seats	1 per 100 seats
Studios for artists and craftspeople	1 per 300 SF of floor area	Over 5,000 SF of floor area: 1 per 1,500 SF of floor area
Telecommunication towers (ground-mounted)	1 per tower	--
Theaters and performance halls	1 per 300 SF of floor area	Over 10,000 SF of floor area: 1 per 2,500 SF of floor area
Utility substations	1 per 200 SF of office floor area	--
Veterinary services	1 per 300 SF of floor area	Over 5,000 SF of floor area: 1 per 1,500 SF of floor area

TABLE 18-A: OFF-STREET PARKING MAXIMUMS AND MINIMUM BICYCLE PARKING REQUIREMENTS

	Maximum vehicle spaces	Minimum bicycle spaces
Warehousing and distribution	1 per 200 SF of office floor area + 1 per 25,000 SF of warehouse floor area	Over 10,000 SF of floor area: 1 per 2,500 SF of floor area
Wharves, piers, docks, and landing ramps	No maximum	--
Wind energy system	1 per 200 SF of office floor area + 1 per turbine	--

18.1.5 Use of parking facilities

A. In general. The sale, repair, or dismantling or servicing of any vehicles, equipment, materials, or supplies is prohibited, unless customarily incidental or accessory to a conforming principal use.

B. Commercial vehicles

1. *Residential zones*

a. No commercial vehicle may be parked outdoors on a lot in a residential zone, with the following exceptions:

i. Vehicles engaged in loading, unloading, or current work being performed on the premises.

ii. Commercial vehicles that are standard size passenger motor vehicles including but not limited to vans, sport utility vehicles (SUVs), standard passenger size livery vehicles, and pick-up trucks, may be stored or parked outdoors overnight in a permitted parking area. Such permitted commercial vehicles may include the logo of the commercial business painted on or applied to the vehicle.

b. All other commercial vehicles including but not limited to semi-truck tractor units, with or without attached trailers, commercial trailers, flatbed trucks, box vans and box trucks, buses, tow trucks, construction vehicles, livery vehicles that exceed standard passenger vehicle size such as limousines, or other large commercial vehicles are not permitted to be stored or parked outdoors overnight on a lot.

2. *All other zones*

a. Commercial vehicles with the logo of the commercial business painted on or applied to the vehicle that are being operated and stored in the normal course of business, such as signs located on delivery trucks, promotional vehicles, moving vans, and rental trucks, are permitted to be parked on the lot in areas related to their use as vehicles, provided that the primary purpose of such vehicles is not the display of signs. All such vehicles must be maintained in operable condition.

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b. No more than one commercial vehicle shall be parked outdoors on a lot in the B-1 zone.

c. No more than six commercial vehicles shall be parked outdoors on a lot in the B-2/B-2b zones.

18.1.6 Location of off-street vehicular parking spaces

A. Residential zones

1. *Residential uses*

a. Vehicular parking spaces shall be located to the side or rear of the principal structure, and shall not be located between the front building line and the front lot line, with the exception of parking within driveways on lots containing single-family, two-family, three-family, or four-family dwellings.

b. Parking spaces may be located within a required interior side or rear setback. When more than six parking spaces are provided in an interior side or rear setback, a fence not less than six feet in height shall be provided and maintained along the applicable lot line between such spaces and the adjoining lot.

2. *Nonresidential uses*

a. Vehicular parking spaces shall be located to the side or rear of the principal structure, and shall not be located between the front building line and the front lot line.

b. All parking spaces provided for nonresidential uses in residential zones shall be located a minimum of 25 feet from any residential structure on an adjoining lot.

c. Parking spaces may be located within a required interior side or rear setback. When spaces are located within a required interior side or rear setback, a fence not less than six feet in height shall be provided and maintained along the applicable lot line between such spaces and the adjoining lot.

d. Where parking for a nonresidential use is located within 10 feet of any street, a continuous, permanently anchored curb guard, at least five feet from the lot line, shall be provided between such off-street parking and the lot line involved, the top of which shall be at least 20 inches in height.

B. Mixed use, transit-oriented, and office zones

1. Vehicular parking spaces shall not be located between the front building line and the front lot line, with the exception of parking within driveways on lots containing three-family or four-family dwellings.

2. Where off-street parking is to be provided within 10 feet of any street, a continuous, permanently anchored curb guard, at least five feet from the lot line, shall be provided between such off-street parking and the lot line involved, the top of which shall be at least 20 inches in height

3. Where more than six parking spaces are provided, and such spaces abut a lot in a residential zone, a fence not less than six feet in height shall be provided and maintained along the applicable lot line between such spaces and the adjoining lot.

C. Open space and industrial zones

1. Where off-street parking is to be provided within 10 feet of any street, a continuous, permanently anchored curb guard, at least five feet from the lot line, shall be provided between such off-street parking and the lot line involved, the top of which shall be at least 20 inches in height.
2. Where more than six parking spaces are provided, and such spaces abut a lot in a residential zone, a fence not less than six feet in height shall be provided and maintained along the applicable lot line between such spaces and the adjoining lot.

18.1.7 Existing parking facilities

A. As of the effective date of this Code, existing parking facilities that do not meet the requirements of Section 18.1, but were in conformance with the requirements of this Code at the time of their establishment, shall not be considered nonconforming with regard to the requirements of this article.

B. Parking facilities existing as of the effective date of this Code that do not meet the requirements of Section 18.1 shall be brought into conformance when the following occurs:

1. A new principal building is constructed on the site. This includes construction of a second or more principal buildings on a site with an existing building.
2. An existing building is increased in building footprint by 50% or more.

18.2 OFF-STREET LOADING

18.2.1 Uses requiring off-street loading

A. Off-street loading is not required in the B-6 zone or in the waterfront zones. In all other zones, the minimum off-street loading bays or loading berths shall be as established in Table 18-C. These minimum requirements shall be met and maintained in the case of new construction, alterations, and change of use.

B. In the case of multi-tenant buildings or mixed-use developments, required loading bays or berths are calculated on the basis of each individual tenant (for example, if only one retail tenant of a multi-tenant building is over 5,000 square feet, only one loading bay or berth is required; if all tenants are under 5,000 square feet, no loading is required.

18.2.2 Design of off-street loading

A. All off-street loading must be located on the same lot as the use served.

B. With the exception of the I-L/I-Lb, I-M/I-Mb, I-H, and A-B zones, no off-street loading is permitted in a front or corner side yard. Where possible, off-street loading should be located opposite any abutting residential zone lot line.

C. Each loading bay or berth shall be a minimum of ten feet in width and 25 feet in length, exclusive of aisle and maneuvering space, and must maintain a minimum vertical clearance of 14 feet.

D. Bays or berths may be located either within a building or outside and adjoining an opening in the building, except that in the case of hospitals and residential care facilities, the off-street loading area provided for ambulance and other emergency vehicles shall be exempt from the minimum dimensional requirement but shall be of sufficient width and depth to permit expeditious access and egress from the loading area.

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TABLE 18-B: OFF-STREET LOADING REQUREMENTS

Use and Size (Gross Floor Area)		Minimum Number of Bays or Berths
General offices and hotels (> 100,000 SF)		1
Retail	20,000 - 100,000 SF	1
	100,001 – 200,000 SF	2
	> 200,000 SF	3
Industrial	10,000 - 40,000 SF	1
	40,001 - 100,000 SF	2
	> 100,000 SF	3

18.2.3 Requirements for additional bays, alterations, or modifications

Any loading bays provided in addition to the minimum required by this article, or any loading bays otherwise established shall meet the requirements of Subsection 18.2.2, and no alterations or modifications shall be made in an existing building or structure whereby loading openings or platforms are constructed or established unless the provisions of Subsection 18.2.2 are met.

18.2.4 Existing structures

Structures existing as of the effective date of this Code that do not meet the requirements of Section 18.2 are not required to install loading spaces, and shall not be considered nonconforming with regard to the requirements of this Section. Such structures may expand their footprint or gross floor area, so long as the expansion is on the same lot, no additional lot area is added, and any existing off-street loading on the site is maintained. If the existing principal building is demolished, this exemption is no longer valid. In addition, if the lot area is expanded (e.g., an adjoining lot is purchased or leased), this exemption is no longer valid.

19 SIGNS

19.1 PURPOSE

This article has been adopted to ensure that all signs installed in the city are compatible with the unique character and environment of the community through a comprehensive system of reasonable, effective, consistent, content-neutral, and nondiscriminatory sign standards and requirements. More specifically, this article is intended to:

A. Ensure that all signs are compatible with the unique character and environment of the City of Portland, and that they support the desired urban design and development patterns of the various zones, overlay zones, and historic areas within the city.

B. Balance public and private objectives by allowing adequate avenues for both commercial and non-commercial messages.

C. Improve pedestrian and traffic safety by promoting the free flow of traffic and the protection of pedestrians and motorists from injury and property damage caused by, or which may be fully or partially attributable to, cluttered, distracting, and/or illegible signage.

D. Prevent property damage, personal injury, and litter caused by signs that are improperly constructed or poorly maintained.

E. Protect property values, the local economy, and quality of life by preserving and enhancing the appearance of the streetscape.

F. Provide consistent sign design standards that enable the fair and consistent enforcement of these sign regulations.

19.2 APPLICABILITY

19.2.1 Applicability

This article applies to all permanent and temporary signs within the city unless specifically exempted.

A. The provisions of this article shall be applied in a content-neutral manner. Non-communicative aspects of all signs, not related to the content of the sign, must comply with the provisions of this article. "Non-communicative aspects" include the time, place, manner, location, size, height, illumination, spacing, and orientation of signs.

B. Nothing in this article shall be construed to prohibit a person from holding a sign while picketing or protesting on public property.

19.2.2 Substitutions and interpretations

This article is not intended to, and does not, restrict speech on the basis of its content, viewpoint, or message. No part of this article shall be construed to favor commercial speech over non-commercial speech. A non-commercial message may be substituted for any commercial or non-commercial message displayed on a sign without the need for any approval or permit from the City, provided that the sign is otherwise permissible under this article. To the extent any provision of this subsection is ambiguous, the term will be interpreted not to regulate on the basis of the content of the message.

19.2.3 Exemptions

The following signs are not regulated under this article and are not subject to the permitting requirements of Section 19.3:

A. Numerals and letters identifying an address from the street to facilitate emergency response compliant with City requirements.

B. Building identification signs not exceeding two square feet in area for residential buildings and four square feet in area for nonresidential and mixed-use buildings.

C. Any sign, posting, notice, or similar signs placed, installed, or required by law by a city, county, or a federal or state governmental agency in carrying out its responsibility to protect the public health, safety, and welfare, including the following:

1. Emergency and warning signs necessary to warn of dangerous and hazardous conditions and that serve to aid public safety or civil defense.

2. Numerals and letters identifying an address from the street to facilitate emergency response and compliant with City requirements.

3. Traffic signs and signs at bus stops and in bus shelters.

4. Signs required to be displayed by any applicable federal, state, or local law, regulation, or ordinance.

5. Signs directing the public to points of interest.

6. Signs showing the location of public facilities.

7. Signs subject to the provisions of 23 M.R.S. § 1913-A.

D. Historic plaques and commemorative signs erected and maintained by non-profit organizations, building cornerstones, and date-constructed stones not exceeding four square feet in area.

E. Non-illuminated incidental signs which provide information including, but not limited to, credit card acceptance, business hours, open/closed, no soliciting, directions to services and facilities, or menus, provided these signs do not exceed an aggregate of two square feet in sign area in the Residential Sign District and six square feet in sign area in all other sign districts.

F. Landmark signs.

G. Signs posted on a community bulletin board, not to exceed 11 inches by 17 inches.

H. Signs not readable from the public right-of-way, such as:

Signs or displays located entirely inside of a building and not visible from the building's exterior.

1. Signs intended to be readable from within a parking area but not readable beyond the boundaries of the lot or parcel upon which they are located or from any public right-of-way.

2. Signs located within City recreation facilities.

3. Signs that are an integral part of an allowed vending machine or similar facility located outside of a business.

I. Temporary signs placed within the public right-of-way, subject to the provisions of 23 M.R.S. §1913-A.

J. Works of art that do not include sign copy or where sign copy is limited to no more than 10% of the total area of the artwork and the dimensional standards listed in Tables 19-G and 19-P.

19.3 REVIEW PROCEDURES

19.3.1 Review Authority

Table 19-A establishes the final review authority for sign-related applications.

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TABLE 19-A: REVIEW AUTHORITY

Application Type	Building Authority	Planning Authority – Historic Preservation
Sign permit	●	-
Signs in historic districts	●	●A.

19.3.2 Applications and fees

A. Filing of applications. An application for a permanent or temporary sign permit must be submitted to the Building Authority on an application form or in accordance with the application specifications published by the Building Authority. Each application must be accompanied by the applicable fee, which shall be established by the City Council.

B. Review and approval

1. Following receipt of a complete application, the Building Authority shall review all sign permit applications and supporting documentation for compliance with the standards of this article.
2. The Building Authority shall either:
   - **a.** Issue the sign permit if the sign that is the subject of the application conforms to the requirements of this article, and also provided that any other required permits as determined by the Building Authority have been obtained, or
   - **b.** Deny the sign permit if the sign that is the subject of the application fails to conform to the requirements of this article. If the sign permit application is denied, the reason shall be stated in writing.

19.3.3 Permanent sign permits

Sign permit required. A sign permit is required to erect, install, construct, move, alter, replace, suspend, display, or maintain (i.e., removal of the sign so that structural elements supporting the sign may be maintained) any permanent sign, unless otherwise specified in this article. Each sign and change of copy (i.e., changing of the face or letters on a sign) requires a separate sign permit except as allowed in Subsection 19.6.4. Exceptions to the requirement for a sign permit include the exemptions listed in Subsection 19.2.3, as well as building-mounted directional signs, building-mounted directory signs, and window signs. Refer to Section 19.7 for permanent sign standards that apply even when no sign permit is required. Any sign not authorized pursuant to this article is not allowed.

Assignment of permanent sign permits. A current and valid permanent sign permit issued under this article shall be freely assignable to a successor as owner of the property or operator of the premises. The assignment shall not require approval by the Building Authority.

C. Expiration. A permanent sign permit will expire and become null and void if the work authorized in compliance with the permit is not commenced within 180 days from the date of issuance of the permit, or if work is suspended or abandoned for a period of 180 days or more at any time after the work has commenced.

19.3.4 Signs in historic districts

A. Applicability. The standards established in this subsection shall be applied within historic districts in addition to the standards otherwise established in this article.

B. Review. In addition to being subject to the other provisions of this article, all permanent signs proposed in historic districts must be reviewed for approval by the Planning Authority in accordance with the sign standards included in Subsection 16.7.6 and as detailed in the *Historic Resources Design Manual*. If there is a conflict between the standards included in Article 16 and the requirements of this article, the stricter shall apply.

19.3.5 Appeals

Appeals of sign permit decisions are within the jurisdiction of the Zoning Board of Appeals.

19.4 SIGN DISTRICTS ESTABLISHED

Table 19-B combines the zones established in Article 5 into sign districts based on similarity of use, building form, and character. For sign standards specific to overlay zones, see Article 8. If no sign standards exist within the overlay zone, the standards of the underlying zone shall apply.

19.5 GENERAL RESTRICTIONS FOR ALL SIGNS

19.5.1 Location restrictions

Except where specifically authorized in this article, signs may not be placed in the following locations:

A. Public right-of-way. Within, on, or projecting over public property, City rights-of-way, or waterways, except signs specifically authorized in this article.

B. Obstructing traffic signals. Any location that obstructs the view of any authorized traffic sign, signal, or other traffic control device.

C. Obstructing intersection visibility. At the intersections of streets or streets and driveways where the visual lines of sight for drivers of motor vehicles are obstructed. Signs shall observe corner clearance requirements as listed in Subsection 7.5.1.

D. Ingress and egress. Areas allowing for ingress to or egress from any door, window, vent, exit way, or fire lane required by Chapter 6 of the City of Portland Code of Ordinances or Fire Department regulations currently in effect.

E. Landscape elements or utilities. Tacked, painted, burned, cut, pasted, or otherwise affixed to trees, rocks, light and utility poles, posts, fences, ladders, benches, or similar supports that are visible from a public way.

F. Off-premises. Off the premises of the business to which the commercial advertising sign refers, except as provided in Table 19-X.

G. Roof-mounted. Mounted on the roof of a building or structure.

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TABLE 19-B: SIGN DISTRICTS ESTABLISHED

Sign District	Zones	Description
Residential Sign District	RN-1 Residential Neighborhood Zone RN-2 Residential Neighborhood Zone RN-3 Residential Neighborhood Zone RN-4 Residential Neighborhood Zone RN-5 Residential Neighborhood Zone RN-6 Residential Neighborhood Zone IR-1 Island Residential Zone IR-2 Island Residential Zone	These zones comprise the vast majority of residential land in Portland. Signage is limited in these zones, as a variety of sign types could detract from the desired residential character.
Small Mixed-Use Sign District	B-1 Neighborhood Business Zone B-2b Community Business Zone IS-FBC UA, UN, and UT Zones I-B Island Business Zone O Office Zone	These zones allow a variety of sign types to achieve a diverse, mixed-use character appropriate for neighborhood residential, office, service, and retail uses.
Large Mixed-Use Sign District	B-2 Community Business Zone B-4 Commercial Corridor Zone EWPZ Eastern Waterfront Port Zone	These zones comprise the major commercial centers in Portland and allow a variety of sign types to achieve a diverse character appropriate for major office, service, and retail uses.
Downtown Sign District	B-3 Downtown Business Zone B-5 Urban Commercial Zone B-6 Eastern Waterfront Zone WCZ Waterfront Central Zone	The downtown core zones allow a variety of sign types to achieve a diverse, mixed-use character appropriate for office, service, retail and mixed-uses in the downtown.
Industrial and Transportation Sign District	A-B Airport Business Zone I-L Low-Impact Industrial Zone I-M Moderate-Impact Industrial Zone I-H High-Impact Industrial Zone WPDZ Waterfront Port Development Zone	These zones allow a number of sign types to achieve a character appropriate for industrial manufacturing, warehousing, and transportation uses.
Open Space Sign District	OS-R Recreation and Open Space Zone OS-P Open Space Preservation Zone	These zones prohibit most sign types, allowing only those necessary to provide information for primarily open space and recreation uses.

H. Storage containers and receptacles. On fuel tanks, storage containers, and/or solid waste receptacles or their enclosures, except for a manufacturer's or installer's identification, appropriate warning signs and placards, and information required by law.

19.5.2 Prohibited signs

Except as otherwise provided in this article, the following signs are prohibited:

A. Billboards.

B. Signs that could be confused with any authorized traffic signal or device or that interfere with, obstruct, confuse, or mislead traffic.

C. Bandit signs.

D. Signs or other devices that are inflatable or affected by the movement of the air or other atmospheric or mechanical means, including inflatable balloons, spinners, strings of flags and pennants, feather banners, fixed aerial displays, streamers, tubes, and inflated characters used as signs, whether attached to a sign or to vehicles, structures, poles, trees and other vegetation, or similar support structures, except as allowed in Section 19.8.

E. Any sign which advertises a business no longer in existence or a product or service no longer being sold, except for landmark signs.

F. Any temporary sign, other than those signs allowed pursuant to Section 19.8.

G. Any other signs not specifically allowed by the provisions of this article.

19.5.3 Display restrictions

Except as otherwise provided in this article, the following display features are prohibited:

A. Animated features which rotate, move, or give the appearance of moving by mechanical, wind, or other means. Barber poles no more than three feet in height and 10 inches in diameter and clocks are excepted from this restriction.

B. Sound, odor, or any particulate matter including bubbles, smoke, fog, confetti, or ashes.

C. Lighting devices with intermittent, flashing, rotating, blinking, or strobe light illumination, animation, motion picture, or laser or motion picture projection, or any lighting effect creating the illusion of motion, as well as laser or hologram lights.

D. Search lights or laser light displays when used as attention-attracting devices.

E. Strings of lights used in connection with commercial premises, except when used for temporary lighting for decoration, and lights arranged in the shape of a product, arrow, or any commercial message.

19.6 GENERAL REQUIREMENTS FOR ALL SIGNS

19.6.1 Sign measurement

Sign area and height shall be measured as described in Tables 19-C and 19-D.

19.6.2 Computation of the number of signs

When determining the number of signs, a single sign shall be considered either enclosed within a single frame or composed of modular parts with identical frame elements designed to be joined together to form a single composite sign.

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TABLE 19-C: SIGN AREA MEASUREMENT

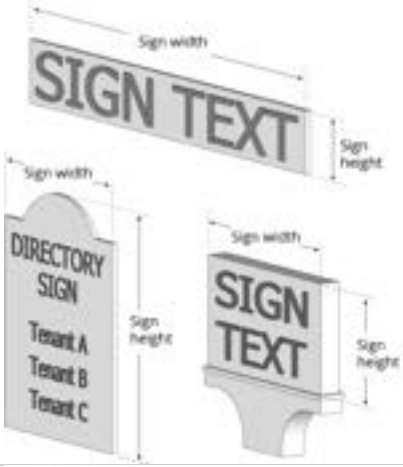
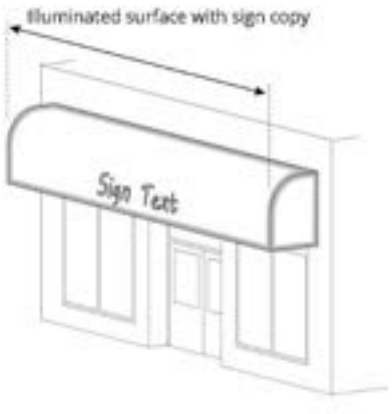
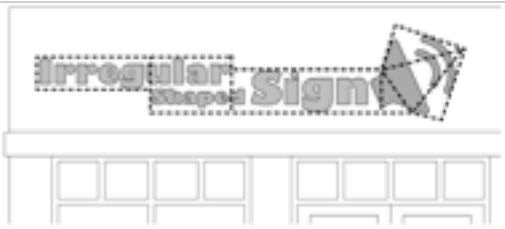
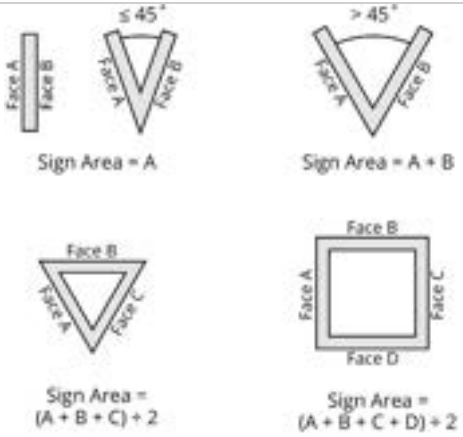
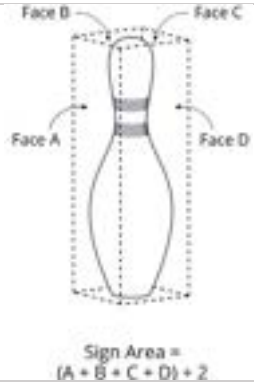
Signs on background panel	Sign copy mounted, affixed, or painted on a background panel or surface distinctively painted, textured, or constructed as a background for the sign copy, is measured as that area contained within the sum of the smallest rectangle(s) that will enclose both the sign copy and the background.	
Signs as individual letters	Sign copy mounted as individual letters or graphics against a building surface that has not been painted, textured, or otherwise altered to provide a distinctive background for the sign copy, is measured as a sum of the smallest rectangle(s) that will enclose each word and each graphic in the sign.	
Signs on illuminated surface	Sign copy mounted, affixed, or painted on an illuminated surface or illuminated element of a building or structure, is measured as the entire illuminated surface or illuminated element, which contains sign copy. Such elements may include lit canopy fascia signs, and/or interior lit awnings.	

TABLE 19-C (CONT.): SIGN AREA MEASUREMENT

Irregular-shaped signs	Sign area for irregular shaped signs is determined by dividing the sign into squares, rectangles, triangles, circles, arcs, or other shapes the area of which is easily calculated.	
Multi-face signs	For two-face signs, if the interior angle between the two sign faces is 45 degrees or less and the sign faces are less than 42 inches apart, the sign area is determined by the measurement of one sign face only. If the angle between the two sign faces is greater than 45 degrees, the sign area is the sum of the areas of the two sign faces. For three- or four-face signs, the sign area is 50 percent of the sum of the areas of all sign faces.	
Spherical, free-form, or sculptural signs	Spherical, free-form, or sculptural signs are measured as 50% of the sum of the areas of the four vertical sides of the smallest four-sided polyhedron that will encompass the sign structure. Signs with greater than four polyhedron faces are prohibited.	

Note: Numerals and letters used to identify an address are not included in the determination of sign area.

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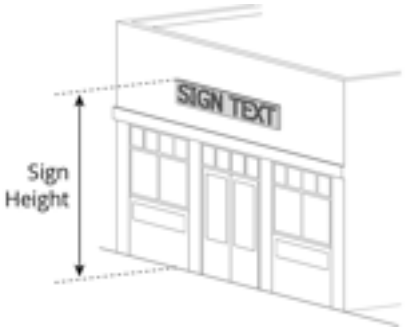
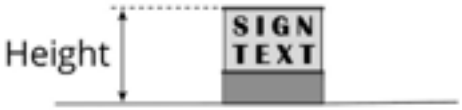
TABLE 19-D: SIGN HEIGHT MEASUREMENT

Building-mounted signs	The height of signs mounted on a building is the vertical distance measured from the base of the wall on which the sign is located to the top of the sign or sign structure.	
Freestanding signs	Sign height is measured as the vertical distance from the finished grade at the base of a sign to the top of the sign exclusive of any filling, berming, mounding, or landscaping solely for the purpose of locating the sign and excluding decorative embellishments as permitted in Section 19.7.	

19.6.3 Sign illumination

A. Sign illumination by sign district

1. Table 19-E identifies the type of illumination permitted (●) or not permitted ( ) by sign district. All allowed permanent signs may also be non-illuminated. All permanent signs for single-family residences or duplexes and all temporary signs must be non-illuminated.

2. The illumination level of a sign must be reduced if the Building Authority determines the light output to be excessive. The Building Authority shall use the following criteria to determine if the illumination is excessive:

a. The amount of illumination is substantially greater than the illumination level of other nearby signs.

b. The sign's illumination interferes with the visibility of other signs or with the perception of objects or buildings in the vicinity of the sign.

c. It directs glare toward streets or motorists.

d. It adversely impacts nearby residents or neighborhoods.

e. The illumination reduces the night time readability of the sign.

B. Internal illumination. To minimize glare, internally-illuminated signs must either be constructed with an opaque background and translucent text and symbols, or with a colored background. Backgrounds must not be white, off-white, light gray, cream, or yellow.

TABLE 19-E: SIGN ILLUMINATION BY SIGN DISTRICT

Sign District Name	Type of Illumination						
	External	Direct	Internal (Cabinet or Halo Sign)	Internal (Individual Letters /Logo)	Neon	Single or Two-Color LED	Electronic Message Signs
Residential Sign District	-- [1]			-- [1]			-- [1]
Small Mixed-Use Sign District	●	● [2]	● [3]	●	●	●	
Large Mixed-Use Sign District	●	●	●	●	●	●	●
Downtown Sign District	●	●	●	●	●	●	
Industrial and Transportation Sign District	●	●	●	●	●	●	● [4]
Open Space Sign District	●						

[1] Allowed for institutional uses only.
[2] Only allowed in B-1, B-2, IS-FBC, and I-B zones.
[3] Only allowed in B-2 and OP zones.
[4] Only allowed in I-L, I-M, and I-H zones.

C. External illumination

1. Externally-illuminated signs must be illuminated only with steady, stationary, fully-shielded light sources directed solely onto the sign without causing glare.
2. The light source for externally-illuminated signs must be arranged and shielded to substantially confine all direct light rays to the sign face and away from streets and adjacent properties as illustrated in Figure 19-A.

FIGURE 19-A: EXTERNAL ILLUMINATION

D. Direct illumination. All direct illumination must be turned off daily at the close of business or 10 p.m., whichever occurs last.

E. Neon. Exposed neon sign lighting must be turned off daily at the close of business or 10 p.m., whichever occurs last.

F. Single-color or two-color LED signs.

1. Single or two-color LED signs are exempt from the sign area limitations for window signs and building-mounted signs.
2. Single or two-color LED signs must be turned off daily at the close of business or 10 p.m., whichever occurs last.

G. Electronic Message Signs

1. One electronic message sign is allowed per lot.
2. Electronic message signs must not flash, blink, flutter, include intermittent or chasing lights, or display video messages (i.e., any illumination or message that is in motion or appears to be in motion).

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Electronic message signs may display changing messages provided that each message is displayed for no less than 30 seconds.

3. Electronic message signs must be equipped with photocell technology to control and vary the intensity of light output depending on the amount of ambient light that is present to prevent overly bright luminance at night. Automatic controls must limit night luminance to a maximum of 100 nits when the display is set to show maximum brightness in 100 percent full white mode.
4. The applicant shall provide a written certification from the sign manufacturer that the night time luminance has been factory pre-set not to exceed 100 nits as described in (3) above, and that this setting is protected from end-user modification by password-protected software or other method as deemed appropriate by the Building Authority.
5. Electronic message signs must be turned off daily at the close of business or 10 p.m., whichever occurs first.

19.6.4 Changeable sign copy

Changeable sign copy must comply with the following standards:

A. Maximum area. The maximum area of changeable sign copy shall be limited to 50% of the total sign area, except for marquee signs. This does not apply to any signs required by law.

B. Sign design. The changeable sign copy must be an integral part of a permanent building-mounted or freestanding sign.

C. Illumination. Changeable sign copy may be non-illuminated or internally-illuminated.

19.6.5 Structure and installation

A. Authority. The construction of signs shall be enforced and administered by the Building Authority. All signs and advertising structures must be designed to comply with the provisions of this article and applicable provisions of Chapter 6 of the City of Portland Code of Ordinances and constructed to withstand wind loads, dead loads, and lateral forces.

B. Electrical features. Where electrical service is provided to freestanding signs or landscape wall signs, all such electrical service must be placed be underground and concealed. Electrical service to building-mounted signs, including conduit, housings, and wire, must be concealed or, when necessary, painted to match the surface of the structure upon which they are mounted. An electrical permit shall be issued prior to installation of any new signs requiring electrical service.

FIGURE 19-B: RACEWAY CABINET EXAMPLES

C. Raceway cabinets. Raceway cabinets, as illustrated in Figure 19-B, shall only be used in building-mounted signs when access to the wall behind the sign is not feasible, shall not extend in width and height beyond the area of the sign, and shall match the color of the building to

which it is attached. Where a raceway cabinet provides a contrast background to sign copy, the colored area is counted in the total allowable sign area allowed for the site or business. A raceway cabinet is not a cabinet sign.

D. Materials. All permanent signs allowed by this article must be constructed of durable materials capable of withstanding continuous exposure to the elements and must be permanently attached to the ground, a building, or another structure by direct attachment to a rigid wall, frame, or structure.

19.6.6 Sign maintenance

All signs must be maintained by any property owner, lessor, lessee, manager, agent, or other person having lawful possession or control over a building, structure, or parcel of land, in a condition or state of equivalent quality to which was approved or required by the City. All signs together with their supports and appurtenances must be maintained in good structural condition, in compliance with applicable provisions of Chapter 6 of the City of Portland Code of Ordinances, and in conformance with this article. Maintenance of a sign includes periodic cleaning, replacement of flickering, burned out, or broken light bulbs or fixtures, repair or replacement of any faded, peeled, cracked, or otherwise damaged or broken parts of a sign, and any other activity necessary to restore the sign so that it continues to comply with the requirements and contents of the sign permit issued for its installation and provisions of this article.

19.7 STANDARDS FOR PERMANENT SIGNS

19.7.1 Permitted sign types by sign district

Table 19-F establishes which sign types are permitted (●) or not permitted ( ) in each sign district. Any combination of allowed sign types may be used within a given sign district unless specifically prohibited.

19.7.2 Permanent building-mounted sign standards

The maximum total area for all building-mounted signs is established in Table 19-G. The area of all building-mounted signs is included in the maximum total sign area, except when specifically exempted. All permanent building-mounted signs shall comply with the corresponding sign type standards provided in Tables 19-H to 19-Q.

19.7.3 Permanent freestanding sign standards

All permanent freestanding signs shall comply with the standards of Table 19-R and the corresponding sign type standards established in Tables 19-S to 19-V. Unless specifically indicated, standards applicable within a sign district apply to single- and multi-tenant buildings. There is no setback requirement for permanent freestanding signs, provided that the sign is entirely located on the property where the sign is permitted, and the sign is located in compliance with Table 19-F.

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TABLE 19-F: ALLOWED SIGN TYPES BY SIGN DISTRICT

	Sign Type	Residential Sign District [1]	Small Mixed-Use Sign District	Large Mixed-Use Sign District	Downtown Sign District	Industrial Sign District	Open Space Sign District
Building-Mounted	Awning Sign		●	●	●	●	●
	Canopy Sign		●	●	●	●	
	Blade Sign		●	●	●		
	Directional Sign		●	●	●	●	●
	Directory Sign	●[3]	●	●	●	●	
	Marquee Sign			●	●		
	Projecting Sign		●	●	●	●	
	Service Island Canopy Sign			●	●	●	
	Wall Sign	●	●	●	●	●	●
	Window Sign		●	●	●	●	●
Freestanding	Freestanding Directional Sign	●	●	●	●[3]	●	●
	Freestanding Directory Sign	●[2]	●	●	●[4]	●	●
	Monument Sign		●	●	●[4]	●	●
	Pole Sign		●	●	●[4]	●	●

[1] For institutional uses in residential zones, all permanent sign types are allowed except for the following: awning sign, blade sign, canopy sign, marquee sign, pole sign, projecting sign, service island canopy sign; and window sign.

[2] Not allowed in the RN-1, RN-2, IR-1, and IR-2 zones.

[3] Not allowed in the B-3 zone.

[4] In the B-3 and B-5 zones, freestanding signs are permitted only if the front façade of the building is set back a distance of at least 20 ft. from either of the front facades of abutting buildings. In the case of a multi-tenant building, the individual tenants' frontage must be set back a distance of at least 20 ft. from other tenant's frontages.

TABLE 19-G: DIMENSIONAL STANDARDS FOR BUILDING-MOUNTED SIGNS BY SIGN DISTRICT

Sign District			Total Area for All Signs (per tenant or façade)	Number of Signs (max.)
Residential	Single-family lots		2 SF max.	1 per lot (either freestanding or building-mounted)
	Multi-family lots		10 SF max.	1 per street frontage
	Institutional use in all residential zones		1.5 SF per linear foot of building façade where the sign is placed 150 SF max.	1 per street frontage, plus 2 additional
Small Mixed-Use	Single-tenant building		I-B zone: 1 SF per linear foot of building façade where the sign is placed; Max. 40 SF All other zones: 1.5 SF per linear foot of building façade where sign is placed; Max. 100 SF per facade	1 per street frontage, plus 1 additional
	Multi-tenant building		1.5 SF per linear foot of building façade where the sign is placed 150 SF max. per tenant	1 per tenant[5,6], plus 1 additional for the building.
Large Mixed-Use	Single-tenant building		2 SF per linear foot of building façade where the sign is placed 200 SF max. per façade [1]	1 per street frontage, plus 2 additional
	Multi-tenant building		1.5 SF per linear foot of tenant façade where the sign is placed 150 SF max. per tenant	1 per tenant[6], plus 1 additional for the building.
Downtown	Single-tenant building		2 SF per linear foot of building façade where the sign is placed	1 per street frontage, plus 2 additional
	Multi-tenant building	Ground floor tenants	2 SF per linear foot of tenant frontage where the sign is placed	1 per tenant[5, 6]
		Building ID and upper floor tenants	5% of building wall area max. for all upper floor tenant signs place on a facade.	1 per tenant, plus 2 additional for the building
Industrial & Trans.	Single-tenant building		2 SF per linear foot of building façade where sign is placed 250 SF max.	1 per street frontage, plus 2 additional
	Multi-tenant building		2 SF per linear foot of tenant frontage where the sign is placed 200 SF max.	1 per tenant, plus 2 additional for the building
Open Space	Commercial signs/facility signs[2, 3]		1 SF per linear foot of building façade where the sign is placed 20 SF max.[4]	1 per use (either freestanding or building-mounted)
	Sign placement		The total sign area for signs on single-tenant or multi-tenant buildings may be placed on any building elevation, provided that at least 1 sign must be placed on the tenant facade.	

[1] Where a building features two principal entry facades facing parallel streets, each entry façade shall be eligible for the full amount of signage relative to its frontage, notwithstanding the total area.
[2] Standards do not apply to municipal stadiums with more than 6,000 seats. The standards for the Small Mixed-Use Sign District shall apply instead.
[3] Building signs shall be visually related to the building on which they are located in terms of materials, color, scale, etc., as determined by the Building Authority.
[4] Product trademarks limited to 5% of total sign area.
[5] On the peninsula, each tenant may have two signs, provided that one sign is a blade sign and one sign is placed parallel to the building façade.
[6] If a tenant faces additional street frontages, one additional sign is allowed per frontage for that tenant.

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TABLE 19-H: STANDARDS FOR AWNING SIGNS

Standard	Requirements
Sign area (max.)	1 SF per linear foot of awning width
Mounting height	8 ft. min. from the bottom of the awning to the nearest grade or sidewalk 25 ft. max.
Sign placement	Must be placed above the doors and windows of the ground floor of a building. Awnings shall not project above, below, or beyond the edges of the face of the building wall or architectural element. May project into public right-of-way with permit approval.
Valance height (max.)	6 in.
Horizontal distance from back of curb (min.)	2 ft.
Illumination	Illumination allowed under the awning.

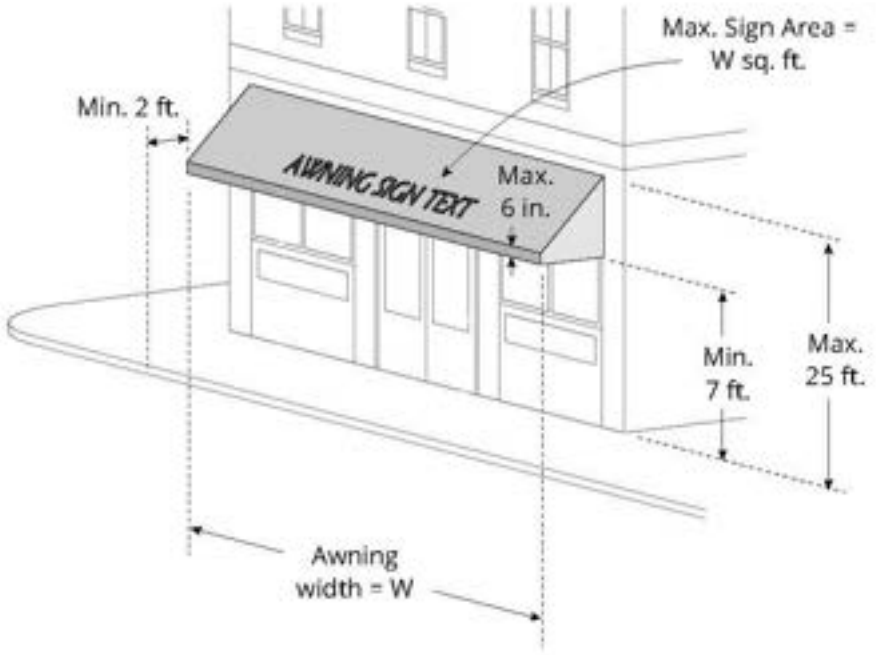

TABLE 19-I: STANDARDS FOR CANOPY SIGNS

Standard	Requirements
Sign area (max.)	1 SF per linear foot of canopy width
Mounting height	8 ft. min. from the bottom of the sign to the nearest grade or sidewalk 20 ft. max.
Sign placement	Must be placed above the doors and windows of the ground floor of a building. May project into public right-of-way with permit approval.
Horizontal distance from back of curb (min.)	2 ft.
Illumination	Direct illumination or internal illumination

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TABLE 19-J: STANDARDS FOR BLADE SIGNS

Standard	Requirements
Sign area (max.)	16 SF
Mounting height	8 ft. min. from the bottom of the sign to the nearest grade or sidewalk Must be mounted perpendicular to the building face or corner of the building.
Sign placement	If mounted below the underside of a walkway or overhead structure, must not extend beyond the edge of the structure on which it is located. May project into public right-of-way with permit approval.
Illumination	External illumination

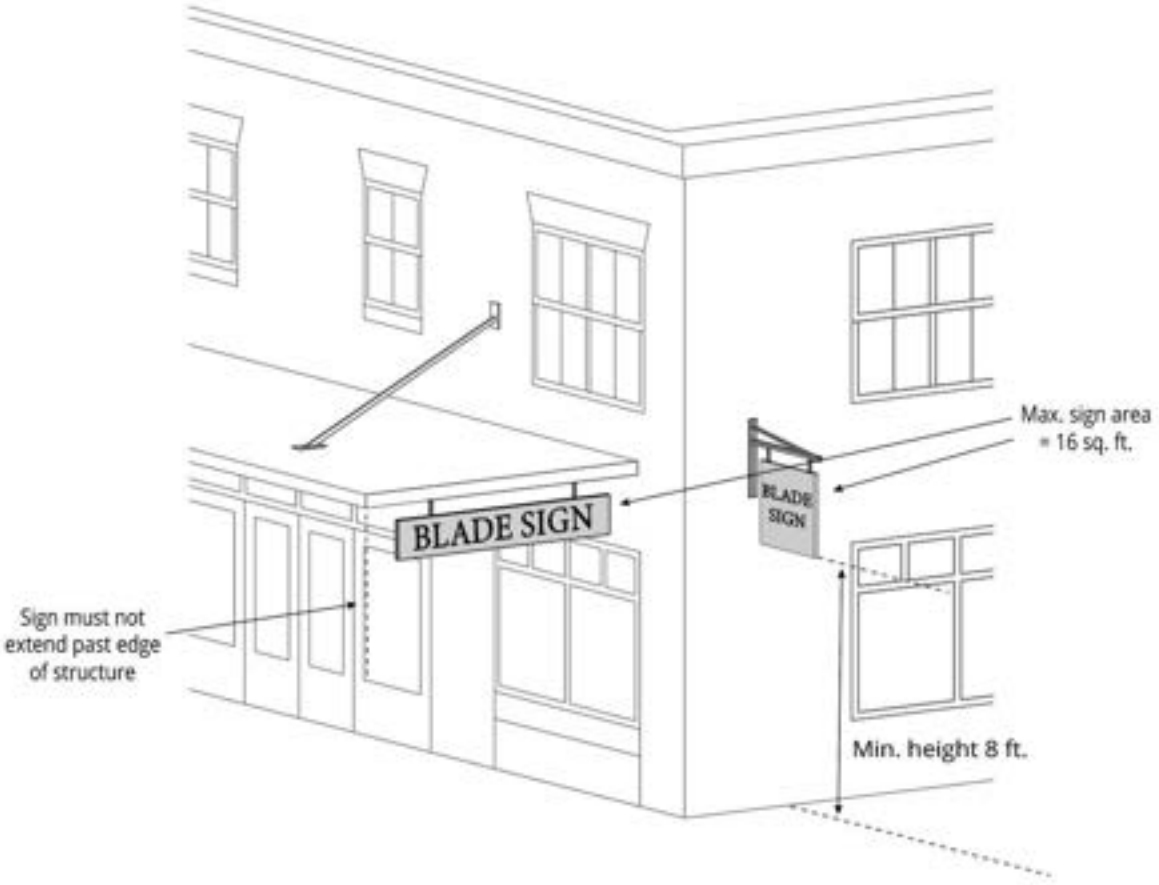

TABLE 19-K: STANDARDS FOR DIRECTIONAL SIGNS (BUILDING-MOUNTED)

Standard	Requirements
Sign area (max.)	3 SF per sign face (excluded from the total allowed sign area for all building-mounted signs)
Mounting height	6 ft. max. from nearest grade
Number of signs (max.)	1 per facade, drive-through lane, or alley, not to exceed 3 signs per lot (excluded from the total number of allowed signs for all building-mounted signs)
Illumination	Internal illumination

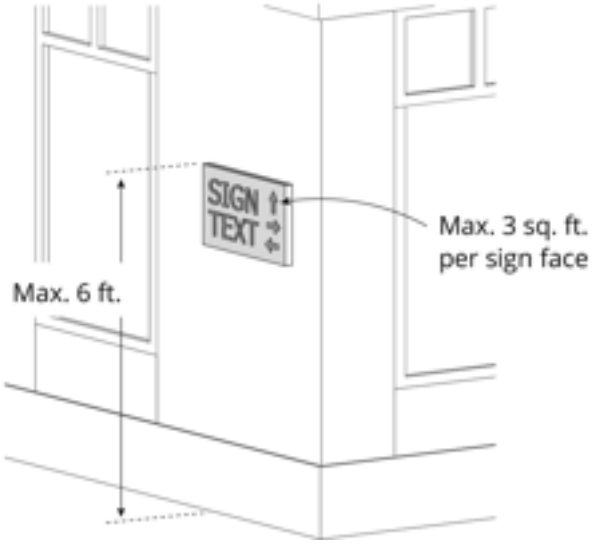

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TABLE 19-L: STANDARDS FOR DIRECTORY SIGNS (BUILDING-MOUNTED)

Standard	Requirements
Sign area (max.)	1 SF per occupant of tenant space and 16 SF total max. (excluded from the total allowed sign area for all building-mounted signs)
Mounting height	8 ft. max. from nearest grade
Number of signs (max.)	1 per primary building entrance (excluded from the total number of allowed signs for all building-mounted signs)
Illumination	External illumination or internal illumination

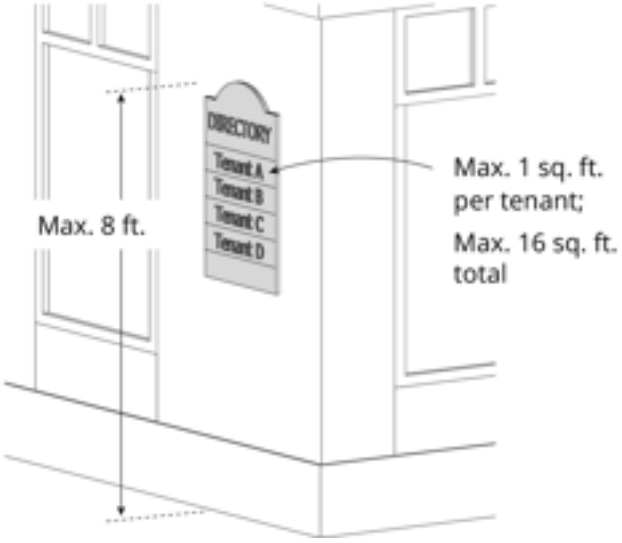

TABLE 19-M: STANDARDS FOR MARQUEE SIGNS

Standard	Requirements
Sign area (max.)	1 SF to 1 linear foot of marquee width
Mounting height	12 ft. min. from the bottom of the marquee to the nearest grade or sidewalk
Number of signs (max.)	1 per business
Sign placement	May project into public right-of-way with permit approval.
Horizontal distance from back of curb (min.)	2 ft.
Illumination	Direct illumination or internal illumination

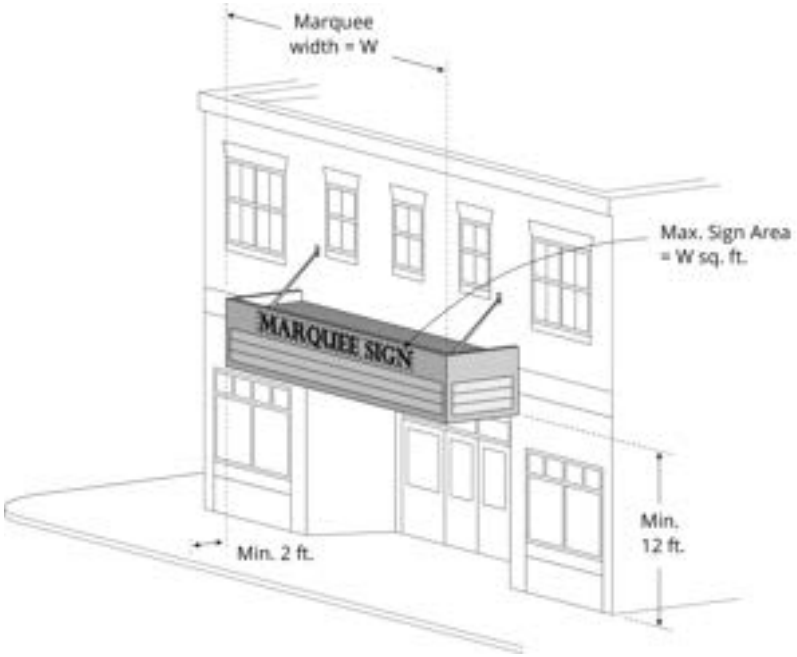

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TABLE 19-N: STANDARDS FOR PROJECTING SIGNS

Standard	Requirements
Sign area (max.)	As provided in Table 19-G.
Mounting height	8 ft. min. from the bottom of the sign to the nearest grade or sidewalk.
Sign placement	Only on the wall of a building. May project into public right-of-way with permit approval.
Number of signs (max.)	1 per business
Projection (max.)	4 ft. from the building wall to the outer edge of the sign
Illumination	External illumination, direct illumination, neon, or internal illumination of individual letters or graphics only.

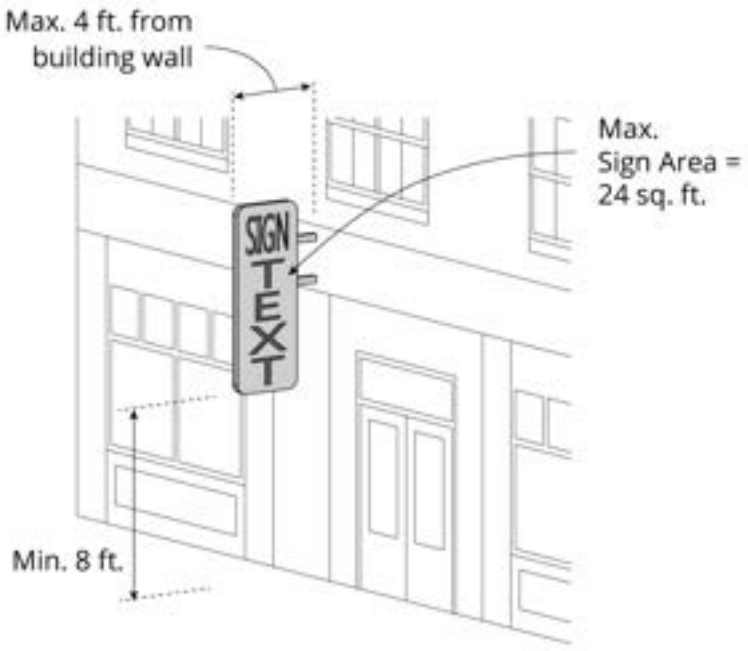

TABLE 19-O: STANDARDS FOR SERVICE ISLAND CANOPY SIGNS

Standard	Requirements
Sign area (max.)	20 SF per sign
Number of signs (max.)	1 per canopy façade, not to exceed 2 signs total
Illumination	Internal illumination

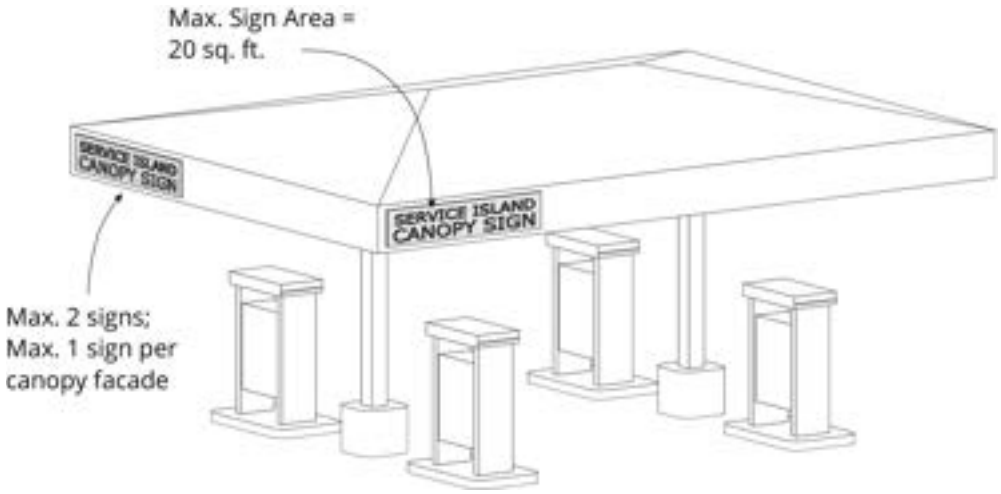

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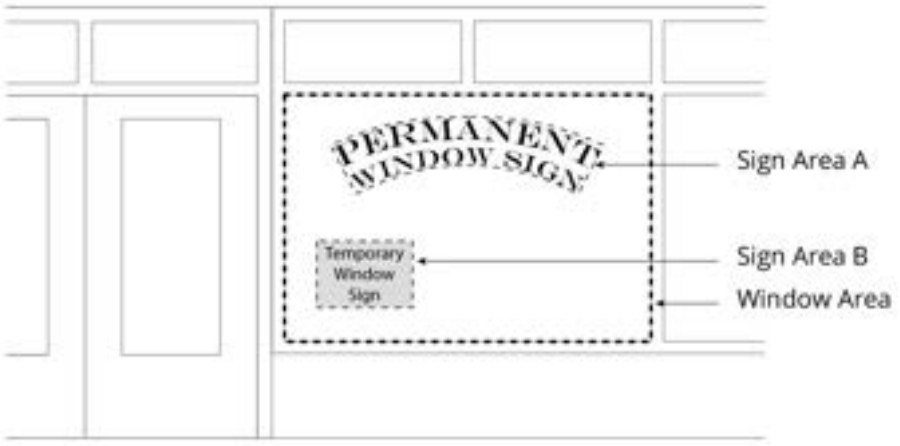
TABLE 19-P: STANDARDS FOR WALL SIGNS

Standard	Requirements
Sign area (max.)	As provided in Table 19-G
Number of signs (max.)	As provided in Table 19-G
Illumination	External illumination, direct illumination, internal illumination, or neon
Special provisions	Painted wall signs are allowed on any exterior building wall of an individual tenant space or building. The allowable area for painted wall signs shall be increased by 10% over the normal allowable sign dimensions for the zone. Murals and exterior painting that contain sign copy are allowed without a permit provided the sign copy does not compromise more than 10% percent of the total area of the artwork, complies with any applicable requirements of Article 16, and meets the dimensional standards for a wall sign within the applicable sign district, including the maximum number of signs allowed in Table 19-G.

TABLE 19-Q: STANDARDS FOR WINDOW SIGNS

Standard	Requirements
Sign area (max.)	Combined area of temporary and permanent window signs must not exceed 50% of the area of the window on which they are displayed. Painted window signs or perforated vinyl signs are included in this calculation. Excluded from the total allowed sign area for all building-mounted signs.
Sign placement	Must be mounted or displayed on the interior of the window. Allowed on 1st and 2nd story windows only.
Illumination	Neon or single- or two-color LED signs



Sign Area A + Sign Area B ≤ 50% Window Area

TABLE 19-R: DIMENSIONAL STANDARDS FOR FREESTANDING SIGNS BY SIGN DISTRICT

Sign District				Area (max.)	Height (max.)	Number of Signs
Residential			Single-family lots	2 SF	5 ft.	1 per lot (freestanding or building-mounted)
			Multi-family lots	15 SF	5 ft.	1 per major vehicular entrance
	Institut-ional		Street frontage ≤ 100 ft.	15 SF	6 ft.	1 per frontage[1, 2]
			Street frontage 100 – 250 ft.	25 SF	8 ft.	1 per frontage[1, 2]
			Street frontage ≥ 250 ft.	50 SF	8 ft.	1 per frontage[1, 2]
Small Mixed-Use			Single-tenant building	32 SF	B-1/B-1b, B-2b/B-2c zones: 16 ft. In all other zones: 8 ft.	1 per lot[1]
		Multi-tenant building	< 1 acre lot	32 SF		
			1 – 2.5 acre lot	100 SF		
			> 2.5 acre lot	140 SF		
			I-B Zone[3]	20 SF	10 ft.	1 per use
	OP zone		Center identification sign	50 SF	8 ft.	1 per major vehicular entrance
			Tenant sign	15 SF	5 ft.	1 per tenant[2]
Large Mixed-Use	Single-tenant building		Street frontage ≤ 200 ft.	65 SF	B-4 zone: 25 ft. In all other zones: 18 ft.	1 per lot[1]
			Street frontage > 200 ft.	100 SF		
	Multi-tenant building		< 1 acre lot	65 SF	B-4 zone: 25 ft. In all other zones: 18 ft.	1 per lot[1]
			1 - 2.5 acre lot	100 SF		
			> 2.5 acre lot	140 SF		
			Downtown	16 SF	6 ft.	1 per frontage[1]
Industrial & Transportation			Single-tenant building	35 SF	10 ft.	1 per lot[1]
			Multi-tenant building	100 SF	18 ft.	1 per lot[1]
	AB zone	Single-tenant building	Street frontage ≤ 200 ft.	32 SF	16 ft.	1 per lot[1]
			Street frontage > 200 ft.	65 SF	16 ft.	1 per lot[1]
		Multi-tenant building	< 1 acre	32 SF	16 ft.	1 per lot[1]
			1 - 2.5 acres	100 SF		
			≥ 2.5 acres	140 SF		
Open Space[4]			Park identification signs[5]	30 SF	10 ft.	1 per major park entrance
			All other signs[5]	16 SF[6]	8 ft.	1 per use (building-mounted or freestanding)

[1] Lots with multiple street frontages are allowed one freestanding sign for each frontage, provided that the signs are not concurrently visible from the public right-of-way.
[2] Where a lot contains more than one affiliated use or tenant, uses and tenants may be allocated space on a shared sign. Individual uses or tenants are not allowed to have individual freestanding signs.
[3] Only allowed for marine-related uses serving vessel traffic.
[4] Standards do not apply to municipal stadiums with more than 6,000 seats. The standards for the Small Mixed-Use Sign District shall apply instead.
[5] All signs must be integrated into existing landscape features or visually related to the materials, colors, scale, etc. of existing buildings as determined by the Building Authority.
[6] Product trademarks limited to 5% of total sign area.

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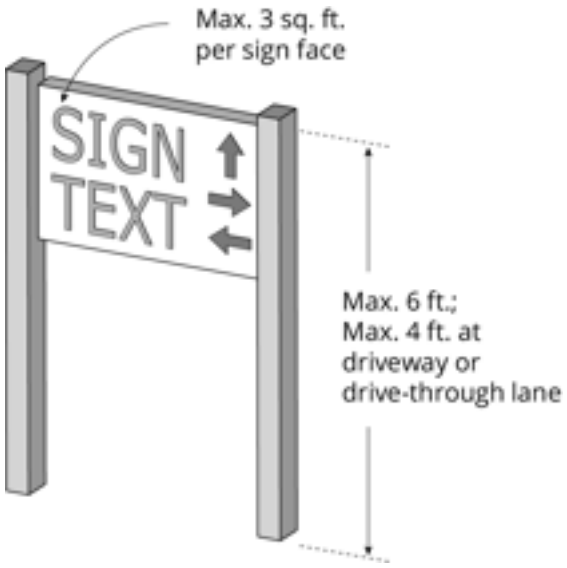
TABLE 19-S: STANDARDS FOR DIRECTIONAL SIGNS (FREESTANDING) [1]

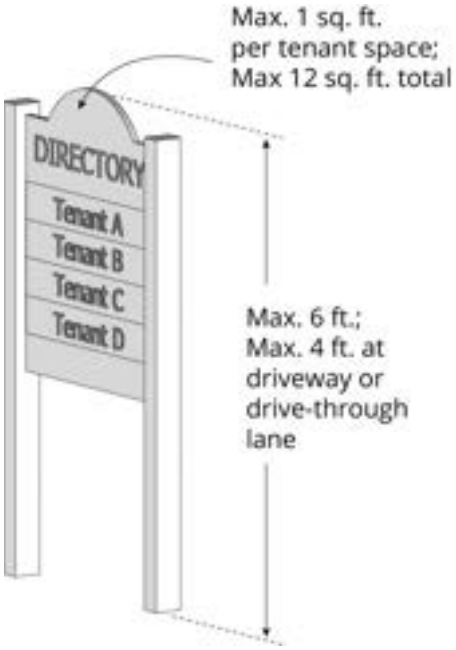
Standard	Requirements
Sign area (max.)	3 SF per sign face (excluded from the total allowed sign area for all freestanding signs)
Height (max.)	6 ft. from nearest grade, except 4 ft. at driveway or drive-through lanes
Number of signs (max.)	1 at each driveway or drive-through lane, not to exceed 3 signs per lot (excluded from the total number of allowed signs for all freestanding signs)
Illumination	Internal illumination



[1] The maximum sign area and height standards may be further limited by the standards established in Table 19-R.

TABLE 19-T: STANDARDS FOR DIRECTORY SIGNS (FREESTANDING)[1]

Standard	Requirements
Sign area (max.)	12 SF total 1 SF max. per occupant or tenant space (excluded from the total allowed sign area for all freestanding signs)
Height (max.)	6 ft. from nearest grade, except 4 ft. at driveway or drive-through lanes
Number of signs (max.)	1 per building (excluded from the total number of allowed signs for all freestanding signs)
Illumination	External illumination or internal illumination



[1] The maximum sign area and height standards may be further limited by the standards established in Table 19-R.

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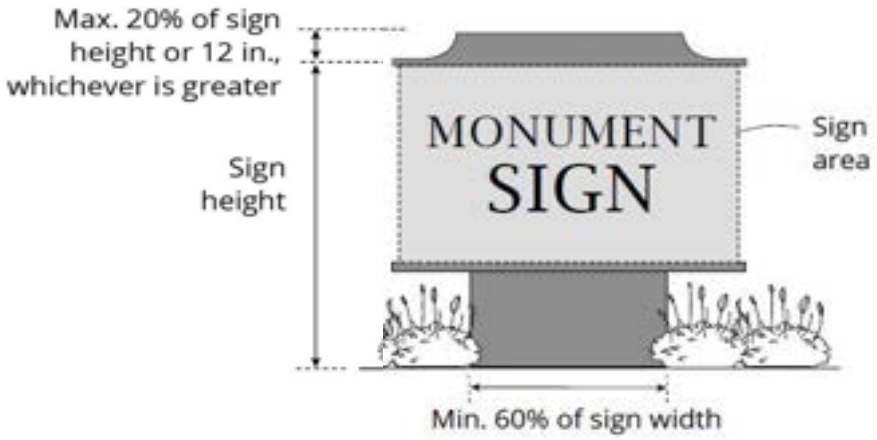
TABLE 19-U: STANDARDS FOR MONUMENT SIGNS[1]

Standard	Sign District					
	Residential Sign District[2]	Small Mixed-Use Sign District	Large Mixed-Use Sign District	Downtown Sign District	Industrial Sign District	Open Space Sign District
Sign area (max.)	50 SF	50 SF	140 SF	50 SF	100 SF	20 SF
Height (max.)	8 ft.	8 ft.	18 ft.	6 ft.	18 ft.	5 ft.
Base width (min.)	The base of a monument sign must be at least 60% of the width of the sign.					
Illumination	Non-illuminated, internal illumination, or external illumination Electronic message signs are allowed as a form of illumination where permitted in Table 19-E.					
Special provisions for sign height	Elements to enhance the design of a sign structure may extend above the sign to a max. of 20% of the sign's allowed height, or 12 inches, whichever is greater.					

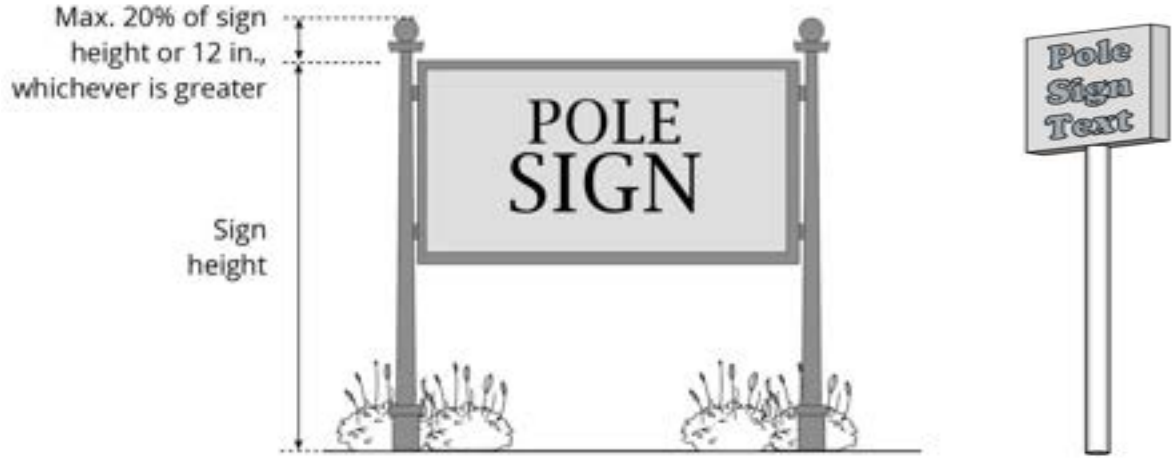


[1] The maximum sign area and sign height standards may be further limited by the standards established in Table 19-R. If no value is included in the table above, then a monument sign is not allowed in that sign district

[2] Allowed for institutional uses in residential zones only.

TABLE 19-V: STANDARDS FOR POLE SIGNS[1]

Standard		Sign District					
		Residential Sign District	Small Mixed-Use Sign District	Large Mixed-Use Sign District	Downtown Sign District	Industrial Sign District	Open Space Sign District
Sign area (max.)	Signs ≤ 8 ft. High	--	24 SF	24 SF	18 SF	24 SF	20 SF
Height (max.)		--	8 ft.	8 ft.	6 ft.	8 ft.	8 ft.
Sign area (max.)	Signs 8 - 25 ft. high	--	140 SF	140 SF		140 SF	
Height (max.)		--	16 ft.	25 ft.		16 ft.	
Illumination		Non-illuminated or internal illumination Signs ≤ 8 ft. in height may have external illumination Electronic message signs are allowed as a form of illumination where permitted in Table 19-E.					
Sign placement		Signs ≥ 8 ft. in height must have minimum 75 foot separation from other pole signs ≥ 8 ft. on the same side of the street.					
Sign height		Elements to enhance the design of a sign structure ≤ 8 ft. in height may extend above the sign to a max. of 20% of the sign's allowed height, or 12 inches, whichever is greater.					



1 The maximum sign area and sign height standards may be further limited by the standards established in Table 19-R.

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19.8 STANDARDS FOR TEMPORARY SIGNS

19.8.1 In general

Temporary signs are allowed only in compliance with the provisions of this section.

A. Information required for display. All temporary signs are required to display the name and address of the entity placing the sign, and the date the sign was erected.

B. Not included in permanent sign allowances. Temporary signs are not counted toward the maximum total sign area established in Section 19.7.

C. General time, place, and manner restrictions. Unless specifically exempted by this section, temporary signs must be placed in compliance with Subsection 19.5.1. Temporary signs must not be placed to create a hazard for pedestrian or vehicular traffic and must allow for a four-foot wide sidewalk to comply with the Americans with Disabilities Act.

D. Any form of illumination, including flashing, blinking, or rotating lights; animation; reflective materials; and attachments such as balloons, ribbons, and loudspeakers are prohibited.

E. Temporary signs must be of sufficient weight and durability to withstand wind gusts, storms, and other exterior elements.

19.8.2 Temporary sign permits

A. Sign permit required. A temporary sign permit is required to display a temporary wall banner sign and an A-frame sign placed in the public right-of-way. All other temporary sign types do not require a sign permit.

B. Duration of temporary sign permit. A temporary sign permit for a wall banner is valid for 60 days from the date of issuance. There are no time limitations for A-frame signs installed in public right-of-way.

19.8.3 Additional standards for temporary signs

All temporary signs shall comply with the standards of Tables 19-W and 19-X.

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TABLE 19-W: TEMPORARY SIGN STANDARDS BY SIGN DISTRICT

	Standard	Requirement
Residential	**Total area of all temporary signs at any one time** (max.)	16 SF per lot
	Number of signs (max.)	Unlimited except that the total sign area must not exceed 16 SF
	Time limit (max.)	None
Construction	**Total area** (max.)	24 SF per banner Where multiple building-mounted banners are proposed, the total cumulative area of all banners shall not exceed 72 SF per facade.
	Time limit (max.)	Temporary banners may be placed on a construction site until construction is complete.
Other	**Total area of all temporary signs at any one time** (max.)	24 SF per tenant, with a total of max. 72 SF per lot (excludes the area of temporary window signs and permitted wall banner signs) Exception: In the Downtown Sign District and historic districts, max. 12 SF per tenant (excludes the area of temporary window signs and permitted wall banner signs)
	Number of signs (max.)	1 wall banner per tenant in a multi-tenant building. All other temporary sign types unlimited, except that the total sign area of all temporary signs (excludes the area of temporary window signs and permitted wall banner signs) must not exceed the total square footage provided above. Exception: In multi-tenant shopping centers or offices, max. 2 temporary wall banner signs per 150 linear feet of property frontage, not to exceed 24 SF combined.
	Time limit (max.)	60 days per temporary sign permit per Subsection 19.8.2, and up to 180 days per calendar year.

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TABLE 19-X: STANDARDS FOR TEMPORARY SIGN TYPES

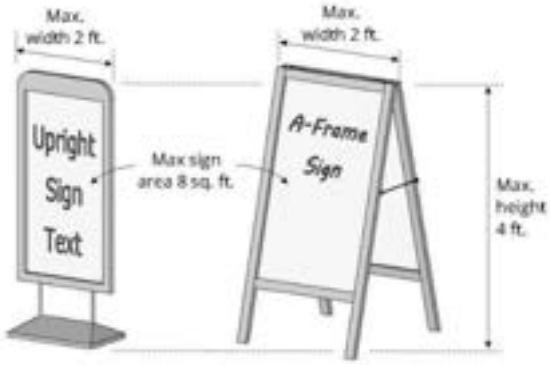
Temporary Sign Type[1]	Standard: Height	Standard: Width (max.)	Standard: Area (max.)	Other Requirements
	Min. 30 in. Max. 4 ft.	2 ft.	8 SF	Prohibited in residential zones except for institutional uses.. Must not be placed in public right-of-way except as permitted by the City. [3] If advertising a business, only permitted during regular business hours.
A-frame or upright sign[2]				
			32 SF	Prohibited in residential zones except for institutional uses. Must be mounted on a building wall or on T-posts or stakes installed ≤ 6" from a wall on which the wall banner will be hung. Mounting height (max.): 25 ft. to top of banner.
Wall banner				

TABLE 19-X (CONT.): STANDARDS FOR TEMPORARY SIGN TYPES

Temporary Sign Type[1]	Standard: Height (max.)	Standard: Width (max.)	Standard: Area (max.)	Other Requirements
Window sign			See End Note[4]	Mounting height (max.): Placed no higher than second story windows. Inside mounting required. Not included in the total sign area for all temporary signs.
Yard sign (Type I)	4 ft.	2 ft.	3 SF	Installation requirements: Installed securely in the ground.
Yard sign (Type II)	6 ft.	2 ft.	4 SF	Installation requirements: Installed securely in the ground.
Yard sign (Type III)	6 ft.	8 ft.	32 SF	Installation requirements: Installed securely in the ground.

[1] Other temporary sign types may be allowed (e.g. fuel pump topper signs; wrap around waste receptacles) provided the max. area limitation for all temporary signs is not exceeded.
[2] These signs may be used to identify businesses located down a wharf in the EWPZ and WCZ Zones that have no street frontage and where no other options for on-site permanent signage are available.
[3] A min. 4-foot wide pedestrian walkway must be maintained at all times.
[4] The area of temporary and permanent window signs combined (including signs constructed of perforated vinyl or painted on the window) must not exceed 50% of the area of the window on or within which they are displayed.

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19.9 NONCONFORMING SIGNS

19.9.1 Applicability

Nonconforming signs may be maintained, expanded upon, and/or reduced only in accordance with the provisions of this section.

19.9.2 Removal or replacement of a nonconforming sign

Lawfully nonconforming signs must be made to conform or shall be removed if any of the following occurs, unless the improvements are required to achieve compliance with applicable federal, state, or local regulations, other than the provisions of this article, and the improvements do not require replacement of the nonconforming sign. In no event will the degree of nonconformity of any sign or type of signage on any lot be increased.

A. Major site plan review. Major site plan review is sought for any new structures or building additions on the site, except as provided in (E) below.

B. New building permit for rehabilitation. A building permit is sought for a rehabilitation of a building where the value of the rehabilitation exceeds 50% of the assessed value of the building, or $100,000, whichever is less, provided that where rehabilitation is of a multi-tenant building, only the tenant or tenants whose building or area is being rehabilitated shall be required to come into conformance with this article.

C. New sign permit. An application is filed for a new sign permit in accordance with the following:

1. When an application is filed for a new building-mounted sign, all building-mounted signs on the lot must come into compliance with all requirements of this article for building signs including Table 19-G for building signs.
2. When an application is filed for a new freestanding sign, all freestanding signs on the lot must come into compliance with all requirements of this article for freestanding signs including Table 19-R for freestanding signs.

D. Modification of sign. A sign is modified in any way, except for routine maintenance or repair of sudden and accidental damage, or for a change in the message panel only, unless otherwise required to conform under this subsection. Repair of sudden and accidental damage will not include replacement of the entire sign, which is treated as a modification under this subsection. Letters on nonconforming signs designed for changeable messages may be changed without triggering the terms of this subsection as long as no other change is made to the sign. Replacement of an awning covering with substantially the same material and text is not considered a modification.

E. Signs on multi-tenant properties.

1. In the case of nonconforming freestanding shared signs for multi-tenant properties, signs may be added or modified to reflect a change in individual tenants without triggering the terms of this subsection, provided that the degree of nonconformity is not increased.
2. In the case of building signs on multi-tenant properties, this subsection shall apply only to the individual business tenant that is adding or modifying a sign or seeking major site plan review and shall not

trigger the conformance requirement for other tenants' building signs.

F. Abandoned or vacant site. Removal of a nonconforming sign, or replacement of a nonconforming sign with a conforming sign, is required when the use of the sign and/or the property on which the sign is located has been abandoned, ceased operations, become vacant, or been unoccupied for a period of 180 consecutive days or more, as long as the period of non-use is attributable at least in part to the property owner, tenant, or other person or entity in control of the use. For purposes of this subsection, rental payments or lease payments and taxes are not considered as a continued use. In the event this should occur, such conditions will be considered as evidence of abandonment, requiring removal of such sign by the owner of the property, their agent, or person having the beneficial use of the property, building, or structure upon which such sign or sign structure is erected within 30 days after written notification from the Building Authority. If such sign(s) is (are) not removed within the 180-day period, enforcement action will be pursued consistent with Section 19.10.

19.9.3 Nonconforming signs in residential zones

A. Lawfully-existing permanent signs for lawfully existing nonconforming uses in any residential zone may continue to be used.

B. If an application is filed for new or replacement building-mounted sign(s) for a lawfully-existing nonconforming use located in a residential zone, the building-mounted sign(s) must either be the same size and number as the lawfully existing building-mounted sign(s), or must comply with the standards established for the Small Mixed-Use Sign District in Table 19-G, whichever is less. Sign types shall be limited to blade, directory, wall, and window signs. Illumination shall be limited to external illumination only.

C. If an application is filed for replacement freestanding sign(s) for a lawfully-existing nonconforming use located in a residential zone, the freestanding sign(s) must be the same size and number as the lawfully existing freestanding signs, or must comply with the standards established for the Small Mixed-Use Sign District in Table 19-R, whichever is less. No new freestanding signs for a nonconforming use in a residential zone shall be permitted. Illumination shall be limited to external illumination only.

19.10 ENFORCEMENT

19.10.1 Authority

The requirements of this article shall be enforced by the Building Authority as stated in Article 1. The Building Authority has the authority to order the repair, maintenance, or removal of any sign or sign structure that has become dilapidated or represents a hazard to public health, safety, or welfare.

19.10.2 Violations

A. It shall be unlawful for any person, firm, or corporation to erect, construct, enlarge, alter, repair, display, maintain, or use a sign within the City contrary to, or in violation of, any provision of this article. Any work commenced without a sign permit, or beyond the authorized scope of a sign permit constitutes a violation of this article and is grounds for the Building Authority to issue a correction notice and/or to stop all

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work on the sign until appropriate permits are obtained.

B. Permits issued for work commenced without a sign permit, or any work beyond the authorized scope of a sign permit shall be assessed double the required permit fees for the sign(s).

C. Failure to perform any act required by this article, failure to obtain any permit required, or the performance of any act prohibited by this article constitutes a violation and is subject to penalties as set forth in 30-A M.R.S. §4452.

D. Each day on which a violation exists will constitute a separate violation for purposes of this section.

20 PUBLIC ART PROGRAM

20.1 ESTABLISHMENT

It shall henceforth be the policy of the City to provide on an annual basis regular funding for the preservation, restoration, and enhancement of its public art collection. This article and the funding contemplated are in recognition of the fact that only by instituting a steady stream of funding for this effort and standing by that commitment, will the City over time be able to fulfill its role as steward of its public art collection and help nurture and enrich thereby the quality of life in this city.

20.2 PURPOSE

The purpose of this article is to promote the educational, cultural, economic, and general welfare of the City of Portland by providing the means to fund the acquisition and care of art works by the City of Portland, which shall be the City's public art collection. The Public Art Program seeks to:

A. Care for and maintain the public art collection of the City of Portland by documenting, preserving, restoring, and repairing the collection.

B. Commission or acquire works of public art, and to seek donations of art work for the City's public art collection.

C. Provide curatorial expertise and project management for the care of Portland's public art collection.

D. Enhance and enrich the lives of the city's residents, visitors, and employees by incorporating the visual arts into public spaces.

E. Contribute to the city's civic pride and sense of identity.

F. Increase access to works of art for residents and visitors to the area.

G. Enhance Portland's growing reputation as a city which celebrates the arts.

H. Celebrate the multi-cultural and diverse character of Portland's communities with place-specific art.

I. Encourage collaboration between artists, landscape architects, urban planners, architects, engineers, and other designers.

20.3 APPLICABILITY

A. For the purposes of the Public Art Program, art work shall include the following:

1. Sculpture, statues, or monuments in any material or combination of materials.
2. Painting.
3. Graphic arts, printmaking, and drawing.
4. Photography.
5. Crafts in clay, fiber and textiles, wood, metal, plastics, glass, and other materials.
6. Mixed media, any combination of forms or media, including collage.
7. Functional art such as street furniture, as described in the *Guidelines for the Public Art Ordinance*.
8. Environmental art consisting of landforms and artistic landscape composition.

B. The following shall not be considered public art for the purposes of the Public Art Program:

1. Reproductions by mechanical or other means of original works of art, except for limited editions, controlled by the artist, of original prints, cast sculptures, photographs, or other works of art.
2. Decorative, ornamental, or functional elements which are designed by the building architect or consultants engaged by the architect which are a traditional and typical element of architectural design.

3. Those elements generally considered to be conventional components of a landscape architectural design including, but not limited to, plant materials, pools, paths, benches, receptacles, fixtures, and planters except as allowed by (G) and (H) in the list of included art work above.
4. Art objects which are mass produced or of a standard design, such as playground sculpture or fountains, except pieces of historical significance to the city.
5. Directional or other functional elements, such as supergraphics, signage, color coding, and maps, except where sculptural pieces are used to define gateways in the city.
6. Electrical, water, or mechanical service for activation of the work.
7. Exhibitions and educational programs related to the work.
8. Performing arts.
9. Art that displays slogans, logos, mascots, or commercial advertising.

C. The public art collection shall include art objects that are owned by the City of Portland which are permanently installed in public, accessible locations. Permanent public art must be located in a public place with public visibility and impact, and shall have a permanence at least comparable to associated capital projects.

20.4 FUNDING

20.4.1 Establishment of Public Art Fund

The City shall establish a special revenue fund designated as the Public Art Fund in the City treasury from which expenditures may be made in accordance with this ordinance. The Public Art Fund shall contain a capital account to fund permanent public improvements in the form of the purchase, acquisition, or commission of new public art, or major restorations, and an operations and maintenance account. Authorized expenditures include, but are not limited to, associated site installation costs, such as lighting and landscaping, and costs associated with the commission, engineering, contract administration, unveiling, and dedication activities. Also authorized are expenditures associated with preservation, conservation, and repair of existing public art. Capital funds may come from any source, including the sale of general obligation bonds. The City's capital improvement program shall contain an annual appropriation for the Public Art Fund calculated in accordance with Subsection 20.4.2. Funds for the operation and maintenance account may come from any source except bonds.

20.4.2 City-funded projects

A percentage of the City's Capital Improvement Program (CIP) shall be calculated and appropriated annually to the Portland Public Art Fund. The annual appropriation shall be .5% of the total annual CIP. Nothing contained herein shall preclude funding the acquisition of art for municipal property in other ways.

20.5 ADMINISTRATION

20.5.1 Public Art Committee responsibilities

The City Public Art Program shall be administered by the Public Art Committee whose members shall be appointed by the City Council, and shall have the following responsibilities:

A. Develop an annual art plan for Portland which shall be presented to the City Council for approval.

B. Establish such guidelines as are necessary to carry out the purpose of this article. The

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guidelines shall include but not be limited to criteria for selection of artists and art work, maintenance of a file of interested artists, review criteria for proposed gifts of art work to the City, procedures for artistic competitions, and requirements for the maintenance of art work. Any and all guidelines or changes to guidelines shall be placed on a City Council agenda as a communication. The guidelines shall take effect 45 days after the date of placement on the council agenda, unless the City Council takes official action disapproving the guidelines, in whole or in part, prior to the expiration of the 45-day period. If a part of a guideline is vetoed, the remainder shall continue in effect. Any guideline adopted, which is not required by the statutes of the state or by this article, may be waived by the chair upon good cause being shown.

C. Recommend to the City Council the expenditure of funds for the acquisition or commissioning of public art, for maintenance of public art, and for administration of this program.

D. Seek private donations of funds and/or works of art for the purposes of expanding the public art collection or the maintenance of the collection.

E. Oversee the maintenance, care, and repair of the public art collection.

F. Review the appropriateness of proposed public art which is intended to fulfill all or part of the contribution required by this article.

G. Review potential gifts of art to the City on City property, and assist in the development process of such gifts, in accordance with the *Guidelines for the Public Art Ordinance.*

H. Recommend appropriate locations and accessibility to the public for permanent art, with suggestion as to the type of art which is appropriate.

I. Solicit advice from arts professionals, the business community, and from local residents on the appropriateness of proposed art.

J. Recommend revisions to policies and guidelines for the improved implementation of this program.

K. Ensure that the use of funds collected under this program will increase the amount of art in the city that is available to the public.

20.5.2 Public Art Committee structure

A. The Public Art Committee shall be composed of eleven voting members who are appointed by the City Council. The City Council shall appoint one of its members, the City Manager shall recommend a member, and Creative Portland shall recommend one of its members to serve on the Public Art Committee. The City Council shall appoint the remaining eight members who shall be volunteers and have interest and/or expertise in public art. Such experience may include, but shall not be limited to, education and experience as an architect, a landscape architect, a professional curator, a professional artist, and/or an art educator. Persons appointed to the Public Art Committee must live or work in Portland and shall be appointed through the City's annual appointment process.

B. Each Public Art Committee member shall serve for a period of three years. The appointments shall be staggered so that three appointments terminate each year.

C. Whenever a vacancy shall occur, the vacancy shall be filled by the City Council.

D. The Public Art Committee shall adopt its own rules for the conduct of its business not inconsistent with the statutes of the state and this article. Any and all rules or changes to rules shall be placed on a City Council agenda as a communication. The rule or rules shall take effect 45 days after the date of placement on the council agenda, unless the City Council takes official action disapproving the rules, in whole or in part, prior to the expiration of the 45-day period.

E. The members of the Public Art Committee shall annually elect one of their members as a chair to preside at all meetings and hearings and to fulfill the customary functions of that office, and another of their members as vice-chair.

1 INTRODUCTORY PROVISIONS

1.1 TITLE

The title of this chapter of the City of Portland Code of Ordinances is the City of Portland Land Use Code and is referred to as the City of Portland Land Use Code or the Land Use Code.

1.2 ZONING MAP

The City of Portland zoning map is incorporated by reference.

1.3 PURPOSE

The intent of the Land Use Code is to protect the health, safety, and general welfare of the residents of Portland, consistent with the City's Comprehensive Plan, through standards that govern the orderly and compatible use of land, the form and mass of buildings, and the relationship of development to the public realm, Portland's open spaces, and the environment.

1.4 APPLICABILITY

This Land Use Code applies to all land, uses, and structures within the corporate limits of the City of Portland. No building or structure shall be erected, structurally altered, enlarged, repaired, moved, rebuilt, or used, and no land shall be sold, leased, conveyed, used, developed, or altered except in conformity with the provisions of this Land Use Code.

1.5 ENFORCEMENT

1.5.1 Enforcement

The Building Authority and/or a City of Portland Code Enforcement Officer is authorized to institute or cause to be instituted by the Corporation Counsel in the name of the City any and all actions, legal or equitable, that may be appropriate or necessary for the enforcement of the Land Use Code.

1.5.2 Violations

Any person being the owner or occupant of, having control of, or having the use of any building or premises or part thereof, who violates any of the provisions of this Land Use Code, shall be guilty of an offense and subject to the penalties and remedies provided in Chapter 1, Section 1-15 of the City of Portland Code of Ordinances and 30-A M.R.S. § 4452.

1.6 RELATIONSHIP WITH OTHER LAWS

1.6.1 Federal and state law

Where conditions, standards, or requirements imposed by any provision of this Land Use Code are found to be inconsistent with a provision listed in the law or regulations of the State of Maine or federal government, the more restrictive provision shall control.

1.6.2 City of Portland Land Use Code

If any provision of this Land Use Code contains an actual, implied, or apparent conflict with another provision of this code, the more restrictive provision shall control.

1.6.3 Fair Housing accommodation

The City of Portland may make reasonable modifications to the requirements of the Land Use Code to accommodate the needs of persons with disabilities as so defined in Title VII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988.

1.6.4 Comprehensive Plan

The City's adopted Comprehensive Plan serves as the basic policy guide for this Land Use Code. Amendments to this Land Use Code shall be generally consistent with the current adopted Comprehensive Plan.

1.6.5 ~~–~~Current versions and citations

All references to other regulations or manuals in this Land Use Code refer to the most current version and citation for those regulations or manuals, unless expressly indicated otherwise. When the referenced regulations or documents have been repealed and not replaced by other regulations or manuals, Land Use Code requirements for compliance are no longer in effect.

1.6.6 Private agreement

This Land Use Code does not nullify any private agreement or covenant. However, where this code is more restrictive than a private agreement or covenant, this code controls. The City does not enforce private agreements.

1.7 DELEGATION OF AUTHORITY

Whenever a provision requires the head of a department to perform an act or duty, that provision will be interpreted as authorizing the department head or officer to delegate that responsibility to others over whom ~~he or she has~~they have authority.

1.8 RULES OF INTERPRETATION

1.8.1 Meaning of words and terms

All words and terms shall have the meanings shown in Article 3, unless otherwise expressly stated. For words or terms not specifically defined in this Land Use Code, they are interpreted by their common dictionary meaning or customary usage consistent with their context.

1.8.2 Graphics and illustrations

Graphics and illustrations are included to illustrate the intent of the text. In the case of a conflict between the text and any graphic or illustration, the text ~~controls.~~shall control.

1.8.3 Lists and examples

Unless otherwise expressly indicated, lists of items or examples that use "including," "such as", or similar terms are intended to provide examples only, and shall not be construed as being limited to the items or examples listed.

1.8.4 Time

When a number of days is specified as a period from a certain day within which or after or before which an act is authorized or required to be completed, time is computed as the number of calendar days excluding the calendar day when the act is authorized or required to be completed. Business days shall be interpreted as days on which the City of Portland is open for business.

1.8.5 Obligatory terms and conjunctions

The terms in the text of the Land Use Code shall be interpreted in accordance with the following rules of construction:

A. The terms "must", "shall", ~~or~~and "will" are mandatory terms that express a requirement or impose an obligation.

B. The terms "must not", "shall not", "will not", and "may not" express a prohibition.

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C. The term "should" expresses a recommendation or suggestion and does not express a requirement or imposition.

D. The term "may" is permissive and does not express a requirement or imposition.

E. The conjunction "and" indicates that all connected words or provisions apply.

F. The conjunction "or" indicates that the connected words or provisions may apply singly or in any combination.

G. The conjunction "either [...] or" indicates that the connected words or provisions apply singly, but not in combination.

1.8.6 Gender

Words denoting one gender apply to all genders.

1.8.7 Abbreviations

Building Authority. Either the Department of Permitting and Inspections, its director, or their designee.

Council. The Portland City Council.

Planning Authority. Either the Department of Planning and Urban Development, its director, or their designee.

Public Works Authority. Either the Department of Public Works, its director, or their designee.

1.9 SUCCESSIVE APPLICATIONS

Whenever any application, appeal, or other request filed pursuant to this Land Use Code has been finally denied on its merits, a second application, appeal or other request seeking essentially the same relief, whether or not in the same form or on the same theory, shall not be brought within one year of such denial unless, in the opinion of the authority or board before which it is brought, there has been a substantial change in circumstance or substantial new evidence is available.

1.10 AMENDMENTS

1.10.1 Authority

The City Council may amend this Land Use Code and the zoning map incorporated herein.

1.10.2 - Procedure

A. An application for a text or zoning map amendment shall be filed with the Planning Authority. A payment of a nonrefundable application fee, as established by the City Council to cover administrative costs and costs of a hearing, shall accompany each application. The fee for text or zoning map amendment applications may be waived or reduced by the Planning Authority in the case of an application submitted by a governmental body or where an applicant can establish financial hardship. If a text or zoning map amendment application is withdrawn by an applicant prior to the submission of the advertisement copy to the newspaper to announce the public hearing, a refund of half of the amount of the application fee will be made to the applicant by the City provided that all costs incurred by the City have been paid in full by the applicant.

B. Once it is determined that the application is complete, the Planning Authority shall give a dated receipt to the applicant and, in the case of a map amendment, shall notify, by mail, all property owners within the limits of the proposed zoning map amendment and all property owners 500 feet beyond said area~~, except that for map amendments to a site~~

~~located within industrial zone designations the notice range shall be 1,000 feet.~~. The notice hereunder shall include a brief description of the application, the address or location of the property involved, and contact information where additional information may be obtained. The cost of noticing shall be charged to the applicant.

C. A private applicant for a map amendment that would permit a development subject to major site plan review shall conduct neighborhood outreach according to the provisions for neighborhood meetings under Article ~~14~~13.

D. The Planning Authority shall review the application against the standards of this article and make a recommendation to the Planning Board.

E. The Planning Board shall hold a public hearing in accordance with the provisions of Article 2 and make a recommendation to adopt, adopt with modifications, or not adopt the proposed map or text amendment, and forward the recommendation to the City Council.

F. In addition to any noticing required under Article 2, a notice of public meeting sign shall be posted by any private applicant for a map amendment on the property where the amendment is proposed at least ten days prior to the Planning Board hearing date. The dimensions, construction, and content of the sign shall be in accordance with standards established by the Planning Authority. The sign shall be removed from the site no more than three days following the date of the hearing.

~~F.~~G. The City Council shall review the proposed amendment and determine whether and how to amend the Land Use Code or zoning map.

H. Notice of the City Council public hearing shall be publicly posted in the City Clerk's office at least 13 days before the public hearing. In addition, notice of said public hearing must be published at least two times in a newspaper of general circulation in the City of Portland. The date of the first publication must be at least 12 days prior to any public hearing and the date of the second publication must be at least seven days prior to the public hearing.

I. For map amendments, notice of the City Council public hearing shall be sent by regular United States mail to at least 13 calendar days in advance of the hearing date to all property owners within the area proposed for rezoning and all property owners 500 feet beyond said area.

1.10.3 Review fees

The applicant shall pay a fee to cover the professional and administrative costs for review and analysis associated with the amendment, including but not limited to planning, legal, engineering, or other services. The fee shall be based on the hours of review and processing time and the prevailing hourly rate for reimbursement of City costs. The City shall periodically invoice the applicant for such costs incurred by the City, which invoice shall be paid promptly by the applicant.

1.10.4 Review standards

Except as otherwise required by law, amendments to the City's Land Use Code shall be pursuant to and consistent with the Comprehensive Plan.

1.11 TRANSITION RULES

A permitted use established prior to the effective date of the Land Use Code that is now classified as a

conditional use shall be deemed a lawful conditional use. Any subsequent addition, enlargement, or expansion of that use shall conform to the procedural and substantive requirements for conditional uses in Article 6. -A permitted or conditional use established prior to the effective date of this Code that is now classified as a prohibited use shall be deemed a nonconforming use and is controlled by the provisions of Article 4.

2 ADMINISTRATION

2.1 PLANNING BOARD

2.1.1 Composition

There shall be a Planning Board of seven members. Members of the Planning Board shall be residents of the city and shall not be officers or employees of the City. Members shall serve without compensation.

2.1.2 Appointments

A. Terms. The members of the Planning Board shall be appointed by the City Council for terms of three years. Such members shall serve until their successors are duly appointed and qualified. Such terms shall be staggered so that the terms of not more than three members shall expire in any calendar year; providing, however, such service shall not extend to over 120 days after expiration of their term. Members may serve for three consecutive three-year terms.

B. Vacancies. Permanent vacancies on the Planning Board shall be filled by the City Council, in the same manner as other appointments hereunder, for the unexpired term of the former member.

2.1.3 Removal of members

Any member of the Planning Board may be removed for cause by the City Council at any time, provided, however, that before any such removal, such member shall be given an opportunity to be heard in their own defense at a public hearing.

2.1.4 Officers

A. Chair. The members of the Planning Board shall annually elect one of their number as chair to preside at all meetings and hearings and to fulfill the customary functions of that office. The chair may administer oaths.

B. Vice chair. The members of the Planning Board shall annually elect one of their number as vice chair. In the absence of the chair, the vice chair shall act as chair and shall have all the powers of the chair. The vice chair shall have such other powers and duties as may be provided by the rules of the Planning Board.

C. Pro tempore officers. In the absence of both the chair and the vice chair, the board shall elect a chair pro tempore from among its number and the chair pro tempore shall have all the powers of the chair during the chair's and the vice chair's absence. In the absence of the vice chair, or when the vice chair is serving as chair, the board shall elect a vice chair pro tempore from among its number and the vice chair pro tempore shall have all the powers of the vice chair during the vice chair's absence or service as chair.

2.1.5 Committees

The chair of the Planning Board shall assign the members of the board to such regular and special committees as may be established by the board. Such committees shall have no final authority but shall assist the board in the conduct of its business by making recommendations to it concerning such specific items as may be assigned to them for study and report. The board shall adopt such rules as it shall deem appropriate to govern the organization and operation of its committees. Committee

meetings deliberative in nature shall be open to the public in accordance with Title 1 M.R.S. § 401 et seq.

2.1.6 ~~–~~Quorum and necessary vote

As to any matter requiring a hearing, no business shall be transacted by the Planning Board without a quorum, consisting of four members, being present. The vote of ~~at least four~~a majority of the members present shall be necessary to authorize any action by the board. If less than a quorum is present, the hearing may be adjourned for a period not exceeding three weeks at any one time. The Planning Authority shall notify in writing all members of the date of the adjourned hearing and shall notify such other interested parties as may be directed in the vote of adjournment.

2.1.7 ~~–~~Conflicts

No member of the Planning Board shall participate in the hearing or disposition of any matter in which ~~he or she has~~they have an interest. Any question of whether a member has a conflict of interest sufficient for a member to be recused shall be decided by a majority vote of the members present, except the member whose possible conflict is being examined. Where such vote results in a tie, the subject member shall be recused from the matter.

2.1.8 ~~–~~Meetings and procedures

A. Meetings. Regular meetings of the Planning Board shall be held at the call of the chair or as provided by rule of the board. Special meetings may be called by the chair or any four members of the Board or at the request of the City Council.

1. *Workshops.* Workshops of the Planning Board or any of its committees may be held at the call of the board or committee chair, as the case may be, for the presentation of information by the Director of the Department of Planning & Urban Development, their staff, an applicant, or others. These meetings will be open for public comment according to the rules of the Planning Board. Such meetings, unless open to the public as provided in Title 1 M.R.S. § 401 et seq. shall be informational only and shall not result in final decisions on any matter.
2. *Public hearings.* Public hearings shall be held as required by the various statutes, codes, and ordinances pursuant to which matters are brought before the Planning Board and shall be conducted in accordance with relevant state law, the Land Use Code, and the rules of the board.

B. Notice. The Planning Authority shall give notice of the time and place of public workshops and hearings, including a brief description of the application(s) to be considered, as follows:

1. *Site plan and subdivision.* Notice shall be ~~given to the general public by publication in a newspaper of general circulation in the City of Portland at least two times, the date of the first publication to be at least 10 calendar days prior to the workshop or hearing. Notice shall also be~~ sent by regular United States mail at least ~~10~~13 calendar days in advance of the workshop or hearing date to the applicant, the owner(s) of the subject property, and all owners of property located within 500 feet of the subject property~~, except that for subdivisions within industrial zones the~~

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~~notice range shall be 1,000 feet.~~ Notice shall also be given to the general public by publication in a newspaper of general circulation in the City of Portland at least two times, the date of the first publication to be at least 12 calendar days prior to the public hearing.

2. *Land Use Code or zoning map amendment.* For map amendments, notice shall be sent by regular United States mail to at least 13 calendar days in advance of any workshop or hearing date to all property owners within the area proposed for rezoning and all property owners 500 feet beyond said area. Notice of public hearing shall also be publicly posted in the ~~municipal~~City Clerk's office at least 13 days before the public hearing on such application. In addition, notice of said public hearing must be published at least two times in a newspaper of general circulation in the City of Portland. The date of the first publication must be at least 12 days prior to ~~any~~the public hearing and the date of the second publication must be at least seven days prior to the public hearing. ~~For map amendments, notice shall be sent by regular United States mail to at least 13 calendar days in advance of any workshop or hearing date to all property owners within the area proposed for rezoning and all property owners 500 feet beyond said area, except that rezoning to industrial zone designations the notice range shall be 1,000 feet.~~

3. *Contract or conditional zoning.* Notice of public hearing shall be posted in the City Clerk's office at least 13 days prior to the public hearing and shall be published in a newspaper of general circulation within the city at least two times, the date of the first publication to be at least ~~seven~~ 12 days prior to the hearing. Notice shall also be sent to the owners of all property abutting the property to be rezoned at their last known address. This notice shall contain a copy of the proposed conditions and restrictions, with a map indicating the property to be rezoned.

The cost of noticing shall be charged to the applicant. Failure of any property owner to receive a notice of public hearing shall not necessitate another hearing and shall not invalidate any action of the board.

C. Procedures. The Planning Board shall adopt its own rules for the conduct of its business not inconsistent with the statutes of the state and this article. Such rules shall be filed with the Planning Authority and with the City Clerk. Any and all rule changes shall be placed on a City Council public agenda as a communication requiring a public hearing. Any rule may be vetoed, in whole or in part, by order of the Council within 45 days of the date of filing with the City Clerk. No rules change shall take effect until that time period has elapsed. If a part of a rule is vetoed, the remainder shall continue in effect. Any rule so adopted, which is not required by the statutes of the state or by this article, may be waived by the chair upon good cause being shown. Except as otherwise provided in Subsection 2.1.8(A)(1), all meetings, hearings, and deliberations of the Planning Board and its committees shall be open to the public in accordance with Title 1 M.R.S. § 401 et

seq. Testimony at any hearing may be required by the Planning Board to be given under oath.

D. Keeping of records. The Director of the Department of Planning & Urban Development shall designate a member of their staff who shall attend all Planning Board proceedings. The staff shall provide for the keeping of minutes of the proceedings of the Board, showing the vote of each member on every question, or their absence or failure to vote, and shall maintain the permanent records and decisions of all Board meetings, hearings, and proceedings and all correspondence of the Board, as required by statute. Such records shall be public records open to inspection during working hours upon reasonable notice.

2.1.9 Record and decisions

A. Record. The minutes of the staff, and the audio or video recording or transcript if one is made, and all exhibits, papers, applications, and requests filed in any proceeding before the Planning Board and the decision of the Board shall constitute the record.

B. Decision. Every final decision of the Planning Board and every recommendation of the Planning Board to the City Council shall include written findings of fact, and shall specify the reason or reasons for such decision or recommendation. The Planning Authority shall ~~mail~~provide notice of any decision of the Planning Board to the applicant.

2.1.10 Jurisdiction and authority

In addition to the jurisdiction conferred on it by other provisions of state law and the ordinances of the City and in accordance therewith, the Planning Board shall have the following jurisdiction and authority:

A. To prepare and recommend a Comprehensive Plan to the City Council.

B. To prepare and recommend to the City Council changes in and amendments to the Comprehensive Plan.

C. To aid and assist the City Council and departments and agencies of the City in implementing general plans and in planning, developing, and completing specific projects.

D. To hear, review, and approve, conditionally approve, or deny ~~master development plans and~~ major site plans.

E. To hear, review, and approve, conditionally approve, or deny applications for subdivision approval.

F. To hear, review, and approve or deny applications for conditional uses ~~listed~~as specified in Article 6.

G. To hear, review, and offer its recommendations to the City Council on applications for amendments to, or revisions of, this Land Use Code.

H. To review and offer its recommendations to the City Council on certain public projects.

I. To review and approve, conditionally approve, or disapprove site plans for regulated projects in shoreland areas.

J. To prepare and offer its recommendations to the City Council with regard to the City's annual Capital Improvement Program.

K. Upon reasonable request, to make its special knowledge and expertise available to any official, department, board, or agency of the city, county, state, or federal governments to aid them in the performance of their respective duties relating to the planning and

development of the city and its region, including request from the City Council to review proposed developments in which the developer does not have the right, title, or interest in all the property necessary for the proposed development because some or all of that property is owned by the City.

L. To make such investigations, maps and reports, and recommendations in connection therewith, relating to the planning and development of the city as seem desirable.

M. To employ or contract with such experts and other assistants as may be necessary or convenient to carry out its duties hereunder and to pay for their services and for such other expenses as may be necessary and proper, provided, however, that such expenditures shall not exceed such funds as may be appropriated for such purposes -by the City Council.

N. To hear, review, and offer its recommendations to the City Council on petitions for street vacations and discontinuances.

O. To hear, review, and decide appeals where it is alleged there is an error in any decision, requirement, or determination made by the Planning Authority.

P. To approve, following a public hearing and at the recommendation of the Public Works Authority and the Planning Authority, *Technical Manual* and *Design Manual* standards, provided that such standards shall be additional to and consistent with the provisions of this Land Use Code, necessary and reasonable, and in accordance with sound engineering and urban design practice.

2.1.11 Administrative appeals

A. Application procedures. An appeal may be taken to the Planning Board by any person affected by a final decision of the Planning Authority except as provided elsewhere in this Land Use Code. Such appeal shall be taken within 30 days of the action complained of by filing with the Planning Authority an application for appeal specifying the grounds thereof. The application shall be in such form as specified by the Planning Authority. A payment of a nonrefundable filing fee, as established by the City Council to cover administrative costs and costs of hearing, shall accompany each application. The Planning Authority shall forthwith transmit to the Planning Board all of the papers constituting the record upon which the action appealed from was taken.

B. Public hearing. A public hearing shall be set, advertised and conducted by the Planning Board in accordance with the provisions of this article.

C. Action. Within 30 days following the close of the public hearing, the Planning Board shall render a decision on the appeal in the manner and form specified in the provisions of this article and the statutes of the state. The failure of the board to act within 30 days shall be deemed a denial of the appeal unless mutually extended in writing by the appellant and the board. Within five days of such decision or failure to act notice thereof shall be mailed to each party.

D. Conditions and limitations. Any right granted by the reviewing board on appeal shall be subject to the same conditions and limitations as if secured without the necessity of an appeal.

2.1.12 Planning Board appeals

An appeal from any final decision of the Planning Board as to any matter over which it has final

authority may be taken by any party or by any authorized officer or agent of the City to the superior court in accordance with Rule 80B of the Maine Rules of Civil Procedure. No appeal shall lie concerning any matter as to which the power of the Board is limited to the making of a recommendation.

2.2 HISTORIC PRESERVATION BOARD

2.2.1 ~~–~~Composition

The Historic Preservation Board shall consist of seven voting members who shall serve without compensation. Members shall not be officers or employees of the City. Members shall have demonstrated interest, knowledge, ~~ability, experience, or expertise in restoration, rehabilitation, or neighborhood conservation or revitalization~~or training in historic preservation or closely related fields, and shall be residents of the city.

2.2.2 Appointments

A. Terms. ~~Members~~The members of the Historic Preservation Board shall be appointed by the City Council for terms of three years. ~~Appointments~~Such members shall serve until their successors are duly appointed and qualified. Such terms shall be staggered so that the terms of not more than three members expire in any calendar year~~.~~, providing, however, such service shall not extend to over 120 days after expiration of their term. Members may serve for three consecutive three-year terms.

B. Vacancies. ~~Vacancies on the Historic Preservation Board shall be filled within 60 days. However, every member shall continue in office after expiration of the term until a successor has been appointed.~~ ~~Vacancies~~Permanent vacancies on the Historic Preservation Board shall be filled by the City council, in the same manner as other appointments hereunder, for the unexpired term of the former member.

2.2.3 Removal of members

~~Members~~Any member of the Historic Preservation Board may be removed for cause by the City Council~~. Cause shall include, but is not limited to, the failure to attend meetings without good cause. Any member proposed to be removed~~ at any time, provided, however, that before such removal, such member shall be given ~~written notice and~~ an opportunity to be heard ~~prior to final action~~in their own defense at a public hearing.

2.2.4 Officers

A. Election and terms. Officers of the Historic Preservation Board shall consist of a chair and vice chair. Officers shall be elected by the Historic Preservation Board and shall serve a term of one year and shall be eligible for re-election.

B. Chair. The chair shall preside at all meetings and hearings and fulfill the customary functions of that office.

C. Vice chair. In the absence of the chair, the vice chair shall act as chair and shall have all the powers of the chair. The vice chair shall have such other powers and duties as may be provided by the rules of the Historic Preservation Board.

D. ~~–~~Pro tempore officers. In the absence of both the chair and the vice chair, the board shall elect a chair pro tempore from among its number and the chair pro tempore shall have all the powers of the chair during the chair's

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and the vice chair's absence. In the absence of the vice chair, or when the vice chair is serving as chair, the board shall elect a vice chair pro tempore from among its number and the vice chair pro tempore shall have all the powers of the vice chair during the vice chair's absence or service as chair.

2.2.5 Quorum and necessary vote

As to any matter requiring a hearing, no business shall be transacted by the Historic Preservation Board without a quorum, consisting of four members, being present. The vote of a majority of the members present shall be necessary to authorize any action by the board. If less than a quorum is present, the hearing may be adjourned for a period not exceeding three weeks at any one time. The Planning Authority shall notify in writing all members of the date of the adjourned hearing and shall notify such other interested parties as may be directed in the vote of the adjournment.

~~2.2.5~~2.2.6 Conflicts

No member of the Historic Preservation Board shall participate in the hearing or disposition of any matter in which ~~he or she has an interest~~they have an interest. Any question of whether a member has a conflict of interest sufficient for a member to be recused shall be decided by a majority vote of the members present, except the member whose possible conflict is being examined. Where such vote results in a tie, the subject member shall be recused from the matter.

~~2.2.6~~2.2.7 Meetings and procedures

A. Meetings. Regular meetings of the Historic Preservation Board shall be held no less frequently than monthly. Special meetings may be called by the chair ~~or~~, any four members of the board, or at the request of the ~~chair of the~~ Planning Board or City Council.

1. *Workshops.* Workshops of the Historic Preservation Board or any of its committees may be held at the call of the board or committee chair, as the case may be, for the presentation of information by the Planning Authority, an applicant, or others. These meetings will be open for public comment according to the rules of the Historic Preservation Board. Such meetings, unless open to the public as provided in Title 1 M.R.S. § 401 et seq., shall be informational only and shall not result in final decisions on any matter.
2. *Public hearings.* Public hearings shall be held as required by the various statutes, codes, and ordinances pursuant to which matters are brought before the Historic Preservation Board and shall be conducted in accordance with relevant state law, the Land Use Code, and the rules of the board.

B. Notice. The Planning Authority shall give notice of the time and place of Historic Preservation Board ~~public~~ workshops and public hearings, including a brief description of the application(s) to be considered, as follows:

1. ~~*Landmark or district*~~*Historic designation nomination.* Notice shall be given to the general public by publication in a newspaper of general circulation in the City of Portland at least two times, the date of the first publication to be at least ~~10~~12 calendar days prior to the workshop or hearing. Notice shall be sent by regular United States mail ~~at least 10 calendar days in advance of the workshop or hearing~~

~~date~~ to the ~~applicant~~nominators and to the owner(s) of the subject property or properties at least 13 calendar days in advance of any workshop or hearing date.

2. ~~*Certificate*~~*National Register of Historic Places nominations.* Notice shall be given to the general public by publication in a newspaper of ~~*Appropriateness*~~general circulation in the City of Portland at least two times, the date of the first publication to be at least 12 calendar days prior to any workshop or hearing.

~~2.~~3. *Historic preservation review.* Notice shall be given to all property owners within 100 feet of the property at least ~~seven~~13 days prior to the date of the workshop or public hearing.

~~3.~~4. *Major site plan review.* For ~~alteration or new construction~~an application that is classified as a major site plan under Article ~~14~~13, notice shall be given to all property owners within 500 feet of the property at least ~~seven~~13 days prior to the date of the workshop or hearing.

5. *Appeals.* Notice shall be given to all property owners within 100 feet of the property at least 13 days prior to the date of the workshop or public hearing. Where the appealed application is classified as a major site plan under Article 13, the notice shall be given to all property owners within 500 feet of the property.

6. The cost of noticing shall be charged to the applicant~~.~~ except in the following cases:

a. The cost of noticing National Register of Historic Places nominations shall be charged to the City.

b. The cost of noticing appeals shall be charged to the appellant.

7. Failure of any property owner to receive a notice of public hearing shall not necessitate another hearing and shall not invalidate any action of the board.

C. Procedures. The Historic Preservation Board may adopt procedural rules for the conduct of its business not inconsistent with the statutes of the state and this article~~, including the creation of a subcommittee structure to enhance efficiency in consideration of Historic Preservation Board business. Such rules shall be filed with the Planning Authority and with the City Clerk. All such rules shall be subject to veto~~. Any rule may be vetoed, in whole or in part, by order of the Council within 45 days of ~~such~~the date of filing~~. The initial~~ with the City Clerk. No rules change shall take effect ~~when filed, subject to veto as provided above. Amendments to the rules shall take effect upon expiration of said veto~~until that time period~~.~~ ~~Any rule may be~~ has elapsed. If a part of a rule is vetoed, the remainder shall continue in effect. Any rule so adopted, which is not required by the statutes of the state or by this article, may be waived by the chair upon good cause being shown. Except as otherwise provided in Subsection 2.2.7, all meetings, hearings, and deliberations of the Historic Preservation Board and its committees shall be open to the public in accordance with Title 1 M.R.S. § 401 et seq. Testimony at any hearing may be required by the Historic Preservation Board to be given under oath.

~~2.2.7~~2.2.8 ~~–~~Record and decisions

~~A.~~ **Record.** The ~~Director of the Department of Planning & Urban Development or their designated~~ minutes of the staff ~~representative shall attend~~, and the audio or video recording or transcript if one is made, and all exhibits, papers, applications, and requests filed in any proceeding before the Historic Preservation Board ~~meetings. The staff shall provide for~~ and the ~~keeping of tape recordings or~~

A. ~~minutes~~decision of the ~~proceedings of the Historic Preservation~~ Board~~, showing the vote of each member on every question or their absence or failure to vote, and shall maintain~~ shall constitute the ~~records and decisions of all meetings, hearings, and proceedings and all correspondence of the Historic Preservation Board. Copies of permanent records shall be filed with the City Clerk. Staff shall publish and distribute copies of the records, reports, and decisions~~record.

Decision. Every final decision of the Historic Preservation Board ~~to Historic Preservation Board members~~ and ~~to others upon approval~~every recommendation of the Historic Preservation Board to the Planning Board~~.~~

~~B. No final action shall be taken by the Historic Preservation Board which could in any manner deprive~~ or ~~restrict the owner of a property in its use, alteration, maintenance, disposition, or demolition until such owner either has knowledge of the proceeding or is sent notice offering opportunity to be heard. This paragraph shall not affect the interim protection provisions of Section 17.6.~~

~~C. Every recommendation or recommended decision of the Historic Preservation Board~~City Council shall include written findings of fact, and shall specify the reason or reasons for such ~~action.~~

~~D.~~**B.** ~~Staff shall mail notice of any final determination~~decision or recommendation. The Planning Authority shall provide notice of any decision of the Historic Preservation Board to the applicant ~~and property owner(s).~~

~~2.2.8 Responsibilities~~

2.2.9 Jurisdiction and authority

The Historic Preservation Board shall have the following ~~responsibilities~~jurisdiction and authority:

A. To conduct or administer an ongoing survey to identify historically, culturally, architecturally, and archaeologically significant ~~areas, sites~~buildings, structures, ~~and~~ objects~~.~~, sites, and areas.

~~B.~~ To review ~~all areas, sites~~buildings, structures, ~~and~~ objects ~~listed in the National Register of Historic Places, including the boundaries of~~, sites, and areas ~~so listed~~nominated for local historic designation, and to make recommendations to the Planning Board and City Council for ~~the~~their designation ~~of those areas, sites, structures, and objects~~ as ~~local~~ landmarks ~~or~~, historic districts~~.~~

~~C. To investigate and recommend to the Planning Board and City Council the designation of areas, sites, structures, and objects not listed in the National Register of Historic Places as local landmarks and~~, and historic landscape districts ~~and to make recommendations to the Planning Board concerning sites, structures, and objects that have contributing significance or are intrusions within nominated or designated districts.~~

~~D. To keep and make available to the public a register of all areas, sites, structures, and~~

~~objects that have been designated as landmarks or districts, including all information required as part of each designation.~~

~~**E.** Upon request, to advise and assist owners of landmarks and property, sites, structures, or objects within districts on physical and financial aspects of preservation, renovation, rehabilitation, and reuse and for procedures for inclusion on other registers of significant areas, sites, structures, and objects, including the National Register of Historic Places.~~

~~**F.**~~**B.** ~~To recommend to the Planning Board the nomination of areas, sites, structures, and objects to the National Register of Historic Places or to any State of Maine Register of Historic Places that may be established~~as applicable.

~~**G.**~~**C.** To participate in the Certified Local Government Program of the National Historic Preservation Act Amendments of 1980 and the Maine Historic Preservation Commission, and carry out any responsibilities delegated to it under that program, including review and comment on any National Register of Historic Places nominations submitted to the Historic Preservation Board.

~~**H.** To seek funding for which the City of Portland is eligible through the Certified Local Government Program to assist in local preservation projects, including projects undertaken by local non-profit organizations.~~

~~**I.** To, upon request by the City Council, participate in any review of federal actions or undertakings pursuant to Section 106 of the National Historic Preservation Act, attend informational and educational programs sponsored by the Maine Historic Preservation Commission, and prepare an annual report of the activities of the Historic Preservation Board.~~

~~**J.** To inform and educate the citizens of Portland concerning the cultural, historic, architectural, and archeological heritage of the city by publishing appropriate maps, newsletters, brochures, and pamphlets and by sponsoring programs and seminars.~~

~~**K.**~~**D.** To hold ~~meetings~~workshops and public hearings to advise and assist owners of historically designated properties on historic preservation and rehabilitation, and to review applications for ~~Certificates of Appropriateness~~ historic preservation review affecting ~~proposed or~~historically designated ~~landmarks and districts~~properties and to ~~recommend approval or disapproval of Certificates of Appropriateness~~approve or deny such applications.

~~**L.**~~**E.** To provide testimony to the Board of Appeals in connection with any application for a ~~Certificate of Economic Hardship.~~certificate of economic hardship.

~~**M.**~~**F.** To develop ~~design~~ guidelines for work affecting ~~landmarks or districts~~historic designations and to aid in the interpretation of the standards for review ~~and approval by the Planning Board~~.

~~**N.** To advise the Planning Board as to recommendations on any preservation or conservation easements that the City of Portland may have or be offered as a gift or otherwise.~~

~~**O.** To advise the Planning Board as to the administration of such gifts, grants, and money as may be appropriated for the purposes of this article upon authorization and approval by the City Council.~~

~~P. To provide comment, as appropriate, to the Planning Board and/or City Council on matters pertaining to historic preservation in Portland.~~

~~Q. To confer recognition upon the owners of landmarks or properties, sites, structures, or objects within districts by means of certificates, plaques, or markers.~~

~~R.~~G. To assist the Planning Board and City Council in the development of a historic preservation component in the Comprehensive Plan of the City of Portland.

~~S.~~H. ~~To periodically review the Land Use Code and to~~To make recommendations to the Planning Board concerning any amendments to the Land Use Code appropriate for the protection and continued use of ~~landmarks or~~historically-designated properties~~, sites, structures, or objects within districts~~.

I. As requested, to provide comment, recommendations, or testimony to the Planning Board or City Council on matters pertaining to historic preservation in Portland.

J. To inform and educate the citizens of Portland as to the cultural, historic, architectural, and archeological heritage of the city by publishing maps, newsletters, brochures, and pamphlets and by sponsoring programs and seminars.

~~2.2.9~~2.2.10 Administrative appeals

A. **Application procedures.** An appeal may be taken to the Historic Preservation Board by any person affected by a decision of the Planning Authority relative to Article ~~17~~16. Such appeal shall be taken within 30 days of the action complained of by filing with the Planning Authority an application for appeal specifying the grounds thereof. The application shall be in such form as specified by the Planning Authority. A payment of a nonrefundable filing fee, as established by the City Council to cover administrative costs and costs of hearing, shall accompany the application. The Planning Authority shall forthwith transmit to the Historic Preservation Board all of the papers constituting the record upon which the action appealed from was taken.

B. **Standard of review.** The standard of review for appeals pursuant to this section shall be de novo. The appellant shall bear the burden of proof.

~~B.~~C. **Public hearing.** A public hearing shall be set, advertised, and conducted by the Historic Preservation Board in accordance with the provisions of this article.

~~C.~~D. **Action.** Within 30 days following the close of the public hearing, the Historic Preservation Board shall render a decision on the appeal in the manner and form specified in the provisions of this article and the statutes of the state. The failure of the board to act within 30 days shall be deemed a denial of the appeal unless mutually extended in writing by the appellant and the Board. Within five days of such decision or failure to act notice thereof shall be mailed to each party.

~~D.~~E. **Conditions and limitations.** Any right granted by the board on appeal shall be subject to the same conditions and limitations as if secured without the necessity of an appeal.

~~2.2.10~~2.2.11 Historic Preservation Board appeal

A. **Historic Preservation Board decision.** An appeal from any final decision of the Historic Preservation Board as to any matter over which

it has final authority may be taken by any party or by any authorized officer or agent of the City to the Planning Board, adhering to the requirements of Subsection 2.1.11 of this article.

B. **Standard of review.** The Planning Board shall deny the appeal unless it finds that the action of the Historic Preservation board was arbitrary or capricious or was not based on substantial evidence. Review by the Planning Board under this subsection is intended to be appellate in nature. Except where the Planning Board determines that injustice would result, the Planning Board shall determine the appeal without considering any facts or arguments which were not presented to the Historic Preservation Board. Where the Planning Board finds it necessary to consider such new evidence in order to do substantial justice, it shall remand the matter to the Historic Preservation Board for further consideration, unless it determines that the resulting delay is likely to result in undue hardship to the applicant.

C. **Planning Board decision.** The Planning Board's decision on an appeal from a decision of the Historic Preservation Board shall be final with respect to the application or matter initially presented to the Historic Preservation Board. An appeal from any final decision of the Planning Board as to any matter over which it has final authority may be taken by any party or by any authorized officer or agent of the city to the superior court in accordance with Rule 80B of the Maine Rules of Civil Procedure. No appeal shall lie concerning any matter as to which the power of the board is limited to the making of a recommendation.

2.3 ZONING BOARD OF APPEALS

2.3.1 Composition

There shall be a Board of Appeals of seven members. Members of the Board shall be residents of the city and shall not be officers or employees of the City or any of its agencies or departments. Members shall serve without compensation.

2.3.2 Appointments

A. **Terms.** The members of the Board of Appeals shall be appointed by the City Council for terms of three years. Terms shall be staggered so that the terms of no more than three members shall expire in any calendar year. Such members shall serve until their successors are duly elected and qualified provided, however, that such service shall not extend to over 120 days after expiration of their term. Members may serve for three consecutive three-year terms.

B. **Vacancies.** Permanent vacancies on the Board of Appeals shall be filled by the City Council, in the same manner as other appointments under this article, for the unexpired term of a former member whose place has become vacant.

2.3.3 Removal of members

Any member of the Board of Appeals may be removed for cause by the City Council at any time, provided, however, that before any such removal, such member shall be given an opportunity to be heard in their own defense at a public hearing.

2.3.4 Officers

A. **Chair.** The members of the Board of Appeals shall annually elect one of their number as chair to preside at all meetings and hearings and to fulfill the customary functions of that office. In the absence of the chair, the secretary shall act

as chair and shall have all the powers of the chair.

B. Secretary. The members of the Board of Appeals shall annually elect one of their number as secretary. The secretary shall fulfill the duties provided by statute and this article and have such other duties as may be provided by the rules of the board.

C. Pro tempore officers. In the absence of both the chair and the secretary, the board shall elect a chair pro tempore from among its number and the chair pro tempore shall have all the powers of the chair during the chair's and the secretary's absence. In the absence of the secretary, or when the secretary is serving as chair, the board shall elect a secretary pro tempore from among its number and the secretary pro tempore shall have all the powers of the secretary during the secretary's absence or service as chair.

2.3.5 Quorum and necessary vote

No business shall be transacted by the Board of Appeals without a quorum, consisting of four members, being present. The ~~concurring~~ vote of ~~at least four~~ a majority of the members ~~of the board~~present shall be necessary to ~~grant~~authorize any ~~request or application or to sustain any appeal. Any matter that receives fewer than four votes shall be deemed to have been denied.~~action by the board.

2.3.6 Conflicts

No member of the Board of Appeals shall participate in the hearing or disposition of any matter in which ~~he or she has~~they have an interest. Any question of whether a member has a conflict of interest sufficient to disqualify ~~him or her~~them shall be decided by a majority vote of the members, except the member who is being challenged. Where such a vote results in a tie, the challenged member shall be deemed disqualified.

2.3.7 Meetings and procedures

A. Staff. The Building Authority or their designee shall serve as staff to the Board of Appeals.

B. Meetings. Regular meetings of the Board of Appeals shall be held at the call of the chair or as provided by the rules of the board. Special meetings shall be called by the chair at the request of any two members of the board or at the request of the City Council. All meetings and hearings of the board shall be open to the public. For all matters properly brought before the Board of Appeals, the board shall select a reasonable time and place for a public hearing following the submission of the subject application.

C. Notice. The Building Authority shall give notice of public hearings in the form and manner and to the persons herein specified. The notice shall include the time and place of such hearing, a description of the contents of the matter to be heard and the address or location of the property involved. Where notice by mail is required, it shall be mailed at least seven days in advance of the hearing date by regular United States mail. Notices shall be given to each of the following as specified:

1. In all cases, to the petitioner.
2. In all cases, to all residents of the city by publication in a newspaper of general circulation in the city at least once, not more than 30 nor less than five days before the date of the hearing, and by mail to the applicant.

3. In the case of hearings relating to zoning appeals, a variance, or a conditional use, to the Planning Board and City Council by reasonable means.
4. In the case of hearings relating to a variance request from the provisions of Article 11, the application and all supporting information supplied by the applicant shall be forwarded to the State of Maine ~~Commission of the~~ Department of Environmental Protection at least 20 days prior to action by the board. Any comments received from the Commissioner or their designee prior to action by the Board of Appeals shall be made part of the record and shall be taken into consideration by the Board of Appeals.
5. In the case of hearings related to a variance or conditional use, by mail to the owners of all the property within 500 feet of such parcel or tract.
6. In the case of hearings related to all other appeals, by mail to the owners of property directly abutting, and directly across a street or alley from the subject property.
7. For purposes of this subsection, the owners of property shall be considered to be the parties listed by the ~~Assessor's~~Assessor's Department as those against whom taxes are assessed. Failure of any property owner to receive a notice of public hearing shall not necessitate another hearing and shall not invalidate any action of the board.
8. The cost of noticing shall be charged to the applicant.

D. **Procedures.** The Board of Appeals shall adopt its own rules of procedure for the conduct of its business not inconsistent with the statutes of the state and this article. Such rules shall be filed with the City Clerk. Any rule so adopted which relates solely to the conduct of hearings, and which is not required by the statutes of the state or by this article, may be waived by the board upon good cause being shown.
   1. *Conduct of hearings.*
      a. Any person may appear and testify at a public hearing, either in person or by a duly authorized agent or attorney, and may submit documentary evidence, provided, however, that the Board shall exclude irrelevant, immaterial and unduly repetitious evidence.
      b. The applicant and any abutter or similar person with standing shall in addition have the right to present witnesses on their own behalf and offer rebuttal evidence, to cross examine all witnesses testifying in opposition to their position through the chair, and to examine and introduce any documents produced at the hearing.
   2. All other matters pertaining to the conduct of hearings shall be governed by the provisions of the relevant state statutes, this article, and the rules promulgated by the Board of Appeals.

2.3.8 Records and decisions

A. **Record.** The recording of testimony, if any, and all exhibits, papers, applications, and requests filed in any proceeding before the

FINAL DRAFT FOR PLANNING BOARD REVIEW

Board of Appeals and the decision of the board shall constitute the record.

B. Decision. Every decision of the Board of Appeals shall include findings of the fact, shall refer to the evidence in the record and the exhibits, plans or specifications upon which such decision is based, shall specify the reason or reasons for such decision, and shall contain a conclusion or statement separate from the findings of fact setting forth the specific relief granted or denying relief. The Building Authority shall hand deliver or mail a copy of the decision to the applicant, the Planning Board, and City Council within seven days of such decision, and shall also file the decision with the City Clerk.

2.3.9 Jurisdiction and authority

The Board of Appeals shall have the following jurisdiction and authority:

A. To hear and decide appeals from the granting or denial of any permit required by Chapter 6, Article ~~II~~11, or Chapter 10 of the City of Portland Code of Ordinances.

B. To hear and decide appeals from any decision or order made -by the Building Authority pursuant to the provisions of this Land Use Code or any other chapter of the City of Portland Code of Ordinances, except that decisions relating to enforcement of the Shoreland Overlay Zone provisions of this chapter may not be appealed to the Board of Appeals and may only be appealed directly to Superior Court in accordance with M.R. Civ. P. 80B and 30-A M.R.S. §§ 2691 & 4483.

C. To review interpretations of the Zoning Administrator or their designee, except that decisions on such interpretations shall be advisory only and shall not be appealable.

D. To hear and grant or deny applications for variances from the terms of this Land Use Code, including but not limited to terms related to use; dwelling unit conversion; space and bulk, such as lot size, density, and setbacks; parking; loading; and signs.

E. To hear and grant or deny applications for conditional uses, as specified in Article 6.

2.3.10 Administrative appeals

A. Application procedures. Application for any appeal to the board shall be submitted to the Building Authority. A payment of a nonrefundable application fee, as established by the City Council to cover administrative costs and costs of a hearing, shall accompany each application. The application shall be in such form as prescribed by the Building Authority.

B. Public hearing. A public hearing shall be set, advertised and conducted by the Board of Appeals in accordance with Subsection 2.3.7.

C. Standard of review. The standard of review for appeals pursuant to Subsections 2.3.9(A), (B), and (C) shall be de novo. The appellant shall bear the burden of proof.

D. Conditions and limitations on rights granted by appeal. Any right granted by the Board of Appeals on appeal shall be subject to the same conditions and limitations as if secured without the necessity of an appeal.

2.3.11 Variances

A. Application procedures

1. Application for a variance shall be submitted to the Building Authority. A

payment of a nonrefundable application fee, as established from time to time by the City Council to cover administrative costs and costs of a hearing, shall accompany each application. The application shall be in such form as prescribed by the Building Authority.

2. A public hearing shall be set, advertised, and conducted by the Board of Appeals in accordance with Subsection 2.3.7.
3. All decisions by the board shall be rendered in a manner and form not inconsistent with the statutes of this state.
4. When a decision affects property located within the Shoreland Overlay Zone, the Zoning Board of Appeals shall cause written notice of its decision to be mailed or hand-delivered to the Department of Environmental Protection within seven days of the board's decision.

B. Undue hardship variance. An undue hardship variance may be granted by the board only where strict application of the ordinance, or a provision thereof, to the petitioner and ~~his or her~~their property would cause undue hardship. The words "undue hardship" as used in this subsection mean the following:

1. The land in question cannot yield a reasonable return unless a variance is granted.
2. The need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood.
3. The granting of a variance will not alter the essential character of the locality.
4. The hardship is not the result of action taken by the applicant or prior owner.

C. Disability variance

1. *By the Board of Appeals.* Notwithstanding the provisions of subsection (B) above, the board may grant a variance to an owner of a residential dwelling for the purpose of making that dwelling accessible to a person with a disability who resides in or regularly uses the dwelling. The board shall restrict any variance granted under this subsection solely to the installation of equipment or the construction of structures necessary for access to or egress from the dwelling by the person with the disability. The board may impose conditions on the variance, including limiting the variance to the duration of the disability or to the time that the person with the disability lives in the dwelling. The term "structures necessary for access to or egress from the dwelling" shall include railing, wall, or roof systems necessary for the safety or effectiveness of the structure. For the purpose of this subsection, a disability has the same meaning as a physical or mental disability under 5 M.R.S. § 4553.
2. *By the Building Authority.* Notwithstanding the provisions of subsections (B) and (C(1)) above, the Building Authority may issue a permit to the owner of a dwelling for the purpose of making a dwelling accessible to a person with a disability who resides in or regularly uses the dwelling. If the permit requires a variance, the permit is deemed to include that variance solely for the installation of equipment or the construction of structures necessary for access to or egress from the dwelling for the person with a disability.

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D. Practical difficulty variance. Notwithstanding the provisions of subsections (B) and (C) above, the Board of Appeals may grant a variance from the dimensional standards of this Land Use Code that relate to lot area, lot coverage, frontage, and setback requirements when strict application of these standards would both preclude a permitted use of the property and result in significant economic injury to the applicant. Significant economic injury shall mean that the value of the property if the variance were denied would be substantially lower than its value if the variance were granted. To satisfy this standard, the applicant need not prove that denial of the variance would mean the practical loss of all beneficial use of the land. In granting a practical difficulty variance, all of the following conditions must be found to exist:

1. The need for a variance is due to the unique circumstances of the property, and not to the general conditions in the neighborhood.
2. The granting of the variance will not produce an undesirable change in the character of the neighborhood and will not have an unreasonably detrimental effect on either the use or fair market value of abutting properties.
3. The practical difficulty is not the result of action taken by the applicant or a prior owner.
4. No other feasible alternative is available to the applicant, except a variance.
5. The granting of a variance will not have an unreasonably adverse effect on the natural environment.
6. The property is not located, in whole or in part, within a shoreland area, as defined in 38 M.R.S. § 435, nor within a Shoreland Overlay Zone or flood hazard area, as defined in this Land Use Code.

E. Specified variances prohibited

~~1. No use permitted in medium- and high-density residential zones shall be permitted in low-density residential zones. No use permitted in mixed-use or office zones shall be permitted in any residential zone. No use permitted in industrial and airport zones shall be permitted in any mixed-use, office, or residential zone. No use permitted in residential zones shall be permitted in any industrial or airport zone. The general use categories are listed below:~~

~~a. Low-density residential: IR-1, IR-2, IR-3, R-1, R-2, R-3.~~

~~b. Medium- and high-density residential: R-4, R-5/R-5a, R-6/R-6a.~~

~~c. Mixed-Use/Office: B-1/B-1b, B-2/B-2b/B-2c, B-3/B-3b/B-3c, B-4, B-5/B-5b, B-6, B-7, I-B, R-P, O-P.~~

~~d. Industrial: I-L/I-Lb, I-M/I-Ma/I-Mb, I-H/I-Hb, A-B.~~

~~2.~~1. A variance may only be granted with respect to the generally applicable space and bulk requirements of the zone in which the property is located and not from any provision that allows a deviation from those requirements.

~~3.~~2. No variance shall be granted which would permit the creation of a lot or parcel that cannot be developed in compliance with the zoning, subdivision, and other regulations applicable thereto.

~~4.~~3. No variance shall be granted which would result in a use or development of the lot or parcel in question which would not be in harmony with the general purpose and intent of this Land Use Code or the Comprehensive Plan; which would be materially detrimental to the public welfare or materially injurious to the enjoyment, use, or development of property or improvement permitted in the vicinity; or which would materially impair an adequate supply of light and air to properties and improvements in the vicinity, substantially increase congestion in the public streets, increase the danger of flood or fire, or endanger the public safety.

~~5.~~4. No variance shall be granted which would be greater than the minimum variance necessary to relieve the undue hardship or the hardship of the applicant.

~~6. No variance shall be granted from the minimum lot sizes set forth in Subsection 4.3.1 for lots in the IR-1 and IR-2 zones.~~

~~7. No variance shall be granted from the requirements in Subsection 6.4.1.~~

F. Conditions on variances; variances less than requested. Reasonable conditions and safeguards relating to construction, character, location, landscaping, screening, and other matters may be imposed upon the premises benefited by a variance as considered necessary to prevent injurious effects upon other property and improvements in the vicinity or upon public facilities and services. Such conditions shall be expressly set forth in the resolution granting the variance and in the notice informing the applicant thereof. Violation of such conditions and safeguards shall be a violation of this article. A variance less than or different from that requested may be granted when the record supports the applicant's right to some relief but not to the relief requested.

G. Limitations on variances. No variance permitting the erection or alteration of a building shall be valid for a period longer than two years, unless a building permit for such erection or alteration is issued and construction is actually begun within that period and is thereafter diligently pursued to completion. No variance relating to the establishment or maintenance of a use not involving a building or structure shall be valid for a period longer than two years, unless an occupancy permit is issued and a use commenced within such period.

H. Recording of variances. No variance shall be valid unless, within 90 days of final approval of the variance, a certificate describing the variance has been recorded by the applicant for the variance in the registry of deeds as required by 30 M.R.S. § 4353(5).

2.3.12 Violations

In addition to any other remedies available, the Board of Appeals after notice and hearing may revoke any variance or other relief granted under this section when the provisions of this chapter or the conditions under which the relief was granted have not been complied with.

~~2.3.13 Appeals~~

2.3.13 ~~An~~Reconsideration

The Board of Appeals may reconsider any decision within 45 days of its decision. A request to the board to reconsider a decision must be filed within

10 days of the decision that is being reconsidered. A vote to reconsider and the action taken on that reconsideration must occur and be completed within 45 days of the date of the vote on the original decision. Reconsideration of a decision shall require a positive vote of the majority of the board members originally voting on the decision, and proper notification to the landowner, petitioner, Planning Board, code enforcement officer, and other parties of interest, including abutters and those who testified at the original hearing(s). The board may conduct additional hearings and receive additional evidence and testimony. Appeal of a reconsidered decision to Superior Court must be made within 15 days after the decision on reconsideration.

2.3.14 Appeals

Any aggrieved party may take an appeal, within 45 days of the vote of the original decision, from any final decision of the Board of Appeals ~~may be taken by any aggrieved party~~ to the superior court in accordance with Rule 80B of the Maine Rules of Civil Procedure and 30-A M.R.S. §§ 2691 & 4483., except as otherwise specifically provided in this article.

3 DEFINITIONS

~~**Accessory dwelling unit.** A dwelling unit subordinate in size to the principal residential structure(s) on a lot and located either within the principal residential structure(s) or in an accessory structure.~~

Adjacent grade (within the floodplain). For the purposes of calculating floor elevation in areas of special flood hazard, the natural elevation of the ground surface prior to the construction next to the proposed wall of a structure.

Adult business establishment. Any business, including but not limited to any bookstore, newsstand, novelty store, nightclub, bar, cabaret, amusement arcade, or theater, which:

A. Keeps for public patronage or permits or allows the operation of any adult amusement device as defined in Chapter 4 of the City of Portland Code of Ordinances; or

B. Customarily, meaning more often than an average of one calendar week during any calendar month of operation, exhibits motion pictures or displays any other visual representation described or advertised as being "X rated" or "for adults only," or which customarily excludes persons from any portion of the premises by reason of immaturity of age by the use of such, or similar, phrases; or

C. Is adjudged to be in violation of 17 M.R.S. §§ 2911, 2912.

Affordable housing. Housing for which the percentage of income a household is charged in rent and other housing expenses (including utilities such as electric, heat, water, sewer, and/or trash that the household pays separately from rent) or must pay in ownership cost (including but not limited to mortgage payments, 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.

After-hours entertainment license. Any of the music, dancing, and special entertainment licenses required or authorized by Chapter 4, Article III of the City of Portland Code of Ordinances.

Agriculture. ~~The practice of farming, including the cultivation of the soil~~Land and associated structures used for the growing of crops and ~~rearing~~raising of domesticated animals to provide food and other products~~.~~ for sale, personal consumption, donation, and/or educational purposes. Agriculture ~~may include nurseries, greenhouses, and truck gardens, provided~~includes single-family dwellings and any additional dwellings that ~~there is no sale of products not produced~~are accessory to the principal use of agriculture. Agriculture also includes farmstands used to sell crops grown on the premises.

Airport. Land, water, or any human-made object or facility located thereon, which is used or intended to be used for landing and takeoff of aircraft, and any appurtenant areas that are used or intended to be used for airport buildings or other airport facilities or rights-of-way, together with all airport buildings and facilities located thereon. Airports may include airport administration, terminals, carrier operations, concessions, reservations and ticket sales, freight, repair and storage, fueling

services, flying schools, car rental operations, and other associated uses.

Airport restricted access areas. Runways, taxiways, and other areas of ~~the Jetport~~an airport accessible to aircraft, whether access is restricted by the Federal Aviation Administration or not.

Alley. Any way designed primarily for vehicular and pedestrian or utility access to the back or side of premises otherwise abutting on a street, except driveways unless officially designated otherwise.

Animal-related services. Establishments principally for the training, daycare, or boarding of animals. Such uses shall not include veterinary services.

Approval. An affirmative decision on an application, including an approval with conditions.

Appurtenance. A device or structure not designed for human occupancy and attached to the exterior of a building.

Archaeological site. A bounded geographic location containing the physical evidence of previous human occupation including but not limited to structures, artifacts, graphics (paintings or drawings) and discarded material including plants or animals.

Area of shallow flooding. Area designated AO and AH zone on the Flood Insurance Rate Map (FIRM) with a 1 % or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

Area of special flood hazard. The land in the floodplain having a 1% or greater chance of flooding in any given year as specifically identified in the most recently adopted FEMA Flood Insurance Study for the City of Portland.

Auto service station. A business selling ~~gasoline, diesel, or~~ fuel for vehicles and propane ~~fuel,~~, or providing services specific to charging electric vehicles, or providing motor vehicle repairs including, but not limited to, tune-ups, engine repair, brake work, muffler replacement, tire repair, or similar activities. Such businesses may also include car-washes and/or vacuums.

~~**Back office use.** An office-related use with minimal public visitation and minimal direct service to the general public, primarily to provide support services to larger organizations such as educational institutions, social service agencies, or business headquarters.~~

Bar. Any establishment required to be licensed to sell alcoholic beverages for on-premises consumption, which is not regularly used for the purpose of providing full ~~course~~ meals, as defined in Title 28-A of the Maine Revised Statutes, on the premises.

Base flood. The flood having a 1% chance of being hereof or exceeded in any given year (i.e., a 100-year storm).

Basement. Area of building that includes a floor that is subgrade (below ground level) on all sides.

Bed and breakfast. A ~~building~~detached dwelling that contains ~~between two and~~no more than nine guest rooms; is used to provide or offer overnight ~~accommodations~~accommodation for transient guests; has an owner, manager, or operator living in the building as a permanent resident; does not provide cooking facilities in any of the guest rooms; and ~~does not provide meals other than breakfast, which shall be offered only to overnight guests.~~provides meals on-site.

~~**Blasting operations.** The use of explosives for purposes of breaking up and removing soil, rock, and ledge, related to construction and development of real estate within the city.~~

Beverage container redemption center. A facility established with the primary purpose of accepting empty beverage containers from consumers and paying or otherwise providing the refund value of such containers.

Breakaway wall. A wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without damage to the elevated portion of the building or supporting foundation system.

Building. A roofed and walled structure built for permanent use.

Building (within Article 16). A human-made construction created to shelter human activity, such as a house, barn, church, hotel or similar structure. Building may refer to a historically related complex such as a courthouse and jail or a house and barn.

Building, accessory. A detached roofed and walled structure that is incidental and subordinate in area and extent, and/or use to the principal building(s) on the property. A lot may have more than one accessory building.

Building addition. Any increase to footprint, floor area, or volume of an existing building.

Building alteration. A change or rearrangement in the structural supports, exterior appearance, or ~~removing from or~~removal of features otherwise affecting the exterior appearance of a building.

Buildings, attached. Two or more independent buildings that share at least one common party wall but have full building separation and independent principal entries; not free-standing. Attached buildings may or may not have common ownership.

Building, principal. The main roofed and walled structure on a lot having the predominant area, extent, and/or use. A lot may have more than one principal building. When a garage is attached to the principal building in a substantial manner as by an enclosed area with roof or common wall, it shall be considered as a part of the principal building.

~~**Clinics.**~~ **Child care center.** Per 22 M.R.S. §8301-A(1-A)(A), a child care center is a house or other place in which a person maintains or otherwise carries out a regular program, for consideration, for any part of a day providing care and protection for 13 or more children under 13 years of age; or any location or locations operated as a single child care program or by a person or persons when there are more than 12 children being cared for.

Child care facility, small. Per 22 M.R.S. §8301-A(1-A)(E), a small child care facility is a house or other place, not the residence of the operator, in which a person maintains or otherwise carries out a regularly scheduled program, for any part of a day, providing care and protection for 3 to 12 children between 6 weeks and 12 years of age.

Clinic. Any establishment where patients are examined and treated by one or more health care providers, such as, but not limited to, physicians, dentists, psychologists, or social workers. Clinics may include laboratory services and facilities for ambulatory or outpatient surgical procedures.

Coastal AE Zone. The portion of the coastal high hazard area with wave heights between 1.5 feet and 3.0 feet and bounded by a line labeled the "Limit of Moderate Wave Action" (LiMWA) on a Flood Insurance Rate Map (FIRM). VE Zone floodplain construction standards are applied to development, new construction, and substantial improvements in the Coastal AE Zone.

Coastal high hazard area. An area of special flood hazard extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources. Coastal high hazard areas are designated as Zone VE and Zone AE bounded by a line labeled "Limit of Moderate Wave Action" (LiMWA) on a Flood Insurance Rate Map (FIRM).

Coastal wetland. All tidal and subtidal lands; all lands with vegetation present that is tolerant of salt water and that occurs primarily in a salt water or estuarine habitat; and/or any swamp, marsh, bog, beach, flat, or other contiguous low land that is subject to tidal action during the highest tide level for the year in which an activity is proposed as identified in tide tables published by the National Ocean Service. Coastal wetlands may include portions of coastal sand dunes.

~~**Containment wall.** Wall surrounding all sides of an above ground tank to contain any spills or leaks.~~

Commercial vessel. Any watercraft used principally in a business or trade, including common carriers of passenger or freight, whether for governmental, nonprofit, or emergency purposes, but not including pleasure craft used principally for recreational purposes.

~~**Common areas.** Portions of a lodging house which are available for use by all residents of the lodging house. Common areas shall include, but are not limited to, one or more of the following: kitchens, living rooms, recreation rooms, improved basements, and finished porches. Bathrooms, stairways, hallways, and storage areas shall not be counted as common areas.~~

Common circulation drives. Private driveways, roadways and circulation areas accessible to all on-site tenants and/or occupants of a lot within the Waterfront Central Zone providing access from/to the public street network.

Communication studio. A commercial or public communication facility, including radio and television broadcasting and receiving stations and studios.

Community hall. A building or portion of a building used for social, recreational, artistic, civic, or

educational community functions. Such a facility would be open to the public for such functions, which, for example, could include but not be limited to performances, dance, exhibitions, cultural exchange, training programs and workshops, neighborhood meetings, or gatherings. As part of these functions and activities, it shall be permissible to serve food, subject to other applicable codes and ordinances. A community hall may also be referred to as a neighborhood center.

Condominium. Any interest in real estate created pursuant to the Unit Ownership Act, 33 M.R.S. § 560 et seq., or its equivalent, as it may from time to time be amended.

Containment wall. Wall surrounding all sides of an above ground tank to contain any spills or leaks.

Construction and engineering services. Offices for businesses in the conduct of any landscape or building trade or craft, together with land and/or structures used for the storage of equipment, vehicles, machinery, and/or materials related to and used by the trade or craft. Construction and engineering services with no storage of equipment, vehicles, machinery, and/or materials are considered general office uses.

~~**Congregate care facility.** A residential development intended to facilitate aging in place that includes individual dwelling units with support services which provide assistance to residents. The population of a congregate care facility shall consist of persons 55 years of age or older and their spouses. A congregate care facility may also accommodate the needs of persons with disabilities and their spouses that are younger than 55 years of age, provided the majority of the residents are 55 years of age or older. Services to be provided shall include the following:~~

~~**A.** Transportation for essential support activities.~~

~~**B.** Provision of at least one meal per day.~~

~~**C.** Programmed social activities which are facilitated by staff.~~

~~**D.** Provision of personal care services including, but not limited to, housekeeping, laundry, and minimal health monitoring.~~

~~**E.** Installation of emergency call buttons or systems in each unit.~~

~~**Correctional pre-release facility.** A facility housing up to 12 persons, plus staff, serving a primary clientele of persons in correctional pre-release programs.~~

Critical systems. Mechanical, electrical, plumbing, fire protection, life safety, and communication systems required for the uninterrupted and safe operation and occupancy of a building.

Cultural facility. A facility open to the public, providing access to cultural exhibits and activities including but not limited to museums, cultural or historical centers, non-commercial galleries. A cultural facility may include accessory services such as, but not limited to, retail sales of related items.

Disturbed area. All land areas of a site that are stripped, graded, grubbed, filled, excavated, or substantially altered to accommodate construction activity which results in permanent or long-term alteration of the land.

Drive-through. A facility which provides a service directly to a motor vehicle occupant and where the customer drives a motor vehicle onto the premises and to a window or mechanical device through or by which the customer is served with or without exiting the vehicle. Drive-throughs do not include major or minor auto service stations.

Drive-through features. Features associated with drive-throughs including but not limited to designated travel or stacking lanes, intercom systems, menu boards, service windows, kiosks, mechanical devices, etc.

~~**Dwelling unit.** One or more rooms forming a single unit for habitation by one family, including food preparation, living, sanitary, and sleeping facilities.~~

Dwelling, four-family. A single building containing four dwelling units.

Dwelling, live/work. A principal structure that combines a dwelling unit with a permitted commercial use that is used by one or more of the residents. A live/work dwelling may also include the combination of a dwelling unit with arts-related activities, such as painting, photography, sculpture, music, and film, used by one or more of the residents. Live/work dwellings are subject to the standards for the individual uses contained within this Code.

Dwelling, multi-family. A single building ~~or portion thereof~~ containing ~~three~~five or more dwelling units.

Dwelling, multi-family conversion. A single building containing five or more dwelling units, converted from an existing dwelling of four or fewer units, or an existing structure in nonresidential use.

Dwelling, single-family. A single building containing one dwelling unit.

Dwelling, three-family. A single building containing three dwelling units.

Dwelling, townhouse. A structure consisting of two or more dwelling units, the interior of which is configured in a manner such that dwelling units are attached horizontally, separated by a party wall, and each dwelling unit is located on a separate lot with a separate exterior entrance.

Dwelling, two-family. A single building containing two dwelling units.

Dwelling unit. One or more rooms forming a single unit for habitation by one family, including food preparation, living, sanitary, and sleeping facilities.

Dwelling unit, accessory. A dwelling unit subordinate in size to the principal residential structure(s) on a lot and located either within the principal residential structure(s) or in an accessory structure.

~~**Dwelling, two-family.** A single building containing two dwelling units.~~

Earth-moving activity. Any removal or placement, excavation, filling, stockpiling, or grading of soil, earth, loam, sand, gravel, rock, and other mineral deposits.

FINAL DRAFT FOR PLANNING BOARD REVIEW

Easement. A right, privilege, or liberty which one has in land owned by another for some special and definite purpose.

Elevation certificate. An official form (FEMA form FF-206-FY-22-152, as amended) that is used to verify compliance with the floodplain management regulations of the National Flood Insurance Program.

Emergency operations. Operations conducted for the public health, safety, or general welfare, such as protection of resources from immediate destruction or loss, law enforcement, and operations to rescue human beings and livestock from the threat of destruction or injury.

Emergency shelter. A facility providing temporary overnight shelter to ~~homeless~~ individuals experiencing homelessness in a dormitory-style or per-bed arrangement.

Entrance, principal. ~~The~~A main point of access for pedestrians into a building. ~~A building~~Buildings may have more than one principal entrance.

~~**Esplanade.** That portion of a street which is located between the curbline and the edge of the sidewalk closest to the street.~~

Essential services. The construction, alteration, or maintenance of gas, electrical, or communication facilities; steam, fuel, electric power, or water transmission or distribution lines, towers and related equipment; telephone cables or lines, poles, and related equipment; gas, oil, water, slurry, or other similar pipelines; municipal sewage lines, collection, or supply systems; and associated storage tanks. Such systems may include towers, poles, wires, mains, drains, pipes, conduits, cables, fire alarms and police call boxes, traffic signals, hydrants, and similar accessories, but shall not include service drops or buildings which are necessary for the furnishing of such services.

~~**Explosives.** Any material or container containing a chemical compound or mixture that is commonly used or intended for the purpose of producing an explosion and that contains any oxidizing and combustible materials or other ingredients in such proportions, quantities, or packaging that an ignition by fire, by friction, by compound or mixture may cause such a sudden generation of highly heated gasses that the resultant gaseous pressures are capable of producing destructive effects on contiguous objects, but shall not mean the components for handloading rifle, pistol and shotgun ammunition, or fireworks.~~

Exhibition, meeting, and convention halls. An indoor facility for the conduct of exhibitions, conventions, or other large gatherings.

Façade. An exterior building wall, from grade to the top of the parapet or eaves. A facade incorporates the full width of a building elevation, including any projections or recesses occurring across an elevation.

Façade, blank. A building façade that contains expanses of wall area with no windows, no entrances, no articulation, and no other elements or features, or is otherwise undifferentiated.

Family. One or more individuals related by blood, marriage, civil union, adoption, or guardianship

and/or up to eight unrelated individuals living together in a dwelling unit as a single nonprofit housekeeping unit.

Family child care provider. Per 22 M.R.S. §8301-A(1-A)(C), a family child care provider is a person who provides day care in that person's home on a regular basis, for consideration, for children under 13 years of age who are not the children of the provider or who are not residing in the provider's home.

Farmstand. A temporary structure, used for the sale of food or non-food crops grown on the premises.

Fill. Soil, earth, loam, sand, gravel, rock and other mineral deposits.

Filling. The placement of soil, earth, loam, sand, gravel, rock and other mineral deposits. Filling shall include stockpiling.

Fixture, fully shielded. A light fixture or luminous tube constructed and mounted such that all light emitted by the fixture or tube, either directly from the lamp, tube, or a diffusing element, or indirectly by reflection or refraction from any part of the light fixture, is projected below the horizontal. If the lamp or tube, any reflective surface, or lens cover (clear or prismatic) is visible when viewed from above or directly from the side, from any angle around the fixture or tube, the fixture or tube is not fully shielded.

Flag. A fabric sheet of square, rectangular, or triangular shape having no enclosing or supporting framework that is typically mounted on a pole.

Flood or flooding.

A. A general and temporary condition of partial or complete inundation of normally dry land areas from:
   1. The overflow of inland or tidal waters.
   2. The unusual and rapid accumulation or runoff of surface waters from any source.

B. The collapse or subsidence of land along a shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined above.

Flood boundary and floodway map. The official map issued by the Federal Emergency Management Agency (FEMA) on which the boundaries of the flood have been designated. This may alternatively be referred to as a flood hazard boundary map.

Flood elevation study. An examination, evaluation, and determination of flood hazards and, if appropriate, corresponding water surface elevations.

Flood Insurance Rate Map (FIRM). The official map on which the Federal Emergency Management Agency (FEMA) has delineated both the areas of special flood hazard and the risk premium zones applicable to the city.

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Floodplain or floodprone area. Any land area susceptible to being inundated by water from any source (see Flood or Flooding).

Floodplain management. The operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works, and floodplain management regulations.

Floodplain management regulations. Zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance, and erosion control ordinance), and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

Floodproofing. Any combination of structural or nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real estate, to water and sanitary facilities, structures, and their contents.

Floodway encroachment lines. The lines marking the limits of floodways on federal, state, and local floodplain maps.

Foundation. The supporting substructure of a building or other structure, excluding wooden sills and post supports, but including basements, slabs, frost walls, or other base consisting of concrete, block, brick, or similar material.

Forested wetland. A freshwater wetland dominated by woody vegetation that is six meters (approximately 20 feet) tall or taller.

Freeboard. A factor of safety usually expressed in feet above a flood level for purposes of floodplain management. Freeboard tends to compensate for the many unknown factors, such as wave action, bridge openings, and the hydrological effect of urbanization of the watershed, which could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions.

Freshwater wetland. Freshwater swamps, marshes, bogs, and/or similar areas which are both:

~~F.~~A. Of ten or more contiguous acres or of less than ten contiguous acres and adjacent to a surface water body except for any river, stream or brook such that, in a natural state, the combined surface area is in excess of ten acres or of less than ten acres that is depicted on the Shoreland Zoning map.

Inundated or saturated by surface or ground water at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils. Freshwater wetlands may contain small stream channels or inclusions of land that do not conform to the criteria of this definition.

Functionally-dependent use (within the floodplain). A use that cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and

ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

Garage/yard sale. A temporary event held on residential property, during which the owner or occupant offers used personal items, such as clothing, furniture, and household goods, for sale to the public.

General office. An office for the conducting or managing of a business or the practice of a profession, including that of a licensed health care provider, so long as such office does not include laboratory services and facilities for ambulatory surgical procedures. Such an office may or may not offer services to the public. An office is not materially involved in fabricating, assembling, or warehousing of physical products for the retail or wholesale market, nor engaged in the repair of products or retail services.

General services. Establishment primarily engaged in rendering frequent or recurring services to persons or business on a fee basis, including but not limited to banks, health clubs, laundries, ~~employment services, management services, personnel services, or maintenance services~~beauty shops, barber shops, nail salons, electronics repair shops, and the like.

~~**Handicapped family unit.** A dwelling unit which provides living facilities for handicapped persons. A handicapped family unit may also provide counseling and support services. Staff members may also be included in the population.~~

~~**Helistop**~~**Greenhouse/nursery (retail).** An establishment where flowers, shrubbery, trees, and other horticultural and floricultural products are propagated and sold, which may include gardening and landscape supplies and products, such as hardware, garden tools and utensils, paving stones and bricks, bulk materials such as mulch, straw, and stone, and other related items for sale.

Green roof. A roof of a building that is partially or completely covered with vegetation and designed to meet the Maine Stormwater Best Management Practices Manual standards and recommendations. A green roof installation must serve the purpose of reducing stormwater runoff through retention or slowing and consist of an assembly that at a minimum includes a root repellent system, a drainage system, a filtering layer, a growing medium and plants, and shall be installed on a waterproof membrane.

Ground cover. Small plants, fallen leaves, needles and twigs, and the partially decayed organic matter of the forest floor.

Group home. A housing facility for 9 to 12 persons with disabilities that is approved, authorized, certified, or licensed by the State.

Heliport. An area used for the landing of helicopters at any location other than an airport. Such area shall include a landing area or pad, and may include parking required for access to the landing area or pad, a loading and unloading area for emergency vehicles, and other related facilities other than maintenance and repair facilities.

Highest Astronomical Tide. The elevation of the highest predicted astronomical tide expected to occur at a specific tide station over the National Tidal Datum Epoch, or NTDE.

Historic rehabilitation. The act or process of making possible a compatible use for a property through repair, alterations, and additions while preserving those portions or features which convey its historical, cultural, or architectural values.

Hospital. An institution providing health services, primarily on an inpatient basis, and medical or surgical care of the sick or injured, including as an integral part of the institution such related facilities as laboratories, outpatient departments, training facilities, central service facilities, and staff offices.

Hostel. An overnight lodging facility for transient guests that provides sleeping rooms and common spaces for cooking. A hostel shall not be used as an emergency shelter.

Hotel. ~~A building used for more or less temporary occupancy of individuals who are lodged with or without meals.~~ A commercial facility that provides sleeping accommodation for a fee and customary lodging services. Related accessory uses may include, but are not limited to, meeting facilities, restaurants, bars, and recreational facilities for the use of guests. A hotel has common facilities for reservations, cleaning services, combined utilities, and on-site management and reception.

Impervious surface. Area covered with low-permeability material that is highly resistant to infiltration by water, such as asphalt, concrete, or rooftop, and areas such as gravel roads and unpaved parking areas that will be compacted through design or use to reduce their permeability. Common impervious surfaces include, but are not limited to, rooftops, walkways, patios, driveways, parking lots or storage areas, concrete or asphalt paving, gravel roads, packed earthen materials, and macadam or other surfaces which similarly impede the natural infiltration of stormwater. Pervious pavement, pervious pavers, pervious concrete, and underdrained artificial turf fields are all considered impervious.

Impound lot. A facility that provides temporary outdoor storage for vehicles that are to be claimed by titleholders or their agents. An impound lot is typically used for the storage of wrecked motor vehicles usually awaiting insurance adjustment or transport to a repair shop. Impound lot does not include impound facilities owned and used by governmental authorities.

Industrial, high-impact. Industrial activity involving the manufacturing, packaging, assembly, or distribution of finished or semi-finished products from either raw materials or previously prepared material which are generally incompatible with residential, commercial, and lower-impact industrial uses and sensitive natural areas due to their high generation of traffic, noise levels, emissions, lighting, and odors. High-impact industrial includes fish-waste processing.

Industrial, low-impact. Industrial activity involving the manufacturing, packaging, assembly, or distribution of finished ~~products from previously prepared material, including but not limited to the following: artist studios, bakeries; breweries; distilleries; bottling; coffee roasters; commercial~~

~~kitchens; pharmaceuticals; machine shops; watchmakers; makers of precision instruments, musical instruments, toys and sporting goods, pottery and ceramics using only previously pulverized clay, wood products, jewelry; assembly of electrical components; canteen services; tool and die shops; plant and tree nurseries; and the packaging of foods.~~or semi-finished products from previously prepared material, where such activities are conducted wholly within an enclosed building. Low-impact industrial uses do not include the processing of raw materials or salvaging operations. Low-impact industrial uses are generally compatible, due to their size and nature of impact, with residential, commercial and other low impact industrial uses.

~~**Intermediate care facility.** A facility which provides, on a regular basis, health-related care and services for more than 13 individuals who do not require the degree of care and treatment which a hospital or extended care facility is designed to provide but who, because of their mental or physical condition, require such care and services above the level of room and board.~~**Intermodal transportation facility.** A facility where two or more modes of transportation intersect, passengers can transfer between modes, and basic passenger amenities are provided.

~~Said facility must be licensed as a board care, residential care facility or equivalent pursuant to the regulations promulgated by the State of Maine Department of Health and Human Services.~~

Kitchen facilities. Facilities used for the preparation of meals, including refrigerators and devices used for the cooking and preparation of food.

Laboratory and research facility. A building or group of buildings used for the purpose of conducting research, investigation, testing, and experimentation in any field of science, medicine, or technology and including facilities such as but not limited to administrative offices, laboratories, and service or machine shops to serve the facility. Laboratory and research facilities do not include manufacturing of products for sale.

Limit of Moderate Wave Action (LiMWA). The landward limit of the 1.5 foot breaking wave within a Coastal AE Zone. These areas are bounded by a line labeled "Limit of Moderate Wave Action" (LiMWA) on a Flood Insurance Rate Map (FIRM). The LiMWA line delineates that portion of the Special Flood Hazard Area (SFHA) landward of a VE zone in which the principal sources of flooding are astronomical high tides, storm surges, or tsunamis, not riverine sources. These areas may be subject to wave effects, velocity flows, erosion, scour, or combinations of these forces. The floodplain development and construction standards for VE Zones will be applied in the Coastal AE Zone.

Locally-established datum. For purposes of the floodplain ordinance, an elevation established for a specific site to which other elevation at the site are referenced. This elevation is generally not referenced to the National Geodetic Vertical Datum (NGVD), North American Vertical Datum (NAVD), or any other established datum and is used in areas where mean sea level data is too far from a specific site to be practically used.

Lodging house. A house, building or portion thereof containing ~~two~~five or more rooming units, as well as common areas, and providing such units to individuals on not less than a monthly basis for compensation.

~~**Long-term or extended care facility.** An institution or a distinct part of an institution that is licensed or approved to provide full-time convalescent or chronic care, or health care under medical supervision for 24 or more consecutive hours, to nine or more individuals who, by reason of advanced age, illness, or infirmity are unable to care for themselves, and who are not related to the governing authority by marriage, blood, or adoption.~~

~~**Lot.** A~~**Lodging house common areas.** Portions of a lodging house which are available for use by residents of the lodging house. Lodging house common areas shall include, but are not limited to, one or more of the following: kitchens, living rooms, recreation rooms, improved basements, and finished porches. Bathrooms, stairways, hallways, and storage areas shall not be counted as lodging house common areas.

Lot. A lawfully created parcel or area of land that is designated as an individual unit for use, development, or ownership that is either: a) ~~a parcel or area of land that is~~ separately described in a deed or on a plan recorded in the Cumberland County Registry of Deeds; b) a contiguous combination of such lots under common ownership and designated as one unit for development; or c) a newly established parcel meeting all the dimensional requirements of the zone in which it is located.

Lot ~~of record.~~ ~~A~~, nonconforming ~~parcel or area of land that: a) is separately described in a deed or on a plan recorded in~~. A lot which, at the ~~Cumberland County Registry of Deeds as of the~~ effective date ~~designated in the relevant provision~~of adoption or amendment of this ~~chapter and b) conformed to the~~ Code, does not meet the minimum lot area or minimum street frontage requirements of ~~this chapter as~~the zone in which it is located.

Lot, through. A lot that fronts upon two parallel streets, or which fronts upon two streets which do not intersect at the boundaries of the ~~date designated in~~lot.

Lot, flag. A lot platted so that the ~~relevant provision of this chapter.~~main building site area (the "flag") is set back from the street on which it fronts, and includes an access strip (the "pole") connecting the main building site with the street.

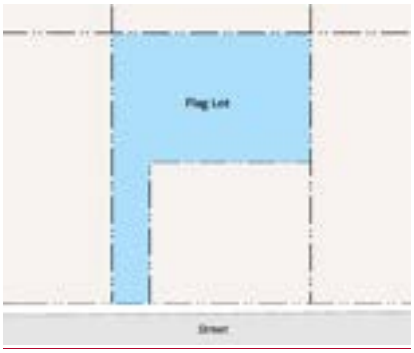

FIGURE 3-A: FLAG LOT

Lowest floor (within the floodplain). The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as

to render the structure in violation of the applicable non-elevation design requirements of Article 12.

Low-income household. A household having an income not exceeding 80% of median income for area of residence as set forth in regulations promulgated from time to time by the United States Department of Housing and Urban Development pursuant to 42 U.S.C. sections 1437 et seq.

Low-income housing unit for rent. 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).

B. The unit is rented to a household earning 80% or less of AMI.

C. The requirements of (A) and (B) above are limited by deed restriction or other legally binding agreement for the applicable length of time in this ordinance.

Low-income housing unit for sale. A dwelling unit for which:

A. The sale price is affordable to a household earning 100% or less of Area Median Income (AMI) as defined by the United States Department of Housing and Urban Development (HUD).

B. The unit is sold to a household earning 100% or less of AMI.

C. The requirements of (A) and (B) above are limited by deed restriction or other legally binding agreement for future sales for the applicable length of time in this ordinance.

~~**Manufactured housing.** A structural unit or units designed for residential occupancy and constructed in a manufacturing facility and then transported by the use of its own chassis or placement on an independent chassis to a building site. The term includes any type of building which is constructed at a manufacturing facility and then transported to a building site where it is utilized for housing and may be purchased or sold by a dealer in the interim. For purposes of this article, two types of manufactured housing are included. They are:~~

~~**D.** Those units constructed after June 15, 1976, which the manufacturer certifies are constructed in compliance with the standards required by the United States Government Department of Housing and Urban Development, as such standards are from time to time revised or amended, meaning structures, transportable in one or more sections, which in the traveling mode are 14 body feet or more in width and are 750 or more square feet, and which are built on a permanent chassis and designed to be used as dwellings, with or without permanent foundations, when connected to the required utilities, including the plumbing, heating, air conditioning, and electrical systems contained therein. This term also includes any structure which meets all the requirements of this subparagraph except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary of the United States Department of Housing and Urban Development and complies with the standards established under the National Manufactured Housing Construction and Safety Standards Act of 1974, United States Code, Title 42, Section 5401 et seq.; and~~

~~**E.** Those units constructed after June 15, 1976, which the manufacturer certifies are constructed in compliance with the state's Manufactured Housing Act and regulations, meaning structures, transportable in one or more sections, which are not constructed on a permanent chassis and are designed to be used as dwellings on foundations when connected to required utilities, including the plumbing, heating, air conditioning, or electrical systems contained therein.~~

~~Any unit which does not fall within the definitions of this section and which is legally sited within the city on December 18, 1989, may be relocated to any location in the city in which manufactured housing is allowed.~~

~~**Manufactured housing park.** A parcel of land under unified ownership approved by the Planning Board under 30-A M.R.S. § 4358 for the placement of single-component manufactured housing.~~

Marijuana cultivation facility. A cultivation facility required to be licensed pursuant to 28-B M.R.S. § 201 or any other facility engaged primarily in the business of planting, propagation, growing, harvesting, drying, curing, grading, trimming, or other processing of marijuana, including mature marijuana plants, immature marijuana plants, seedlings, and marijuana seeds, for use or sale.

Marijuana manufacturing facility. A manufacturing facility required to be licensed pursuant to 22 M.R.S. § 2423-F or 28-B M.R.S. § 201.

Marijuana, plant canopy. As defined by 28-B M.R.S. § 102.

Marijuana product. As defined by 22 M.R.S. § 2422 or 28-B M.R.S. § 102.

Marijuana, registered dispensary. A registered medical marijuana dispensary as defined by 22 M.R.S. § 2422.

~~**Marijuana, registered patient.** As defined by 22 M.R.S. § 2422.~~

Marijuana retail store. A retail establishment licensed to sell marijuana, marijuana products, immature marijuana plants, and seedlings to adult use or medical marijuana customers. A marijuana retail store is only authorized as a principal use, and is not permitted as an accessory use. ~~A marijuana retail store may not exceed a maximum gross floor area of 2,000 square feet.~~ A marijuana retail store shall not include a registered dispensary.

Marijuana, small-scale caregiver. A registered caregiver who sells or dispenses marijuana to no more than five individual registered patients in any one calendar month; does not process or manufacture marijuana using chemicals or solvents; and cultivates no more than: 1) 250 square feet of plant canopy where located in a single-family dwelling or commercial space; or 2) 125 square feet of plant canopy where located in a dwelling unit within a two-family or multi-family building.

Marijuana testing facility. A facility licensed to develop, research and test marijuana, marijuana products and other substances as defined by 22 M.R.S. § 2422 or 28-B M.R.S. § 102.

Marina. A commercial operation providing floats, slips, and piers intended primarily for berthing of

noncommercial vessels and the provision of related services such as supplies, fuel, equipment and repairs, which may be provided both to tenants and non-tenants.

Market garden. An area of land or a facility, managed and maintained by an individual, group, or business to grow and harvest food and non-food crops to be sold for profit on-site, off-site, or both. Market gardens may be located outdoors or fully enclosed within a permanent building. Market gardens do not include the cultivation of marijuana.

Market value. The estimated price a property will bring in the open market and under prevailing market conditions in a sale between a willing seller and a willing buyer, both conversant with the property and with prevailing general price levels.

Mean high tide. The mean height of tidal high waters at a particular point or station over a period of time to such length that increasing its length does not appreciably change this mean. For tidal waters, the cycle of change covers a period of 19 years, and mean high tide is defined as the average of the high waters over a 19-year period.

Mean sea level (within the floodplain). For purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929, North American Vertical Datum (NAVD), or other datum, to which base flood elevations shown on the City's FIRM are referenced.

~~**Military personnel berthing.** A building, or portion thereof, which is primarily used as, and intended for, temporary living quarters for military personnel.~~

Mid-block permeability. A continuous, open-air corridor at least 20' in width that physically or visually connects two streets or public rights-of-way and provides a break in the street wall. The corridor must be unobstructed and open to the sky.

Moderate-income household. A household having an income not exceeding 120% of median income for area of residence as set forth in regulations promulgated from time to time by the United Sates Department of Housing and Urban Development pursuant to 42 U.S.C. sections 1437 et seq.

~~**Multi-family development.** The construction or creation of three or more dwelling units on any parcel of land or the addition of two or more dwelling units cumulatively within a three year period.~~

National Geodetic Vertical Datum (NGVD). The national vertical datum, a standard established in 1929, which is used by the National Flood Insurance Program (NFIP). NGVD is based upon mean sea level in 1929 and also has been called "1929 Mean Sea Level (MSL)".

~~**Neighborhood center.** A building or portion of a building used for recreational, artistic, social, educational, health, culture, or similar activities and services, usually owned and operated by a public or nonprofit group or agency. As part of these functions and activities, it shall be permissible to serve food, subject to other applicable codes and ordinances.~~

Neighborhood nonresidential reuse. Select nonresidential uses located within a residential

neighborhood to serve nearby residents, and occupying a structure which is nonresidential in its original construction and/or current principal use.

Non-commercial vessel berthing. The use of berthing space for berthing of watercraft other than commercial vessels. Berthing space used in the following manner shall not be included in the calculation of the number of linear feet under this use category:

A. Space used principally for sale or repair of vessels.

B. Commercial vessel tenant space used by a noncommercial vessel for a period not exceeding ten consecutive days while the primary commercial vessel tenant is conducting its business or trade.

Normal high-water line (non-tidal waters). That line which is apparent from visible markings, changes in the character of soils due to prolonged action of the water or changes in vegetation, and which distinguishes between predominantly aquatic and predominantly terrestrial land. Areas contiguous with rivers that support non-forested wetland vegetation and hydric soils and that are at the same or lower elevation as the water level of the river during the period of normal high-water are considered part of the river.

North American Vertical Datum (NAVD). The national datum whose standard was established in 1988, which is the new vertical datum used by the National Flood Insurance Program (NFIP) for all new Flood Insurance Rate Maps. NAVD is based upon vertical datum used by other North American countries such as Canada and Mexico and was established to replace NGVD because of constant movement of the earth's crust, glacial rebound and subsidence, and the increasing use of satellite technology.

~~**Office park.** Separate office buildings planned, constructed, or managed on an integrated coordinated basis.~~

Object (within Article 16). A material thing of functional, aesthetic, cultural, historical, or scientific value that may be, by nature or design, movable yet related to a specific setting or environment.

Office park. A development of one or more buildings designed to accommodate offices, laboratory and research facilities, high-tech manufacturing, and similar uses with no outdoor storage. An office park may also include hotels, medical/dental offices, and supportive commercial uses for the primary convenience of office park workers and visitors, including limited retail, general services, financial institutions, child care centers and small child care facilities, and restaurants.

Off-peninsula. All land located north of I-295.

100-year flood. See base flood.

On-peninsula. All land located south of I-295.

Open space. ~~Any park~~Land and ~~any other area outside~~water areas designed and reserved for use as active or passive recreation areas or for preservation purposes.

Open space, public. Open space maintained for the use of ~~a building~~the general public. Public open

~~to the public.~~space may include parks, plazas, and public seating areas.

Outlet stream. Any perennial or intermittent stream, as shown on the most recent highest resolution version of the national hydrography dataset available from the United States Geological Survey on the website of the United States Geological Survey or the national map, that flows from a freshwater wetland.

Owner. Any person that has any interest, legal or beneficial, in any parcel or lot.

~~**Piers, docks, wharves, bridges and other structures and uses extending over or beyond the normal high-water line or within a wetland, temporary.** Structures which remain in or over the water for less than seven months in any period of 12 consecutive months.~~

~~**Piers, docks, wharves, bridges and other structures and uses extending over or beyond the normal high-water line or within a wetland, permanent.** Structures which remain in or over the water for seven months or more in any period of 12 consecutive months.~~ **Park.** A noncommercial public facility that serves the recreational needs of residents and visitors. Park includes, but is not limited to, playgrounds, ballfields, golf courses, gymnasiums, playing fields, courts, dog parks, skateboard parks, pools, community gardens, marinas, sports complexes, and passive recreation areas. Parks may also include non-commercial indoor or outdoor facilities, including zoos and amphitheaters, accessory services such as, but not limited to, restaurant and retail establishments, and temporary outdoor uses such as festivals and performances.

Party wall. Any partition wall common to two adjacent or attached buildings.

Place of assembly. A building or portion of a building used as a community hall, ~~neighborhood center,~~ private club, ~~or~~ fraternal organization, or place of religious assembly. ~~-~~This definition shall not include buildings or portions of buildings used as a community hall, ~~neighborhood center,~~ private ~~and fraternal organization~~club or non-profit social and recreational facility, or place of religious assembly where ~~15~~eight or fewer people, not including the permanent residents of a single-family dwelling, assemble.

~~**Place** A place~~ of ~~**religious** assembly. A building or portion of a building used for religious worship or instruction including, but not limited to, churches, synagogues, masjids, mosques, and other places of worship.~~

~~**Planned residential unit development (PRUD).** A residential subdivision consisting of attached or detached dwellings intended for separate ownership and land to be owned~~ may include accessory uses, such as childcare facilities or preschools, meeting rooms, food preparation and ~~used in common, with open spaces, recreational areas, access ways~~dining areas, auditoriums, and ~~buildings which are designed, built, and managed in accordance with a unified development plan~~/or classrooms.

~~**Planned unit development (PUD).** A development consisting of either detached or attached single-family dwelling units and commercial or other uses,~~

~~on substantially sized properties of greater than 20 acres and designed to be compatible with the surrounding built and natural environment.~~

~~Plant~~ **Post-secondary school.** A facility for post-secondary higher learning that grants associate or bachelor's degrees. The institution may also have research facilities and/or professional schools that grant master and doctoral degrees. Post-secondary schools may also include additional uses as part of the principal use, such as dormitories, cafeterias, restaurants, retail sales, indoor or outdoor recreational facilities, preschool facilities, and similar uses.

~~**canopy.** As defined by 28-B M.R.S. § 102.~~

~~**Preschool facility.** Facility which provides a regular program of care and protection for children generally younger than those attending elementary school, which may also encompass daycare facilities.~~

Private club or non-profit social and recreational facility. A private club or nonprofit social and recreational facility is open exclusively to members and to their bona fide guests accompanying them, in order to promote fellowship, social living, proper recreation, civic responsibility, neighborhood responsibility, community welfare, or other endeavors. It shall be permissible to serve food and meals on such premises provided adequate dining room space and kitchen facility are available and are provided within all regulations of this Land Use Code and other applicable codes and ordinances.

Real estate project sales office/model unit. A residential unit or other structure within a development that is temporarily used for display purposes as an example of dwelling units available for sale or rental in a residential development and/or sales or rental offices for dwellings within the development.

Recent floodplain soils. Recent floodplain soils include the following soil series as described and identified by the National Cooperative Soil Survey: Alluvial. Charles, Cornish, Fryeburg, Hadley, Limerick, Lovewell, Medomak, Ondawa, Podunk, Rumney, Saco, Suncook, Sunday, and Winooski.

Recreational vehicle. A vehicle that is:

A. Built on a single chassis;

B. 400 square feet or less when measured at the largest horizontal projection, not including slideouts;

C. Designed to be self-propelled or permanently towable by a motor vehicle; ~~and,~~

D. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use~~.~~; and

E. Registered as a motor vehicle with tires attached and on the ground

Recreation and amusement ~~centers.~~

~~Facilities~~**center.** A facilities equipped for the conduct of sports and athletic events or ~~indoor~~ leisure time recreation activities~~, including games of skill or games of chance licensed either by the City of Portland or by the State of Maine.~~. Such facilities may limit admission either to members or to persons paying an entrance fee. Recreation and amusement centers may be indoor or outdoor. They do not include stadiums.

~~Registered~~ **Recycling facility.** A facility engaged exclusively in the collection, separation, recovery

and sale or reuse of materials that would otherwise be disposed of or processed as waste or the mechanized separation and treatment of waste, other than through combustion, and the creation and recovery of reusable materials other than as a fuel for the generation of electricity.~~**dispensary.** A registered medical marijuana dispensary as defined by 22 M.R.S. § 2422.~~

~~**Registered patient.** As defined by 22 M.R.S. § 2422.~~

Regulatory floodway. The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height. When not designated on the Flood Insurance Rate Map (FIRM), it is considered to be the channel of a river or other watercourse and the adjacent land areas to a distance of 1/2 the width of the floodplain, as measured from the normal high-water mark to the upland limit of the floodplain.

~~**Repair services.** Establishments primarily engaged in rendering services related to the maintenance or repair of goods. In industrial zones only, repair services shall include motor vehicle repair services.~~

Relocation. The act or process of taking a structure or object and moving it from its current location or orientation to a new location or orientation.

Riverine. Relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

Residential care facility (small). A facility which provides, on a regular basis, medical or non-medical care and services for up to 16 individuals in separate dwelling or rooming units. Said facility must be licensed as a board care, residential care facility or equivalent pursuant to the regulations promulgated by the State of Maine Department of Health and Human Services.

Residential care facility (large). A facility which provides, on a regular basis, medical or non-medical care and services for 17 or more individuals in separate dwelling or rooming units. Said facility must be licensed as a board care, residential care facility or equivalent pursuant to the regulations promulgated by the State of Maine Department of Health and Human Services.

Restaurant. Any food service establishment with indoor seating capacity for ten or more patrons.

Retail. Any shop or store offering goods or merchandise to the general public for direct consumption and not for resale, or food service establishment with indoor seating capacity for nine or fewer patrons. Retail shall not include gasoline, diesel, or propane fuel sales.

Riprap. Rocks, irregularly shaped, and at least six inches in diameter, used for erosion control and soil stabilization, typically used on ground slopes of two units horizontal to one unit vertical or less.

River. A free-flowing body of water including its associated floodplain wetlands from that point at which it provides drainage for a watershed of 25 square miles to its mouth.

Riverine. Relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

Roadway. That portion of a street between the regularly established curblines, or that part of a street or alley devoted to vehicular or bicycle traffic.

Rooming unit. One or more rooms forming a single unit used, or intended to be used, for living and sleeping purposes by an individual or a family, but not designed for food preparation. In a suite of rooms, each room that provides sleeping ~~accommodations~~accommodation shall be counted as one rooming unit for the purpose of this chapter.

~~**Self-storage facility.** A fully enclosed building with individual, secured units (accessed with or without supervision) used for the exclusive purpose of storage of non-hazardous business or personal materials.~~

Sapling. A tree species that is less than two inches in diameter at four and one half feet above ground level.

Sea Level Rise-Base Flood Elevation (SLR-BFE). 13 feet NAVD88, or the predicted height of flood waters that may occur as the result of a 100 year storm in conjunction with 3.9 feet of base sea level rise.

Sea Level Rise-Design Flood Elevation (SLR-DFE). The minimum elevation required for a finished ground floor level in the Coastal Flood Resilience Overlay Zone (CFROZ).

Seedling. A young tree species that is less than four and one half feet in height above ground level.

Self-storage facility. A facility for the storage of personal property, where individual renters control and access individual storage spaces. Self-storage facilities may be designed with individual storage spaces located within a fully enclosed, climate controlled building, with individual storage spaces accessed from the outdoors, or with a combination of storage spaces. Administrative offices for the facility, and retail sales of related items, such as moving supplies may be included.

Sexually explicit. The display or depiction of sex organs during actual or simulated sexual intercourse or sexual acts as defined in 17 A M.R.S. § 251.

~~**Sheltered care group home.** A facility which, in addition to providing food and shelter to a defined population of up to 12 individuals, provides guidance or counseling services as a primary function of the facility.~~

~~**Shore frontage.** The length of a lot bordering on a water body or wetland measured in a straight line between the intersections of the lot lines with the shoreline.~~**Shoreline.** The normal high-water line, or upland edge of a freshwater or coastal wetland.

Sidewalk. That portion of a street not included in the roadway, and devoted in whole or part to pedestrian traffic.

Sign. A structure, device, figure, display, message placard, or other contrivance, or any part thereof, situated outdoors or indoors, which is designed, constructed, intended, or used to advertise, provide information in the nature of advertising, provide historical, cultural, archeological, ideological, political, religious, or social information, or direct or attract attention to an object, person, institution, business, product, service, message, event, or

location by any means, including words, letters, figures, designs, symbols, fixtures, colors, or illumination.

Sign, animated. Flashing, blinking, reflecting, revolving, or other similar sign with visibly moving or rotating parts or visible mechanical movement of any kind.

Sign, awning. Any sign that is part of or attached to an awning over a door, entrance, window, storefront, or outdoor service area.

Sign, A-Frame. A pedestrian-oriented self-supporting sign that is not permanently affixed to a structure or the ground.

Sign, bandit. Any advertising sign that is placed on public property or on private property without the consent of the property owner or as authorized in this article.

Sign, blade. A permanent, pedestrian-scaled sign mounted either to the wall of building by means of a bracket or attached to the underside of a lintel, arch, or other overhead structure above a porch or walkway and which is typically hung perpendicular to the wall of the building.

Sign, building identification. A sign consisting of letters or numbers applied to a building wall, engraved into the building material, or consisting of a sculptural relief which contains the name of the building or describes its function, but which does not advertise any individual tenant of the building or any products or services offered.

Sign, building-mounted. Sign attached to, connected to, erected against the wall, parapet, or fascia of a building or structure.

Sign, bus shelter. As specified in 23 M.R.S. §1908-A, any outdoor sign visible to the traveling public from public right-of-way that is affixed to a publicly-owned bus shelter operated by a transit agency.

Sign, cabinet. A permanent building-mounted or freestanding sign with its text and/or logo symbols and artwork on a translucent face panel that is mounted within a metal frame or cabinet that contains the lighting fixtures which illuminate the sign face from behind.

Sign, canopy. A sign that is printed, painted, or affixed to a canopy, typically used to accent building entries.

Sign, center identification. A sign identifying the name of a building, office park, or shopping center only.

Sign, changeable copy. A sign that is designed so that characters, letters, numbers, or illustrations can be manually or mechanically changed or rearranged without altering the face or surface of the sign. For the purposes of this article, a sign whose message changes more than eight times per day is considered an animated sign and not a changeable copy sign.

Sign, directional. A sign erected to inform the viewer of the approximate route, direction, or location of a facility or use.

Sign, direct illumination. Illumination resulting from light emitted directly from an exposed light bulb or light fixture, and not light diffused through translucent signs or reflected from other surfaces such as the ground or building face.

Sign, directory. A permanent sign which provides information in a list, roster, or directory format.

Sign, Electronic Message. A sign or portion of a sign that utilizes computer-generated messages or some other electronic means of changing its characters, letters, numbers, illustrations, display, color, and/or light intensity, including animated graphics and video, by electronic or automatic means. An Electronic Message Sign is not a Single- or Two-Color LED Sign.

Sign, externally-illuminated. A sign whose illumination is reflected from its source by the sign surface to the viewer's eye, the source of light not being visible to the viewer. (See Section 19.7.3(C).)

Sign, feather banner. A temporary sign that is taller than it is wide and made of a flexible material (typically cloth, nylon, or vinyl) and mounted to a pole to fly freely.

Sign, freestanding. A permanent sign that is erected or mounted on its own self-supporting permanent structure or base detached from any supporting elements of a building.

Sign, fuel pump topper. A temporary sign affixed to the top of an operable fuel dispensing pump used to advertise goods offered for sale on the same parcel on which the fuel pump is located.

Sign, incidental. A sign which provides incidental information, including security, credit card acceptance, business hours, open/closed, directions to services and facilities, or menus.

Sign, individual letter. A cut-out or etched letter or logo which is individually mounted on a building wall or freestanding sign.

Sign, internally illuminated. Any sign in which the source of light is entirely enclosed or backlit (halo) within the sign and not directly visible.

Sign, landmark. A permanent sign indicating individual historic landmarks, local historic districts, or otherwise determined by the City to have attained a high degree of community, cultural, aesthetic, or historic significance.

Sign, logo. A stylized group of letters, words, numbers, or symbols used to represent and distinguish a business, product, or organization.

Sign, marquee. A permanent sign structure placed over the entrance to a building and typically used for a theater or other entertainment use.

Sign, monument. A permanent freestanding sign with a solid base that is at least 60% the width of the sign face.

Sign, off-premise. Any sign that directs attention to a business, commodity, service, entertainment, product, structure, use, or property different from a structure or use existing on the property where the sign is located, and/or any sign on which space is rented, donated, or sold by the owner of said sign or property for the purpose of conveying a message.

Sign, permanent. A sign intended to exist for the duration of time that the use or occupant is located on the premises.

Sign, pole. An elevated permanent sign typically supported by one or two poles, posts, or columns that do not meet the base width requirements for a monument sign.

Sign, projecting. A permanent sign that is attached to and extends perpendicular from a building from the wall.

Sign, service island canopy. A permanent sign mounted on or under a service island canopy, including on a fascia.

Sign, single-color or two-color LED. A permanent or temporary sign or portion of a sign composed of single-color or two-color LEDs that displays static or changeable sign messages using characters, letters, and numbers only. Examples of these signs include, but are not limited to, "open" or "closed" signs, time and temperature" signs, or signs indicating the number of available spaces in a parking garage.

Sign, temporary. A sign which is intended for a limited period of display and which is designed to be moved easily and is not permanently affixed to a structure, sign area, or window.

Sign, wall. A permanent sign affixed to or erected against the wall or fascia of a building or structure, with the exposed face of the sign parallel to the plane of wall or fascia to which it is affixed or erected.

Sign, wall banner. A temporary sign constructed of cloth, bunting, plastic, paper, or similar non-rigid material, and securely attached to the wall or support structure for which it is advertising. Flags are not considered temporary wall banners.

Sign, window. A permanent or temporary sign posted, painted, placed, or affixed in or on a window, or otherwise exposed to public view through a window.

Sign, Yard, Type I. A small temporary sign typically constructed of corrugated plastic and supported on a wire frame used, for example, for advertising by local businesses or by election campaigns.

Sign, Yard, Type II. A temporary sign mounted on a single post installed securely in the ground with a small sign hanging from a cross-bar mounted parallel to the ground.

Sign, Yard, Type III. A temporary large sign mounted on two posts installed securely in the ground.

Sign copy. Any graphic, word, numeral, symbol, insignia, text, sample, model, device, or combination thereof that is primarily intended to advertise, identify, or notify.

Sign face. The exterior surface of a sign, exclusive of structural supports, on which is placed the sign copy.

Sign substructure. The supports, uprights, bracing and/or framework of a sign.

Site. All contiguous land under the same ownership or control, whether proposed for development or not, except where development is limited to a lot or lots within a subdivision.

~~Small-scale marijuana caregiver.~~**Site (within Article 16).** The location of a significant event, an archaeological site, a landscape or traditional cultural property, or a building or structure, whether standing, ruined, or vanished, where the location itself maintains historical or archeological value regardless of the value of any existing structure.

Social service center. A service establishment that provides assistance for those recovering from chemical or alcohol dependency; survivors of abuse seeking support; those transitioning from homelessness or prior incarceration; and those with health and disability concerns. It does not include in-patient, overnight, or living quarters for recipients of the service or for the staff. Such service does not include medical examinations or procedures, or medical detoxification, dispensing of drugs or medications, or other treatments normally conducted in a medical office.

~~A registered caregiver who sells or dispenses marijuana to no more than five individual registered patients in any one calendar month; does not process or manufacture marijuana using chemicals or solvents; and cultivates no more than: 1) 250 square feet of plant canopy where located in a single family dwelling or commercial space; or 2) 125 square feet of plant canopy where located in a dwelling unit within a two family or multi family building.~~

Solar access. Space open to the sun and clear of overhangs or shade, including orientation of buildings and lots to the sun, so as to permit the use of active and/or passive solar energy systems on individual properties.

Solar energy system. A complete assembly consisting of one or more solar collectors and associated mounting hardware or equipment, intended to provide for the collection, storage, and distribution of solar energy for heating or cooling, electricity generation, or solar/thermal hot water systems. Solar energy systems shall include the following:

A. ~~Accessory solar~~**Solar energy system, accessory.** A system as defined above, where power generation is incidental to a principal use~~, which may take the form of either a.~~ Accessory solar energy systems include building- integrated or roof-mounted solar ~~array~~systems of any size, or ground-mounted ~~array occupying~~ systems of less than 1,000 square feet ~~of air space over ground~~in area.

B. ~~Minor solar~~**Solar energy system, minor.** A system as defined above, between 1,000 and 9,999 square feet in area, where power generation is considered a principal use~~, which~~. Minor solar energy systems may take the form of either a building-integrated or roof-mounted solar array ~~of any size,~~ or a ground-mounted system ~~occupying between 1,000 and 9,999 square feet of ground area~~.

C. ~~Major solar~~**Solar energy system, major.** A system as defined above, of 10,000 square feet or more in area, where power generation is considered a principal use~~, which~~. Major solar energy systems may take the form of either a building-integrated or roof-mounted solar array

~~of any size~~, or a ground-mounted system ~~occupying greater than 10,000 square feet of ground area.~~.

Solar energy system, building-integrated. A solar energy system that is an integral part of a principal or accessory building and include, but are not limited to, photovoltaic or hot water systems that are contained within roofing materials, windows, walls, skylights and awnings.

Solar energy system, ground-mounted. Also known as free-standing solar energy systems, a solar energy system that is structurally mounted to the ground. The panels may be stationary or revolving and of any size.

Solar energy system, roof-mounted. A solar energy system in which solar panels are mounted on top of the structure of a roof either as a flush-mounted system or as modules fixed to frames which can be tilted toward the south at an optimal angle.

Solid waste disposal facility. A solid waste facility for the incineration or landfilling of solid waste or refuse-derived fuel. Facilities that burn material-separated, refuse-derived fuel, either alone or in combination with fuels other than municipal solid waste or refuse-derived fuels, are not solid waste disposal facilities.

Sounds, impulse. Sound events characterized by brief excursions of sound pressure, each with a duration of less than 1 second.

Sounds, tonal. Sound waves usually perceived as a hum or whine because their instantaneous sound pressure varies essentially as a simple sinusoidal function of time.

Special Flood Hazard Area. See area of special flood hazard.

~~**Special needs independent dwelling unit.** A dwelling unit developed and managed by a nonprofit organization for habitation by persons with special social, physical or mental needs beyond strictly economic needs. Such persons shall be provided required levels of supervision, care and/or counseling services appropriate to their special needs, and the services shall be provided by either the sponsoring nonprofit agency or through another entity with which the agency has entered into a contractual arrangement.~~

~~**Sports complex.** One or more facilities located on the same parcel of land where athletic events are held and with a combined seating capacity of at least 6,000 seats.~~

Specialty food service. A business that specializes in the sale of certain food products and/or the on-site production of items, such as a delicatessen, bakery, candy maker, meat market, catering business, cheesemonger, coffee roaster, or fishmonger, and may offer areas for ancillary retail sales or eating and drinking areas that serve the products processed on-site. Specialty food service includes preparation, processing, canning, or packaging of food products where all processing is completely enclosed and there are no outside impacts. Specialty food service does not include production of alcohol.

Stadium. A commercial structure with tiers of seats and/or viewing areas around and/or adjacent to a field, court, or stage, intended to be used for the viewing of athletic events, entertainment, concerts, and other public gathering purposes. Stadiums may be indoor or outdoor.

Stockpiling. Any placement or creation of piles or loads of soil, loam, sand, gravel, rock, or other mineral deposits upon a site for the purpose of storage, warehousing, or reserving for future use.

Stormwater retention area. A pond or basin used for the permanent storage of stormwater runoff.

Stormwater detention area. A storage area for the temporary storage of stormwater runoff which does not contain water during non-storm conditions.

Stream. A free-flowing body of water from the outlet of a great pond or the confluence of two perennial streams as depicted on the most recent ~~edition~~, highest resolution version of ~~a~~ the national hydrography dataset available from the United States Geological Survey ~~7.5-minute series topographic~~on the website of the United States Geological Survey or the national map~~, or if not available, a 15-minute series topographic map,~~ to the point where the ~~body of water~~ stream becomes a river or ~~flows to~~where the stream meets the Shoreland Zone of another water body or wetland ~~within~~. When a stream meets the Shoreland Zone of a ~~shoreland area, or any stream designated within~~water body or wetland and a ~~Stream Protection Zone~~channel forms downstream of the water body or wetland as an outlet, that channel is also a stream.

Street. A public way established by or maintained under public authority, or a way dedicated to the use of the public and appearing on the official map of the city.

Street, cul-de-sac or dead end. A street with only one outlet.

Street line. The line of demarcation between private property and a street.

~~**Street, cul-de-sac or dead end.** A street with only one outlet.~~

Structure. Anything temporarily or permanently located, built, constructed, or erected ~~of more than one member having a permanent or semi-permanent location on~~ for the support, shelter, or enclosure of persons, animals, goods, or property of any kind or anything located, built, constructed, or erected on or in the ground or on another structure ~~or in or on the ground, including without limitation buildings, fences, gazebos, signs, antennas,~~. The term includes decks and satellite ~~sending or receiving~~ dishes~~, and swimming pools. Stockpiles~~. Structure does not include fences, poles and wiring and other aerial equipment normally associated with service drops, including guy wires and guy anchors or subsurface wastewater disposal systems. Inside the Shoreland Overlay Zone, patios and at-grade walkways shall be considered structures ~~for the~~.

Structure (within Article 16). A human-made construction built for purposes ~~of~~ other than human shelter. It can be an engineering project large in scale, such as a bridge or tunnel.

Structure, accessory. A structure on a lot that is incidental and subordinate in area, extent, and/or use to the principal structure on the lot. A lot may have more than one accessory structure.

Structure, nonconforming. A structure which does not meet applicable dimensional requirements but which is allowed solely because it was in lawful existence at the time this Code or subsequent amendments took effect.

Structure, principal. The main structure on a lot having the predominant area, extent, or use. A lot may have more than one principal structure.

Studios for artists and craftspeople. A facility for the production of arts and crafts products such as paintings, sculpture, or other arts, or the practice of arts such as music or dance, or the production of custom, hand-crafted, or limited production of products such as furniture, wood, clay, and metal products, publications, and similar low-impact arts and crafts activities.

~~**Subdivider.** Any individual, firm, association, syndicate, partnership, corporation, trust, or any other legal entity commencing proceedings under these regulations to effect a subdivision of land hereunder for himself, herself, or for another.~~

Subdivision. As defined in 30 A M.R.S. § 4401 and 4402.

Tasting room. A facility for the sampling of beer, wine, spirits, other alcoholic or non-alcoholic beverages, or food.

Telecommunication tower. Radio masts or tower structures built primarily to hold telecommunication antennas.

Temporary contractor's office and contractor's yard. A short-term, portable, or modular structure utilized as a watchman's quarters, construction office, or equipment shed during the construction of a new development. This may include a contractor's yard where materials and equipment are stored in conjunction with a construction project.

Temporary outdoor sales. Temporary uses, which may include temporary structures where goods are sold, such as but not limited to arts and crafts fairs, flea markets, rummage sales, consignment auctions, and holiday sales such as Christmas tree lots and pumpkin sales lots. Temporary outdoor sales does not include garage/yard sales, or outdoor sales related to a retail goods establishment where such goods are part of the establishment's regular items offered for purchase.

Temporary outdoor storage container. Temporary self-storage containers, delivered to a residence or business for the purpose of storing items, and subsequently picked up and stored at an off-site location until scheduled for retrieval.

Tenant. Any occupant in lawful possession of a rental unit, whether by lease, sublease, or otherwise.

Theater or performance hall. Any establishment devoted to showing motion pictures, or for dramatic, musical, or live performances.

Tidal waters. All waters affected by tidal action during the highest annual tide.

Transient guest. A person who occupies a facility offering accommodations on an overnight basis for compensation and whose actual occupancy is limited to no more than 15 days out of any 60-day period.

Tree. A woody perennial plant with a well-defined trunk(s) at least two inches in diameter at four and one half feet above the ground, with a more or less definite crown, and reaching a height of at least 10 feet at maturity.

Tree, feature mature. A tree that meets at least one of the following criteria:

A. Any tree that is on the Register of Big Trees promulgated by the Maine Department of Agriculture, Conservation & Forestry (the "Big Tree List")

B. Certain trees 24" in diameter or greater (diameter at breast height or DBH) as identified by the City Arborist

C. Ornamental trees 12" in diameter or greater (diameter at breast height or DBH) as identified by the City Arborist

D. Rare tree specimen to include either a tree species classified as rare or endangered at either the state or federal level, and/or stands of native trees that are rare or threatened as identified by the City Arborist.

Tree, hazard. A tree with a structural defect, combination of defects, or disease resulting in a structural defect that under the normal range of environmental conditions at the site exhibits a high probability of failure and loss of a major structural component of the tree in a manner that will strike a target. A normal range of environmental conditions does not include meteorological anomalies, such as, but not limited to: hurricanes; hurricane-force winds; tornados; microbursts; or significant ice storm events. Hazard trees also include those trees that pose a serious and imminent risk to bank stability. A target is the area where personal injury or property damage could occur if the tree or a portion of the tree fails. Targets include roads, driveways, parking areas, structures, campsites, and any other developed area where people frequently gather and linger.

Tree, ornamental. Any tree, shrub, or other plant grown primarily for decorative purposes and whose mature height can be expected to be between three feet and 25 feet.

Tree, shade. Any tree, evergreen or deciduous, planted primarily for its high crown of foliage and whose mature height can be expected to exceed 25 feet.

Tree, storm-damaged. A tree that has been uprooted, blown down, is lying on the ground, or that remains standing and is damaged beyond the point of recovery as the result of a storm event.

Tree, street. Tree planted in the public right-of-way and/or private roadway.

Tributary stream. A channel between defined banks created by the action of surface water, which is characterized by the lack of terrestrial vegetation or by the presence of a bed, devoid of topsoil, containing waterborne deposits or exposed soil, parent material or bedrock; and which is connected

hydrologically with other water bodies. Tributary stream does not include rills or gullies forming because of accelerated erosion in disturbed soils where the natural vegetation cover has been removed by human activity.

Upland edge of a wetland. The boundary between upland and wetland. For purposes of a coastal wetland, this boundary is the line formed by the landward limits of the salt tolerant vegetation and/or the highest ~~annual~~astronomical tide level, including all areas affected by tidal action. For purposes of a freshwater wetland, the upland edge is formed where the soils are not saturated for a duration sufficient to support wetland vegetation, or where the soils support the growth of wetland vegetation but such vegetation is dominated by woody stems that are six meters (approximately 20 feet) tall or taller.

Use. The purpose for which land or structures thereon is designed, arranged, or intended to be occupied, or for which it is occupied, maintained, rented, or leased.

Use, nonconforming. Use of buildings, structures, or land which is not allowed in the zone in which it is situated, but which is allowed to remain solely because it was in lawful existence at the time this Code or subsequent amendments took effect.

Utility substation. Any sewage or water pumping station, electric power substation, transformer station, telephone equipment enclosures, or other similar structures owned or operated by a utility.

Vegetation. All live trees, shrubs, ground cover, and other plants including, without limitation, trees both over and under four inches in diameter, measured at four and one-half feet above ground level.

Vegetation, climate resilient northeast native. Plants identified as native to the northeast as identified by the Northeast Regional Invasive Species & Climate Changes (RISCC) Network or a Maine licensed landscape architect.

Vegetation, native. Vegetation indigenous to local forests.

Vegetation, non-native invasive species. Species of vegetation listed by the Maine Department of Agriculture, Conservation, and Forestry as being invasive in Maine ecosystems and not native to Maine ecosystems.

Veterinary services. An establishment for the treatment of animals, where animals may be boarded during their convalescence

Very low-income household. A household having an income not exceeding 50% of median income for area of residence as set forth in regulations promulgated from time to time by the United States Department of Housing and Urban Development pursuant to 42 U.S.C. section 1437 et seq.

Warehousing~~, storage,~~ and distribution facility. The storage of goods, wares, and merchandise in a warehouse from which distribution occurs. May include wholesale use, but not retail or direct sales to consumers. Warehousing and distribution facilities do not include self-storage facilities.

Watercourse. Any natural or artificial stream, river, creek, ditch, channel, swale, canal, conduit, culvert,

drain, waterway, gully, ravine, or wash in which water flows in a definite direction or course, either continuously or intermittently, or which has a definite channel, bed, and banks, and includes any area adjacent thereto subject to inundation by reason of overflow or floodwater.

Water-dependent uses. Those uses that require, for their primary purpose, location on submerged lands or that require direct access to, or location in, coastal or inland waters and which cannot be located away from these waters. Inside the Shoreland Overlay zone, these uses include, but are not limited to, commercial and recreational fishing and boating facilities, finfish and shellfish processing, fish-related storage and retail and wholesale fish marketing facilities, waterfront dock and port facilities, shipyards and boat building facilities, marinas, navigation aids, basins and channels, shoreline structures necessary for erosion control purposes, industrial uses dependent upon water-borne transportation or requiring large volumes of cooling or processing water that cannot reasonably be located or operated at an inland site, and uses that primarily provide general public access to coastal or inland waters. Recreational boat storage buildings are not considered to be a functionally water-dependent use.

Wetlands (outside of ~~shoreland zones~~the Shoreland Overlay Zone). Those areas which have two or more of the following:

A. A water table at or near the surface during the growing season;

B. Very poorly drained soils, including Sebago mucky peat; or

C. Obligate wetland vegetation.

Very poorly drained soils and obligate wetland vegetation shall be as defined and illustrated in the United States Department of Interior, Fish and Wildlife Service publication of Wetland Plants of the State of Maine (1986).

Wind energy system. ~~A wind energy generator and all associated facilities.~~ A system of components that converts the kinetic energy of the wind into electrical or mechanical power. A wind energy system comprises all necessary components including turbines, energy storage, power conditioning, control systems, transmission systems (where appropriate) and structural support systems to provide electricity or mechanical power for residential, commercial, industrial, utility, or governmental use. Wind energy systems shall include the following:

A. Wind energy system, ~~useful life. The period for which the~~accessory: A system ~~has been designed by the manufacturer~~as defined above, where power generation is incidental to ~~operate in~~ a ~~safe manner, including the period during which new parts~~principal use. Accessory wind energy systems include roof-mounted systems, and ~~refurbishment allow it to continue operating safely~~ground-mounted systems less than 45 feet in height.

B. Wind energy system, minor: A system as defined above, where power generation is considered a principal use. Minor wind energy systems are ground-mounted systems measuring between 45 feet and 85 feet in height.

C. Wind energy system, major: A system as defined above, where power generation is considered a principal use. Major wind energy

systems are ground-mounted systems measuring between 85 feet and 160 feet in height.

Wholesale. Sale for resale, not for direct consumption.

Workforce housing unit for rent. A dwelling unit for which:

A. The rent is affordable to a household earning 80% or less than of AMI.

B. The unit is rented to a household earning 80% or less of AMI.

C. The requirements of (A) and (B) above are limited by deed restriction or other legally binding agreement for the applicable length of time in this ordinance.

Workforce housing unit for sale. A dwelling unit for which:

A. The purchase price is affordable to a household earning 80% or less of AMI.

B. The unit is sold to a household earning 80% or less of AMI.

~~**C.**~~ The requirements of (A) and (B) above are limited by deed restriction or other legally binding agreement for the applicable length of time in this ordinance.

4 NONCONFORMING USES, STRUCTURES, & LOTS

~~4.1 CONTINUATION~~

4.1 IN GENERAL

4.1.1 Continuation

Any building, structure, ~~lots~~lot, or use~~,~~ that ~~was~~ legally ~~existing~~existed at the time of its creation and has been made nonconforming by the provisions of this Land Use Code or any subsequent amendment ~~thereto~~hereto may be continued ~~although such building, structure, lot, or use does not conform with~~, subject to the provisions of this article, so long as it remains otherwise legal.

4.1.2 Burden on property owner

The burden of establishing the legality of a nonconformity under the provisions of this Land Use Code~~.~~ is the responsibility of the property owner or operator of the nonconforming use, lot, building, or structure. Based upon the evidence presented, the Building Authority or their designee will make a determination of the validity of the nonconforming status.

4.1.3 Unlawful use, lot, building, or structure

Any use lot, building, or structure established or constructed in violation prior to the effective date of this Land Use Code shall not be regarded as lawfully nonconforming, and is not entitled to any rights established within this Section.

4.1.4 Safety regulations

All police power regulations enacted to promote public health, safety, and welfare, including but not limited to all building, fire, and health codes, shall apply to nonconforming uses, structures, and lots.

4.2 NONCONFORMING USES

4.2.1 ~~Increase in~~Expansion of nonconforming use

~~A.~~ A ~~structure whose use is wholly~~ nonconforming use of a structure or land shall not be ~~altered so as to increase~~expanded or increased in intensity. Expansion shall include any addition, extension, or enlargement that increases the cubical content ~~or the extent of nonconformity, except as provided for in (C), below.~~

~~B. A nonconforming use on premises outside of a building shall not be extended or allowed to occupy additional land area.~~

~~No alterations, modifications, or additions shall be made so as to increase the cubical content or the degree~~ of ~~nonconforming use, nor shall~~ any structure devoted entirely to a nonconforming use ~~be extended~~, and any extension or relocation of a nonconforming use to any other ~~part of a~~ structure, ~~unless~~portion of floor area, or land area currently not occupied by such ~~extension~~nonconforming use. This provision shall not apply in the case of expansion of a nonconforming use ~~is~~ solely for the purpose of bringing the use into compliance with health or safety codes, or to correct a condition which is determined by the Board of Appeals to constitute a health or safety problem. ~~In either case, the~~Any such expansion shall be limited to the minimum necessary to accomplish that purpose. Except as expressly provided herein, any ~~alteration, modification~~expansion, extension, or ~~addition~~enlargement permitted under this subsection shall be in compliance with all other applicable sections of this Land Use Code. Nothing within this subsection shall be construed to permit an increase in the number of units in a building which is nonconforming as to the number of

dwelling units or will become nonconforming as a result of such alteration, modification, or addition.

4.2.2 Change of nonconforming use

A. A nonconforming use shall only be changed to a use that is permitted in the zone in which the use is located. When a nonconforming use has been changed, in whole or in part, to a permitted use, ~~it~~the whole or part that conforms shall not thereafter be changed back to any ~~non-permitted use. For purposes of this subsection, a use shall be deemed to have been so changed when an existing nonconforming use is terminated and a permitted use is commenced and continued for a period of seven days.~~ nonconforming use.

B. Any change of use in violation of this article shall be deemed to be an abandonment of the lawfully ~~existing~~ nonconforming use. ~~A lawful nonconforming use shall not be changed to any use other than a use permitted in the zone in which the use is located or to any use other than a nonconforming use of a more restricted zone, as set forth in the following schedule, provided that in no such case shall any structural alterations be made in any building except those required by law, ordinance, or other regulations:~~

~~**A.** In a mixed-use zone, from any use permitted in an industrial zone to any use permitted in a mixed-use zone.~~

~~**B.** In a B-1/B-1b zone, from any use permitted in a B-3 zone to any use permitted in a B-2 zone.~~

~~**C.** In a residential zone, from any use permitted in a B-2 zone to any use permitted in a B-1/B-1b zone.~~

~~**D.** In a residential zone, from any use permitted in any other residential zone to any use permitted in a more restrictive residence zone. For the purpose of this subsection, an R-6 zone shall be deemed the least restrictive and an R-1 zone shall be deemed the most restrictive, with the intervening zones restricted in order of zone number.~~

4.2.3 Discontinuance of nonconforming use ~~of land~~

~~A~~If a lawfully nonconforming use ~~of land where no buildings or only incidental or accessory buildings are employed together with such use shall not be changed to any other nonconforming use, and if such use~~ is discontinued for a period of ~~90 days, it shall not be reestablished.~~

~~**4.2.4 Discontinuance of use of property**~~

~~If a legally nonconforming nonresidential use is discontinued for a period of 12 months or if a legally nonconforming residential use is discontinued for a period of 24 months~~one year, such discontinuance shall constitute an abandonment of the use and the property shall not thereafter be occupied or used except in conformity with the provisions of this ~~article.~~Land Use Code. A nonconforming use of land which is incidental or accessory to ~~such~~a principal nonconforming use shall be considered ~~as being~~ discontinued at the same time as the nonconforming principal use ~~of the structure~~. In cases of foreclosure or similar situations involving a ~~legally~~lawfully nonconforming use, the ~~Planning~~Building Authority shall be authorized to extend the aforementioned period up to an additional five years provided that the extension is for good cause and the minimum length considered necessary to resume the ~~legally nonconforming use of the structure. If the Planning Authority extends the period for resuming the nonconforming use,~~

~~any associated existing nonconformities of structures and land shall also be extended. For buildings in the Shoreland Zone, state regulations may also govern and provide for a shorter period of time for nonconforming properties.~~lawfully nonconforming use.

4.3 NONCONFORMING LOTS

~~4.3.1~~ **Lots ~~of record~~**

~~4.3.1 A lot of record that has been held~~ in separate ownership

~~E.~~ A vacant nonconforming lot held under separate and distinct ownership ~~from adjoining lots as of the relevant date below~~ shall be considered a buildable lot ~~if it meets the following minimum standards:~~

~~1. A lot of record as of June 5, 1957 may be considered a buildable lot in the R-1, R-2, R-3, R-4, R-5, R-5a, or R-6 zones~~ provided that~~: a) the applicable setback dimensions can be met; b) the lot has a~~ all provisions of this Land Use Code except minimum lot area and minimum street frontage ~~of 40 feet or the applicable street frontage of the zone, whichever is less; and c) the lot has a minimum lot size of 5,000 square feet or the applicable minimum lot size of the zone, whichever is less~~can be met.

~~2. A lot of record as of June 5, 1984 may be considered a buildable lot in the R-1, R-2, R-3, R-4, R-5, R-5a, or R-6 zones provided that the applicable setback dimensions can be met.~~

~~3. A lot of record as of July 15, 1985 may be considered a buildable lot in the IR-1 and IR-2 zones, provided that the applicable setback dimensions can be met and provided further that a lot in the IR-1 zone has a minimum lot area of 10,000 square feet and a lot in the IR-2 zone has a minimum lot area of 6,500 square feet unless the lot is served by both public sewer and public water, in which case the lot has a minimum area of 5,000 square feet.~~

~~F. A lot of record that has been held in common ownership with any adjoining lot(s) at any point after the relevant date below shall be considered a buildable lot only if: 1) none of the lot(s) are in the Shoreland Zone; 2) any existing structure meets, or will be modified to meet, the applicable setback dimensions; and 3) it meets the following minimum standards:~~

~~1. A lot of record as of June 5, 1957 may be considered a buildable lot in the R-1, R-2, R-3, R-4, R-5, R-5A, or R-6 zones provided that: a) the applicable setback dimensions can be met; b) the lot has a minimum street frontage of 40 feet or the applicable street frontage of the zone, whichever is less; and c) the lot has a minimum lot size of 5,000 square feet or the applicable minimum lot size of the zone, whichever is less.~~

~~2. A lot of record as of June 5, 1984 may be considered a buildable lot in the R-1, R-2, R-3, R-4, R-5, R-5A, or R-6 zones provided that the applicable setback dimensions can be met.~~

~~3. So long as the setbacks are met, any nonconformities of structures and buildings, existing prior to June 5, 1957, on developed lots of record shall be considered lawfully existing nonconformities.~~

4.3.2 Lots in common ownership

Adjoining nonconforming lots in common ownership as of [effective date] shall be considered as one lot and shall not again be divided except in conformance with the provisions of this Land Use Code.

4.4 NONCONFORMING ~~BUILDINGS/~~STRUCTURES

4.4.1. Restoration or reconstruction

~~G. A lawful nonconforming nonresidential structure may be maintained, repaired, or reconstructed in kind within a one-year period or within a two-year period for a lawful nonconforming residential structure, but no alterations, modifications, or additions shall be made to it, except as provided in Subsections 4.4.2 and 4.4.3.~~

A nonconforming structure damaged by fire, explosion, flood, riot, act of the public enemy, accident of any kind, decay, or otherwise may be maintained, repaired, reconstructed, restored or rebuilt only where:

~~4.~~A. The restoration or reconstruction is of a ~~building~~structure which is lawfully nonconforming ~~only~~ as to ~~lot area, setbacks, or~~ any ~~other~~ dimensional requirements.

~~5.~~B. ~~Where the~~The restoration or reconstruction will occur entirely within the existing footprint and previous shell of the building and ~~where~~ no alterations, modifications, or additions will be made except as provided in this article and as permitted in ~~Subsections~~this subsection and Subsection 4.4.2 ~~and 4.4.3~~.

C. Restoration or reconstruction is commenced within ~~one year for a nonconforming nonresidential structure, or~~ two years ~~for a nonconforming residential structure,~~ of the initial damage where such damage is sudden and accidental, or, in the case of decay, of the demolition of the structure or commencement of restoration or reconstruction, and is diligently pursued to completion without expiration of permits. ~~For buildings in the Shoreland~~

D. In cases of foreclosure or similar situations involving a lawfully nonconforming structure, the Building Authority shall be authorized to extend the aforementioned period up to an additional five years provided that the extension is for good cause and the minimum length considered necessary to maintain, repair, or reconstruct the lawfully nonconforming structure.

~~6.~~E. Where a structure is located within the Coastal Flood Resilience Overlay Zone, ~~state regulations may also govern and provide for a shorter period for restoration or reconstruction of nonconforming structures.~~ such structure may be restored or reconstructed, but must meet the standards of the CFROZ. This provision shall not apply to pump stations.

~~7. Restoration or reconstruction necessitated by decay must be commenced within one year of the demolition of the building and diligently pursued to completion without expiration of permits.~~

~~8. Any reconstruction, under this provision, in the R-6 zone on a lot with 10,000 square feet or less, other than the exact restoration of a previously existing building on the site, shall comply with the applicable standards contained within the City of Portland *Design Manual*.~~

4.4.2. ~~-~~Alteration or ~~modification~~ extensions

A. ~~Alteration or modification~~Alterations.

Alterations may be made to a ~~building~~structure which is lawfully nonconforming ~~as to any dimensional requirement where the proposed changes in existing exterior walls and/or roofs would be within the space occupied by the existing shell of the building, and would~~only where at least one of the following apply:

1. The alteration is required by law or is necessary to restore the structure to a safe condition upon the order of any official charged with the protection of public safety.

2. The alteration will eliminate the nonconformity.

3. The alteration will not create any new nonconformity ~~nor~~and will not increase the degree of any existing nonconformity~~, except as provided elsewhere in this article and as permitted under Subsection 4.4.3. This subsection shall not apply to buildings located within the Shoreland Zone and existing on June 15, 1992, which are nonconforming only as to setbacks from wetlands, tributary streams, or other water bodies, which shall be regulated in accordance with Subsection 4.4.5.~~

~~4.4.4. Building extensions~~

B. Extensions. Existing principal ~~buildings~~structures which are lawfully nonconforming as to dimensional requirements may be enlarged or extended subject to the following provisions:

~~I.~~1. No modification to an existing nonconforming ~~building~~structure shall increase any existing nonconformity ~~of a lot, use, or structure~~, except as provided in (~~D~~3) and (4) below.

~~J.~~2. No modification to an existing nonconforming ~~building~~structure shall create new ~~noncompliance~~nonconformity with any provision of this Land Use Code.

~~K.~~ ~~Existing buildings that are lawfully nonconforming as to required minimum setbacks may be vertically or horizontally expanded provided that the area of expansion meets all current dimensional requirements, except as provided in (D) below.~~

~~L.~~3. ~~A vertical expansion above a portion of~~A one-time increase of one additional story above a building that is lawfully nonconforming as to minimum setbacks may be permitted ~~a one-time increase of one additional story~~ provided that:

~~9.~~a. No portion of the expansion horizontally extends beyond the nonconforming portion of the first story of the structure.

~~10.~~b. Any portion of a vertical expansion above the permitted one additional story shall meet the required minimum setback.

~~4.4.5. Enclosure of porches in required setbacks~~

c. The vertical expansion meets applicable maximum height requirements.

4. Any ~~open~~covered porch existing ~~with a roof over the same~~ on June 5, 1957~~, and encroaching upon any~~ which does not meet minimum setback ~~required by this chapter~~requirements may be enclosed ~~if~~, provided that the ~~major portion~~majority of the enclosure ~~is~~consists of glass.

4.4.6. Expansions in the Shoreland Zone

A nonconforming structure may be added to or expanded if such addition or expansion does not increase the nonconformity of the structure and is in accordance with the following provisions:

M. After January 1, 1989, if any portion of a structure is less than the required setback from the normal high water line of a water body or tributary stream or the upland edge of a wetland that portion of the structure shall not be expanded, as measured in floor area or volume, by 30% or more, during the lifetime of the structure. If a replacement structure conforms with the requirements of this subsection, and is less than the required setback from a water body, tributary stream, or wetland, the replacement structure may not be expanded if the original structure existing on January 1, 1989 had been expanded by 30% in floor area and volume since that date.

N. Whenever a new, enlarged, or replacement foundation is constructed under a nonconforming structure, the structure and new foundation must be placed such that the setback requirement is met to the greatest practical extent as determined by Building Authority, basing its decision the criteria specified in (C) below. If the completed foundation does not extend beyond the exterior dimensions of the structure, except for expansion in conformity with (A) above, and the foundation does not cause the structure to be elevated by more than three additional feet as measured from the uphill side of the structure (from original ground level to the bottom of the first floor sill), it shall not be considered to be an expansion of the structure.

O. A nonconforming structure may be relocated within the boundaries of the parcel on which the structure is located, provided that the site of the relocation conforms to all setback requirements to the greatest practical extent as determined by the Building Authority, and provided that the applicant demonstrates that the present subsurface sewage disposal system meets the requirements of state law, the State of Maine Subsurface Wastewater Disposal Rules, or that a new system can be installed in compliance with state law, such rules, and all applicable chapters of the City of Portland Code of Ordinances. In no event shall a structure be relocated in a manner that causes the structure to be more nonconforming. In determining whether the building relocation meets the setback requirements to the greatest practical extent, the Building Authority shall consider the size of the lot, the slope of the land, the potential for soil erosion, the location of other structures on the property and on adjacent properties, the location of septic system and other on site soils suitable for septic systems, and the type and amount of vegetation to be removed to accomplish the relocation. When it is necessary to remove vegetation within the water or wetland setback are in order to relocate a structure, the Building Authority shall require replanting of native vegetation to compensate for the destroyed vegetation. In addition, the area from which the relocated structure was removed must be replanted with vegetation. Replanting shall be required as follows:

11. Trees removed in order to relocate a structure must be replanted with at least one native tree, three feet in height, for

~~every tree removed. If more than five trees are planted, no one species of tree shall make up more than 50% of the number of trees planted. Replaced trees must be planted no further from the water or wetland than the trees that were removed.~~

~~12. Other woody and herbaceous vegetation and ground cover that are removed or destroyed in order to relocate a structure must be re-established within the setback area. The vegetation and/or ground cover must consist of similar native vegetation and/or ground cover that was disturbed, destroyed or removed.~~

~~13. Where feasible, when a structure is relocated on a parcel the original location of the structure shall be replanted with vegetation which may consist of grasses, shrubs, trees, or a combination thereof.~~

C. ~~Buildings in existence on January 1, 1989, and located in the Shoreland Zone may be expanded once during the lifetime of the structure up to 25 feet toward a freshwater wetland or tributary stream, provided that a minimum setback of 40 feet is maintained and that the existing floor area or volume is not increased by more than 30%, and shall not create any undue environmental impact or flood-prone condition.~~**Relocation.** A nonconforming structure shall not be relocated, in whole or in part, to any other location on the same lot unless relocation would make the structure more conforming. A nonconforming structure may be relocated to another lot only if the structure conforms to all regulations of the zone to which it is relocated.

4.4.3. Nonconformity as to required build-to zone and building length

As of the effective date of this Land Use Code, when an existing structure does not conform to the required build-to zone, build-to percentage, maximum building length, or building length as a percentage of street frontage for the applicable zone, the structure shall be deemed exempt from that standard. Such structure may be altered or expanded without having to conform to the applicable standard(s) until the structure's building footprint is expanded by 50% or more. If expansions to the structure occur incrementally, building footprint shall be calculated as the sum of all expansions occurring after the effective date of this Land Use Code. Once the existing structure is demolished, this deemed conforming status shall become null and void.

~~4.4.6~~4.4.4. Nonconformity as to number of dwelling units

~~Q.~~A. **Purpose.** The purpose of this provision is to establish a process whereby certain dwellings which contain more dwelling units than the number permitted by the applicable provisions of the Land Use Code may be recognized as legal, nonconforming uses.

~~R.~~B. **Application.** Application for validation of such nonconforming dwelling units shall be on a form provided by the Building Authority, and ~~will~~shall be accompanied by:

1. An application fee as established by the City Council to cover administrative costs.
2. A plan, drawn to scale, which shows the location of the building(s) on the lot, parking, easements, dumpsters, fencing, public ways, and any other significant feature.

3. A floor plan for each unit in the dwelling, whether or not it is the subject of the application.

~~5.~~C. **Eligibility.** In order for a nonconforming dwelling unit to be validated by administrative action of the Building Authority as authorized herein, the Building Authority must find, based on competent evidence, supported by public records, that:

~~4.~~1. The nonconforming dwelling units were either in existence on April 1, 2005, or the structure in which they are located was originally designed to accommodate more than the number of such units presently in use.

~~5.~~2. The applicant neither constructed nor established the nonconforming dwelling units.

~~6.~~3. The nonconforming dwelling units comply with or can be made to comply with current standards of Chapter 10 of the City of Portland Code of Ordinances, including the National Fire Protection Association Life Safety Code and the National Fire Protection Association 1: Fire Prevention Code, as amended.

~~7.~~4. Each of the nonconforming dwelling units complies with, or can be made to comply with, provisions of the Chapter 6 of the City of Portland Code of Ordinances, as amended, including, but not limited to, the minimum standards for space and occupancy, the minimum plumbing standards, and the minimum ventilation standards.

~~8. The structure containing the nonconforming dwelling units is located in the R-3, R-4, R-5/R-5a, R-6/R-6a, R-7, B-1/B-1b, B-2/B-2b/B-2c, or IS-FBC zones.~~

5. In the absence of legally competent evidence, supported by records (such as, but not limited to, Assessor's records, purchase and sale agreements, affidavits, deeds, mortgages, as well as reliable secondary sources), that the conditions of (C)(1), (2), (3), (4), or (5) above can be met, the Building Authority may not approve the application, but shall advise the applicant that the matter may be appealed to the Board of Appeals.

~~7.~~D. **Notice to abutters.** Upon receipt of a completed application, the Building Authority ~~will~~shall provide the owners of abutting properties ~~and the owners of property situated within 300 feet of the structure~~ notice of the application, along with a notice that they may object to the Building Authority's acting on the application and require the applicant to appeal to the Board of Appeals. The notice shall advise the abutters and owners of property within 300 feet that any objection must be submitted in writing to the Building Authority within 10 days of the date of the notice sent to them. The failure of any property owner to receive the notice described above shall not invalidate any action by the Building Authority. The Building Authority shall promptly notify the applicant of receipt of the objection, that the Building Authority is without authority to proceed, and advise the applicant that, within 30 days from receipt of the letter, an application may be filed to have the matter reviewed by the Board of Appeals as a conditional use.

~~U.~~E. **Approval of application.** The Building Authority may approve the application, provided that the evidence presented satisfies all of the requirements of this subsection and provided that no abutter nor person entitled to notice has requested that the application be referred to the Board of Appeals, instead of the Building Authority. Upon approval of the application, final inspection by the Building Authority certifying the units as in compliance with all applicable codes, and receipt of an inspection fee as established by the City Council for each nonconforming dwelling unit which has been recognized as a lawful, nonconforming use, the Building Authority ~~will~~shall issue a certificate of occupancy.

~~V.~~F. **Disapproval of application.** In the event the application is not approved by the Building Authority or in the event of a timely objection filed by a person qualified herein to file such an objection, the applicant, within 30 days from the decision of the Building Authority or objection, may appeal the matter to the Board of Appeals as a conditional use.

~~W.~~G. **Action by Board of Appeals.** The Board of Appeals shall treat applications filed under this subsection as an application for a conditional use, applying the standards applicable to conditional uses under Section 6.5 as well as the requirements of this subsection.

~~X.~~H. **Dimensional and parking requirements.** In making decisions under this subsection, neither the Building Authority nor the Board of Appeals shall apply the dimensional or parking requirements which would otherwise apply in the zones where the nonconforming dwelling units are situated.

~~Y.~~I. **Exclusions.** The provisions of this subsection shall not apply to rooming units, but shall apply to efficiency apartments under Chapter 6 of the City of Portland Code of Ordinances. The Board of Appeals is without jurisdiction to grant any relief (including, but not limited to, variances) which would recognize the particular dwelling units which are the subject of this subsection as legal, nonconforming uses, except in strict compliance with each requirement of this subsection.

~~Z.~~J. **Prior judicial and administrative action.** Decisions of any court or administrative body, including but not limited to, the Building Authority, the Planning Board, or the Board of Appeals, made prior to the effective date of this subsection and which addressed the number of nonconforming dwelling units in a particular structure, will not bar relief under this subsection.

5 ZONES

5.1 ESTABLISHMENT OF ZONES

~~In order to~~To carry out the provisions of this Land Use Code, the City of Portland shall be divided into the zones in Table 5-A.

5.2 ZONING MAP

5.2.1 ~~-~~Zoning map adopted

The zones in Table 5-A ~~are~~shall be shown upon a map filed in the Department of Planning and Urban Development. Such zoning map, with amendments, is hereby adopted as the official zoning map of the City of Portland and as part of this Land Use Code.

5.2.2 ~~-~~Zone boundaries when uncertain

Where uncertainty exists with respect to the boundaries of the various zones, as shown on the zoning map, the following rules shall apply:

A. Unless otherwise indicated, zone boundary lines ~~are~~correspond to lot lines. Zones shall be interpreted to extend to the center lines of streets, alleys, parkways, waterways, or rights-of-way ~~of public utilities and railroads or such lines extended~~.

~~**B.** Unless otherwise shown, lines within blocks less than 200 feet wide are median lines between their sides, and lines within blocks 200 feet or more wide are 100 feet distant from the less restricted side of the block.~~

~~**C.**~~**B.** ~~The depictions~~Depiction of the Shoreland ~~Zone and Stream Protection~~Overlay Zone on the zoning map ~~are~~is illustrative of the general location of such ~~zones~~zone. The actual boundaries ~~of these zones~~ shall be determined by measurement of the distance indicated on the map and in this Land Use Code from the normal high-water line of the water body or the

TABLE 5-A: ZONES

Residential Neighborhood	~~R~~RN-1, ~~R~~RN-2, ~~R~~RN-3, ~~R~~RN-4, ~~R~~RN-5, ~~R-5a,~~ ~~R~~RN-6~~, R-6a~~
Island	IR-1, IR-2~~, IR-3~~ I-B Island Business
Mixed-Use	B-1~~, B-1b~~ Neighborhood Business B-2~~, B-2b,~~ and B-~~2c~~2b Community Business B-3~~, B-3b, and B-3c~~ Downtown Business B-4 Commercial Corridor B-5 ~~and B-5b~~ Urban Commercial B-6 Eastern Waterfront ~~B-7 Mixed Development~~
Transit-Oriented	TOD-1 Transit Neighborhood TOD-2 Transit Center
Office	O-~~P~~ Office ~~Park~~ ~~R-P RESIDENCE PROFESSIONAL~~
Industrial & Airport	I-L and I-Lb Low-Impact Industrial I-M~~, I-Ma,~~ and I-Mb Moderate-Impact Industrial I-H ~~and I-Hb~~ High-Impact Industrial A-B Airport Business
Open Space	~~R-~~OS-R Recreation and Open Space OS-P Open Space Preservation
Waterfront	EWPZ Eastern Waterfront Port WCZ Waterfront Central WPDZ Waterfront Port Development
Overlay Zones	~~Compact Urban Residential (R-7)~~ ~~Downtown Entertainment~~Coastal Flood Resilience Overlay Fort Sumner Park Height Overlay ~~Helistop Overlay~~ Institutional Overlay (IOZ) Island Transfer Station Overlay Pedestrian Activities District Overlay ~~Stream Protection Overlay~~ University of Southern Maine Overlay Waynflete School Overlay
Form-Based	IS-FBC India Street Form-Based Code
Other	Shoreland Overlay Floodplain Management ~~RPZ Resource Protection~~

upland edge of wetlands. Where such measurement is not the same as the location of the boundary of the zoning

map, the measurement shall control, unless the zoning map indicates that the zone boundary shall follow an existing property line.

~~5.2.3~~ –EXTENSION OF ZONE LINES

Where a zone boundary line divides a lot in single or joint ownership of record at the time such line is established, the use provisions of this Land Use Code for the less restricted portion of such lot shall extend not more than 30 feet into the more restricted portion, provided that the lot has at least 20 feet of street frontage in the less restrictive zone when taken together with adjacent premises which are under the same or equivalent ownership or control. If such boundary line divides a business or industrial zone from a residential zone, no frontage on a street other than the principal business street in the less restrictive zone may be taken into consideration in connection with the right herein granted. This subsection shall ~~not~~only apply with respect to ~~differing dimensional requirements, including height, within a zoning district~~use provisions.

5.3 CONDITIONAL OR CONTRACT ZONING

5.3.1 Authority and purpose

Pursuant to 30-A M.R.S.§ 4352(8), conditional or contract zoning is hereby authorized for rezoning of property where, for reasons such as the unusual nature or unique location of the development proposed, the City Council finds it necessary or appropriate to impose, by agreement with the property owner or otherwise, certain conditions or restrictions in order to ensure that the rezoning is consistent with the City's Comprehensive Plan. Conditional or contract zoning shall be limited to where a rezoning is requested by the owner of the property to be rezoned. The conditional or contract zoning must be consistent with the Comprehensive Plan, and rezoned areas must be consistent with the existing and permitted uses within the original zone. Nothing in this section shall authorize either an agreement to change or retain a zone or a rezoning which is inconsistent with the City's Comprehensive Plan.

~~5.3.2 In the I-H zone~~

~~A conditional or contract rezoning shall only be approved in the I-H or I-Hb zones if, after public hearing and opportunity for public comment, the reviewing body finds that the applicant has carried the burden of proof to show that the proposed development meets the following standards:~~

~~A. The proposed development is consistent with the Comprehensive Plan.~~

~~B. The proposed development is consistent with the purposes of the underlying zone.~~

~~C. The proposed development is designed and operated so that it will prevent undue adverse environmental impacts, substantial diminution of the value or utility of neighboring structures, or significant hazards to the health or safety of neighboring residents by controlling noise levels, emissions, traffic, lighting, odors, and any other potential negative impacts of the proposal.~~

~~D. All plans must include complete information of processes, materials, or methods of storage to~~

~~be used by the development and shall specify how hazardous impacts to neighboring properties will be prevented.~~

~~5.3.3~~5.3.2 ~~–~~Hearing

The Planning Board shall conduct a public hearing in accordance with Section 2.1.8 prior to any property being rezoned under this section.

~~5.3.4~~5.3.3 Conditions and restrictions

Conditions and restrictions imposed under the authority of this section shall relate only to the physical development and operation of the property and may include, by way of example:

A. Limitations on the number and types of uses permitted.

B. Restrictions on the scale and density of development.

C. Specifications for the design and layout of buildings and other improvements.

D. Schedules for commencement and completion of construction.

E. Performance guarantees securing completion and maintenance of improvements, and guarantees against defects.

F. Preservation of open space and buffers, and protection of natural areas and historic sites.

G. Contributions toward the provision of municipal services required by the development.

H. Provisions for enforcement and remedies for breach of any condition or restriction.

~~5.3.5~~5.3.4 ~~-~~ Amendments

Except as expressly modified in any contract or conditional rezoning agreement, the use and occupancy of any property within the City of Portland used or occupied pursuant to a contract or conditional rezoning agreement otherwise shall be governed by and comply with the provisions of the Land Use Code of the City of Portland and any applicable amendments thereto or replacement thereof.

~~5.3.6~~5.3.5 Enforcement

Notwithstanding language in any contract or conditional zoning to the contrary, any violation of a conditional or contract zone shall be enforced pursuant to 30-A M.R.S. § 4452, as may be amended from time to time, or in any other manner available by law. No alleged violation of a contract or conditional rezoning may be prosecuted until the City has delivered written notice of the alleged violation(s) to the owner or operator of the property that is subject to the contract or conditional rezoning and given the owner or operator an opportunity to cure the violation(s) within 30 days of receipt of the notice. In addition, if such an enforcement action should result in a finding that the terms of the conditional or contract zone have been violated, then the City may act to modify or rescind the conditional or contract zone and to rezone the property.

5.4 BASE ZONE PURPOSE STATEMENTS

Base zone purpose statements shall be as established in Tables 5-B to 5-~~G~~H.

TABLE 5-B: ~~Residential zone purpose statements~~RESIDENTIAL NEIGHBORHOOD ZONE PURPOSE STATEMENTS

~~R-1~~	~~To provide for lower-density residential development characterized by single-family homes on individual lots in outlying areas of the city and along traffic corridors with limited additional traffic capacity.~~
~~R-2~~	~~To provide for low-density residential development characterized by single-family homes on individual lots in outlying areas of the city and along traffic corridors with limited additional traffic capacity.~~
~~R-3~~RN-1	To provide for ~~medium-density~~a residential ~~development~~neighborhood environment predominantly characterized by ~~single-family homes~~dwellings on ~~individual~~ lots of at least 6,500 square feet. Conversion of existing nonresidential structures to multi-family dwellings is permitted within the RN-1 zone, subject to standards encouraging compatibility and ~~also to provide for planned~~context sensitivity to ensure the stability of established residential ~~unit developments on substantially sized parcels.~~ neighborhoods. Select nonresidential uses may also be permitted in the RN-1 zone.
~~R-4~~RN-2	To ~~preserve~~provide for a residential neighborhood environment that acknowledges the unique character of the Western Promenade ~~area~~while accommodating dwellings on lots of ~~the city by controlling residential conversions and by allowing the continued mix~~at least 6,000 square feet. Construction of ~~single-family, two-family, and low-rise~~new multi-family dwellings ~~and other compatible development at medium~~at moderate densities~~.~~ is allowed, as-is conversion of existing structures to multi-family dwellings, subject to standards encouraging compatibility and context sensitivity to ensure the stability of established residential neighborhoods. Select nonresidential uses may also be permitted in the RN-2 zone.
~~R-5~~RN-3	To provide ~~appropriate areas of the city~~ for ~~medium-density~~a residential ~~development~~neighborhood environment predominantly characterized by ~~single-family, two-family and low-intensity multifamily~~ dwellings on ~~individual~~ lots~~;~~ of at least 5,000 square feet. Conversion of existing nonresidential structures to multi-family dwellings is permitted within the RN-3 zone, subject to standards encouraging compatibility and context sensitivity to ensure the stability of established ~~medium-density~~ residential neighborhoods ~~by controlling residential conversions; and to provide for planned residential unit development on substantially sized parcels.~~. Select nonresidential uses may also be permitted in the RN-3 zone.
~~R-5a~~RN-4	~~To provide for moderate-density residential development in off-peninsula locations that can provide a unique residential living experience with a high degree of natural site amenities; and to provide areas of the city in the general proximity of the peninsula that have the capability for adequate municipal services, including traffic corridors with adequate traffic capacity, that can appropriately accommodate a more intensive use of land than other lower-density zoned land and be compatible with surrounding neighborhoods; and to increase affordable housing opportunities in off-peninsula locations by providing a moderate-density zone.~~To provide areas of the city, on the peninsula and in select off-peninsula locations in alignment with major public transportation routes and near service areas, for a residential neighborhood environment of dwellings on lots of at least 2,000 square feet. Townhouse and multi-family dwellings are also permitted, subject to standards encouraging compatibility and context sensitivity to ensure the stability of established residential neighborhoods. Select nonresidential uses may also be permitted in the RN-4 zone.
~~R-6~~RN-5	To ~~set aside~~ accommodate existing areas ~~on~~of the ~~peninsula for housing~~city characterized ~~primarily~~ by a residential neighborhood environment of multi-family dwellings at ~~a~~relatively high density~~ providing~~, exhibiting a ~~wide range of housing for differing types of households; to conserve the existing housing stock~~pattern of larger lots and ~~residential character of neighborhoods by controlling the scale and external impacts of professional offices and others~~setbacks, as well as generally taller building heights. Select nonresidential uses~~; and to encourage new housing development~~

	~~consistent with the compact lot development pattern typically found on the peninsula.~~ may also be permitted in the RN-5 zone.
~~R-6a~~RN-6	~~To encourage neighborhood livability with higher density multi-family housing on large parcels located off the peninsula along major public transportation routes, near service areas, and in redevelopment (underutilized) or infill areas.~~ To provide areas of the city, predominantly on the peninsula, for a dense residential neighborhood environment of townhouse and multi-family dwellings. Select nonresidential uses may also be permitted in the RN-6 zone.

TABLE 5-C: ISLAND ~~zone purpose statements~~ZONE PURPOSE STATEMENTS

IR-1	To provide for a low-intensity environment characterized by residential, recreational, and rural uses ~~in the less developed areas of the~~on Portland's islands ~~in order~~. Standards for the IR-1 zone are intended to preserve and protect the rustic character of the islands, to protect groundwater resources and natural and scenic areas, and to permit only ~~appropriate~~ low-intensity development in areas lacking adequate public facilities and services. Select nonresidential uses may also be permitted in the IR-1 zone.
IR-2	To ~~protect the character of existing developed~~provide for a residential ~~neighborhoods~~neighborhood environment on ~~the~~Portland's islands ~~and to allow infill where there are~~in areas with adequate public services. Expansion or extension of ~~an existing~~ IR-2 ~~zone~~zoning should be ~~strictly~~ limited, generally focused toward areas adjacent to existing ~~village~~ IR-2 areas, and restricted by such factors as adequacy of access, whether adequate water will be available for private use and for fire protection, ~~and~~ whether soils in the area are adequate for subsurface water disposal, or whether public sewers are available. Select nonresidential uses may also be permitted in the IR-2 ~~rezoning on substantially sized parcels should not be considered for those sites that should be more appropriately zoned otherwise.~~zone.
~~IR-3~~	~~To allow for a planned unit development in a manner compatible with both the natural and built environment, which provides for adequate circulation and waterfront access, adequate water supply for private use and fire protection, and safe and clean disposal of solid and septic wastes. The following guidelines shall be considered, among others, in establishing an IR-3 zone:~~ ~~A. An IR-3 zone should have a minimum land area of 20 acres.~~ ~~B. A site for an IR-3 zone should be able to accommodate higher density development by providing buffers from surrounding areas on a substantially sized parcel for which natural amenities are capable of being conserved in a development plan for the site.~~ ~~C. IR-3 zones should not be established unless issues of municipal services, including infrastructure, education, and police and fire services and other municipal services can be appropriately and adequately addressed.~~ ~~D. The differences in scale and intensity of uses between existing development and the IR-3 zone, and the cumulative impact on the overall density of the island, should be mitigated by appropriate open space and buffer areas.~~ ~~E. The development plan should have the capability of meeting the development review standards of the zone.~~
I-B	To provide limited areas on Portland's islands for the development of a mixture of residential, retail, and service establishments that primarily serve the needs of the local island market area. The I-B zone provides for a mixture of commercial and service uses, closely integrated with – and complimentary to – the surrounding residential neighborhood fabric to support the concept of a complete neighborhood. Standards for the I-B zone may vary by location, dependent upon the availability of public water and sewer resources. ~~To provide limited areas on the islands for retail and service establishments that primarily serve the needs of the local island market area.~~

TABLE 5-D: ~~Mixed-Use zone purpose statements~~MIXED-USE ZONE PURPOSE STATEMENTS

B-1	To provide limited areas ~~for the location of~~ that support a small~~-~~ scale~~-~~, pedestrian-friendly, mixed-use environment, allowing residents access to daily shopping and service needs within walking distance of nearby established residential neighborhoods. The B-1 zone provides for a mixture of commercial ~~establishments intended to serve a local market. Uses that are~~ and service uses, closely integrated with – and complimentary~~, quiet, and generally do not disturb the comfort and enjoyment of the adjoining~~ to – the surrounding residential neighborhood ~~environment are encouraged, and should be designed for the pedestrian scale and to provide convenient access for nearby residents and workers to walk in to purchase goods and services. Buildings and uses shall be designed with attractive storefronts or similar features, with windows and doors convenient to a public sidewalk. This zone~~ fabric to support the concept of a complete neighborhood. The zone encourages both vertical and horizontal mixed-use ~~buildings~~, such as a commercial first floor with residential uses above ~~or~~, combined retail/office uses in a multi-story structure~~. The zone also provides the opportunity for high residential density.~~ (vertical), or commercial uses mixed with three-family, four-family, townhouse, and multi-family structures across the face of a block (horizontal). Suitable locations for this zone may include street intersections and arterial streets with existing or proposed traditional neighborhood retail and service uses.
~~**B-1b**~~	~~To provide appropriate opportunities for the establishment of small-scale ground floor commercial uses to serve a local market, while supporting mixed-use buildings with residential uses above ground floor commercial space and on the ground floor where the principal street frontage is maintained for active commercial uses. The zone also provides the opportunity for mixed use and high residential density. Suitable locations for this zone may include street intersections, arterial streets, and sites with existing or traditional neighborhood retail and service uses.~~

TABLE 5-D: ~~Mixed-Use zone purpose statements~~MIXED-USE ZONE PURPOSE STATEMENTS

B-2	To provide ~~appropriate~~ locations for ~~the development and operation of community centers offering~~ a mixture of commercial ~~uses, housing,~~, service, and residential uses in a comfortable pedestrian environment that is easily accessible and ~~services serving the adjoining~~well-connected to surrounding neighborhoods ~~and the larger community. The variety, sites, and intensity~~. Such a mixture may serve the daily needs of nearby residents within walking distance, as well as surrounding neighborhoods via multiple modes of ~~the permitted commercial uses in the B-2 zone are intended to be greater than those permitted in the B-1/B-1b zones.~~ transportation. The zone provides a broad range of goods and services with a mixture of large and small buildings, such as grocery stores, shops and services located in ~~major~~ shopping centers and along arterial streets. ~~Such establishments should be readily accessible by automobile, by pedestrians~~ The B-2 zone's multi-modal orientation accommodates all modes of transportation, and ~~by bicycle. Development in~~ the ~~B-2~~ standards of the zone ~~should~~require that development relate to ~~the~~ surrounding neighborhoods by design, orientation, and circulation patterns. The zone ~~should provide~~encourages mixed-use development, and provides locations for moderate to high-density housing, including three-family, four-family, townhouse, and multi-family structures in urban neighborhoods along arterials.

~~B-3c~~	~~In addition to the purpose of the B-3 and B-3b zone, to promote the safety, quiet enjoyment, and general welfare of citizens residing in a dense urban neighborhood by decreasing the conflicts between residential uses and loud late-night activities. The B-3c zone recognizes that the business uses appropriate in this zone are constrained by the proximity of multi-unit elderly housing.~~
B-2b	To provide neighborhood and community retail, business and service establishments that are oriented to and built close to the street. The B-2b zone is ~~appropriate~~suitable in areas where a more compact urban development pattern exists or where a neighborhood-compatible commercial district is established which exhibits a pedestrian scale and character. Such locations may include the peninsula and other arterials and intersections with an existing urban or neighborhood-oriented building pattern. The B-2b ~~should provide~~zone encourages mixed-use development, and provides locations for moderate to high-density housing in urban neighborhoods along arterials.
B-3 ~~& B-3b~~	To maintain and enhance the role of the downtown as the business and commercial center of the region~~;~~, and to enhance and promote the orderly expansion of retail and service businesses downtown, satisfying the related needs of the city's resident, working, and visitor populations~~; to encourage~~. The B-3 zone encourages increased housing ~~opportunity~~opportunities downtown ~~for a~~, including three-family, four-family, townhouse, and multi-family structures to accommodate Portland's diverse residential population~~; to enhance the~~, and supports an active, walkable pedestrian environment through the encouragement of intensive mixed-use activities, ~~through the~~ enhancement and maintenance of public and private open space, and ~~through~~ the enlivenment and increased attractiveness of the street environment~~; to encourage~~. Standards of the B-3 zone require excellence in urban design~~;~~, to preserve and capitalize on the unique character and historic fabric of ~~the~~ downtown ~~through the encouragement of~~Portland by encouraging reuse of significant existing structures~~; to provide opportunity~~ and providing opportunities for an enhanced presence and integration of ~~the~~ arts and cultural activities~~; to reinforce~~. The zone reinforces the role of ~~the~~ downtown as a meeting place for community residents and visitors alike from all walks of life and all socio- economic groups~~; to provide adequate parking and transportation facilities which promote accessibility, enhance and encourage development opportunity, and enhance and protect the pedestrian environment; In the Pedestrian Activities District (PAD) Overlay Zone, to create continuity of pedestrian-oriented uses along streets where such uses predominate and along streets which, over time, will establish and maintain a strong retail and pedestrian-oriented use pattern; and to provide for the relocation of residents who are displaced by development.~~ by prioritizing access via multiple modes of transportation and enhancing and protecting the pedestrian environment.

B-4	To provide ~~appropriate~~ locations in the city for the development and operation of businesses serving ~~catering primarily to highway-oriented trade along major arterials (uses which have market areas which are primarily dependent on the regional highway network or serve~~ a regional or larger market~~)~~, to provide locations for large-scale commercial uses that require larger land areas to accommodate their operations, and to support moderate to high-density housing including three-family, four-family, townhouse, and multi-family structures. Standards of the B-4 zone acknowledge the need to maintain automobile access while encouraging improvement of the pedestrian environment and accommodating alternative modes of transportation.~~as well as to provide appropriate locations for large-scale commercial uses that require larger land areas to accommodate their operations.~~
B-5	To provide areas on or proximate to the waterfront, downtown, and the peninsula ~~near the downtown~~ where a mixture of uses, including marine, industrial, commercial, and a broad range of residential options, is encouraged. The B- 5 ~~and B-5b~~ zone~~s~~ ~~are~~is characterized by larger underdeveloped lots with great potential for dense~~r~~, clustered, urban mixed-use development and ~~more efficient~~ reuse of existing land and buildings. It is anticipated that the dense, mixed-uses of the B-5 ~~and B-5b~~ zone~~s~~ will rely on a shared infrastructure system, including service alleys, parking lots, public transportation facilities, stormwater management, and driveways.
B-6	To establish a zoning district for the upland portion of the Eastern Waterfront area. The B-6 zone encourages ~~this district to acquire~~ a distinctly urban form through development that emphasizes a quality pedestrian experience, promotes public transit, and demonstrates exemplary urban design. The zone promotes a broad range of both residential and commercial uses to achieve 24-hour urban vitality, and shared use of parking infrastructure as recommended in the *Eastern Waterfront Master Plan* for redevelopment. The B-6 zone promotes a mixed-use development pattern envisioned for urban land on Portland's peninsula.
~~**B-7**~~	~~To establish a zoning district for urban areas in which the City has adopted master plans for redevelopment. Certain areas, including but not limited to Bayside, lie at the perimeter of the established downtown and contain significant redevelopment opportunities. The B-7 zone encourages these districts to acquire a distinctly urban form through dense development featuring a mix of uses such as housing, retail, offices, research and development, and artisan studios and that emphasizes a quality pedestrian experience, promotes public transit, and demonstrates exemplary urban design. Use of multi-modal transportation is strongly encouraged and is advanced by the installation of bicycle amenities, such as bicycle racks and storage areas. The zone promotes a wide range of uses in high quality structures and public open spaces to achieve 24-hour urban vitality and shared parking infrastructure. The B-7 zone promotes a mixed-use development pattern envisioned on Portland's peninsula.~~

TABLE 5-E: TRANSIT-ORIENTED DEVELOPMENT ZONE PURPOSE STATEMENTS	
TOD-1	To provide for and encourage the development of moderate to high-intensity mixed-use, compact urban neighborhoods that support Portland's investment in high frequency transit infrastructure through permissions for a dense, pedestrian-scale built environment and a range of uses that encourage walking, bicycling, and use of public transit at advantageous locations within the City's off-peninsula neighborhoods.
TOD-2	To provide for and encourage the development of high-intensity mixed-use, compact urban neighborhoods that support Portland's investment in high frequency transit infrastructure through permissions for a highly dense, pedestrian-scale built environment and a broad range of uses that allow residents to live, work, shop, dine, and pursue cultural and recreational opportunities while enjoying a range of mobility choices. The TOD-2 zone is intended to allow for the creation of vibrant, accessible, 24-hour neighborhoods at suitable locations on or near the peninsula.

TABLE 5-~~E~~F: OFFICE ~~ZONE PURPOSE STATEMENTS~~ ZONE PURPOSE STATEMENTS	
O-~~P~~	To provide ~~substantial~~ areas for the creation of low-intensity office uses, allowed as either independent uses, or integrated ~~development of offices in~~into a park- or campus-like setting. Standards of the O zone encourage office and related uses which are of the highest quality, are well-designed and maintained, and are compatible with their natural surroundings.
~~R-P~~	~~To provide appropriate location for the development and operation of low-intensity business uses, including offices on or near major arterials, that are compatible in scale, density and use with surrounding and adjacent residential neighborhoods; or to serve as a transition or buffer zone between residential and more intensive nonresidential zones.~~

TABLE 5-F: INDUSTRIAL AND AIRPORT ZONE PURPOSE STATEMENTS

I-L & I-Lb	To provide areas in which low-impact industrial uses, and limited other uses serving employees and residents of the surrounding neighborhood, will be compatible with adjacent residential uses, will provide a buffer between residential neighborhoods and higher impact industrial zones, or will stand alone as a smaller scale industrial district. The I-L zone is located adjacent to residential neighborhoods, business uses and other industrial uses where the low-intensity nature of the uses, as well as their strict performance standards, will ensure the compatibility of the uses with other adjacent industrial and nonindustrial uses. ~~Performance standards for uses in the I-L zone are designed to maintain compatibility between low-impact industrial uses and neighboring nonindustrial and industrial uses.~~. The I-Lb zone is typically located on the peninsula
I-M~~, I-Ma,~~ & I-Mb	To provide zones in areas of the city in which low- and moderate-impact industries and transportation-related uses will coexist. I-M ~~and I-Ma~~ zones are located on arterials or collectors. The I-Mb zone is ~~similarly~~ typically located on the peninsula. These locations provide for direct access onto arterials, thereby protecting residential neighborhoods from drive-through traffic. The purpose of the I-M~~, I-Ma~~ and I-Mb industrial zones is also to provide for larger industrial buildings and for the limited or controlled use of areas outside of structures for storage of materials and machinery. These facilities often require large volumes of imported materials and products which result in large volumes of shipping and receiving. Often uses may be highway-oriented and transportation-related, thus relying on city-wide and regional transportation infrastructure. Industrial uses in these moderate-impact industrial zones may require separation from higher-impact uses.
I-H ~~& I-Hb~~	To provide areas suitable for higher impact industrial uses than are permitted in other industrial zones and other uses that are capable of demonstrating, through design, layout and topography, their compatibility with, or non-intrusion on, existing or future higher impact industrial uses on adjacent or neighboring I-H zoned properties. Due to the intensity of use, the I-H zone~~s are~~ is intended for uses which may require extensive outdoor storage and usage and may utilize heavy equipment. Processes may require separation from residential or sensitive environmental areas. The I-H zone~~s are~~ is separated from other nonindustrial uses as well as natural or constructed features. High-impact industrial uses will be of a higher intensity, with a greater lot coverage, than the other zones.
A-B	To provide an area for the development of airport-related enterprises. ~~Appropriate u~~Uses permitted in this zone are those customarily associated with the operation of the airport terminal and individual airlines and accessory uses to provide for the comfort and convenience of the airport's patrons and employees.

TABLE 5-G: OPEN SPACE ZONE PURPOSE STATEMENTS

~~R-~~OS-R	To provide for ~~preserve and protect open space as a limited and valuable resource; to permit~~ the reasonable use of open space, while simultaneously preserving and protecting its inherent ~~open space~~ characteristics to assure its continued availability for public use as scenic~~,~~ and recreation~~, and conservation or natural resource~~ area; ~~, and for the containment and structuring of urban development;~~ to provide a suitable location for large-scale regional sports and athletic facilities; and to develop an open space system throughout the city~~,~~ which provides the highest quality parks, plazas, and pedestrian environment. The ~~R-~~OS-R zone may include parcels of public property and private property legally restricted from intensive use or development through deed, covenant, or otherwise.
OS-P	To preserve and protect open space as a limited and valuable resource, and to further the City of Portland's goals related to climate adaptation and resiliency. The OS-P zone prioritizes preservation and protection of Portland's critical conservation and natural resource areas. Very limited development may be allowed for sustainable energy generation, passive recreation and educational purposes, but must be compatible with and cause little impact to these areas.

6 USE STANDARDS

6.1 APPLICABILITY

6.1.1. In general

A. The use of buildings, structures, private property, and ~~land~~City-owned property are governed by this article, except when superseded by other applicable laws or ordinances. It is the intent that, when in doubt, this article should be interpreted to accommodate the goals of the City's Comprehensive Plan and other plans.

B. All uses shall comply with any applicable federal and state requirements, and any additional applicable federal, state, county, and/or city ordinances.

C. All uses shall comply with any supplemental use standards in Section 6.4 as applicable. Use standards address specific impacts, design or siting standards, and/or additional regulations outside of this Code.

6.2 DETERMINATION OF USE

6.2.1 Use tables

A. Tables 6-A to 6-~~F~~G shall determine if a use is permitted (●), conditional (◐), or not permitted ~~( ),~~( ) as a principal use within a zone. Where a use is listed as both permitted and conditional (●/◐), determination shall be based on the nature of such use as described in the use standards of Section 6.4. Unless otherwise noted, where a use is listed in terms of square footage, square footage figures shall correspond to the total ~~floor area~~square footage of the use as indicated.

B. Certain uses within Tables 6-A to 6-G shall meet required use standards listed in Section 6.4. A reference is provided in the "Use Standards" column the tables. In the case of conflict of required standards (i.e., a cross reference is missing from the table, the numbering of standards has changed but not updated in the Table, etc.), the use standards in Section 6.4 control.

6.2.2 Unlisted uses

A. Uses not expressly listed as permitted or conditional in Tables 6-A to 6-~~F~~G are prohibited as principal uses except that a use may be permitted subject to meeting the following performance-based standards:

1. The proposed use is consistent with the purposes of the zone.

2. The proposed use is closely related to a permitted or conditional use in terms of character, scale, and external impacts.

3. The buildings and structures associated with the proposed use are designed and operated so that it will prevent undue adverse environmental impacts, substantial diminution of the value or utility of neighboring structures, or significant hazards to the health or safety of neighboring residents by controlling noise levels, emissions, traffic, lighting, odor, and any other potential negative impacts.

B. The review authority shall determine whether the uses not listed as permitted or conditional uses meet the above standards. If it is determined that the use does not meet the above criteria, it shall not be permitted.

C. The review authority may impose reasonable conditions of approval on the proposed use to ensure that it is similar in character and impact to a permitted or conditional use.

6.2.3 Multiple uses

A. A ~~site~~lot may contain more than one principal use, ~~so long as~~providing each ~~principal~~ use is allowed within the zone. Each principal use shall be permitted separately. In certain cases, uses are defined in Article 3 to include accessory uses that provide necessary support or are functionally integrated into the principal use.

B. Notwithstanding the above, and unless otherwise specifically permitted by this Code, lots containing a single family, two-family, three-family, or four-family dwelling may contain more than one principal use only so long as the total number of dwelling units on the lot does not exceed four, or three on the islands, not including accessory dwelling units.

6.2.4 Uses operated in an enclosed structure

A. In all mixed-use, office, and industrial zones, uses shall be operated within a completely enclosed structure, except for those customarily operated in open air.

B. In the mixed-use zones, open air activities shall be those licensed by the City.

6.2.5 Uses in zones not listed

A. Use permissions for certain zones within this Code are not included in Tables 6-A to 6-G, but are addressed separately as follows:

1. Use permissions for overlay zones are found in Article 8.

2. Use permissions for the India Street Form-Based Code (IS-FBC) zone are found in Article 9.

3. Use permissions for the waterfront zones are found in Article 10.

6.3 CHANGE OF USE

A change of use from one use in ~~these tables~~Tables 6-A to 6-G to another is governed by the requirements of the new use. The use of any part of any building, structure, or property shall not be changed to any other use, whether principal or accessory and whether alterations in the building, structure, or property are involved or not, until a permit and certificate of occupancy authorizing such change of use has first been secured from the Building Authority in accordance with Chapter 6 of the City of Portland Code of Ordinances.

TABLE 6-A: PERMITTED AND CONDITIONAL USES IN RESIDENTIAL ZONES

	-	R-1	R-2	R-3	R-4	R-5/R-5a	R-6/R-6a	Use Standards
Residential	Single-family dwellings	●	●	●	●	●	●	
	Two-family dwellings				●	●	●	6.4.2
	Multi-family dwellings			◐		◐[1]/●[2]	●	6.4.2, 6.5.6(G)
	Congregate care facilities					●[2]		
	Handicapped family units	●	●	●	●	●	●	
	Planned Residential Unit Developments			●[4]		●[4]		
	Special needs independent dwelling units				●	●[1]	●	
	Lodging houses					◐[1,3]	●	6.4.10
	Sheltered care group homes	◐	◐	◐	◐	◐	◐	6.5.6(K)
Institutional	Elementary, middle, and secondary schools	◐	◐	◐	◐	◐[1]	◐	6.5.6(F)
	Governmental uses	●	●	●	●	●	●	
	Hospitals			◐		◐[1]	◐	
	Intermediate care facilities	◐	◐	◐		◐[1]/●[2]	◐	
	Long-term and extended care facilities	◐	◐	◐		◐[1]/●[2]	◐	6.5.6(F)
	Places of assembly (<10,000 SF)	◐	◐	◐	◐	◐	◐	
	Places of assembly (>10,000 SF)	◐	◐	◐	◐	◐	◐	
	Preschool facilities	◐	◐	◐	◐	◐	◐	6.5.6(I)
	Post-secondary schools		◐			◐[1]	◐	6.5.6(F)
Comm.	Bed-and-breakfasts						●/◐[5]	6.4.5
	General offices (<5,000 SF)						◐	6.5.6(C)
	Hostels						●/◐[6]	6.4.9
Other	Agriculture	●	●					
	Cemeteries	◐	◐		●		●	
	Off-street parking			◐	◐	◐[1]	◐	6.5.6(H)
	Parks and open spaces	●	●	●	●	●	●	
	Raising of domesticated animals	◐						6.5.6(J)
	Solar energy system (minor)	●	●	●	●	●	●	6.4.16
	Utility substations	◐	◐	◐	◐	◐	◐	6.5.6(L)

[1] In the R-5 zone only.
[2] In the R-5a zone only.
[3] Conversions of existing two-family structures into lodging houses are permitted as a conditional use, provided that the lodging house shall not be located within 500 ft. of another as measured along street lines.
[4] Must consist of horizontally or vertically attached dwelling units, or a series of such dwelling units, with all land owned and used in common. PRUDs shall be subject to review and approval by the Planning Board under Article 15.
[5] Permitted if a conversion of a structure existing as of 3/3/97 to up to four guest rooms and conditional if a conversion of the same to five to nine rooms.
[6] Permitted if for no more than 10 overnight transient guests and conditional if for between 11 and 20 overnight transient guests. An owner, manager, or operator shall be a permanent resident of the building.

TABLE 6-A: PERMITTED AND CONDITIONAL USES IN RESIDENTIAL NEIGHBORHOOD ZONES

		RN-1	RN-2	RN-3	RN-4	RN-5	RN-6	Use Standards
Residential	Single-family dwellings	●	●	●	●			
	Two-family dwellings	●	●	●	●			
	Three-family dwellings	●	●	●	●			
	Four-family dwellings	●	●	●	●			
	Multi-family dwellings	◐	●	◐	●	●	●	6.4.12
	Townhouse dwellings		●		●		●	6.4.13
	Group homes	◐	◐	◐	◐	◐	◐	6.4.17
	Lodging houses			◐	◐	●	●	6.4.21
Institutional	Child care centers + small child care facilities	◐	◐	◐	◐	◐	◐	6.4.9
	Elementary, middle, and secondary schools	◐	◐	◐	◐	◐	◐	
	Governmental uses	●	●	●	●	●	●	
	Places of assembly	◐	◐	◐	◐	◐	◐	6.4.30
	Post-secondary schools			◐	◐	◐	◐	6.4.31
	Residential care facilities (small)	◐	◐	◐	◐	◐	◐	6.4.35
	Residential care facilities (large)	◐	◐	◐	◐	◐	◐	
Comm.	Bed and breakfasts				●/◐	●/◐	●/◐	6.4.7
	Hostels				●/◐	●/◐	●/◐	6.4.18
	Market gardens	◐	◐	◐	◐	◐	◐	6.4.25
	Neighborhood nonresidential reuse	◐	◐	◐	◐	◐	◐	6.4.26
Other	Cemeteries	●	●	●	●	●	●	
	Parks and open spaces	●	●	●	●	●	●	
	Solar energy system (minor)	●	●	●	●	●	●	6.4.38
	Utility substations	◐	◐	◐	◐	◐	◐	6.4.39

Key: ● = permitted | ◐ = conditional | Blank = not permitted | ●/◐ = permitted or conditional per use standards

TABLE 6-B: PERMITTED AND CONDITIONAL USES IN ISLAND ZONES

		IR-1	IR-2	IR-3[1]	I-B	Use Standards
Residential	Single-family dwellings	●	●	●[2]	●	
	Two-family dwellings				○	6.4.2,
	Multi-family dwellings				○	6.5.6(G)
	Handicapped family unit	●	●	●	●	
	Planned Residential Unit Developments	●	●			
	Lodging houses		○[3]	●[3]	●[3]	
Institutional	Elementary, middle, and secondary schools	○	○	●	○	
	Educational facilities (including seasonal camps)	○	○			
	Governmental uses	○	○	●	○	6.5.6(F)[6]
	Places of assembly (<10,000 SF)	○	○	●	○	
	Places of assembly (>10,000 SF)	○	○		○	
	Preschool facilities	○	○	●	○	6.5.6(I)
Commercial/Service	Auto service stations				○	6.5.6(A)
	Bed and breakfasts				●[4]	
	General services (<5,000 SF)				●	
	Hotels			●[5]	○[5]	
	Restaurants			●	●	
	Retail (<10,000 SF)			●	●	
Other	Studios for artists and craftspeople				●	
	Agriculture	●				
	Boathouses and storehouses for fishing equipment	●	●	●	●	
	Campgrounds	○		●		6.4.6
	Cemeteries	○	○			
	Marinas and yacht clubs			●	●	
	Off-street parking				●	
	Parks and open spaces	●	●	●	●	
	Raising of domesticated animals	○				6.5.6(J)
	Solar energy system (minor)	●	●	●	●	6.4.16
	Utility substations	○	○	●		6.5.6(L)
	Wharves, piers, docks, and landing ramps	○	○	●	●	

[1] All uses within the IR-3 permitted only within a PUD with a minimum total area of 20 acres of contiguous land subject to the standards of Subsection 6.4.14.

[2] Single-family attached permitted provided that new construction shall be limited to no more than six attached dwellings per building.

[3] With greater than two but no more than nine rooming units.

[4] Permitted on Peaks Island only.

[5] Maximum 50 rooms.

[6] The standards of Subsection 6.5.6(F) shall not apply to institutional uses within the I-B zone. In the IR-1 and IR-2 ones, institutional uses are subject to the standards of Subsection 6.5.6(F) only if the total land area of the use is two acres or more.

TABLE 6-B: PERMITTED AND CONDITIONAL USES IN ISLAND ZONES

	-	IR-1	IR-2	I-B	Use Standards
Residential	Single-family dwellings	●	●	●	
	Two-family dwellings	●	●	●	
	Three-family dwellings			●	
	Four-family dwellings			●	
	Multi-family dwellings			◐	6.4.12
	Live/work dwellings			●	
	Lodging houses		◐	●	6.4.21
Institutional	Child care centers + small child care facilities	◐	◐	●	6.4.9
	Elementary, middle, and secondary schools	◐	◐	◐	
	Governmental uses	●	●	●	
	Places of assembly	◐	◐	●	6.4.30
Commercial / Service	Auto service stations			◐	6.4.5
	Bed and breakfasts			●	6.4.7
	Cultural facilities			●	
	General offices			●	6.4.15
	General services			●	
	Greenhouse/nursery (retail)			◐	6.4.16
	Hotels			◐	6.4.19
	Neighborhood nonresidential reuse	◐	◐		6.4.26
	Restaurants			●	6.4.34
	Retail			●	6.4.36
	Specialty food service			●	
Other	Agriculture	●			6.4.3
	Boathouses and storehouses for fishing equipment	●	●	●	
	Campgrounds	◐			6.4.8
	Cemeteries	◐	◐		
	Low-impact industrial			●	
	Marinas			●	
	Parks and open spaces	●	●	●	
	Solar energy system (minor)	●	●	●	6.4.38
	Studios for artists and craftspeople	●	●	●	
	Utility substations	◐	◐	◐	6.4.39
	Wharves, piers, docks, and landing ramps	●	●	●	

TABLE 6-C: PERMITTED AND CONDITIONAL USES IN MIXED-USE ZONES

		B-1/B-1b	B-2/B-2b/ B-2c	B-3/B-3b/ B-3c[11]	B-4	B-5/ B-5b	B-6	B-7	Use Standards
Residential	Single-family dwellings	●	●	●		●	●	●	
	Two-family dwellings	●	●	●		●	●	●	
	Multi-family dwellings	●[1]	●	●		●	●	●	
	Congregate care facilities			●					
	Handicapped family units			●		●	●	●	
	Combined living/working spaces	●	●	●		●	●	●	
	Lodging houses	●[2]	●	●	●	●		●	6.4.10
Institutional	Clinics	●[2]	●	●		●		●	
	Cultural facilities			●		●	●	●	
	Elementary, middle, and secondary schools	●[2]	●	●		●	●	●	
	Emergency shelters			◐	◐	◐			6.5.6(B)
	Governmental uses	●[2]	●	●	●	●		●	
	Intermediate care facilities		●	●					
	Long-term and extended care facilities		●						
	Places of assembly (< 10,000 SF)	●[2]	●	●	●	●	●	●	
	Places of assembly (> 10,000 SF)		●	●	●	●	●	●	
	Preschool facilities	●[2]	●	●	●	●	●	●	
	Post-secondary schools		●	●	●	●	●	●	
Commercial/Service	Adult business establishments		●[3]	●[3]					6.4.3
	Auto, boat, and related dealerships		◐		●				6.5.6(A)
	Auto service stations		◐[4]		●	●			6.5.6(A)
	Bars		●[5]	●[5]	●	●	●	●	6.4.4
	Bed and breakfasts	●	●	●				●	6.4.5
	Exhibition, meeting, and convention halls			●		●	◐	●	
	Funeral homes		●		●				
	General offices (<5,000 SF)	●[2]	●	●	●	●	●	●	6.4.7
	General offices (>5,000 SF)		●	●	●	●	●	●	
	General services (<5,000 SF)	●[2]	●	●	●	●	●	●	6.4.7
	General services (>5,000 SF)		●	●	●	●	●	●	
	Hostels	●		●		●		●	6.4.7, 6.4.9
	Hotels		●	●	●	●	●[13]	●	
	Marijuana retail store		●/◐[6]	●	●			●	6.4.11
	Recreation and amusement centers				●	●		●	
	Registered marijuana dispensary		●/◐[6]	●	●			●	6.4.11
	Restaurants	●[2]	●	●	●	●	●	●	6.4.4, 6.4.7
	Retail (< 5,000 SF)	●[2]	●	●	●	●	●	●	6.4.7, 6.4.15
	Retail (5,000 – 25,000 SF)		●	●	●	●	●	●	6.4.15

TABLE 6-C (CONT.): PERMITTED AND CONDITIONAL USES IN MIXED-USE ZONES

		B-1/B-1b	B-2/B-2b/ B-2c	B-3/B-3b/ B-3c[11]	B-4	B-5/ B-5b	B-6	B-7	Use Standards
Industrial	Retail (>25,000 SF)		●	●	●	●	●	●	6.4.15
	Small-scale marijuana caregiver		●	●	●			●	6.4.11
	Theaters and performance halls		●	●	●	●	●	●	
	Veterinary services		●		●			●	
	Communication studios		●	●	●	●	●	●	
	Dairies		●[7]		●				
	High-tech manufacturing							◐	6.5.6(D)
	Intermodal transportation facilities					●	●	●	
	Laboratory and research facilities		◐		●		◐	●	6.5.6(E)
	Low-impact industrial (<10,000 SF)		●[8]	◐	●	●	●	●[8]	6.5.6(E)
	Low-impact industrial (>10,000 SF)		●[8]		●	◐			
	Marijuana testing facilities				●				6.4.11
	Marijuana manufacturing facilities				●				
	Marijuana cultivation facilities (<7,000 SF plant canopy)				●				
	Printing and publishing		◐[9]	●	●	●	●	◐	
	Repair services		●	●	●	●	●	●	
	Studios for artists and craftspeople	●[2]	●	●	●	●	●	●	
	Tow lots				●				6.4.17
	Warehousing, storage, and distribution		◐[10]	◐[10]	●	●[10]	◐[10,14]	◐[10,14]	6.5.6(E)
Other	Marine uses					●	●		6.4.12
	Correctional pre-release facilities				●				6.4.8
	Off-street parking			●/◐[12]		●	◐	◐	6.5.6(H)
	Parks and open spaces	●	●	●	●	●	●	●	
	Solar energy system (minor)	●	●	●	●	●	●	●	6.4.16
	Solar energy system (major)				◐				
	Utility substations	●	●	◐	●	●	●	◐	6.5.6(L)
	Wind energy system (minor)		◐	◐	◐	◐	◐	◐	6.4.18

[1] Permitted if permitted in the adjacent or nearest residential zone. In other cases, permitted if located above first floor commercial, or on first floor where a minimum depth of 25 ft. along the principal frontage is maintained for commercial use.
[2] Permitted on the ground floor only in the B-1b zone.
[3] Permitted in the B-2 and B-3 zones only.
[4] Permitted as a conditional use in the B-2 only. Expansion of auto service stations in existence as of 11/15/99 permitted as a conditional use in the B-2b and B-2c zones.
[5] Not permitted in the B-2c and B-3c zones.
[6] Permitted in the B-2 zone. Conditional in the B-2b and B-2c.
[7] Permitted only if an expansion of an existing dairy.
[8] Permitted with a retail component only. Low-impact industrial uses greater than 10,000 SF are permitted in the B-2 only.
[9] Printing and publishing of 10,000 SF or less, or expansion of printing and publishing establishments greater than 10,000 SF in existence as of 4/4/88, shall be treated as a conditional use.
[10] Permitted in the B-2/B-2b/B-2c as a conditional use if 10,000 SF or less. Self-storage permitted in the B-4 zone. Self-storage permitted as a conditional use in the B-5 zone (on-peninsula locations only) in buildings existing as of 12/16/15. Self-storage permitted as a conditional use in the B-3 zone in buildings existing as of 1/1/1995; the area of the building dedicated to self-storage shall not exceed 30% of the total building area and may not be located directly adjacent to or facing a public right-of-way. Self-storage not permitted in the B-2/B-2b/B-2c, B-6, and B-7 zones.
[11] See PAD Overlay for additional use regulations.
[12] Structured parking shall be permitted. Surface parking shall be treated as a conditional use.
[13] Hotels shall be limited to no more than 150 rooms.
[14] Wholesale is allowed as conditional use, providing the wholesale operation is associated with an onsite retail establishment and occupies less than 15,000 SF.

FINAL DRAFT FOR PLANNING BOARD REVIEW

TABLE 6-C: PERMITTED AND CONDITIONAL USES IN MIXED-USE ZONES

		B-1	B-2/ B-2b	B-3[1]	B-4	B-5	B-6	Use Standards
Residential	Two-family dwellings	●	●	●	●	●	●	
	Three-family dwellings	●	●	●	●	●	●	
	Four-family dwellings	●	●	●	●	●	●	
	Townhouse dwellings	●	●	●	●	●	●	6.4.13
	Multi-family dwellings	●	●	●	●	●	●	6.4.12
	Live/work dwellings	●	●	●	●	●	●	
	Lodging houses	●	●	●	●	●		6.4.21
Institutional	Child care centers + small child care facilities	●	●	●	●	●	●	6.4.9
	Clinics	●	●	●	●	●		
	Cultural facilities	●	●	●	●	●	●	
	Elementary, middle, and secondary schools	●	●	●		●	●	
	Emergency shelters			◐	◐	◐		6.4.14
	Governmental uses	●	●	●	●	●		
	Places of assembly	●	●	●	●	●	●	6.4.30
	Post-secondary schools		●	●	●	●	●	6.4.31
	Residential care facilities (small)	●	●	●	●	●	●	6.4.35
	Residential care facilities (large)		●	●	●	●	●	
Commercial / Service	Adult business establishments			●				6.4.2
	Auto, boat, and related dealerships		◐		●			6.4.5
	Auto service stations		◐		●			
	Bars		●	●	●	●	●	6.4.6
	Bed and breakfasts	●	●	●				6.4.7, 6.4.10
	Exhibition, meeting, and convention halls			●	●	●	◐	
	Funeral homes		●		●			
	General offices	●	●	●	●	●	●	6.4.15, 6.4.10
	General services	●	●	●	●	●	●	
	Greenhouse/nursery (retail)		◐		◐			
	Hostels	●		●		●		6.4.18, 6.4.10
	Hotels		●	●	●	●	●	6.4.19
	Intermodal transportation facility		●	●	●	●	●	
	Marijuana retail store		●	●	●			6.4.23
	Market gardens	●	●	●	●	●	●	6.4.25, 6.4.10
	Recreation and amusement centers		●		●	●		

TABLE 6-C (CONT.): PERMITTED AND CONDITIONAL USES IN MIXED-USE ZONES

		B-1	B-2/ B-2b	B-3[1]	B-4	B-5	B-6	Use Standards
Commercial/Service	Registered marijuana dispensary		●/◐	●	●			6.4.23
	Restaurants	●	●	●	●	●	●	6.4.34, 6.4.10
	Retail	●	●	●	●	●	●	6.4.36, 6.4.10
	Small-scale marijuana caregiver		●	●	●			6.4.23
	Specialty food service	●	●	●	●	●	●	6.4.10
	Theaters and performance halls		●	●	●	●	●	
	Veterinary services		●		●			
Industrial	Animal-related services				●			
	Communication studios		●	●	●	●	●	
	Dairies		●		●			6.4.11
	Impound lots				●			6.4.20
	Intermodal transportation facilities					●	●	
	Laboratory and research facilities		◐	◐	●	◐	◐	
	Low-impact industrial	●	●	●	●	●	●	6.4.22
	Marijuana testing facilities				●			6.4.23
	Marijuana manufacturing facilities				●			
	Marijuana cultivation facilities (<7,000 SF plant canopy)				●			
	Printing and publishing			●	●	●	●	6.4.32
	Self-storage facilities				●			6.4.37
	Studios for artists and craftspeople	●	●	●	●	●	●	
	Warehousing and distribution				●			6.4.40
Other	Marine uses					●	●	6.4.24
	Off-street parking			●/◐		●	◐	6.4.27
	Parks and open spaces	●	●	●	●	●	●	
	Social service centers		◐	◐	◐	◐	◐	
	Solar energy system (minor)	●	●	●	●	●	●	6.4.38
	Solar energy system (major)				◐			
	Utility substations	●	●	●	●	●	●	6.4.39
	Wind energy system (minor)		◐	◐	◐	◐	◐	6.4.41

Key: ● = permitted | ◐ = conditional | Blank = not permitted | ●/◐ = permitted or conditional per use standards

[1] Uses within the B-3 zone may be subject to the standards of the Pedestrian Activities District (PAD) Overlay found in Section 8.5 of this Code.

TABLE 6-D: PERMITTED AND CONDITIONAL USES IN TOD ZONES

		TOD-1	TOD-2	Use Standards
Residential	Townhouse dwellings	●	●	6.4.13
	Multi-family dwellings	●	●	6.4.12
	Live/work dwellings	●	●	
	Lodging houses	●	●	6.4.21
Institutional	Child care centers + small child care facilities	●	●	6.4.9
	Clinics	●	●	
	Cultural facilities	●	●	
	Elementary, middle, and secondary schools	●	●	
	Governmental uses	●	●	
	Places of assembly	●	●	6.4.30
	Post-secondary schools		●	6.4.31
	Residential care facilities, small	●	●	6.4.35
	Residential care facilities, large	●	●	
Commercial / Service	Bars	●	●	6.4.6
	Exhibition, meeting, and convention halls		●	
	General offices	●	●	
	General services	●	●	
	Hostels		●	6.4.18
	Hotels		●	
	Intermodal transportation facilities	●	●	
	Recreation and amusement centers		●	
	Restaurants	●	●	
	Retail	●	●	
	Specialty food service	●	●	
	Theaters and performance halls		●	
	Veterinary services	●	●	
Indust.	Communication studios	●	●	
	Studios for artists and craftspeople	●	●	
	Low impact industrial	●	●	6.4.22
Other	Parks and open spaces	●	●	
	Solar energy system (minor)	●	●	6.4.38
	Utility substations	●	●	6.4.39
	Wind energy system (minor)	◐	◐	6.4.41

~~TABLE 6-D: PERMITTED AND CONDITIONAL USES IN OFFICE PARK & RESIDENCE PROFESSIONAL ZONES~~

		~~OP[1]~~	~~R-P[2]~~	~~Use Standards~~
	~~Any residential use permitted in the nearest residential zone~~		~~●~~	
	~~Preschool facilities~~	~~●~~	~~◐~~	~~6.5.6(I)~~
	~~Funeral homes~~		~~●~~	
	~~General offices~~	~~●~~	~~●~~	
~~Industrial~~	~~High tech manufacturing~~	~~◐~~		~~6.5.6(D)~~
~~Industrial~~	~~Laboratory and research facilities~~	~~●~~		
~~Industrial~~	~~Printing and publishing~~	~~●~~		
~~Industrial~~	~~Studios for artists and craftspeople~~		~~●~~	
	~~Parks and open space~~	~~●~~	~~●~~	
	~~Solar energy system (minor)~~	~~●~~	~~●~~	~~6.4.16~~
~~Other~~	~~Utility substations~~		~~●~~	
~~Other~~	~~Wind energy system (minor)~~	~~◐~~		~~6.4.18~~

~~[1] All permitted and conditional uses in the O-P zone, with the exception of parks and open spaces, solar energy systems, and wind energy systems, shall be allowed only within an office park of at least three acres of contiguous land subject to the standards of Subsection 6.4.13.~~

~~[2] Any conditional use that is permitted as a conditional use in the nearest residential zone shall be permitted as a conditional use in the R-P zone. All conditional use standards of the residential zone shall apply.~~

TABLE 6-E: PERMITTED AND CONDITIONAL USES IN OFFICE ZONES

		O	Use Standards
Inst.	Child care centers + small child care facilities	●	6.4.9
Inst.	Governmental uses	●	
Com	General offices	●	
Com	Office parks	●	6.4.28
Ind.	Laboratory and research facilities	●	
Ind.	Printing and publishing	●	6.4.32
Other	Parks and open space	●	
Other	Solar energy system (minor)	●	6.4.38
Other	Utility substations		
Other	Wind energy system (minor)	◐	6.4.41

Key: ● = permitted | ◐ = conditional | Blank = not permitted | ●/◐ = permitted or conditional per use standards

TABLE 6-E: PERMITTED AND CONDITIONAL USES IN INDUSTRIAL & AIRPORT ZONES

		I-L/I-Lb	I-M/I-Mb	I-H/I-Hb	A-B[7]	Use Standards
Institutional	Airports				●[8]	
	Preschool facilities	●	●			
	Emergency shelters	◐	◐	◐		6.5.6(B)
	Intermediate care facilities		●[4]			
	Places of assembly (<10,000 SF)	●				
Commercial/Services	Bars				●	
	General offices (<5,000 SF)	●[1]	●			
	General offices (>5,000 SF)	●[1]	●			
	General services (<5,000 SF)				●	
	General services (>5,000 SF)				●	
	Hotels				●	
	Recreation and amusement centers	●	●			
	Repair services	●	●	●		
	Restaurants				●	
Industrial	Animal-related services	●[2]				
	Construction & engineering services	●	●	●		
	Dairies	●	●	●		
	Fish waste processing			●		
	Food & seafood processing, packing, and distribution		●	●		
	High-impact industrial uses			●		
	Intermodal transportation facilities	●	●	●		
	Laboratory and research facilities	●	●	●		
	Low-impact industrial	●	●	●		
	Lumber yards	●	●	●		
	Marijuana cultivation facility (<2,000 SF plant canopy)	●	●	●		
	Marijuana cultivation facility (2,000-7,000 SF plant canopy)		●	●		6.4.11
	Marijuana cultivation facility (>7,000 SF plant canopy)			●		
	Marijuana manufacturing facility	●	●	●		
	Marijuana testing facility	●	●	●		
	Printing and publishing	●	●	●		
	Recycling and solid waste disposal facilities		●[5]	●[5]		
	Studios for artists and craftspeople	●	●			
	Telecommunication towers (ground-mounted)		●	●		
	Tow lots		●	●		6.4.17
	Warehousing, storage, and distribution facilities	●[3]	●	●		

TABLE 6-E (CONT.): PERMITTED AND CONDITIONAL USES IN INDUSTRIAL & AIRPORT ZONES

		I-L/I-Lb	I-M/I-Mb	I-H/I-Hb	A-B[7]	Use Standards
	Correctional pre-release facilities		●[6]	●[6]		6.4.8
	Marinas	●				
	Off-street parking				●	
Other	Solar energy system (minor)	●	●	●	●	6.4.16
Other	Solar energy system (major)		●	●	◐	
Other	Utility substations	●	●	●		
Other	Wind energy system (minor)	◐	●	●	●	6.4.18
Other	Wind energy system (major)		●	●	◐	

[1] Only back office uses permitted.
[2] Not including kennel or boarding facilities.
[3] Must be less than 10,000 SF in floor area. No outdoor storage permitted. Self-storage not permitted in the I-L/I-Lb zone.
[4] Permitted in existing structures not designed for industrial, amusement, warehouse or manufacturing uses as of 9/15/14 or later. Such structures may be reused or expanded to establish a facility of no more than 30 persons plus staff.
[5] Permitted within an enclosed structure only.
[6] Not permitted in the I-Ma, I-Mb, or I-Hb zones.
[7] Permitted uses on lots within airport restricted access areas shall be limited to those which do not require or encourage access or visits by the public and which provide technical administrative or other support to airport operations.
[8] Including airport administration, terminals, carrier operations, concessions, reservations and ticket sales, freight, repair and storage, fueling services, flying schools, car rental operations, and other associated uses.

TABLE 6-F: PERMITTED AND CONDITIONAL USES IN INDUSTRIAL & AIRPORT ZONES

		I-L/I-Lb	I-M/I-Mb	I-H	A-B[1]	Use Standards
	Live/work dwellings	●				
Institutional	Airports				●	
Institutional	Child care centers + small child care facilities	●	●			6.4.9
Institutional	Emergency shelters	◐	◐	◐		6.4.14
Institutional	Places of assembly	●				6.4.30
Commercial / Service	Bars				●	6.4.6
Commercial / Service	General offices	●	●			6.4.15
Commercial / Service	General services				●	
Commercial / Service	Hotels				●	
Commercial / Service	Intermodal transportation facilities	●	●			
Commercial / Service	Market gardens	●				6.4.25
Commercial / Service	Recreation and amusement centers	●	●			
Commercial / Service	Restaurants				●	
Commercial / Service	Self-storage facility		●	●		6.4.37
Commercial / Service	Specialty food service	●	●			
Commercial / Service	Veterinary services	●	●	●		
Industrial	Animal-related services	●	●	●		6.4.4
Industrial	Auto service station	●	●	●	●	6.4.5
Industrial	Construction & engineering services	●	●	●		
Industrial	Dairies	●	●	●		
Industrial	Food & seafood processing, packing, and distribution		●	●		
Industrial	High-impact industrial uses			●		
Industrial	Impound lots		●	●		6.4.20
Industrial	Laboratory and research facilities	●	●	●		
Industrial	Low-impact industrial	●	●	●		6.4.22
Industrial	Lumber yards	●	●	●		
Industrial	Marijuana cultivation facilities	●	●	●		
Industrial	Marijuana manufacturing facility	●	●	●		6.4.23
Industrial	Marijuana testing facility	●	●	●		
Industrial	Printing and publishing	●	●	●		
Industrial	Recycling facilities		●	●		6.4.33

TABLE 6-F (CONT.): PERMITTED AND CONDITIONAL USES IN INDUSTRIAL & AIRPORT ZONES

		I-L/I-Lb	I-M/I-Mb	I-H	A-B[1]	Use Standards
Indust.	Solid waste disposal facilities		●	●		6.4.33
	Studios for artists and craftspeople	●	●			
	Warehousing and distribution facilities	●	●	●		6.4.40
Other	Off-street parking				●	
	Social service centers	◐	◐	◐		
	Solar energy system (minor)	●	●	●	●	6.4.38
	Solar energy system (major)		●	●	◐	
	Telecommunication towers (ground-mounted)		●	●		
	Utility substations	●	●	●		6.4.39
	Wind energy system (minor)	◐	●	●	●	6.4.41
	Wind energy system (major)		●	●	◐	

Key: ● = permitted | ◐ = conditional | Blank = not permitted | ●/◐ = permitted or conditional per use standards

[1] Permitted uses on lots within airport restricted access areas shall be limited to those which do not require or encourage access or visits by the public and which provide technical administrative or other support to airport operations.

~~TABLE 6-F: PERMITTED AND CONDITIONAL USES IN RECREATION OPEN SPACE ZONE~~

	~~R-OS[1]~~	~~Use Standards~~
~~Cemeteries~~	~~●~~	
~~Marinas~~	~~●~~	
~~Parks and open space~~	~~●[2]~~	
~~Solar energy system (minor)~~	~~◐~~	~~6.4.16, 6.5.7(A)~~
~~Solar energy system (major)~~	~~◐~~	
~~Utility substations~~	~~●/◐[3]~~	~~6.5.6.L, 6.5.7(A)~~
~~Wharves, piers, docks, and landing ramps~~	~~●~~	
~~Wind energy system (minor)~~	~~◐~~	~~6.4.18, 6.5.7(A)~~
~~Wind energy system (major)~~	~~◐~~	

~~[1] Accessory uses within structures of 2,500 SF or more shall be treated as a conditional use under Subsection 6.5.7(A).~~

~~[2] Including active recreational uses, such as playgrounds, golf courses, fields, pools, courts, community gardens, marinas, and sports complexes and passive uses, such as arboretums and picnic areas.~~

~~[3] Sewage pumping and treatment facilities shall be permitted. Water pumping stations shall be treated as a conditional use under Subsection 6.5.7.~~

TABLE 6-G: PERMITTED AND CONDITIONAL USES IN OPEN SPACE ZONES

	OS-R[1]	OS-P	Use Standards
Cemeteries	●		
Cultural facilities	◐		
Marinas	●		
Parks and open space	●	●	6.4.29
Solar energy system (minor)	◐		6.4.38, 6.5.6
Solar energy system (major)	◐		
Stadiums	◐		6.5.6
Utility substations	●/◐		6.4.39, 6.5.6
Wharves, piers, docks, and landing ramps	●	◐	
Wind energy system (minor)	◐		6.4.41, 6.5.6

Key: ● = permitted | ◐ = conditional | Blank = not permitted | ●/◐ = permitted or conditional per use standards

[1] Accessory uses within structures of 2,500 SF or more shall be treated as a conditional use under subsection 6.5.6.

6.4 SUPPLEMENTAL USE STANDARDS

~~The following~~These standards shall apply to the following uses as indicated in Tables 6-A to 6-~~F~~G, whether permitted or conditional. Where a use is allowed as conditional, these standards apply in addition to the general conditional use standards in Section 6.5.

~~6.4.16.1.1. In general~~

6.4.1 In general

~~A. No building intended for use as a habitation shall be erected on a lot which has its only street frontage on a street less than 35 feet wide. No building shall be erected on a lot, except on the islands in Casco Bay, which does not abut a street meeting the minimum requirements for street improvements set forth in this subsection. For purposes of this subsection, street shall be as defined in Article 3, except that a dedicated street which may no longer be accepted due to lapse of time and an accepted street which may have been discontinued by abandonment shall also be deemed to be streets, provided that an applicant for a building permit respecting any lot abutting such street shall, without compensation or claim for damages, and at his or her own cost and expense, first submit to the Building Authority:~~

~~1. A deed from the owner of such lot conveying to the City all his or her right, title, and interest in and to such street or any portion thereof.~~

~~2. An agreement by such owner forever releasing the City from any and all claims for damages for the laying out and taking of such street and indemnifying the City against any and all other such claims, both such instruments to be executed and in recordable form acceptable to the Corporation Counsel and to encumber and run with the land.~~

~~B. For a lot abutting any portion of a street which is unimproved or improved but not permanently paved, that portion which abuts the lot, and any like portion between such portion and the nearest permanently paved street or portion which is the principal access to such lot, shall be improved, including sewers, storm drains, pavement, curbs and, if located on a designated school walking route, sidewalks, in accordance with the City of Portland *Technical Manual*. Where the nearest permanently paved street does not have granite curbing, the Public Works Authority may waive the requirement of curbing under this subsection, if it determines that an acceptable alternative drainage plan will be provided. Prior to the issuance of a building permit for erection of a building on a lot abutting any portion of a street which is unimproved or improved but not permanently paved, the following shall occur:~~

~~3. A plan of the street improvements required by this subsection shall be submitted to the Public Works Authority.~~

~~4. Upon determination by the Public Works Authority that the plan meets the street improvement requirements established by this subsection, a performance guarantee and inspection fee for said improvements shall be submitted to the City as set forth under Articles 14 and 15. Also as set forth in Articles 14 and 15, a one-year defect bond shall be tendered to the City prior to release of the performance guarantee~~

~~required hereby. The provisions of this paragraph (2) shall not apply to the erection of any single-family dwelling on any lot where the owner of the lot establishes that he or she was the owner of that same lot on November 19, 1984, and at all times thereafter, and states his or her intention under oath to make the structure his or her personal residence.~~

~~**C.** The requirements of this subsection shall not apply to the following city streets upon their construction by the Public Works Authority to such standards as are determined by the authority to be the most feasible:~~

~~**5.** Dingley Court.~~

~~**6.** Morgan Court.~~

~~**6.4.2 Additional residential use permissions**~~

~~**A.** *In island zones:* **Up to three units are permitted on any lawfully conforming lot. Such units shall comply with all dimensional requirements of the underlying zone except lot coverage and lot area per dwelling unit requirements. This exception shall not allow a lot to exceed 60% lot coverage unless permitted by the underlying zone.**~~

~~**B.** *In mainland zones where residential is a permitted or conditional use:* **Up to four units are permitted on any lawfully conforming lot. Such units shall comply with all dimensional requirements of the underlying zone except lot coverage and lot area per dwelling unit requirements. This exception shall not allow a lot to exceed 60% lot coverage unless permitted by the underlying zone.**~~

~~**C. Units created under this section 6.4.2 shall not be considered accessory dwelling units under Section 6.6.2(A).**~~

A. Street access. Unless specifically excepted under Section 7.4, a building or structure may only be constructed on or moved onto a lot, or a dwelling unit added to a lot, if one of the following conditions is met. These standards apply to all buildings and structures unless specifically exempted by this section.

1. *Existing, accepted streets.*

a. The lot has frontage on a paved and accepted City street with a minimum width of 10 feet on a one-way street and 20 feet on a two-way street, measured from curb to curb. In the absence of a curb, the minimum clear paved width shall be measured from the edge of the pavement, excluding sidewalks.

b. The lot has frontage on an accepted or continued street on an island in Casco Bay that meets a minimum width of 16 feet, measured from the edge of the pavement, or from the edge of the built surface if unpaved.

c. The required minimum width may be reduced, or the requirement waived on the islands only, if the Fire Chief and the Public Works Director or their designee(s) jointly determine that meeting the minimum width is impracticable and the City's ability to provide services will not be unreasonably impaired by a reduction in width.

2. *Streets to be improved in connection with development.* The owner or developer of a

lot that is not located on an existing, accepted (or in the case of the islands, continued) street that meets the minimum criteria established above shall improve the street in accordance with the following.

a. The street, between the lot and the nearest existing, accepted City street and including the frontage of the lot itself, shall be improved to meet the standards adopted elsewhere in this Code, including those adopted by the Public Works Authority and the Planning Authority. In the case of a corner lot, this shall apply to the frontage of the lot from which access is taken.

b. The street may be improved to an alternative standard if the Fire Chief and the Public Works Director or their designee(s) jointly determine that:

i. Meeting the standards adopted elsewhere in this Code is impracticable;

ii. There is limited potential for further development on the street or for further connections to the City's existing street network; and

iii. The City's ability to provide services will not be unreasonably impaired by a modification of the standards of this Code.

c. The owner or developer shall take all necessary steps under Chapter 25, Article III, of the City Code to dedicate the improved portion of the street to the City for acceptance. This shall include provision of a waiver of any claim for damages that may result from acceptance.

3. *Exceptions.* On lots with an existing, inhabited structure or structures on an unaccepted City street, the following buildings and structures are exempt from the requirements of this subsection.

a. Accessory buildings not intended for habitation.

b. The addition of one accessory dwelling unit within an existing single-family dwelling.

~~6.4.3~~6.4.2 Adult business establishments

A. Adult business establishments shall be located at least 1,000 feet from any other adult business establishment, and at least 500 feet from any residential zone, as measured in a straight line from the nearest point of the lot line on the lot which the use is proposed to the nearest point of the lot line on the lot where the other use or zone is located, without regard to intervening structures or objects.

B. No sexually explicit materials, entertainment, or activity shall be visible from the exterior of the premises.

6.4.3 Agriculture

A. No animals shall be kept on any lot less than three acres or closer than 100 feet to any street or lot line, except domesticated chickens as regulated in Chapter 5 of the City of Portland Code of Ordinances.

B. Raising of domesticated animals as a component of any agricultural use shall not create any odor, noise, health, or safety hazards, or other nuisance to neighboring properties.

C. Raising of pigs or reptiles is not permitted.

6.4.4 Animal-related services

A. In the B-4, I-L and I-Lb zones, animal-related services may not include kennel or boarding facilities.

B. No animal-related service may include outdoor kennel facilities.

C. Any exterior training and exercise areas shall be located in a side or rear yard only, and shall be completely fenced.

D. Exterior training and exercise areas are not permitted within 200 feet of a residential zone.

6.4.5 Automobile, boat, and related dealerships and auto service stations

A. Automobile, boat, and related dealerships shall not be allowed in the B2-b zone.

B. In the B-2b zone, auto service stations shall only be permitted as an expansion of an auto service station in existence as of 11/15/1999.

C. Signs shall not adversely affect visibility at intersections or access drives. Signs shall be constructed, installed, and maintained so as to ensure the safety of the public, and shall advertise only services or goods available on the premises.

D. No ingress and egress driveways shall be located within 30 feet from an intersection. No entrance or exit for vehicles shall be in such proximity to a playground, school, church, other place of public assembly, or any residential zone that the nearness poses a threat or potential danger to the safety of the public.

E. A landscaped buffer, no less than five feet wide, shall be located along street frontages (excluding driveways). The buffer shall consist of a variety of plantings in accordance with the City of Portland *Technical Manual.*

F. Car washes shall be designed to avoid the tracking of residual waters into the street.

~~6.4.4~~6.4.6 Bars ~~and restaurants~~

~~6.4.5~~ In the B-6 zone

A. ~~No~~, no bars located east of Waterville Street shall be permitted within 50 feet of Fore Street.

~~**B.** Restaurants located east of Waterville Street within 50 feet of Fore Street shall be limited in hours of operation to between 5 a.m. and 11 p.m. each day and food service and consumption shall be the primary function of the restaurant.~~

~~6.4.6~~6.4.7 Bed and breakfasts

A. Bed and breakfasts in the RN-4, RN-5, and RN-6 zones are allowed only as conversions of residential structures existing as of 3/3/1997. Such uses are a permitted use if they contain four or fewer guest rooms, and a conditional use if they contain five to nine guest rooms.

~~**C.**~~**B.** In the ~~R-6~~RN-4, RN-5, and ~~R-6a~~RN-6 zones, the minimum ~~gross floor~~lot area for bed and breakfasts shall be 2,000 square feet for the first three guest rooms and 500 square feet for each additional guest room.

~~**D.**~~ In ~~all mixed-use zones except~~ the I-B ~~1/B-1b zones~~ zone, bed and breakfasts ~~may include a meeting facility limited to use for private parties, business meetings, weddings, receptions, seminars, or business and educational conferences, provided that:~~

~~**7.** *In the B-2/B-2b/B-2c zones,*~~ are permitted on Peaks Island only. The ~~meeting facility must~~minimum lot area for bed and

breakfasts shall be ~~less than 4~~5,000 square feet~~.~~

~~8.~~C. ~~*In the B-3/B-3b/B-3c zones. The building in which the*~~ for the first three guest rooms and 5,000 square feet for each additional guest room. When not served by public water and sewer, a bed and breakfast ~~and meeting facility will be located must have existed on March 3, 1997 and have been greater than 4~~in the I-B zone shall require 10,000 square feet ~~in floor~~of lot area ~~on that date.~~ per guest room.

~~6.4.7~~6.4.8 Campgrounds

A. Campgrounds shall not include recreational vehicles.

~~**B.** Campgrounds shall be licensed by the State of Maine Department of Human Services.~~

~~**C.**~~**B.** No tent shall be located within 75 feet of the perimeter of site.

~~**D.**~~**C.** The land area of the campground shall not be less than the equivalent of 5,000 square feet of land area per tent site exclusive of the roadway network.

6.4.9 Child care centers and small child care facilities

A. Outdoor play areas shall be screened and buffered from surrounding residences with landscaping and/or fencing to minimize visual and noise impacts.

B. Solid waste shall be stored in covered containers. Such containers shall be screened on all sides.

C. In residential and island residential zones, the following additional standards apply:

1. Outdoor play areas shall be located in the side or rear yards only, and shall be screened from adjacent properties by a fence or wall at least 48 inches in height.

2. A 10-foot-wide landscaped buffer shall be required between the fence and the adjacent property line.

3. The minimum lot area for a child care center shall be 10,000 square feet.

~~6.4.8~~6.4.10 Commercial and service uses in the B-1~~/B-1b zones~~ zone

A. Commercial and service uses in the B-1 zone shall be permitted provided that such uses generate less than 100 peak hour vehicle trips per 2,000 square feet of floor area and less than 100 peak hour vehicle trips in total.

~~**B.** Retail and restaurant uses shall not operate between the hours of 11 p.m. and 6 a.m., and shall not accept deliveries or services between the hours of 10 p.m. and 7 a.m. For restaurants, food service and consumption shall be the primary function.~~

B. No beverage container redemption centers shall be permitted. ~~Beverage dealers shall be permitted as a retail use provided that the maximum total floor area for redemptions~~

6.4.11 Dairies

In the B-2 and B-2b zones, dairies are permitted only if an expansion of an existing dairy.

6.4.12 Dwellings, multi-family

A. Use limitations

1. In the RN-1 and RN-3 zones, multi-family dwellings are allowed only as conversions of existing nonresidential structures.

2. In the I-B zone, multi-family dwellings are allowed only as ~~an accessory use, including the storage~~conversions of ~~spent~~

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~~containers, shall be no greater than~~ existing residential or nonresidential structures.

B. Conversion standards

1. No multi-family conversion is allowed in an existing structure with less than 1,500 square feet ~~or 10%~~ of ~~the total~~habitable floor area.
2. Any new off-street parking provided for multi-family conversion of ~~the facility, whichever is less~~existing residential structures shall be located to the side or rear of the structure.

~~C.~~

~~**6.4.9 Correctional pre-release facilities**~~

~~**6.4.10** No correctional prerelease facility shall be located within 1,000 feet of another, as measured in a radius from the center of the lot~~

~~**6.4.11** If a facility requires state or federal licensing, staffing of the facility shall be as required by such license. If a facility does not require state or federal licenses, there shall be a minimum of one staff person for every 10 residents or fraction thereof. The facility shall provide 24-hour supervision of program participants.~~

6.4.13 Dwellings, townhouse

A. For townhouse dwellings, interior side setback requirements do not apply to the interior side yard where the party wall for the structure is located. Such requirements only apply to end units without an attached party wall.

B. There shall be a minimum separation of 15 feet between exterior sidewalls of townhouse buildings. Where the front or rear wall of a townhouse faces the front or rear wall of another townhouse, the minimum required separation between such buildings shall be 30 feet. Driveways and parking areas may located within this minimum separation area.

6.4.14 Emergency shelters

A. In the B-3 zone, no emergency shelters shall be permitted north of Oxford Street.

B. The facility shall provide adequate space for conducting security searches and other assessments.

C. The facility shall be designed with a centralized shelter operations office on each level providing sightlines to sleeping areas.

D. A management plan adequately outlining the following areas shall be provided: management responsibilities; process for resolving neighborhood concerns; staffing; access restrictions; on-site surveillance; safety measures; controls for resident behavior and noise levels; and monitoring reports.

A. Adequate access to and from fixed route transit service shall be provided. The facility shall be within a ¼ mile of fixed route transit service, or shall be within ½ mile of fixed route transit service and provide adequate indoor space to permit all shelter guests day shelter, as well as implement strategies to help residents utilize transit.

B. The facility shall provide on-site services to support residents, such as case management, life skills training, counseling, employment and educational services, housing assistance, or other programs.

C. Suitable laundry, kitchen, pantry, bicycle storage, and secure storage facilities for shelter stayers shall be provided on-site.

D. An outdoor area for guest use shall be provided on-site with adequate screening to protect

privacy of guests.

6.4.15 General offices and general services

A. General office and general service uses in the I-B and B-1 zones are limited to a maximum of 5,000 square feet of gross floor area.

B. General office uses in the I-L and I-Lb zones shall be limited to those involving minimal public visitation and minimal direct service to the general public, primarily to provide support services to larger organizations such as educational institutions, social service agencies, or business headquarters.

6.4.16 Greenhouse/nursery (retail)

A. In the I-B zone, the indoor display of retail goods and point of sale area shall be limited to a maximum of 1,000 square feet.

6.4.17 Group homes

A. Group homes shall be subject to the minimum lot area requirements for nonresidential uses.

~~**D.**~~**B.** A group home shall not be located within 500 feet of another, as measured ~~in a radius from the center of the lot.~~ along street lines to the respective property lines.

A. The Board of Appeals or Planning Board may impose conditions upon a conditional use permit concerning the creation or operation of a group home including but not limited to the following: site and building maintenance; lighting, fencing, and other appropriate security measures; screening and buffering of parking areas; compatibility of any additions or alterations with the existing residential structure; and compatibility of new structures with the architectural character of the surrounding area.

~~6.4.12~~6.4.18 Hostels

A. An operations plan ~~must~~shall be submitted demonstrating that:

~~**E.**~~**1.** No unaccompanied minors under the age of 18 shall be permitted in the facility.

~~**F.**~~**2.** The length of stay for transient ~~guess~~guests shall not exceed 15 days within any 60-day period.

~~**G.**~~**B.** In the ~~R~~RN-4, RN-5, and RN-6 ~~zone, for~~zones, hostels ~~greater~~are permitted if for no more than 10 overnight transient guests, ~~a minimum of 250 square feet of land area~~and conditional if for between 11 and 20 overnight transient guests. No more than 20 overnight transient guests shall be ~~required per hostel guest~~permitted.

~~**H.**~~**C.** In the B-1~~/B-1b zones~~ zone, no more than 20 overnight transient guests shall be permitted.

6.4.19 Hotels

A. Hotels in the I-B zone are limited to a maximum of 50 guest rooms.

B. The minimum gross floor area for hotels in the I-B zone shall be 5,000 square feet for the first three guest rooms and 5,000 square feet for each additional guest room. When not served by public water and sewer, a hotel in the I-B zone shall require 10,000 square feet of lot area per guest room.

C. Hotels shall not be permitted in the B-2b zone.

D. Hotels in the B-6 zone are limited to a maximum of 150 guest rooms.

6.4.20 Impound lots

Impound lots shall be at least 300 feet from any residential zone or lawfully conforming residential use.

~~6.4.13~~6.4.21 Lodging houses

A. In the RN-3 and RN-4 zones, lodging houses are allowed only as conversions of existing two-family, three-family, four-family, or multi-family residential structures, provided that the lodging house shall not be located within 500 ft. of another as measured along street lines.

B. Lodging houses shall be subject to the minimum lot area requirements for nonresidential uses.

C. Individual rooming units in a lodging house shall be a minimum of 70 square feet in area.

~~I.~~D. Lodging houses shall provide a minimum of 200 square feet of combined rooming unit and common area per rooming unit.

~~A.~~E. Lodging houses, except for lodging houses located in the IR-2~~, IR-3,~~ and I-B zones, shall contain common areas for use by ~~all~~ residents, including a kitchen. A kitchen need not be available as a part of the common areas where all meals are provided on a daily basis.

F. In the IR-2 and I-B zones, lodging houses are allowed with no more than nine rooming units. When not served by public water and sewer, lodging houses shall require 10,000 square feet of lot area per rooming unit.

~~**B.** Lodging houses shall provide a minimum of 200 square feet of combined rooming unit and common area per rooming unit.~~

~~**C.** Each individual rooming unit shall be a minimum of 70 square feet.~~

6.4.22 Low-impact industrial

A. Low-impact industrial in the B-1, B-2b, B-3, and B-6 zones is limited to a maximum of 10,000 square feet in gross floor area.

B. In the B-6 zone, no brew pubs or microbreweries east of Waterville Street shall be permitted within 50 feet of Fore Street.

A. When a low-impact industrial use is located in any mixed-use zone, the following standards apply:

1. All circulation and maneuvering, including loading, unloading, and turnaround areas, must be located on site. No maneuvering, loading, or unloading may happen in the right-of-way.

2. Truck loading, unloading, and access shall be located in the rear or interior side yard where possible.

3. Shared infrastructure shall be utilized to the extent practicable, including but not limited to service alleys, parking areas, stormwater treatment, public transportation facilities, and driveways.

~~6.4.14~~6.4.23 Marijuana-related uses

A. The following standards apply to the following marijuana-related uses:

1. Marijuana cultivation facilities.

2. Marijuana manufacturing facilities.

~~**3.** Marijuana products.~~

~~4.~~3. Marijuana retail stores.

~~5.~~4. Marijuana testing facilities.

~~6.~~5. Small-scale marijuana caregivers.

~~7.~~6. Registered dispensaries.

B. Location criteria

1. No marijuana cultivation facility, marijuana manufacturing facility, marijuana testing facility, small-scale marijuana caregiver, marijuana store, or registered dispensary

may be located within 500 feet of a pre-existing public school, private school, or a public preschool program, as defined by 20-A M.R.S. § 1. Distance shall be measured in a straight line from the nearest ~~property line of the respective marijuana-related use and the property line~~ point of the lot ~~containing~~line on the lot which the use is proposed to the nearest point of the lot line on the lot where the public school, private school, or public preschool program is located, without regard to intervening structures or objects.

2. No marijuana cultivation facility, marijuana manufacturing facility, or marijuana testing facility may be located within 300 feet of ~~the following residential zones: R-1, R-2, R-3, R-4, R-5/R-5A, R-6/R-6A, or R-7. Distance shall be measured from the nearest outer wall of the building housing the marijuana cultivation, manufacturing, or testing facility to the nearest applicable residential zone boundary. If the marijuana-related facility leases a room or suite of rooms within a building, including, without limitation, individual units within a shopping plaza or shopping mall, the nearest outer wall of the room or suite of rooms within which the facility is located shall constitute the nearest outer wall of the building housing that facility~~any residential zone. Distance shall be measured in a straight line from the nearest point of the lot line on the lot which the use is proposed to the nearest point of the lot line on the lot where the residential zone is located, without regard to intervening structures or objects.

~~**C. Supplemental standards**~~

C. Marijuana~~-related uses may only be~~ retail stores and registered marijuana dispensaries shall be permitted ~~within~~uses in the B-2 zone, and shall not be permitted in the B-2b zone.

D. Marijuana retail stores and registered dispensaries may not exceed a ~~fully enclosed building~~maximum gross floor area of 2,000 square feet.

E. Marijuana cultivation facilities shall be limited to less than 2,000 square feet of plant canopy in the I-L/I-Lb zone and less than 7,000 square feet of plant canopy in the I-M/I-Mb zone.

~~**3. No outside storage of marijuana, marijuana products, or related supplies is permitted.**~~

~~**4. No drive-through service is permitted for marijuana-related uses.**~~

~~**5. No marijuana or marijuana product shall be smoked, eaten, or otherwise consumed or ingested on the premises where sold.**~~

~~**6. An operating plan for marijuana cultivation facilities and marijuana manufacturing facilities shall be provided that, at a minimum, addresses wastewater, disposal of waste, and security at the premises.**~~

~~**7. A ventilation plan shall be included for marijuana cultivation facilities, marijuana manufacturing facilities, and small-scale marijuana caregivers that provides for adequate ventilation so as to prevent pesticides, insecticides, or other chemicals used in the cultivation or processing of marijuana or marijuana-related products from being dispersed or released outside the premises. The plan shall further provide for resulting smoke, vapor, fumes, gases, and particulate matter from~~

~~marijuana or its processing or cultivation to be effectively confined to the premises.~~

~~8.~~**F.** ~~Marijuana-related uses shall provide odor control measures so that odor generated on site is mitigated at the property line of the lot containing the marijuana-related use. Applications must demonstrate appropriate measures, such as carbon filtration, ventilation and exhaust systems, facility plans, or other additional practices adequate to mitigate odors for the scale of operations for the uses proposed~~.

~~D.~~**G.** For purposes of this ordinance, any approval issued for a marijuana cultivation facility, marijuana manufacturing facility, or marijuana testing facility operated pursuant to 22 M.R.S. § 2421 et seq. shall be deemed to constitute approval for the same corresponding marijuana cultivating, manufacturing, or testing facility use operating under 28 M.R.S. § 101 et seq. Notwithstanding the above, no marijuana cultivation facility, marijuana manufacturing facility, or marijuana testing facility may operate without the applicable state and City license.

~~6.4.15~~6.4.24 Marine uses

~~E.~~ In the B-5~~/B-5b and B-6 zones~~ zone, marine uses shall include marine products wholesaling and retailing ~~and~~; harbor and marine supplies and services~~.~~

~~F.~~**A.** ~~In the B-5/B-5b zones, marine uses shall include~~; marine repair services and machine shops; shipbuilding and facilities for the construction, maintenance, and repair of vessels; marine museums and aquariums; boat repair yards; boat storage; and seafood processing, packing, and distribution for human consumption.

~~G.~~**B.** In the B-6 zone, marine uses shall include marine products wholesaling and retailing; harbor and marine supplies and services; and underground marine fuel storage provided that such storage shall be used solely for the purpose of fueling vessels.

6.4.25 Market garden

A. Market gardens may be located outdoors or fully enclosed within a permanent building, subject to the following:

1. Outdoor market gardens are limited to the cultivation of herbs, fruits, flowers, or vegetables, including the cultivation and tillage of soil and the production, cultivation, growing, and harvesting of any agricultural, floricultural, or horticultural commodity.

2. The keeping of livestock, chickens or other poultry, and apiaries are prohibited.

3. Greenhouses, including high tunnels/hoop-houses, cold-frames, and similar structures, are permitted to extend the growing season.

4. Accessory structures, including but not limited to a shed or utility building necessary for the use's operation may be allowed for the storage of tools and materials. All accessory structures shall be located a minimum of five feet from any lot line.

5. Farmstands are permitted, and are limited to sales of items grown at the site. Farmstands shall be removed during the time of the year when the use is not in operation. Only one farmstand is permitted per market garden.

6. When located in a fully enclosed permanent building, market gardens may include all of the forms of cultivation and production allowed for outdoor market gardens, as well as hydroponics, aquaponics, myco-culture, and other similar indoor crop-production techniques.
7. Market gardens within a fully enclosed permanent building may include an area within the building for sales of items grown at the site. Such sales area may occupy no more than 15% of the floor area devoted to the principal use.

B. In the B-3, B-5, and B-6 zones, market gardens shall only ~~if the~~ be permitted within an enclosed structure.

6.4.26 Neighborhood nonresidential reuse

A. Neighborhood nonresidential reuse is only allowed within existing structures that are nonresidential in their original construction and/or current principal use as of the effective date of this Code.

B. The following nonresidential uses are permitted within a neighborhood nonresidential reuse. The initial conditional use approval for the neighborhood nonresidential reuse may specify one or more uses under the list below. A modification of the conditional use approval is required for a change to any of the uses below which were not specified in the initial or subsequent conditional use approval.
1. General offices <5,000 square feet
2. General services <5,000 square feet
3. Restaurants
4. Retail <5,000 square feet
5. Specialty food service
6. Studios for artists and craftspeople

C. No off-street parking is required for a neighborhood nonresidential reuse.

D. Drive-through facilities are prohibited for any neighborhood nonresidential reuse.

E. Neighborhood non residential reuses shall comply with the performance standards of the B-1 zone.

6.4.27 Off-street parking

A. In the B-3 zone, structured parking is a permitted use. Surface parking within the B-3 zone shall be allowed as a conditional use.

B. Surface parking in the B-3 and B-6 zones is subject to the following standards:
1. Surface parking lots shall be laid out in a manner conducive to development of future buildings, and/or structured parking on site.
2. All surface parking areas, including parking aisles, shall be located a minimum of 35 feet from any street. This 35-foot setback shall not apply to access drives oriented perpendicularly to a street.

C. In the B-3, B-5, and B-6 zones, structured parking is subject to the following standards:
1. Parking structures shall incorporate ground-floor retail space or other non-parking and active use space along all street frontages. Such retail or active space shall maintain a minimum depth of 30 feet from all street-facing façades of the structure.
2. The Planning Board may waive the requirement for ground-floor retail or other non-parking and active use space upon demonstration that the project meets at least one of the following criteria:

a. The applicant demonstrates that steepness of grade or the character of the adjacent street does not support retail or other non-parking and active use space.

b. The ground floor of the garage is set back a minimum of 35 feet from the street right-of-way, and its design does not serve as an impediment for the development ~~standards:~~of space between the structure and the right-of-way for retail or other non-parking and active use in the future. Any such space located between the structure and the right-of-way shall not be used for surface parking.

c. The applicant demonstrates, to the satisfaction of the Planning Board, that market support for ground floor retail or other non-parking active uses does not currently exist. In such cases, the structure of the garage shall be designed to accommodate such spaces in the future as follows:

i. On the ground floor of a structure, a minimum of 30 feet in depth, measured from the façade of the structure, shall be designed to accommodate retail or active uses in the future.

ii. Such space shall maintain a minimum height of 12 feet from finished floor to finished ceiling. Where a parking structure fronts on more than one public street, and where there is an existing change in grade elevation of over 5% across the footprint of the garage, this requirement only applies to the frontage facing the street with higher traffic volumes.

iii. The applicant must demonstrate that the design of the parking structure anticipates the future development of utilities and circulation necessary to support non-parking active uses.

3. In cases where the Planning Board waives the requirement for ground-floor retail or other non-parking and active use space, garages shall be designed to enhance the pedestrian experience and disguise the parking use to the greatest extent possible. Use of traditional storefront design concepts and traditional building materials is encouraged.

6.4.28 Office parks

A. Office parks shall have a minimum gross area of three acres of contiguous land, ~~consisting of either an Office Park Planned Unit Development (OPPUD) on one lot with one or more buildings and with driveways and open areas to be owned and maintained in common, or an office park subdivision (OPS) on one parcel~~and may be developed with ~~two or more lots intended for separate~~multiple buildings on a single lot under common ownership~~.~~, or as a coordinated development on multiple parcels under unified control or management.

B. ~~Development~~Office park development proposals shall include a master plan of the office park. ~~The master plan~~, which shall include the following:

1. ~~*For an OPPUD proposal.*~~ The location of the building(s) on the site~~;~~.

2. The location of infrastructure ~~of~~on the site~~; identification~~.
3. The location of all common areas and landscape buffers.
4. Identification of traffic circulation patterns, traffic controls, and parking areas, including demonstration that additional traffic generated by the project itself can be reasonably accommodated on existing public streets.
5. Identification of internal sidewalks, illustrating the manner in which the developer will provide this amenity to take advantage of the topography and natural features of the site.
6. Building elevation drawings which indicate architectural style, exterior finishes and color, building height and scale, and location and scale of window and door openings. Samples of exterior building materials shall also be submitted.
7. ~~; traffic circulation, architectural character~~The location and ~~treatment~~style of lighting to be used in the ~~building(s);~~development.
8. Identification and description of all proposed ~~building envelopes;~~signage.
9. A description of phasing and timing of the development~~;~~.
10. A description of any proposed private development restrictions~~; and such~~.
11. Delineation of the subdivision of land, if proposed as a coordinated development on multiple parcels.
~~1.~~12. Any other information necessary and sufficient to ensure compliance with the standards in this subsection.

~~2. *For an OPS proposal.* Delineation of the subdivision of land; infrastructure of the site; identification of common areas, if any; traffic circulation; desired architectural character, including private development restrictions to ensure compatibility of architectural character of future buildings with each other; phasing and timing of the development; private development restrictions; and such other information as necessary and sufficient to ensure compliance with the standards in this subsection.~~

~~C. Development proposals shall demonstrate a reasonably unified design of the site, including the architecture, the layout of the buildings, pedestrian and vehicular circulation plan, open space, drainage, and the topography, soil conditions, vegetation and other natural features of the site. Integration of open spaces and natural features shall be achieved by incorporation of outdoor amenities for the benefit of users of the site, such as jogging and walking trails, gardens, and benches.~~

C. ~~Development proposals~~Office parks shall include a landscape program~~.~~ that meets the following standards.

1. All land areas not covered by structures, parking areas, or circulation facilities shall be landscaped and maintained. ~~In order to~~

~~D.~~2. To soften the visual impact of large expanses of pavement in parking lots, vegetation shall be planted or retained in islands or planting strips where required by the site plan or subdivision ordinance.

~~E. Parking may not~~ Landscape buffers shall be ~~located in the required front setback. If parking is~~ provided ~~in the area between the building~~

and minimum setback line, the parking area must be adequately screened with landscaping materials and permanently maintained.

F. Development proposals shall include internal sidewalks, illustrating the manner in which the developer will provide this amenity to take advantage of the topography and natural features of the site.

G.3. Development proposals shall include buffering yard to screen areas abutting a residential zone or residential use, and to screen parking lots and driveways from public view, identifying the location, composition, and maintenance of the buffer. The buffer and screening shall be of a dense and continuous nature and shall incorporate trees, shrubs, fencing, berms, and related elements deemed necessary.

H.D. Development proposalsOffice parks shall identify consider and be sensitive to the extent to which the developer shallneed to preserve natural features includingon site. Natural features include, but are not limited to, existing vegetation, flood plainsfloodplains, rock outcroppings, surface water bodies, drainage swales and courses, and wetlands; provided any such program shall consider and be sensitive to the need to preserve such natural features.

I. Development proposals shall identify all proposed traffic controls, parking areas, interior traffic circulation, and demonstrate that additional traffic generated by the project itself can be reasonably accommodated on existing public streets.

J.1. All buildings shall be designed or approved by a registered architect in the State of Maine and shall be in conformance with the proposed master plan. The scale, texture, color and massing of the buildings shall be coordinated. The full range of high quality, permanent, and traditional or contemporary building materials and technology may be incorporated in a manner so that the development as a whole embodies distinguishing attributes that achieve the developer's desired degree of excellence and are in conformance with the architectural guidelines provided in the private development restrictions. Particular emphasis shall be placed on the appearance of building facades from public streets, from driveway and parking areas, and from other nearby buildings. Building elevation drawings shall be submitted which indicate architectural style, exterior finishes and color, building height and scale, and location and scale of window and door openings. Samples of exterior building materials shall also be submitted.

K.E. Development proposals shall identify the location and style of lighting to be used in the development. All light fixtures shall be hooded or shielded so that the light shines downward.

6.4.29 Parks and open spaces

In the OS-P zone, parks and open spaces shall be limited to passive recreational use, including but not limited to trails and paths for pedestrians and bicyclists, and areas for fishing, hiking, wildlife management and conservation activities. Essential services shall also be permitted.

6.4.30 Places of assembly

A. In all RN zones, construction of a new principal building as a place of assembly is permitted only on lots with frontage on collector or

arterial roads. Places of assembly are allowed on streets of any classification as adaptive reuse of existing structures that are nonresidential in their original construction and/or current use as of the effective date of this Code.

B. Places of assembly in the B-1, I-L, and I-Lb zones are limited to 10,000 square feet or less in gross floor area.

6.4.31 Post-secondary schools

A. In any residential zone, expansion of existing post-secondary schools onto land other than the lot(s) on which the principal use is located shall be subject to a determination that the proposed use cannot be reasonably accommodated on the existing lot(s) through more efficient utilization of land or buildings, and will not cause significant physical encroachment into established residential areas.

B. In any residential zone, a new post-secondary school or expansion of an existing post-secondary school shall not cause displacement or conversion of existing residential uses.

6.4.32 Printing and publishing

Printing and publishing in the B-3, B-5, B-6, and O zones is limited to a maximum of 10,000 square feet in gross floor area, unless an expansion of a printing and publishing establishment greater than 10,000 square feet and in existence as of 4/4/1988.

6.4.33 Recycling and solid waste disposal facilities

Within the I-M/I-Mb zone, recycling and solid waste disposal facilities are permitted within an enclosed structure only.

6.4.34 Restaurants

~~L.~~ In the B-1 zone, restaurants are limited to a maximum of 2,000 square feet in gross floor area, shall not operate between the hours of 11 p.m. and 6 a.m., and shall not accept deliveries or services between the hours of 10 p.m. and 7 a.m. ~~Development proposals shall identify all proposed signage. Signs shall be designed in proportion and character with the building facades. All signs shall be constructed of permanent materials and shall be coordinated with the building and landscaping design through the use of appropriate materials and finishes.~~

~~6.4.16 Planned unit development in the IR-3 zone~~

~~In addition to other applicable reviews, no development shall occur nor shall any new use be established in the IR-3 zone unless the Planning Board finds that the final development plan for the site is in compliance with the following standards:~~

~~M. The development shall demonstrate a reasonably unified response to the design possibilities of the site, by virtue of such elements as the design and layout of buildings and lots, circulation plan, open space, drainage, and orientation to achieve energy conservation or solar access, to form a functionally integrated whole.~~

~~N. The design and layout of the development and buildings shall be reasonably compatible with the surrounding neighborhood by virtue of such features as architectural style, exterior finish, scale, circulation, open space, landscaping, and preservation of natural site amenities.~~

~~O. All open spaces on the site shall be functionally integrated into the development plan by virtue of such features as accessibility to residents, recreation, conservation of existing public rights of access to shoreland areas and scenic natural areas, orientation to achieve energy conservation or solar access, preservation of natural site amenities, and use as a buffer between the development and the surrounding neighborhood.~~

~~P. The development shall be designed primarily with a pedestrian orientation to minimize the use of and dependency on private motor vehicles. Appropriate areas on the site shall be designated, as necessary, for parking of common service vehicles, golf carts or bicycles to serve the transportation needs of residents and visitors. The internal circulation plan shall also be coordinated with the existing island street network to ensure adequate access for emergency and service vehicles.~~

~~Q. A project construction plan shall be developed indicating the anticipated number and types of vehicles such as construction equipment, supply delivery and service vehicles needed for undertaking the construction of the project. Documentation shall be provided as to the proposed transportation route such as roads, piers, beaches, sand bars and the impact of construction related activities on the routes.~~

~~R. The development shall not have a substantial adverse impact on the capacity of existing island docking facilities. The developer shall demonstrate that an adequate water transportation system, including docking facilities, exists or will be provided.~~

~~S. Adequate provision for off island solid waste disposal shall be demonstrated such that the impact on municipal solid waste disposal is minimized. A development shall incorporate methods such as the following to reduce the amount of solid waste generated by the project: compaction and reduction in waste volume, recycling, incineration or baler system, and private collection and transfer to an off-island location. It shall be demonstrated that there will be no significant environmental impacts from the solid waste disposal system.~~

~~T. All sanitary waste from the development shall be disposed of by a public sewer, private community sewer system providing at least secondary treatment, or subsurface sewerage system, in compliance with federal, state and local regulations. The developer shall demonstrate that the project will comply with all applicable federal, state and local water quality and groundwater standards.~~

~~U. The proposed development shall have sufficient water for the reasonably foreseeable needs of the development and shall not cause an unreasonable burden on existing water supply nor adversely affect groundwater resources. Unless the development is to be served entirely by public water and secondary treatment sewer systems, the determination of compliance with this provision shall be based upon one or more comprehensive groundwater analyses and reports prepared by qualified professionals and including assessment of current groundwater aquifer conditions, the impact of the proposed development on the groundwater aquifer, and recommendations for mitigation of potential impacts caused by the development.~~

~~V. The development shall preserve the natural features of the shoreland area by minimizing~~

~~the disturbance of existing vegetation and slopes, avoiding development in areas subject to erosion and sedimentation, and conserving scenic views and vistas to and from the site.~~

~~**W.** The development plan shall preserve significant resources of the site by integrating open space into the development plan and by conserving such features as scenic vistas, historic man made or natural features, existing vegetation, wetland areas, shoreland areas, ground water, natural wildlife habitat, and recommended or registered State of Maine Critical Land Areas, as well as other environmentally sensitive areas.~~

~~**X.** All open spaces on the site shall be functionally integrated into the development plan by virtue of such features as passive and active recreational opportunities, accessibility to residents, preservation of natural site amenities and resources, orientation to achieve energy conservation or solar access, use as a buffer between housing clusters and to screen the development from surrounding areas.~~

~~**Y.** The applicant shall demonstrate sufficient financial and technical capability for undertaking the proposed project. Financial capability shall include a cost estimate of the proposed improvements, proposed construction and permanent financing, and terms of sale or lease of dwellings and commercial space. Technical capacity shall include the experience and expertise of the developer in implementing projects of similar scope.~~

~~**Z.** The applicant shall develop an environmental impact analysis including an inventory of existing environmental conditions at the project site and in the surrounding area with an assessment of the development's probable impact upon the environment. The inventory shall include such resources as air, water quality, water supply, surface water and shoreline, geology, soils, topography, wildlife, botanical and aquatic, including rare and endangered species, historic, archeological and aesthetic. The analysis shall include the direct and cumulative adverse impacts of the project on these resources. The analysis shall also include what steps the applicant proposes to take to identify and minimize adverse environmental impacts during construction, management and use of the property and whether there are alternatives for the project which would decrease the impact of the development.~~

~~**AA.** If the project is to be completed in phases, the applicant shall indicate the schedule for completing and implementing infrastructure improvements as well as other improvements, agreements or services required for compliance with the development standards of this subsection, planned unit development standards, and site plan and subdivision review requirements.~~

~~**BB.** The development shall not place an unreasonable burden on the ability of the City to provide police, fire, and other emergency services.~~

A. Food service and consumption shall be the primary function.

B. In the B-6 zone, restaurants located east of Waterville Street within 50 feet of Fore Street shall be limited in hours of operation to between 5 a.m. and 11 p.m. each day, and food service and consumption shall be the primary function of the restaurant.

6.4.35 Residential care facilities

In the residential zones, large residential care facilities shall require a minimum lot area of 20,000 square feet.

~~6.4.17~~6.4.36 Retail ~~in the B-3/B-3b/B-3c and B-5/B-5b zones~~

A. In the I-B zone, retail uses are limited to a maximum of 10,000 square feet in gross floor area.

B. In the B-1 zone, retail uses are limited to a maximum of 5,000 square feet in gross floor area, and shall not operate between the hours of 11 p.m. and 6 a.m., and shall not accept deliveries or services between the hours of 10 p.m. and 7 a.m.

C. Retail in the B-3 and B-5 zones shall not include wholesale ~~and~~or bulk purchase sales of lumber and construction ~~supply sales~~supplies, truck rental establishments, sales, rental, and repair of heavy equipment, or wholesale establishments, including establishments where membership is required.

6.4.37 Self-storage facility

A. Storage units shall not be used for residential occupancy or business.

B. Plumbing connections shall not be permitted in self-storage units.

C. The following additional standards apply to self-storage facilities with units accessed directly from the outdoors:

1. Outdoor self-storage facilities shall be oriented so that storage unit access doors do not face the public right-of-way.

2. Outdoor self-storage facilities are allowed to include an area for storage of recreational vehicles. Storage areas for recreational vehicles shall be located in the rear yard.

3. No storage of recreational vehicles is allowed within 25 feet of any rear lot line. No storage of recreational vehicles is allowed within 30 feet of any interior side lot line. No storage of recreational vehicles is allowed within 50 feet of any front or corner side lot line.

4. If storage areas for recreational vehicles are provided, they shall be screened along interior side and rear lot lines with a solid fence or wall, a minimum of six feet and a maximum of seven feet in height. Shrubs shall be planted and spaced sufficiently to form a continuous linear hedgerow at plant maturity; plantings shall be placed inside the fence oriented toward the interior of the lot.

~~6.4.18~~6.4.38 Solar energy systems (major and minor)

A. In general

~~CC.~~1. All solar energy systems shall meet the technical, safety, and maintenance standards in the City of Portland *Technical Manual*.

2. Solar energy systems shall minimize impacts resulting from construction and maintenance of the solar energy system, including lighting, security measures, traffic, and grid connections.

~~DD.~~3. Solar panel placement ~~should~~shall minimize or negate any solar glare impacting nearby properties or roadways, without unduly impacting the functionality or efficiency of the solar energy system.

~~**EE.** All applicants are encouraged to ensure the maximum solar energy generation from their system by obtaining solar access easements. Solar access easements may be filed consistent with Maine state law.~~

B. ~~Solar~~Ground-mounted solar energy systems

1. Ground-mounted solar energy systems are only permitted in the B-4, I-L, I-Lb, I-M, I-Mb, I-H, and A-B zones.

~~**FF.**~~**2.** Ground-mounted solar energy systems shall be located away from and screened from public ways and nearby residential/institutional uses to the extent possible and shall be designed ~~so as~~ to minimize impacts on significant scenic views.

~~**GG.**~~**3.** Layout and fencing for ground-mounted systems shall be integrated with existing landscape and minimize removal of vegetation to the extent possible.

~~**HH.** Where any part of the proposed solar energy system (including associated facilities) is within a historic district, such development shall be reviewed and approved by the Planning Authority in accordance with Article 17. Where any part of the proposed solar energy system (including support structures and associated facilities) is within 100 feet of any designated landmark, historic district, or historic landscape district, such development shall meet the standards of Article 14 regarding compatibility with the landmark or historic district.~~

~~**II.a.** Solar energy systems shall minimize impacts resulting from construction and maintenance of the solar energy system, including lighting, security measures, traffic, and grid connections.~~

~~**JJ.**~~**4.** ~~Where permitted in residential zones, and in the B-1/B-1b, B-2/B-2b/B-2c, B-3/B-3b/B-3c, B-7 and waterfront zones, all~~ Minor ground-mounted solar energy systems shall be ~~co-~~located ~~with other land uses.~~a minimum 50 feet from all RN zones, and the B-1 and B-2/B-2b zones.

5. Major ground-mounted solar energy systems shall be located at least 75 feet from all RN zones, and the B-1 and B-2/B-2b zones.

6. The absolute height of any ground-mounted solar energy system shall be no more than 20 feet above the ground as measured from the base of the support.

7. The following components of a ground-mounted solar energy system shall be counted as impervious in the calculation of landscaped open space ratio:

a. Foundation systems, typically consisting of driven piles, monopoles, or helical screws with or without small concrete collars or weighted ballast.

b. All mechanical equipment of the solar energy system, including maximum horizontal extents of any concrete pad or any pad mounted structure for batteries, switchboard, transformers, or storage cells.

c. Paved access roads servicing the solar energy system.

C. Roof-mounted solar energy systems

1. Roof-mounted solar energy systems are not included in the calculation of maximum structure height.

2. Solar energy systems mounted on flat roofs shall meet the following standards:

a. In residential zones, solar energy systems mounted on flat roofs are limited to a height of 5 feet above the surface of the roof upon which they are mounted, and shall be set back from the edge of the roof one foot for every one foot of solar energy system height.

b. In B-4 and industrial zones, flat roof-mounted systems are not subject to limitations on height, or to a required setback.

c. In all other zones, solar energy systems mounted on flat roofs are limited to a height of 8 feet above the surface of the roof upon which they are mounted, and shall be set back from the edge of the roof one foot for every one foot of solar energy system height.

3. Solar energy systems mounted on pitched roofs shall meet the following standards:

a. Solar energy systems on pitched roofs shall be mounted with a maximum distance of one foot between the surface of the roof to the highest point of the system.

b. Solar energy systems on pitched roofs shall be installed parallel to the roof surface on which they are mounted.

c. Solar energy systems on pitched roofs may not extend higher than the highest point of the roof surface upon which they are mounted.

~~**6.4.17 Tow lots**~~

~~Tow lots must be at least 300 feet from any residential zone or conforming residential use~~

6.4.39 Utility substations

A. Utility substations shall be as small in size as practicable, and shall be set back a minimum of 35 feet from any right-of-way, not including limited-access roads.

B. Substations shall be suitably screened and landscaped so as to ensure compatibility with the surrounding neighborhood. ~~residential~~The remainder of the lot not occupied by the utility substation and its related access shall be designed and designated for future development.

C. In the OS-R zone~~ or conforming residential~~, sewage pumping and treatment facilities shall be permitted. Water pumping stations shall be treated as a conditional use and subject to the additional standards of subsection 6.5.6.

6.4.40 Warehousing and distribution facilities

A. Warehousing and distribution facilities in the I-L and I-Lb zones are limited to a maximum of 10,000 square feet in gross floor area.

B. No outdoor storage is permitted as a component of warehousing and distribution in the B-4 and I-L/I-lb zones, except for boat storage.

~~6.4.19~~6.4.41 Wind energy systems (major and minor)

A. General

~~KK.~~1. All wind energy generation equipment shall be approved under a certification program approved by the U.S. Department of Energy~~ such as the~~

~~Underwriters Laboratories, Germanishcer Lloyd Wind Energies, or other similar certifying organizations. Experimental, homebuilt, and prototype models shall not be permitted~~.

~~LL.~~2. Wind energy systems ~~and associated facilities~~, including foundations and support structures, electrical connections ~~and,~~ control equipment, and associated site improvements~~, and construction techniques,~~ shall be designed, engineered, and installed to comply with all applicable local, state, and federal construction and electrical regulations and Federal Aviation Administration regulations. Applicable state and local approvals shall be obtained prior to installation of any wind energy system.

3. All on-site electrical wiring associated with the proposed wind energy system shall be located within the tower/pole/supporting structure or underground. Above ground on-site connections near substations or to the electric grid shall be allowed.

4. Wind energy systems shall be designed to avoid electromagnetic interference with the transmission or reception of radio, telephone, television, microwave, navigational, or similar signals to neighboring areas.

B. Setbacks

1. Minor ground-mounted wind energy systems shall be set back from all property boundaries and street right-of-way lines by a distance equal to or greater than 1.1 times the total height of the system, measured from the base of the system to the top of the system at maximum vertical rotation. The setback distance shall be measured to the center of the wind generator base.

2. Major ground-mounted wind energy systems shall be set back from all property boundaries and street right-of-way lines by a distance equal to or greater than 1.5 times the total height of the system, measured from the base of the system to the top of the system at maximum vertical rotation. The setback distance shall be measured to the center of the wind generator base.

C. Height

1. Ground-mounted wind energy systems are limited to a maximum height of 65 feet in the B-2/B-2b, B-5, and B-6 zones.

2. All moving components of a ground-mounted wind energy system shall be a minimum of 12 feet from ground level or accessible surface.

D. Siting and placement

1. No wind energy system shall be located within 250 feet of any significant wildlife habitat, as defined by the Maine Department of Environmental Protection/Maine Department of Inland Fisheries and Wildlife under provisions of the Natural Resources Protection Act (38 M.R.S. § 480 et seq.) including wildlife habitat for species appearing on the official state and federal list of endangered or threatened animal species.

2. For all major and minor wind energy systems, or any system over 100kW, evidence shall be provided that the Environmental Coordinator of the Maine Department of Inland Fisheries and

Wildlife and the Maine Natural Area Program have been notified of the location, height, and design of the proposed wind energy system at least three weeks prior to any final determination under this subsection. Any comments received therefrom shall be addressed to the satisfaction of these state authorities prior to any final determination under this provision.

~~MM.~~3. The support structure (e.g. tower, pole) for ~~freestanding~~ground-mounted wind generating systems shall not be climbable for a minimum height of 12 feet above the surrounding ground level ~~or accessible surface.~~ All ground-mounted electrical and control equipment shall be labeled and secured to prevent unauthorized access.

~~NN. All moving components of a wind energy system shall be a minimum of 12 feet from ground level or accessible surface.~~

~~OO.~~1. ~~All on-site electrical wiring associated with the proposed wind energy system shall be located within the tower/pole/supporting structure and underground. Above ground on-site connections near substations or to the electric grid shall be allowed.~~

~~PP.~~4. The use of guy wires is discouraged. If required, they shall be located away from pedestrian routes/access points and marked with visible, reflective, colored objects, such as flags, reflectors, or tape, which shall be placed on the anchor points of guy wires and along the guy wires up to a height of ten feet from the ground.

5. ~~No wind energy system shall be located within 250 feet of any significant wildlife habitat, as defined by~~ Ground-mounted wind energy systems shall be located away from and screened from public ways and nearby residential/institutional uses to the extent possible and shall be designed to minimize impacts on significant scenic views.

E. Illumination and signs

~~QQ.~~1. ~~Maine Department of Environmental Protection/Maine Department of Inland Fisheries and Wildlife under provisions of the Natural Resources Protection Act (38 M.R.S. § 480 et seq.) including wildlife habitat for species appearing on the official state and federal list of endangered or threatened animal species.~~

~~RR.~~1. ~~For all wind energy systems over 45 feet in height above the ground or over 100kW, evidence shall be provided that the Environmental Coordinator of the Maine Department of Inland Fisheries and Wildlife and the Maine Natural Area Program have been notified of the location, height, and design of the proposed wind energy system at least three weeks prior to any final determination under this subsection. Any comments received therefrom shall be addressed to the satisfaction of these state authorities prior to any final determination under this provision.~~

~~SS.~~1. ~~Wind energy systems shall be designed to avoid electromagnetic interference with the transmission or reception of radio, telephone, television,~~

~~microwave, navigational, or similar signals to neighboring areas.~~

~~TT. Wind energy systems and associated facilities shall use non-reflective materials and neutral colors and textures that blend in with the surrounding environment. Ground-mounted systems and associated facilities shall be landscaped to integrate the proposed wind energy system into the existing landscape/streetscape.~~

~~UU.~~1. No part of the system may be illuminated, except as required by the Federal Aviation Administration (FAA) or other authorities for safety and security purposes. Where lighting is required, it shall be at the lowest intensity allowable with fixtures shielded and directed to minimize glare and visibility from the ground.

~~VV.~~2. There shall be no signs, advertisements, flags, or decorative items on a wind energy system or any associated facilities, except for the manufacturer's/installer's/owner's identification (not exceeding one square feet in size), appropriate warning signs, or lights if required by the FAA.

~~WW. Wind energy systems shall be prohibited within any historic landscape district, any historic cemetery, any historic district, except the Congress Street Historic District where it coincides with the B-3 zone, or within 1,000 feet of any designated historic landmark, which shall include Portland Observatory, Cathedral of Immaculate Conception, St. Dominic's Cathedral, St. Luke's Cathedral, State Street Church, and City Hall.~~

~~XX. Wind energy systems within R-OS zones are allowed only where they are co-located within public industrial or utility facilities.~~

~~YY. Systems shall be screened with a vegetated buffer from public areas and residential buildings.~~

6.5 CONDITIONAL ~~USES~~USES

6.5.1 ~~—~~Conditional use review procedure

~~A.~~ **Review authority.** The Zoning Board of Appeals shall review all conditional use applications, with the exception that the Planning Board shall review~~:~~

~~3. All conditional use applications in the B-3/B-3b/B-3c, B-5/B-5b, B-6, and B-7 zones.~~

~~4.~~A.~~All~~ all conditional use applications associated with projects that are otherwise before the Planning Board.

~~5. Conditional use applications for specific uses for which the Planning Board is identified as the review authority under Subsection 6.5.6.~~

B. Application. Applications for conditional use review shall be submitted to the Building Authority for all Zoning Board of Appeals reviews and the Planning Authority for all Planning Board reviews. A nonrefundable application fee, as established from time to time by the City Council to cover administrative costs and costs of a hearing, shall accompany each application. The application shall be in such form and shall contain such information and documentation as shall be prescribed from time to time by the review authority.

C. Public hearing. A public hearing shall be set, advertised, and conducted by the review authority in accordance with Article 2 of this Land Use Code.

D. Action. Within 30 days following the close of the public hearing, the review authority shall render its decision, in a manner and form specified by Article 2 of this chapter, approving the conditional use, approving the conditional use subject to conditions as specified in Subsection 6.5.3, or denying it. The failure of the review authority to act within 30 days shall be deemed an approval of the conditional use, unless such time period is mutually extended in writing by the applicant and the review authority. Within five days of such decision or the expiration of such period, the Building Authority or Planning Authority shall mail notice of such decision or failure to act to the applicant and, if a conditional use is authorized, list therein any and all conditions imposed by the review authority.

6.5.2 General conditional use standards

The review authority shall, after review of the application, approve a conditional use upon a finding that the proposed conditional use, at the size and intensity contemplated at the proposed location, will not have substantially greater negative impacts than would normally occur from surrounding uses or other allowable uses in the same zone. The review authority shall find that this standard is satisfied if it finds that:

A. The volume and type of vehicle traffic to be generated, hours of operation, expanse of pavement, and the number of parking spaces required are not substantially greater than would normally occur at surrounding uses or other allowable uses in the same zone.

B. The proposed use will not create unsanitary or harmful conditions by reason of noise, glare, dust, sewage disposal, emissions to the air, odor, lighting, or litter.

C. The design and operation of the proposed use, including but not limited to landscaping, screening, signs, loading, deliveries, trash or waste generation, arrangement of structures, and materials storage will not have a substantially greater effect/impact on surrounding properties than those associated with surrounding uses or other allowable uses in the zone.

D. The proposed use will meet any additional zone or use-specific standards identified in Tables 6-A to 6-~~F~~FG and ~~Subsections~~Section 6.~~5.6 and 6.5.7~~4.

6.5.3 Conditions on conditional use approvals

The review authority may impose such reasonable conditions upon the premises benefited by a conditional use as may be necessary to prevent or minimize adverse effects therefrom upon other property in the neighborhood. Such conditions shall be expressly set forth in the resolution authorizing the conditional use. Violation of such conditions shall be a violation of this article.

6.5.4 Effect of issuance of a conditional use approval

The approval of a conditional use shall not authorize the establishment or extension of any use nor the development, construction, reconstruction, alteration, or moving of any building or structure, but shall merely authorize the preparation, filing. and processing of applications for any permits or approvals which may be required by the City of Portland Code of Ordinances, including but not limited to a building permit, a certificate of

occupancy, subdivision approval, and site plan approval.

6.5.5 Limitations on conditional use approvals

No conditional use approval shall be valid for a period longer than ~~six months~~three years from the date of approval, ~~or such other time, not to exceed two years, as may be fixed at the time granted,~~ unless the conditional use has ~~been~~ commenced or a building permit is issued and construction has begun within that period and is thereafter diligently pursued to completion, provided, however, that one or more extensions of said time may be granted if the facts constituting the basis of the decision have not materially changed and the two year period is not exceeded thereby. A conditional use approval shall be deemed to authorize only the particular use for which it was issued and such approval shall automatically expire and cease to be of any force or effect if such use shall for any reason be discontinued for a period of 12 consecutive months or more.

~~**6.5.6 Supplemental use-specific conditional use standards**~~

~~In addition to the general conditional use standards, the following standards shall apply to specific conditional uses:~~

~~**ZZ.6.4.1 Automobile, boat, and related dealerships and auto service stations**~~

~~**6.** The Planning Board shall be the review authority.~~

~~**7.** Signs shall not adversely affect visibility at intersections or access drives. Such signs shall be constructed, installed, and maintained so as to ensure the safety of the public. Such signs shall advertise only services or goods available on the premises.~~

~~**8.A.** No ingress and egress driveways shall be located within 30 feet from an intersection. No entrance or exit for vehicles shall be in such proximity to a playground, school, church, other places of public assembly, or any residential zone that the nearness poses a threat or potential danger to the safety of the public.~~

~~**9.A.** A landscaped buffer, no less than five feet wide, shall be located along street frontages (excluding driveways). The, buffer shall consist of a variety of plantings in accordance with the City of Portland *Technical Manual*.~~

~~**10.A.** Car washes shall be designed to avoid the tracking of residual waters into the street.~~

~~**AAA.6.4.1 Emergency shelters**~~

~~**11.A.** The facility shall provide adequate space for conducting security searches and other assessments.~~

~~**12.** The facility shall be designed with a centralized shelter operations office on each level providing sight lines to sleeping areas.~~

~~**13.A.** A management plan adequately outlining the following areas shall be provided: management responsibilities; process for resolving neighborhood concerns; staffing; access restrictions; on-site surveillance; safety measures; controls for resident behavior and noise levels; and monitoring reports.~~

~~**14.A.** Adequate access to and from METRO service shall be provided. The facility shall be within a ¼ mile of a METRO line, or shall be within ½ mile of a METRO line and provide adequate indoor space to permit all shelter~~

guests day shelter, as well as implement strategies to help residents utilize transit.

15.A. The facility shall provide on-site services to support residents, such as case management, life skills training, counseling, employment and educational services, housing assistance, or other programs.

16.A. Suitable laundry, kitchen, pantry, bicycle storage, and secure storage facilities for shelter stayers shall be provided on-site.

17. An outdoor area for guest use shall be provided on-site with adequate screening to protect privacy of guests.

BBB. General office in the R-6 & R-6a zones

18. Offices shall serve a member of a recognized profession and be maintained for the conduct of that profession. Professional office stadiums, solar energy systems, water pumping stations, wind energy systems, and accessory uses do not include veterinary offices.

19. For the use of any building designed or constructed for residential use, which was in use as a residence on April 18, 1984, or thereafter:

a. A professional office shall not be located within structures of 2,500 feet of another as measured along the street line to the respective property lines.

b. A building with onesquare feet or more professional offices shall have at least 50% of the total floor area of the building devoted to residential uses.

c. The total number of individuals working in a building of professional offices shall not exceed the equivalent of four full-time employees.

d. Any additions or exterior alterations shall be compatible with the architecture of the building and maintain the residential appearance of the building. Construction of a new building shall be compatible with the architectural character of the surrounding area.

20. The scale and surface area of parking, driveways, and paved areas shall be arranged and landscaped to be compatible in size and scale with neighboring properties in the area and to properly screen vehicles from adjacent properties and streets.

CCC. High-tech manufacturing

21. A minimum of 1/3 of the total square footage devoted to manufacturing shall be conducted in a laboratory environment, in a controlled environment with specialized air handling systems that exceed levels for pressurization and filtration found in office environments and traditional manufacturing facilities.

22. Rooftop equipment shall be integrated into the overall building design and shall be screened as necessary.

23. In the B-7within the OS-R zone, accessory warehousing is permitted. Where warehousing cannot be located on the same lot because the land area is too small to accommodate the warehousing on the same lot, one remote warehouse may be located within 600 feet of the principal use referenced above.:

24. In the O-P zone, truck traffic serving a single manufacturing business or institution shall not exceed, on a regular basis, more than two tractor-trailer truck

deliveries per week. No deliveries shall be accepted between 7:00 p.m. and 7:00 a.m.

DDD. Industrial uses

25. *In the B-2/B-2b/B-2c zones*

e. The Planning Board shall be the review authority.

f. The site shall have an adequate traffic circulation pattern designed to avoid hazards to vehicular circulation on adjoining streets. All stacking of motor vehicles shall be on site, and loading facilities shall be located to the rear of the building and shall not be visible from the street.

g. The exterior design of the structures, including architectural style, facade materials, roof pitch, building form, established setbacks, and height shall be of a commercial rather than industrial character. The site shall contain screening and landscaping which shall meet the requirements of Article 14 for screening between land uses and the City of Portland *Technical Manual*.

26. *In the B-3/B-3b/B-3c zones*

h. The floor area devoted to industrial use shall not exceed 10,000 square feet. For a building in existence on March 11, 1991, the floor area shall not exceed 10,000 square feet or 50 percent of the total floor area, whichever is greater.

i. The associated vehicular loading, unloading, parking, circulation, and traffic volumes on the site and on adjacent public streets shall not have a more intensive impact than any use on the site within the last five years.

j. Any buildings located in a PAD Overlay Zone shall be subject to the requirements of Section 8.7 in addition to the requirements of this subsection.

k. For buildings that either were not in existence on March 11, 1991, or were in existence on that date but were either in use for any permitted use in the B-3 zone or were designed or constructed for any such use:

i. No tractor trailer trucks or longer vehicles shall be associated with the proposal.

ii. The proposal shall exclude warehousing and storage as a principal use.

iii. The use shall not generate more than six delivery or service trips per day between 7:00 a.m. and 7:00 p.m.

27. *In the B-5/B-5b zones*

l. Truck loading and access and vehicle parking shall be located in the rear or side yard of the site where possible.

m. Street frontage shall be designed for pedestrian scale or interest.

n. Shared infrastructure to the extent practicable, including, but not limited to, service alleys, parking areas, stormwater treatment, public transportation facilities, and driveways, shall be utilized.

28. *In the B-6 zone.* No brew pubs or microbreweries east of Waterville Street

shall be permitted within 50 feet of Fore Street.

EEE. Institutional uses (excluding preschools)

29. The Planning Board shall be the review authority.

30. In the case of expansion of existing institutional uses onto land other than the lot on which the principal use is located, it shall be demonstrated that the proposed use cannot reasonably be accommodated on the existing site through more efficient utilization of land or buildings, and will not cause significant physical encroachment into established residential areas.

31. The proposed use shall not cause significant displacement or conversion of residential uses existing as of June 1, 1983, or July 15, 1985 in the IR-1 and IR-2 zones, or thereafter.

32. In the case of a use or use expansion which constitutes a combination of the conditional institutional uses with capacity for concurrent operations, the applicable minimum lot sizes shall be cumulative.

33. In the case of community halls:

o. The structure shall have been in existence as of January 4, 2010.

p. The structure shall have been built for institutional or other non-residential uses.

q. The structure shall be operated by, or operated subject to the control of, a not-for-profit entity in accordance with its not-for-profit purposes.

r. A parking management plan shall be submitted for review and approval by the Planning Board.

34. In the case of private club or fraternal organizations, any such establishment serving alcoholic beverages or in possession of a license for serving alcoholic beverages shall meet the minimum lot size requirement for places of assembly greater than 10,000 square feet.

35. Post-secondary schools in the R-2 zone shall only be permitted on a collector or arterial road.

36. In the case of a post-secondary school within the R-5 zone and not including the USM Overlay Zone, such school may build principal structures to a height of 55 feet if the following standards can be met:

s. Minimum lot size: 10 acres which may include adjacent land owned by the institution on both sides of a public street.

t. Minimum setback between buildings on site: 20 feet.

u. Minimum setback from external property boundary: 30 feet, except that parking garages over 35 feet in height must be located 50 feet from external property boundaries when adjacent to an adjoining residential use.

v. The area between the structure and adjoining residential uses must be adequately screened with appropriate landscaping or other features to buffer the building and effects thereof (i.e. noise, light, etc.) from abutting properties.

FFF. Multi-family

37. *In the R-3 and R-5 zones.* Alteration of a structure existing and not in residential use

as of January 1, 1984 to three or more dwelling units shall be permitted as a conditional use provided that:

w. No open outside stairways or fire escapes above the ground floor shall be constructed or have been constructed in the immediately preceding five years.

x. 3,000 square feet of land area per dwelling unit shall be required.

y. A lower level dwelling unit shall have a minimum of one-half of its floor-to-ceiling height above the average adjoining ground level.

z. Any addition or exterior alteration, such as change in façade materials, building form, or roof pitch, shall be designed to be compatible with the architectural style of the structure.

aa. In the R-3 zone, any addition or exterior alteration shall be limited to a gross floor area equal to or less than 25% of the total existing floor area as of June 13, 2018.

bb. Paved areas shall be designed to be compatible in size and scale with neighboring properties in the area and properly screened from adjacent streets.

38. *In the I-B zone*

cc. Multi-family buildings shall have a maximum of four units.

dd. No open outside stairways or fire escapes above ground floor shall be constructed or have been constructed in the immediately preceding five years.

ee. A below grade dwelling unit shall be permitted only if access is provided directly to the outside of the building.

ff. Density shall be determined by the most restrictive abutting residential zone, except for those lots which are served by public water and sewer, where density shall be determined by the least restrictive abutting residential zone. If no residential zone is abutting, density shall be determined by the nearest residential zone. Residential uses shall meet the requirements of such abutting or nearest residential zone.

gg. Any additions or exterior alterations shall be compatible with the original architecture of the building. The exterior design of new construction, including the architectural style, facade materials, roof pitch, building form, and height shall be compatible with neighboring properties.

hh. No existing dwelling unit shall be decreased to less than 1,000 square feet of floor area.

ii. No additional dwelling unit shall have less than 600 square feet of floor area, exclusive of common hallways and storage in basement and attic.

jj. All sanitary waste shall be disposed of by a public sewer, subsurface sewerage system, or other method in compliance with all applicable federal, state and local regulations.

kk. There shall be sufficient water for the needs of the dwellings such that the use does not cause an unreasonable

burden on an existing water supply nor adversely affect groundwater resources.

GGG. Off-street parking

39. *In the R-3, R-4, and R-5 zones*

ll. Off-street parking must be designed to satisfy the parking requirement of a use located in and conforming with the provisions of a nearby mixed-use or industrial zone.

mm. The lot on which the parking is proposed must be located wholly within 300 feet, measured along lines of public access, from the use which requires the off-street parking.

nn. The lot where the off-street parking is proposed shall be under the control of the owner of the use which requires the off-street parking. Evidence of such control by deed or lease shall be required before the certificate of occupancy is issued. If such control should be abrogated, the parking use thus allowed shall automatically revert to a nonconforming use in violation of this article and shall be terminated forthwith.

oo. Conditions may be imposed to insure development compatible with that of the immediate neighborhood notwithstanding the provisions of any other section of this Land Use Code. Such conditions may include limits on the period of such use.

40. *In the R-6 zone.* Off-street parking shall be for passenger cars for uses permitted in the R-6 zone.

41. *Structured parking in the B-6 and B-7 zones*

pp. Parking garages shall incorporate first floor retail space or other non-parking and active use along all street frontages.

qq. The Planning Board may waive the requirement for first floor mixed-use upon demonstration that the project meets one or more of the following criteria:

i. The applicant demonstrates that steepness of grade or the character of the adjacent street will not support retail or first-floor mixed-use in the foreseeable future.

ii. The first floor of the garage is set back a minimum of 35 feet from the street right-of-way and its design does not provide an impediment for development of such space for mixed-use in the future. Such space (between the garage and the street) shall, in the interim, not be used for surface parking.

iii. The applicant can demonstrate to the satisfaction of the Planning Board that a market for first floor mixed uses currently does not exist, provided that the structure of the garage is designed to accommodate retail and or mixed-uses in the future. In these cases, the Planning Board will need to find that, on the street-level deck of a proposed parking

garage, a minimum of 20 feet horizontal distance of depth from the street and nine feet finished floor-to-finished ceiling clearance could house future retail and or mixed use. The applicant will further need to demonstrate that the garage design anticipates the future development of utilities and circulation necessary for non-parking uses. Where a parking garage fronts on more than one public street and where there is an existing change in grade elevation of over 5% across the footprint of the garage, the nine-foot floor-to-ceiling requirement only applies to the street with higher traffic volumes.

rr. Where the Board allows a waiver of first floor mixed use, garages shall display architecture that enhances the pedestrian experience and disguises the parking use to the extent possible. Use of traditional storefront design concepts and traditional building materials is encouraged.

42. *Surface parking in the B-3, B-6, and B-7 zones*

ss. Surface lots shall be laid out in a manner conducive to development of future buildings, and/or structured parking.

tt. Surface parking, including parking aisles, shall be located at least 35 feet from a street. The 35-foot setback shall not apply to driveways perpendicular to the street providing access to the site.

uu. In the B-7 zone, surface parking that does not meet the 35-foot parking setback may be permitted as a conditional use, provided that:

i. All or a portion of the 35-foot setback area had a gravel surface on September 29, 2015.

ii. The total gravel surface area on the lot and any contiguous lots did not exceed 15,000 square feet on September 29, 2015.

iii. The parking spaces provide parking to a principal building on a contiguous lot.

iv. One of the buildings described in (iii) above meets the minimum height requirements of the Bayside **Height** Overlay Map and/or a building on the site has a floor area of 25,000 square feet or greater.

v. The total number of spaces within 35-foot setback in combination with other spaces on the lot does not exceed the minimum parking spaces required.

vi. The proposed parking spaces meet the landscape and buffer requirements of Subsection 6.8.8.

vii. Parking spaces within the 35-foot setback shall provide stormwater quality treatment if required by the City of Portland Stormwater Management Standards and the Maine DEP Chapter 500

Stormwater Management Standards. If not required, an alternative low impact development treatment system approved by the Planning Board shall be provided.

HHH. Preschool facilities

43. *In all zones*

vv.A. Outdoor play areas shall be screened and buffered from surrounding residences with landscaping and/or fencing to minimize visual and noise impacts.

ww.A. Solid waste shall be stored in covered containers. Such containers shall be screened on all sides.

44. *In the R-P zone.* Facilities for more than 12 children shall meet the following additional standards:

xx. The facility shall provide a minimum of 75 square feet of outdoor play area per child.

yy. The play area shall be located in the side and rear yards only and shall not be located in front yards.

zz. Outside play areas shall be separated from abutting properties by a fence at least 48 inches in height.

aaa. A 10-foot-wide landscaped buffer shall be required outside of the fenced play area, and shall be established in accordance with the landscaping standards of the City's *Technical Manual*.

45. *In residential and island zones*

bbb. The facility shall be located in a structure in which there is one or more occupied residential units or in an existing accessory structure, unless the facility is located in a principal structure that has not been used as a residence in whole or in part within the five years immediately preceding the application for a preschool use, or in a nonresidential structure accessory to the principal nonresidential use.

ccc. There shall be no maximum limit on the number of children in a facility located in a principal structure that has not been used as a residence in whole or in part within the five years immediately preceding the application for a preschool use, or in a nonresidential structure accessory thereto.

ddd. The maximum capacity shall be 12 children for facilities located in residential or existing structures accessory thereto, unless the additional standards in paragraph (d) below are met.

eee. Preschool facilities located either in structures that have been in residential use within the past five years or in existing accessory structures and that serve between 13 and 24 children shall meet the following additional standards:

i. The facility shall provide a minimum of 75 square feet of outdoor play area per child.

ii. The play area shall be located in the side and rear yards only and shall not be located in front yards.

iii. Outside play areas shall be separated from abutting

properties by a fence at least 48 inches in height.

iv. A 10-foot-wide landscaped buffer shall be required outside of the fenced play area, and shall be established in accordance with the landscaping standards of the *City's Technical Manual*.

v. The minimum lot size for a preschool located in a residential or existing accessory structure and serving more than 12 children shall be 20,000 square feet.

vi. The maximum number of children in a preschool facility located in a residential or existing accessory structure shall be 24.

vii. Any additions or exterior alterations such as facade materials, building form, roof pitch, and exterior doors shall be designed to be compatible with the architectural style of the building and preserve the residential appearance of the building.

III. Raising of domesticated animals for non-commercial purposes

46.A. No animals shall be kept on any lot less than three acres or closer than 100 feet to any street or lot line, except domesticated chickens as regulated in Chapter 5 of the City of Portland Code of Ordinances.

47.A. This use shall not create any odor, noise, health, or safety hazards, or other nuisance to neighboring properties.

48.A. Raising of pigs or reptiles is not permitted.

JJJ. Sheltered care group homes

49. A sheltered care group home shall not be located within 500 feet of another, as measured along street lines to the respective property lines.

50. The facility shall make provision for adequate on-site staffing and supervision in accordance with applicable state licensing requirements. If a facility is not licensed by the state, there shall be a minimum of one staff person for every 10 residents or fraction thereof.

51. The Board of Appeals or Planning Board may impose conditions upon a conditional use permit concerning the creation or operation of a sheltered care group home including but not limited to the following: site and building maintenance; lighting, fencing, and other appropriate security measures; screening and buffering of parking areas; compatibility of any additions or alterations with the existing residential structure; compatibility of new structures with the architectural character of the surrounding area; and limitation on the duration of a sheltered care group home permit.

KKK. Utility substations

52. Utility substations shall be as small in size as practicable.

53. Substations shall be suitably screened and landscaped so as to ensure compatibility with the surrounding neighborhood. The remainder of the lot not consumed by the utility substation and its related access shall be designed and designated for future development.

~~54. If greater than 100 square feet in the B-7 zone, the structure shall be set back at least 35 feet from the street right-of-way except in the case of a lot having frontage on Marginal Way and I-295, provided the minimum 35-foot setback is met along Marginal Way.~~

~~55. In the B-7 zone, the substation equipment shall be fully enclosed within a structure.~~

~~6.5.7~~6.5.6 Supplemental standards ~~zone-specific~~for certain conditional uses in the OS-R zone~~standards~~

In addition to the general conditional use standards and supplemental use-~~specific conditional use~~ standards, the following standards shall apply to stadiums, solar energy systems, water pumping stations, wind energy systems, and accessory uses within structures of 2,500 square feet or more within the OS-R zone~~conditional uses within certain zones~~:

~~LLL.R-OS Zone~~

~~56.~~A. The use shall be in conformity with or satisfy a deficiency identified in a federal, state, regional, or ~~city~~City recreation and open space plan, including but not limited to the state *Comprehensive Outdoor Recreation Plan*, as such plans may from time to time be created or revised.

~~57.~~B. Buildings and structures shall not obstruct significant scenic views presently enjoyed by nearby residents, passersby, or users of the site.

~~58.~~C. Indoor recreation or nonrecreational uses in the OS-R zone shall serve a significant public purpose that cannot reasonably be accommodated outside of the ~~recreation and open space~~OS-R zone.

6.6 ACCESSORY USES

6.6.1 In general

A. Accessory uses shall be permitted in conjunction with permitted or conditional principal uses. Accessory uses ~~must~~shall be:

1. Customarily found in association with the principal ~~uses~~use.
2. Generally consistent with the impacts of the ~~primary~~principal use.
3. Secondary in nature, clearly incidental and subordinate to the principal ~~uses~~use in terms of area and function.
4. Located on the same lot as the principal use unless otherwise permitted.
5. Consistent with the intent of the zone.

B. No accessory use or uses within a building shall occupy more than a combined total of 25% of the floor area of the principal building, with the exception of required off-street parking, unless otherwise provided in Subsection 6.6.2 below. In the case of multi-tenant buildings, this standard shall apply separately to each leased portion of the principal building.

C. No accessory use or uses not within a building shall occupy more than a combined total of 25% of the unbuilt lot area, ~~or of the required rear yard area,~~ with the exception of off-street parking or as otherwise provided in Subsection 6.6.2.

6.6.2 Standards for specific accessory uses

A. Accessory Dwelling Units (ADUs)

1. Accessory Dwelling Units (ADUs) shall be permitted on all lawfully conforming and nonconforming lots with legal residential uses. ~~ADUs shall comply with all dimensional standards of the underlying zone unless otherwise provided below.~~

2. ADUs shall be permitted as new detached accessory structures, building additions, or within existing lawfully conforming or nonconforming structures. However, the addition of an ADU may in no way increase the degree of nonconformity of any structure unless otherwise permitted under this subsection.

~~2.~~3. Up to two ADUs shall be permitted per qualifying property.

~~3. At the time of an ADU's initial construction or legal creation, the owner(s) of the property on which the accessory dwelling unit is created must occupy at least one of the dwelling units, with the exception of legally nonconforming lots on Peaks Island.~~

~~4. When an ADU is significantly visible from public ways, the building design shall:~~

~~fff. Be clearly subordinate to the principal structure(s) in scale and position in relationship with the street and principal structure(s).~~

~~ggg.Not include outside stairways or fire escapes above the ground floor.~~

~~5.~~4. Under circumstances where an existing nonconforming structure is converted to an ADU, the design of the ADU shall take into consideration to the extent practicable the privacy of adjacent properties.

~~6. The developer of an ADU shall record a deed restriction requiring that the ADU and at least one other non-accessory unit on site remain under common ownership.~~

~~7. ADUs shall comply with all dimensional requirements of the underlying zone except lot coverage and lot area per dwelling unit requirements.~~

~~8.~~5. An ADU shall be limited to a gross floor area of 2/3 of the gross floor area of the largest principal unit~~(s). In no circumstance shall the height of detached ADUs on a lot exceed the height of the primary structure. Additionally, the~~ on the lot. The aggregate square footage of detached ADUs on a lot shall not exceed the gross floor area of the ~~primary~~principal structure.

6. ADUs shall be exempt from maximum lot coverage and minimum lot area per dwelling unit requirements.

7. Detached ADUs shall be limited to a maximum height of 18 feet, unless constructed above a garage, in which case the height of the structure shall be limited to 25 feet.

8. Detached ADUs shall not be subject to side and rear setbacks for detached accessory structures as established in Article 7. Rather, detached ADUs shall maintain a minimum setback of 5 feet from all side and rear lot lines.

9. Detached ADUs shall not be permitted between a principal structure and a front lot line.

~~B. Amusement devices. Except where the principal use consists of the sale of alcoholic beverages for consumption on premises or where the principal structure is an airline terminal, pinball machines or amusement devices shall not be considered to be accessory uses whenever there are more than a total of two such machines or devices on the premises.~~

~~C.~~B. **Antennas, discs, transmitting and receiving equipment.** Building-mounted antennas, discs,

and other transmitting and receiving equipment shall be:

1. No taller than 15 feet above the highest structural steel of the building roof.
2. Setback no less than 15 feet from the building perimeter.
3. Integrated into the architecture of the building in placement, form, color, and material so as to screen or camouflage such equipment from public view.

~~D.~~C. **Drive-throughs.** ~~Drive-throughs shall be permitted as an accessory use in the B-4 zone. Drive-throughs shall be reviewed as conditional accessory uses in the B-2/B-2b/B-2c zones, B-3/B-3b/B-3c zones, B-6 zone, and B-7 zone. In all other zones, drive-throughs shall be prohibited. Where a conditional use, drive-throughs shall be subject to the provisions of Section 6.5 and the following additional review standards:~~

~~4.6.4.1~~ Drive-throughs ~~**In general**~~

1. ~~The Planning Board~~ shall be permitted as an accessory use in the B-4 zone.
2. Drive-throughs shall be permitted as conditional accessory uses in the B-2 zone only if a drive-through was located on the site as of the effective date of this Code. In all other zones, drive-throughs shall be prohibited.

~~hhh.~~3. Drive-throughs shall be subject to the following review ~~authority.~~ standards:

a. ~~Features such as windows, vacuum cleaners~~All components of a drive-through, including, but not limited to, signs, stacking lanes, menu/order boards, trash receptacles, and ~~stacking lanes must be placed, where practicable,~~service windows shall be located to the side ~~and~~or rear of the principal building where practicable, except where such placement will be detrimental to an adjacent residential zone or use, and shall be located ~~no nearer than~~a minimum of 40 feet from any adjoining property ~~located~~ in a residential zone. This distance shall be measured from the outermost edge of the outside drive-through feature to such property line. In addition, drive-through features shall ~~not extend nearer than~~be located a minimum of 25 feet from ~~the~~a right-of-way.

b. The site ~~must~~shall have adequate stacking capacity for vehicles waiting to use these service features without impeding vehicular circulation or creating hazards to vehicular circulation on adjoining streets.

c. Any speakers, intercom systems, or other audible means of communication shall not play pre-recorded messages. Any speakers, intercom systems, audible signals, computer prompts, or other noises generated by ~~the~~ drive-through services or fixtures shall not exceed 55 dB or shall be undetectable above the ambient noise level as measured by a noise meter at the property line~~, whichever is greater~~.

d. Site and vehicular light sources shall not unreasonably spill over or be directed onto adjacent residential properties and shall otherwise conform to the lighting standards set

forth in the City of Portland *Technical Manual*.

e. Where automobiles may queue, waiting for drive-through services, their impacts ~~must~~shall be substantially mitigated to protect adjacent residential properties from headlight glare, exhaust fumes, and noise. As deemed necessary by the review authority, mitigation measures shall consist of installation of solid fencing with landscaping along any residential property line which is exposed to the drive-through or the enclosure of the drive-through fixtures and lanes so as to buffer abutting residential properties and to further contain all associated impacts.

f. Drive-through lanes shall be designed and placed to minimize crossing principal pedestrian access-ways or otherwise impeding pedestrian access.

~~**g.** The board, as part of its review, may take into consideration the impact hours of operation may have on adjoining uses.~~

~~**5.** *In the B-2/B-2b/B-2c zones.* Drive-throughs shall only be permitted when accessory to a pharmacy or banking facility use. Drive-throughs shall not be permitted for restaurant, bakery, or other food or beverage service uses. Drive-throughs are only permitted in buildings of three or more stories where a majority of the upper stories is devoted to three or more dwelling units. The drive-through shall be screened as much as practical from the front of the building and shall be no closer than 40 feet from abutting residential zones and 25 feet from the street line.~~

~~**6.** *In the B-3/B-3b/B-3c zones.* Drive-throughs shall only be permitted when accessory to a bank. Drive-throughs shall be subject to the Downtown Urban Design Guidelines.~~

~~**7.** *In the B-6 zone.* Drive-throughs shall only be permitted when accessory to a bank and located in the interior of parking structures. Drive-through vehicle circulation shall not create an impediment for retail or mixed-use development for the first floor of the subject garages along any adjacent public streets.~~

~~**8.** *In the B-7 zone*~~

~~**h.** The drive-through must be accessory to a bank occupying a minimum floor area of 4,000 square feet.~~

~~**i.** The drive-through must be attached to or included within a building with a minimum floor area of 20,000 square feet, except that for lots of less than 20,000 square feet and in existence as of March 9, 2005, a drive-through may be included in a building of less than 20,000 square feet.~~

~~**j.** The drive-through facility must be attached or included within a building and/or addition meeting the minimum height of four stories in the Bayside Height District A and three stories in the Bayside Height Districts B and C. For the purposes of this conditional use, the minimum height exceptions for the B-7 zone shall not apply.~~

~~**k.** The first floor of the building must include banking or other retail storefront uses with storefront~~

~~windows, entries, and interior public space oriented to and visible from the street, with front entry access facing the street and directly accessible from the public sidewalk.~~

~~**l.** Drive-through vehicle circulation shall not be located between the building and any adjacent public streets.~~

~~**m.** The drive-through shall be limited to two vehicle drive-through lanes.~~

~~**n.** The location of any drive-through shall be limited to the geographic area between Somerset/Kennebec Streets/I-295/Franklin Street/Forest Avenue.~~

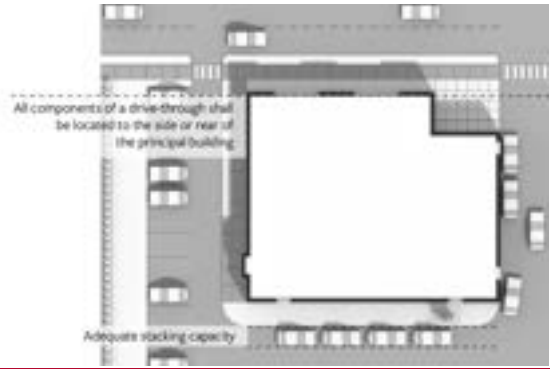


FIGURE 6-A: DRIVE-THROUGH SITING

~~E.~~ Heliports. ~~Heliports shall meet the following minimum specifications:~~

~~9.~~D. ~~*Roof*~~A heliport shall be designed and constructed in accordance with all federal and state regulations.

~~**o.** Take-off area (min.): 200 feet x 250 feet~~

~~**p.** Parking area (min.): 30 feet x 90 feet~~

~~**10.** *Ground heliport*~~

~~**q.** Take-off area (min.): 300 feet x 700 feet~~

~~**r.** Parking area and station building shall be located out of flight area.~~

~~**11.** *Elevation of operational area above street (max.):* 100 feet~~

~~**12.** *Clearance from lateral obstruction (min.):* 100 feet~~

~~**13.** *Width of approach and departure path (min.):* 500 feet at landing area, tapering outward 15 degrees on each side to a width of 1,000 feet~~

~~**14.** *Slope with emergency landing areas:* 1:8~~

~~**15.** *Slope without emergency landing areas:* 1:20~~

~~**16.** *Curved approach:* Minimum radius to turn, 650 feet~~

~~**17.** *Approach zone transition area slope:* 1:2~~

~~F.~~E. Home occupations

1. ~~The purpose of home occupations is to allow the secondary and~~ A home occupation shall be incidental to the residential use of a ~~residence for~~dwelling, and shall not change the ~~conduct of appropriate occupations whose external activity levels and impacts~~essential residential character of the dwelling.

~~18.~~ No interior or exterior alterations that are ~~so limited as to be compatible~~inconsistent with the residential use and character of ~~the neighborhood.~~

~~19.~~ ~~Home occupations must be conducted entirely within~~ the ~~dwelling unit by one or more persons residing within~~building shall be permitted. With the ~~dwelling unit.~~

~~20.~~ ~~In connection with the operation~~exception of a ~~home occupation, the following requirements~~ permitted sign, there shall be ~~met:~~

~~s.~~ ~~A home occupation shall not occupy more~~ no evidence visible from the exterior of the premises that the property is used in any way other than ~~500 square feet of floor area or more than 25% of the total floor area of such~~ as a dwelling ~~unit, whichever is less, or in the case of licensed family day care homes or home babysitting services, to accommodate not more than six children plus two children after school and having no nonresidential employees.~~

~~t.~~ ~~There shall be no outside storage of goods and materials nor shall there be exterior displays, or~~. No display of ~~goods visible from the outside.~~

~~u.~~2. ~~Storage of materials related to the home occupation shall count as a part of the occupancy limitations above, but shall not constitute a dominant part of such occupancy, provided, however, storage of such materials or~~ products ~~in garages or other accessory structures is prohibited.~~shall be visible from the exterior of the premises.

~~v.~~3. Exterior signs shall be limited to one non-illuminated sign not exceeding a total area of two square feet~~,~~. Such sign must be affixed to the building, and may not ~~projecting~~project more than one foot ~~beyond~~from the façade of the building.

~~w.~~ ~~Any exterior alterations to the residence shall be compatible with the architecture of the building and maintain the residential appearance by virtue of exterior materials, lighting, and signs.~~

4. The home occupation and all related activity, including any storage, equipment, and display of products shall be conducted entirely within a principal building or accessory structure. This does not apply to the home occupation of licensed family childcare provider, which may include outdoor space needed to meet state licensing requirements.

5. No toxic, explosive, flammable, combustible, corrosive, etiologic, radioactive, biohazardous, or other restricted materials shall be used or stored as a component of a home occupation.

6. No home occupation shall include dispensing of medication from the dwelling.

~~x.~~7. The home occupation shall not produce ~~offensive~~any perceptible noise, vibration, heat, smoke, odor, electrical interference, dust~~,~~ or other particulate matter, ~~odorous matter, heat, humidity, glare,~~ or other ~~objectionable~~nuisance effects in excess of that normally associated with residential use.

~~y.~~8. ~~There~~A home occupation shall be limited to residents of the dwelling and no more than ~~one nonresident employed in the home occupation, provided, however, family day care or home babysitting services shall have not~~two nonresident employees~~.~~ on the premises.

~~z.~~9. ~~No~~ The home occupation shall not create vehicular or pedestrian traffic ~~shall be generated by the home occupation~~ in greater volumes than ~~would normally be expected in~~ average for a residential neighborhood. The home occupation and

any related activity shall not create any traffic hazards or nuisances in public rights-of-way.

~~aa. No motor vehicle exceeding a gross vehicle weight of 6,000 pounds~~Any clients or business-related visitors shall be ~~stored on the property in connection with the home occupation.~~

~~21.~~ ~~No residence shall be occupied, altered or used for any home occupation except the following:~~

~~bb. Accountants and auditors.~~

~~cc. Answering services (telephone).~~

~~dd. Architects.~~

~~ee. Artists and sculptors.~~

~~ff. Authors and composers.~~

~~gg. Computer programming.~~

~~hh. Custodial services.~~

~~ii. Custom furniture repair and upholstering.~~

~~jj. Dentists, doctors, therapists, and health care practitioners.~~

~~kk. Direct mail services.~~

~~ll. Dressmakers, seamstresses and tailors.~~

~~mm. Engineers.~~

~~nn. Family planning services.~~

~~oo.~~10. ~~Hairstylists (~~limited to ~~no more than two hair dryers).~~ the hours of 7:00 a.m. to 8:00 p.m.

~~pp. Home crafts,~~The storage of semi-trucks, trailers, or heavy equipment such as ~~model making, rug weaving, lapidary work, cabinet making, weaving, ceramics.~~

~~qq. Interior designers.~~

~~rr. Lawyers, justices of the peace, and notary publics.~~

~~ss. Licensed family day care home or babysitting services.~~

~~tt. Musicians~~construction or ~~music teachers, including group instruction not to exceed six students at any time but not including performances or band rehearsals, which shall meet the following additional requirements:~~

~~i.~~11. ~~Electronic amplification~~landscaping equipment used in a commercial business, is prohibited.

~~ii. The applicant shall demonstrate that noise attenuation is provided which minimizes perception of sound at property lines at all times during the use. Noise attenuation measures may include, but are not limited to, insulation, double-pane windows, air conditioners, or any combination of these or similar noise attenuation measures.~~

~~iii. Hours of operation shall be limited to 8:30 a.m. to 9:30 p.m.~~

~~uu. Office facility of a minister, rabbi, or priest.~~

~~vv. Photographic studios.~~

~~ww.~~ ~~Professional counseling and consulting services.~~

~~xx. Professional research services.~~

~~yy. Sales persons provided that no retail or wholesale transactions are made on the premises.~~

~~zz. Small appliance repair.~~

~~aaa. Snow plowing provided that only one snow plow vehicle is stored on or generated from the site.~~

~~bbb. Special tutoring or instruction (not to exceed three pupils at any given time).~~

~~ccc. Clerical services.~~

~~ddd. Small-scale marijuana caregiver, except that no more than one small-scale caregiver may operate out of any one dwelling unit.~~

~~22. A home occupation that is not listed in (4) above but is similar to and no more objectionable than those home occupations listed, shall be permitted as a conditional use subject to the requirements of Section 6.5 of this article. This provision shall not include veterinarians, kennels, animal raising, funeral homes, retail uses including antique shops, restaurants, dancing studios, towing services, repair and painting of automobiles as home occupations.~~

~~G. Letting of rooms. The letting of rooms within an existing dwelling unit in any residential zone shall be permitted as an accessory use provided that:~~

~~23. There shall be no more than two persons occupying such room or rooms.~~

~~24. There shall be not more than two rooms per dwelling unit occupied for such use.~~

~~25. There shall be no increase in the bathroom and/or kitchen facilities in the dwelling, and no such facility shall have been constructed in the immediately preceding two years.~~

12. Repair and service of any vehicles, any type of heavy machinery, or any type of engine, is prohibited. Repair of small electronics or appliances is allowed.

13. A family childcare provider as a home occupation shall not be subject to floor area limitations for an accessory use, but shall be limited to the care of not more than 12 children and shall have no nonresidential employees.

14. Businesses with no employees, no customers, and no external impacts are not considered home-occupations for the purposes of this subsection, and are exempt from its provisions. Remote work is also not considered a home occupation, and is exempt from these provisions.

~~H.~~F. **Makers' markets in the IL-b zone.** Makers' markets, including periodic or seasonal sale of handcrafted and limited production products for final consumption, which may include prepared or raw foods, shall be permitted as an accessory use in the IL-b zone, provided that:

1. Such sales are located within a lawfully conforming principal permitted use.
2. Such sales occupy an area no larger than 45% of the floor area devoted to the principal use.
3. Such sales by any single vendor or group of vendors shall occur for no more than a total of 28 hours a week collectively.
4. Such products are produced or permitted to be produced in the IL/IL-b zone.
5. Such products are sold by the producer of the product or their designee.

~~I.~~G. **Tasting rooms in industrial zones.** Tasting rooms shall be permitted as accessory uses on the premises of facilities where beer, wine, spirits, other alcoholic or non-alcoholic

beverages, or food are produced, provided that:

1. Service of food in the facility is limited to that which does not constitute a full ~~course~~ meal.
2. No more than 10% of the beverage menu in tasting rooms accessory to beverage production or 10% of the food menu in tasting rooms accessory to food production is produced or manufactured off-site.
3. Tasting rooms shall not be subject to the limitations on the use of unbuilt lot or yard area in Subsection 6.6.1(C).

~~J.~~H. **Solar energy generation**~~. Roof-mounted, building-integrated, or small-scale ground-mounted solar energy systems shall be permitted as accessory uses within all zones except the Stream Protection Zone and within cemeteries. Accessory solar energy systems are only permitted within the Recreation and Open Space Zone where co-located with public industrial or utility infrastructure and are subject to historic preservation review when such systems are either located within or less than 100 feet from an identified historic district or historic landscape district. All accessory solar energy systems are subject to the following conditions:~~

1. Accessory solar energy systems shall be permitted in all zones except within cemeteries.
2. All accessory solar energy systems ~~shall comply with all general use~~are subject to the following conditions:
   a. All systems shall meet the technical, safety, and maintenance standards in the City of Portland *Technical Manual*.
   b. Solar energy systems shall minimize impacts resulting from construction and maintenance of the solar energy system, including lighting, security measures, traffic, and grid connections.
   c. ~~for~~Solar panel placement shall minimize or negate any solar glare impacting nearby properties or roadways, without unduly impacting the functionality or efficiency of the solar energy system.
   ~~3.~~d. Ground-mounted accessory solar energy systems ~~as stated under Subsection 6.4.16 of this article~~shall be located in side or rear yards only, and ~~with the~~ shall be subject to all dimensional ~~requirements as stated under~~ standards for detached accessory structures within Article 7~~.~~ unless otherwise specified.
   e. ~~Small-scale ground~~Building-mounted or roof-mounted accessory solar ~~arrays~~energy systems are not included in the calculation of maximum structure height, but must meet the following standards:
      i. Systems installed on pitched roofs shall ~~occupy less~~be installed parallel to the roof surface on which they are mounted, and may project a maximum of one foot from the surface of the roof to the highest point of the system. Systems may not extend higher than ~~1,000 square~~the highest point of the roof surface on which they are mounted.

~~4.~~ii. Systems installed on flat roofs must be set back a minimum of one foot for each foot of system height. Systems are limited to a height of five feet ~~of ground area.~~ above the surface of the roof in all residential zones, 15 feet in the B-4 zone and industrial zones, and eight feet in all other zones.

~~K.~~l. **Wind energy generation.**

~~Freestanding~~Ground-mounted and roof-mounted accessory wind energy systems shall be permitted as accessory uses within all zones ~~except the Stream Protection Zone, within historic districts except where the Congress Street Historic District coincides with the B-3 zone, within historic cemeteries or historic landscape districts, or within 1,000 feet of any designated historic landmark (Portland Observatory, Cathedral of Immaculate Conception, St. Dominic's Cathedral, St. Luke's Cathedral, State Street Church, and City Hall), subject to the following conditions:~~. Accessory wind energy systems are subject to the following standards:

1. Accessory wind energy systems shall comply with all general use standards for wind energy systems as stated under Subsection 6.4.~~18~~41.A of this article.
2. Properties shall be limited to one ~~free-standing wind energy system and/or three roof or building mounted~~ground-mounted accessory wind energy system and two roof-mounted accessory wind energy systems.
3. ~~Accessory~~The maximum height of a ground-mounted accessory wind energy ~~systems~~ system is 25 feet in all RN zones, the B-1 zone, and all island zones. In all other zones, the maximum height shall ~~either~~ be ~~located on~~ the ~~rear half of a building~~maximum height allowed within the zone or 45 feet, whichever is less.
4. The maximum height of any roof-mounted accessory wind energy system is 15 feet above the height of such structure~~;~~. Roof-mounted systems are not included in the calculation of maximum structure height.
5. Roof-mounted accessory wind energy systems shall be set back from any edge of the building upon which they are mounted by a distance equal to or greater than the total height of the system, measured from the roof surface at the point of attachment to the top of the system at maximum vertical rotation. The setback distance shall be measured to the center of the wind generator base.
6. Ground-mounted accessory wind energy systems shall be setback from property lines by a distance equal to or greater than 1.1 times the total height of the system, measured from the base of the system to the top of the system at maximum vertical rotation. The setback distance shall be measured to the center of the wind generator base.
7. Ground-mounted accessory wind energy systems shall be located within the rear yard only and shall be sited to maximize existing vegetative or other screening from nearby residential buildings and public ways. The location shall minimize changes to existing topography and natural vegetation which would result from

construction or maintenance of the system.

6.7 TEMPORARY USES

6.7.1 ~~—~~In general

Temporary uses may be permitted ~~from time to time~~ as determined by the Planning Authority~~. In addition to~~ or Building Authority. Temporary uses on private property shall comply with the standards of this section, as well as regulations pertaining to temporary uses contained elsewhere in the City of Portland Code of Ordinances~~, the following standards shall apply for specific temporary uses~~. All temporary uses require a temporary use permit unless specifically cited as exempt. A temporary use permit may be issued for additional temporary uses not specifically listed per Subsection 6.7.2(G) below. Temporary uses do not require additional parking unless specifically cited in the temporary use standards or stipulated as a condition of approval.

6.7.2 Standards for specific temporary uses

~~L. Temporary parking.~~ ~~Parking of vehicles may be permitted by a temporary certificate of occupancy for a limited period of time not to exceed one year in anticipation of future development.~~

~~M. Temporary private tenting.~~ ~~Temporary private tenting with one tent accessory to a principal residential use is permitted in~~ the ~~IR-1 and IR-2 zones provided that adequate water supplies and sanitation facilities are available in connection with the principal residential use.~~

~~N. Temporary sales.~~ ~~No "garage~~ sale~~," "lawn sale," "attic sale," "rummage sale,"~~ of food or ~~other similar casual sale of tangible personal property which is advertised by any means whatsoever whereby the public at large is or can be made aware of such sale, shall be deemed to be accessory or temporary if such sale occurs after sales have been conducted~~non-food crops grown only on the ~~same~~ premises ~~for six or more days previously during the calendar year.~~

~~O. Temporary stands~~ Farmstand

~~4. No premises shall be used for business purposes consisting of temporary stands, booths, platforms, or vehicles intended for the sale of merchandise or other mercantile purposes if any part of such stand, booth, platform, or vehicle is proposed to be located nearer than 125 feet to any residential zone, except that a single stand with no more than 200 square feet of floor area for the sale of agricultural products produced on the premises shall be permitted as accessory to a permitted agricultural use.~~

~~5.~~1. ~~A single produce stand shall be permitted on the premises of a community garden for the sale of flowers, vegetables, herbs, or fruit produced on the premises, provided that the stand is no more than 100 square feet in floor area or open table area and is located a minimum of five feet from any property line; that sales are limited to two days per week between the hours of 9:00 a.m. and 6:30 p.m. during the growing season from May 25 through October 31; and that the stand has received all necessary permits. The use of produce stands shall be seasonal and temporary. Any properly permitted structure may remain on the premises year-round. If the community garden is owned or operated by a non-profit~~

~~organization, sales of flowers, vegetables, herbs, or fruit produced in other gardens or farms in Maine owned or operated by said organization shall be permitted within the same limitations listed above. For purposes of this subsection, community garden means a parcel of open land used for the cultivation of flowers, vegetables, herbs, or fruit by a group of city residents either jointly as a single plot or through individual garden plots or beds~~.

~~6. A single produce stand shall be permitted on the premises of a non-profit organization incorporated pursuant to the laws of the State of Maine with the permission of the owner and on the premise of public schools with the permission of the school department; provided that the stand is for the sale of local fruit, vegetables, flowers, seedlings, and plants produced by the seller; that the stand is no more than 100 square feet in floor area or open table area and is located a minimum of five feet from any property line; that sales on the premises are limited to two days per week between the hours of 9:00 a.m. and 6:30 p.m. during the growing season from May 25 through October 31; and that the stand has received all necessary permits. The use of produce stands shall be seasonal and temporary. Any properly permitted structure may remain on the premises year-round.~~

2. A farmstand for the sale of food or non-food crops grown only on the premises is permitted, and shall be exempt from temporary use permit requirements.

~~7.~~3. In the ~~IR-1 and IR-2~~island zones, ~~a single stand with no more than 200 square feet of floor area for~~such stand may include the sale of agricultural products produced on the premises or the sale of fish or shellfish caught by the occupant of the premises ~~shall be permitted as a temporary use~~.

4. Acceptable stands are a portable table or cart, and cannot exceed an area of 200 square feet.

5. Farmstands are permitted for no more than 180 days per calendar year, and shall be removed when not in use.

6. Farmstands must be set back from all public rights-of-way a distance of no less than 5 feet.

~~P. **Truck load sales.** Truck load sales shall not extend beyond three consecutive days nor occur more frequently than three times a calendar year.~~

J. Garage/yard sale

1. A garage/yard sale is permitted as a temporary use on residential property, and shall be exempt from temporary use permit requirements.

2. Garage/yard sales~~. Truck load~~ are limited to no more than six days per calendar year.

K. Real estate project sales office or model unit

1. A real estate sales office/model unit(s) is allowed for a residential development.

2. No real estate sales office/model unit(s) may be located in a manufactured home or off-site.

3. The temporary use permit shall be valid for the life of the residential development project. The real estate sales office must be removed and/or closed within 30 days after the sale or rental of the last unit

within the development. The model unit(s) must be closed within 30 days after the sale or rental of the last unit of the development.

4. All activities conducted within real estate sales office/model unit(s) must be directly related to the construction and sale of properties within the particular development. Use as a general office of operation of any firm is prohibited.

L. Temporary contractor's yard

1. A temporary contractor's yard is allowed incidental to a construction project.

2. The temporary use permit shall be valid for the life of the project, to be verified by open permits.

3. The temporary contractor's yard shall be removed within 30 days of the completion of construction, and the premises shall be restored to their pre-construction state.

4. Temporary contractor's yards shall be screened on all sides by a fence a minimum of six feet in height to a maximum of eight feet in height. Fencing shall not be required on shared lot lines if the abutting lot contains a fence or other barrier that prohibits entry onto the lot.

M. Temporary outdoor sales

1. Temporary outdoor sales in residential zones are limited to those events conducted by and located on the premises of a place of assembly, an elementary, middle, or secondary school, or a post-secondary school, and shall be exempt from temporary use permit requirements.

2. Time limits shall be as follows:

f. Time limitations apply to the lot, not the operator of the use.

g. Temporary outdoor sales events in residential zones are limited to three events per calendar year, with a maximum of either three consecutive days ~~nor occur more frequently than three times a calendar year~~, or two consecutive weekends. A minimum of 30 days between events is required.

h. Temporary outdoor sales events in nonresidential zones are limited to four events per calendar year, with a maximum duration of five days per event, and a minimum of 30 days between events.

i. Temporary outdoor sales events for seasonal sales, such as Christmas trees or pumpkins, are limited to four events per calendar year, with a maximum of 30 days per event and a minimum of 30 days between events.

j. Temporary outdoor sales events in any nonresidential zone must be located a minimum of 125 feet from a residential zone.

N. Temporary outdoor storage containers

The use of an outdoor storage container is limited to a maximum of 90 days per calendar year, and shall be exempt from temporary use permit requirements.

~~**Q.**~~**O. Additional temporary uses.** In addition to the temporary uses listed above, a temporary use permit may be issued by the Planning Authority or Building Authority for other temporary uses that are substantially similar to a temporary use listed above. A permit may be issued if the Planning Authority determines that such use is compatible with the surrounding land uses and proper care has been taken to

address potential impacts to surrounding land uses. The time limit of such temporary use will be determined and approved as part of the temporary use permit.

6.8 PERFORMANCE STANDARDS

All uses shall comply with the performance standards established in this section, unless any federal, state, or local law, ordinance, or regulation establishes a more restrictive standard, in which case the more restrictive standard shall apply.

~~6.8.1 Design~~

~~**R.** In the B-3 zone, all development, all building and site alterations, and all provision of landscaping or other pedestrian amenities shall be consistent with the Downtown Urban Design Guidelines.~~

~~**S.** In the B-7 zone, all buildings shall have a minimum of one operable public pedestrian entrance facing the street frontage of the lot. Such building entrances shall comply with the B-7 design standards.~~

~~6.8.2~~6.8.1 Development in the ~~R-~~OS ~~zone~~ R and OS-P zones

All development in the ~~Recreation~~OS-R and ~~Open Space Zone~~OS-P zones shall comply with the following development standards:

A. All ground areas not used for parking, loading, vehicular, or pedestrian areas and not left in their natural state shall be suitably landscaped and designed with quality materials that are consistent with adopted City policy or master plans, and which provide a comfortable, durable, accessible, readily maintainable, and aesthetically pleasing environment.

B. Natural features, such as mature trees and natural surface drainageways, shall be preserved to the greatest possible extent consistent with the uses of the property.

C. Loading areas shall be screened and parking areas shall be screened and landscaped so as to avoid a large continuous expanse of paved area.

D. Buildings and structures shall be sited to avoid obstructing significant scenic views presently enjoyed by nearby residents, passersby, and users of the site.

E. Storage of commodities and equipment shall be completely enclosed within buildings or provided with screening by a fence, wall, or landscaping.

F. The outer perimeter of playfields, play lots, and other active recreational areas shall be screened, or shall be located a reasonable distance from any residential use.

~~6.8.3~~6.8.2 Discharges

No discharge shall be permitted at any point into any private sewage disposal system, or stream, or into the ground, of any materials in such a way or of such nature or temperature as to contaminate any water supply, or otherwise cause the emission of dangerous or objectionable elements, except in accordance with standards approved by the Public Health Authority or by the Public Works Authority. No discharge into harbor water areas shall be permitted, unless permitted by the Maine Department of Environmental Protection under a waste discharge license and as approved by the Department of Public Works in accordance with Chapter 24 of the City of Portland Code of Ordinances. All private sewage disposal or private

TABLE 6-H: NOISE STANDARDS

Zone	Daytime/Evening (7 a.m.-9 p.m.)	Night (9 p.m.-7 a.m.)
I-B	60 dBA	55 dBA
O	60 dBA	60 dBA
B-1	55 dBA	55 dBA
B-2/B-2b	60 dBA	55 dBA
B-3	60 dBA	55 dBA
B-4	65 dBA	60 dBA
B-5, B-6	60 dBA	50 dBA
I-L/I-Lb	60 dBA	50 dBA
I-M/I-Mb	70 dBA	55 dBA
I-H	75 dBA	55 dBA
A-B	60 dBA	60 dBA

wastewater treatment facilities shall comply with the provisions of Chapter 24.

~~6.8.4~~6.8.3 Electromagnetic interference

In any industrial zone, there shall be no electromagnetic interference that adversely affects the operation of any equipment other than that belonging to the creator of such interference.

~~6.8.5~~6.8.4 Exterior lighting

All exterior lighting shall be designed and installed with full cut-off fixtures to direct illumination onto the site and to prevent illumination from such fixtures on neighboring properties in accordance with the City of Portland *Technical Manual*.

~~6.8.6 Heat, glare, radiation~~

~~Heat, glare, or radiation shall be imperceptible without instruments at lot boundaries and shall not present a safety hazard.~~

~~6.8.7 Historic resources~~

~~The exterior design of proposed or renovated structures located within historic districts shall be subject to the historic preservation provisions of Article 17. The exterior design of proposed or renovated structures located adjacent to historic districts or historic resources shall be subject to historic preservation requirements of Article 14.~~

~~6.8.8~~6.8.5 Landscaping and screening

A. In all mixed-use zones, the I-B zone, TOD zones, the O ~~P zone, the R-P~~ zone, and the A-B zone outside of restricted access areas, sites shall be landscaped to screen parking and accessory site elements, including storage and solid waste receptacles, from the right-of-way, public open space, or abutting residential zones.

B. In the I-H ~~and I-Hb zones~~zone, where a front yard abuts an arterial or a major collector street, it shall be landscaped. Rear yards, side yards, and the perimeter of any parking area for greater than 15 vehicles shall be landscaped if visible from a right-of-way, public open space, or residential zone.

~~6.8.9~~6.8.6 Noise

A. No use shall be operated so as to generate recurring noises that are unreasonably loud, cause injury, or create a nuisance to any person of ordinary sensitivities.

~~A.~~**B.** The maximum permissible sound level of any continuous, regular, or frequent source of sound produced by an activity shall be as shown in Table 6-~~G~~H.

C. Sound shall be measured as follows:

1. For ~~any~~ noise generated by a use in the ~~B-5/B-5b, B-6, B-7,~~ I-L/I-Lb, I-M/I-Mb, and I-H zones, sound shall be measured at or

within the boundaries of ~~any~~the nearest residential zone.

~~B.~~ For ~~any~~ noise generated by a use in the B-1~~/B-1b~~, B-2/B-

2. ~~2b/B-2c, I-B, R-P, O-P, A-B~~, and ~~IS-FBC~~A-B zones, sound shall be measured at lot boundaries. ~~For any noise generated by a use in the B-3/B-3b/B-3c, sound shall be measured at lot boundaries or within publicly accessible pedestrian open space. For any noise generated by a use in the B-4 zone, sound shall be measured off premises at the source of complaint.~~

~~levels~~

~~**C.** In addition to the sound level standards established in Table 6-G, all uses shall employ best practicable sound abatement techniques to prevent tonal sounds, or sound waves usually perceived as a hum or whine because their instantaneous sound pressure varies essentially as a simple sinusoidal function of time, and impulse sounds, or sound events characterized by brief excursions of sound pressure, each with a duration of less than one second. If such tonal and impulse sounds cannot be prevented, uses shall employ best practicable sound abatement techniques to minimize the impact of such sounds in residential zones.~~

D. Sound levels shall be measured with a sound level meter with a frequency weighting network manufactured according to standards prescribed by the American National Standards Institute (ANSI) or its successor body. ~~Measurements shall be made at all major lot lines of the site, at a height of at least four feet above the ground surface. In measuring sound levels under this subsection, sounds with a continuous duration of less than 60 seconds shall be measured by the maximum reading on a sound level meter set to the A-weighted scale and the fast meter response (L-maxfast). Sounds with a continuous duration of 60 seconds or more shall be measured on the basis of the energy average sound level over a period of 60 seconds (LEQ1).~~

~~E.~~ Wind energy systems

E. . Where the underlying zone is residential and does not specify sound requirements, or where the system will be within 100 feet of a residential ~~building, the audible~~zone, sound

~~8.~~ generated by the wind energy system shall not exceed 45 decibels on the A scale between the hours of 9:00 p.m. and 7:00 a.m., and 50 decibels on the A scale between 7:00 a.m. and 9:00 p.m., as measured at the nearest property line in accordance with this provision and

~~**TABLE 6-G: NOISE STANDARDS**~~

~~**R-P**~~	~~55 dBA~~	~~55 dBA~~
~~**O-P**~~	~~60 dBA~~	~~60 dBA~~
~~**B-1/B-1b**~~	~~55 dBA~~	~~55 dBA~~
~~**B-2/B-2b/B-2c**~~	~~60 dBA~~	~~55 dBA~~
~~**B-3/B-3b/B-3c**~~	~~60 dBA~~	~~55 dBA~~
~~**B-4**~~	~~65 dBA~~	~~60 dBA~~
~~**B-5/B-5b, B-6, B-7**~~[1]	~~60 dBA~~	~~50 dBA~~
~~**I-L/I-Lb**~~[1]	~~60 dBA~~	~~50 dBA~~
~~**I-M/I-Mb**~~[1]	~~70 dBA~~	~~55 dBA~~
~~**I-H/I-Hb**~~[1]	~~75 dBA~~	~~55 dBA~~
~~**A-B**~~	~~60 dBA~~	~~60 dBA~~
~~**IS-FBC**~~	~~60 dBA~~	~~55 dBA~~

~~[1] Daytime/evening noise regulations shall extend until 10 pm, after which time nighttime noise regulations shall apply.~~

technical standards set out in the City of Portland *Technical Manual*.

~~**9.** For any system over 45 feet in total height not in the Recreation and Open Space, Resource Protection, or Island Transfer Station Overlay Zones, the maximum sound levels allowed by this ordinance shall not be exceeded at the nearest property boundary and at the nearest point vertically above the property line that coincides with the maximum building height allowed in the abutting zone.~~

~~**10.** Any system located within the Recreation and Open Space, Resource Protection, or Island Transfer Station Overlay Zones and more than 100 feet from a residential building shall not exceed 55 decibels on the A scale as measured 50 feet from the base of the tower.~~

~~**11.**~~ Audible sound levels of wind energy systems shall include sounds generated in all conditions including low and high winds (furling, yawing, and flutter) and power outages (freewheeling). ~~If after installation, the system is determined to be operating at levels above these limits (as measured at the property lines in accordance with this provision and applicable technical standards, the owner shall take (at the owner's cost) remedial action to ensure compliance with these limits. Required action may include relocation or removal of the system.~~

F. Exemptions

1. Noises created by construction and maintenance activities between 7:00 a.m. and ~~10~~9:00 p.m. are exempt from the maximum permissible sound levels set forth ~~above. Construction activities on a site abutting any residential use between the hours of 10:00 p.m. and 7:00 a.m. shall not exceed 50 dBA.~~in Table 6-H.

2. The following uses and activities shall also be exempt from the requirements of Table 6-~~G~~H:

a. The noises of safety signals, warning devices, emergency pressure relief valves, and any other emergency devices.

b. Traffic noise on public roads or noise created by aircraft and railroads.

c. Noise created by refuse and solid waste collection~~, provided that the activity is conducted between 6:00 a.m. and 7:00 p.m~~.

d. Emergency construction or repair work by public utilities, at any hour.

e. Noise created by any recreational activities which are permitted by law and for which a license or permit has been granted by the City, including but not limited to concerts, parades, sporting events, and fireworks displays.

~~6.8.10~~6.8.7 Odor

~~**G.**~~ It shall be a violation of this article to create an odor nuisance.

~~**3.**~~ An odor nuisance shall be considered to exist when 10 confirmed complaints relating to odors of such intensity and character as to be detrimental to the public health and welfare occur in an area within two separate 24-hour periods. The 10 confirmed complaints must originate from 10 different households in ~~an area zoned~~a residential zone, or from 10 different individuals in a commercial or industrial ~~facility. The Building Authority shall only~~

respond to a complainant who confirms that the odor is detectable at the time of the actual complaint. In order to confirm a complaint, the Building Authority or its designee shall first determine that an odor is detectable in the area of the complaint. The Building Authority or its designee shall interview the complainant to verify that the detectable odor is in fact the odor that resulted in the complaint. If the complainant verifies the odor as the source of the complaint, then the Building Authority shall notify the owner or operator of the alleged odor source either in person or by telephone within one working day, with a written confirmation within seven working days of the complaint. In the event that the Building Authority is unable to contact the owner or operator of the alleged odor source in person or by telephone within one working day, then the Building Authority shall send written notice to the operator within seven working days of the complaint.zone.

4. In the event that 10 complaints are confirmed as set forth in paragraph (1) above in two separate 24 hour periods within a 90 day period, the Building Authority shall cause a certified odor inspector to investigate any odor complaints received in the next 30 days following the receipt of the tenth confirmed complaint from the second 24 hour period. If the odors remain under the ambient intensity standard as established in this subsection for the next 30 days, then a new odor nuisance must be established after that time in accordance with the requirements of this subsection. The certified odor inspector shall do the following in response to a complaint under this subsection:

f. Verify that an odor is detectable in the area of the complaint and confirm that it is the odor that resulted in the complaint.

g. Quantify the intensity of the odor on the eight point in butanol intensity scale as defined in regulations promulgated by the Planning & Urban Development Director to establish training and technical standards to support this subsection.

h. Track the odor to its source.

H. When the certified odor inspector determines that a violation has occurred because an odor has exceeded the maximum ambient odor levels set forth in this subsection, the Building Authority shall notify the owner or operator either by telephone or in person of the violation within one working day of the violation. The Building Authority shall confirm this notification in writing within seven working days of this initial notice. In the event that the Building Authority is unable to contact the owner or operator by telephone or in person within the required time period, then it will send written notification within seven working days of the violation.

I. Upon receipt of the written notice of violation, the owner or operator of the odor source shall do the following:

5. Implement odor reduction procedures immediately upon notification by the Building Authority that the facility has violated this subsection wherever odor reduction can be achieved by operational or procedural changes at the facility.

6. Submit to the Building Authority, within 30 days of the written notice of violation, an

~~odor reduction plan which is designed to reduce ambient odors attributable to emissions from that source to the maximum allowable intensity for that zone. The plan shall include a detailed summary of the measures that the owner or operator will take to mitigate the community annoyance and estimated dates for completion of those measures. In the event that it will take longer than 30 days to develop the odor reduction plan, the owner or operator of the facility shall submit within the 30-day time period a schedule for the development of the odor reduction plan. The Building Authority shall review this plan to determine whether it will be adequate to resolve the odor nuisance in a reasonable time period.~~

~~7. Implement the plan in accordance with the schedule approved by the Building Authority.~~

~~J. The maximum ambient intensity standard for odors generated by uses located in the industrial zones shall not exceed the following levels when the odor is measured in the zone indicated:~~

~~8. 4.0 in any industrial or mixed-use zone for odors resulting from uses in industrial or mixed-use zones.~~

~~9. 3.0 in any residential zone for odors resulting from uses in industrial or mixed-use zones.~~

~~**6.8.11 Outdoor effects**~~

~~K. In all mixed-use, office, and industrial zones and the IS-FBC zone, uses shall be operated within a completely enclosed structure, except for those customarily operated in open air.~~

~~L. In the mixed-use and IS-FBC zones, open air activities shall be those licensed by the city.~~

~~M. There shall be no outdoor kennels.~~

~~N. No open exterior stairways or fire escapes shall be constructed above the ground floor, except that the Building Authority may permit the installation of an exterior egress stair or an upgrade of an existing exterior fire escape for a conforming or lawfully nonconforming dwelling unit existing as of January 5, 1998, if such egress is required to meet current fire or other life safety codes, provided that the owner demonstrates to the Building Authority that:~~

~~10. There is no practical and economically reasonable way to provide such egress within the interior of the building, as demonstrated by the submission of detailed floor plans showing the projected cost of and the impact on the existing dwelling from an interior stair.~~

~~11. The stairway and associated landings and other building fixtures are designed and will be constructed to have a minimal visual impact upon the building, especially as viewed from any public way or public open space, as demonstrated by photographs of the front and any other affected facades of the building and plans or drawings of the proposed egress stairs.~~

6.8.8 Exterior stairways

Exterior stairs may be permitted, so long as such stairways shall have minimal visual impact upon the building and are located in the rear or side yard.

~~6.8.12~~6.8.9 Outdoor storage

Outdoor storage shall comply with the requirements of Table 6-~~H~~I.

~~6.8.13 Relocation of displaced residents~~

~~In the B-3, B-3b, and B-3c zones, any development which results in the displacement of residents of dwelling units currently located on the development site shall meet the requirements of Section 18.5.~~

~~6.8.14~~6.8.10 Smoke and dust

~~Smoke shall~~Visible emissions from a direct or fugitive emission source may not ~~be emitted at a density in excess of the~~ exceed an opacity ~~level designated in Table 6-I, as classified in Method 9 (Visible Emissions)~~of 20% for more than 2.5 minutes in any half-hour period. All visible emissions must comply with the standards of the ~~Opacity Evaluation System~~Maine Department of ~~the U.S.~~ Environmental Protection ~~Agency~~.

~~TABLE 6-I: SMOKE STANDARDS~~

~~Zone~~	~~Opacity Level~~
~~R-P~~	~~20%~~
~~O-P~~	
~~B-1/B-1b~~	
~~B-2/B-2b/B-2c~~	
~~B-3/B-3b/B-3c~~	
~~B-4~~	~~30%~~
~~B-5/B-5b~~	~~40%~~
~~B-6~~	
~~B-7~~	
~~Industrial and A-B zones~~	
~~IS-FBC~~	~~20%~~

~~6.8.15~~6.8.11 Storage and repair of vehicles

~~O.~~G. In all residential zones, all island zones~~, the R-P zone,~~ and the B-3 zone, only one unregistered motor vehicle may be stored outside for a period not exceeding 30 days. In other mixed-use zones, storage of unregistered motor vehicles for more than 10 days, and outdoor storage of used automobile tires shall be prohibited.

H. No partially dismantled, wrecked, or junked vehicles shall be stored outdoors. This provision does not apply to vehicles undergoing repair.

I. All vehicle repair facilities shall be screened along interior side and rear lot lines by a landscaped buffer or solid fence a minimum of five feet in height.

~~P. No building in any zone shall be erected, altered or used as a garage for the storage of more than three motor vehicles or for the business of repairing motor vehicles if any part of either old or new building when completed would be closer than five feet to any part of any church, public or private hospital, or school or if any part of either old or new building when completed would be less than 15 feet from the boundary line of any lot upon which any part of any church, public or private hospital, or school is located. No existing garage used for the storage of more than three motor vehicles or for the business of repairing motor vehicles shall be deemed to become a nonconforming use through the subsequent erection of such church, hospital, or school closer than the aforesaid distance to such a garage.~~

~~6.8.16 Traffic~~

~~Development in the I-M, I-Ma and I-Mb zones shall utilize streets classified as arterials by the Maine Department of Transportation to the greatest extent possible.~~

TABLE 6-I: OUTDOOR STORAGE STANDARDS

	B-1	B-2/ B-2b	B-3	B-4	B-5	B-6	I-B	O	A-B	I-L/ I-Lb	I-M/ I-Mb	I-H
There shall be no outdoor storage except for fully enclosed receptacles for solid waste disposal.	●		●		●	●		●				
All outdoor storage must be located a minimum of 20 feet from any lot line. However, when abutting a residential zone, all outdoor storage must be located a minimum of 100 feet from a lot line abutting such zone.		●		●			●		●	●	●	●
Outdoor storage areas must be designed and maintained so as to prevent the accumulation of debris and standing water that can attract insects and vermin. All outdoor storage areas shall employ measures to prevent displacement of materials and windblown dust or particulates, including the use of windbreaks, tarps, or other coverings to protect stored materials from the elements.		●		●			●		●	●	●	●
No outdoor storage shall be permitted in the front setback, except for storage for plant and tree nurseries or lumber yards if listed as a permitted use. All such storage located in the front setback shall consist of live plant materials or lumber products. No aggregate materials, machinery, or other materials or products shall be stored in the front setback.		●		●			●		●			
All outdoor storage shall be suitably screened from the public way and abutting properties by a landscaped buffer or solid fence at least five feet in height. This does not apply to storage of materials allowed in the front setback for plant and tree nurseries or lumber yards.		●		●			●		●			
Exterior lighting of outdoor storage areas shall not exceed that which is required for security purposes and shall meet the standards of Subsection 6..8.4.	●	●	●	●	●	●	●	●	●	●	●	●

~~6.8.17~~6.8.12 Waste disposal

A. All solid waste disposal, including materials which might cause fumes or dust, or constitute a fire hazard if stored ~~out of doors~~outdoors, shall be only in fully enclosed, covered containers or receptacles. In all nonresidential zones ~~with the exception of~~except for the industrial zones, such containers or receptacles shall be within designated, screened areas. In industrial zones and the B-4 zone, outdoor storage of refuse, debris, or previously used materials awaiting reuse shall either be in an appropriate container or located within a designated, screened area.

B. Containers or receptacles shall not leak or otherwise permit liquids or solids to escape from the container or be transferred beyond lot boundaries by natural causes or forces. Areas attracting large numbers of insects or vermin are prohibited.

C. Where food processing is permitted, all food processing waste shall be stored within a completely enclosed structure ~~and if~~. If not refrigerated, such waste shall be removed from the site in an enclosed container within 48 hours of its generation. ~~-~~ All enclosed and exterior food processing waste storage areas shall be cleaned and sanitized on a regular basis.

~~6.8.18~~6.8.13 Vibration

A. In any mixed-use zone~~, the O-P,~~ and the ~~R-P zones~~O zone, vibration inherently and recurrently generated shall be imperceptible without instruments at lot boundaries. This shall not apply to vibration resulting from activities aboard a vessel or from railroad vehicle activities, or from activities on a pile-supported pier.

B. In all industrial zones, any use creating earthshaking vibrations, with the exception of airports, shall be controlled in such a manner as to prevent transmission beyond lot lines of vibrations causing a displacement of .003 or greater on one inch, as measured by a vibrograph or similar instrument at the property boundaries.

6.8.14 Entertainment businesses in the B-3 and WCZ zones

A. In the B-3 and WCZ zones, a business with an entertainment license as required or authorized by Chapter 4, Section 4-51(a) of the City of Portland Code of Ordinance shall be considered an entertainment business for the purposes of this section, and may not be located within 100 feet of another entertainment business, as measured along or across public ways from the main entrance or entrances of each. This dispersal requirement shall not apply to entertainment businesses that do not allow amplified entertainment.

1. Any entertainment business located in the B-3 or WCZ zones on or before January 3, 2006 shall not be required to comply with this dispersal requirement. If located within 100 feet of another entertainment business, such business shall be considered a lawfully nonconforming use subject to the standards of Article 4 of this Code. Any such business shall continue to be considered an entertainment business for the purpose of administering this dispersal requirement for a new or relocating entertainment business in the B-3 and WCZ zones.

2. Where two or more entertainment businesses operate on one site, and where each business entity requires or has a separate business license, or displays in a manner visible from public property separate business trademarks, logos, service marks, or other mutually identifying names or symbols, each business entity shall be counted as a separate entertainment business for the purposes of this section.

~~B.~~3. Following a hearing held pursuant to Chapter 15, Section 15-10 of the City of Portland Code of Ordinances, the Building Authority may impose conditions on the food service license of any entertainment business in the B-3 and WCZ zones that operates between 1:00 a.m. and 4:00 a.m. to maintain or improve public safety. Such conditions may be imposed following a written recommendation from the Portland Police Department that such conditions are necessary. The Building Authority's decision may be appealed to the City Manager pursuant to Chapter 15, Section 15-9 of the City of Portland Code of Ordinances. Nothing in this section shall be construed to limit the Building Authority's authority in Chapter 15 to deny, suspend, or revoke any license pursuant to the standards and process in that chapter.

1. 7 DIMENSIONAL STANDARDS

~~7.1~~ 7.1 APPLICABILITY

Construction, alterations, and additions to structures and buildings are governed by this article, except when superseded by other applicable laws or ordinances. It is the intent that, when in doubt, this article should be interpreted to accommodate the goals of the City's Comprehensive Plan and other plans.

~~7.2~~ 7.2 RULES OF MEASUREMENT

~~Building footprint.~~**Blank wall area.** The horizontal linear dimension of contiguous building façade, measured along a street frontage, that does not contain fenestration, doors, change in wall plane, or other architectural or material embellishment. Any wall less than five feet in height is not considered to be a blank wall.

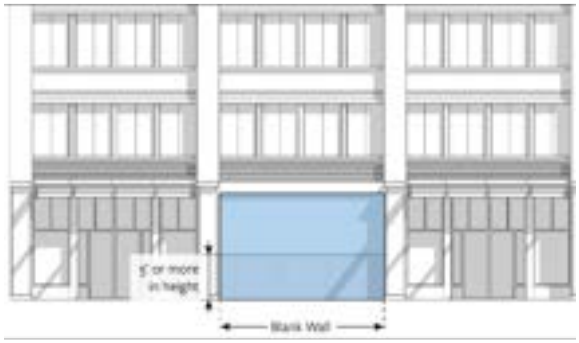


FIGURE 7-A: BLANK WALL AREA

Footprint. The lot area contained within the outermost perimeter of the building envelope including cantilevered portions of the building, projections, and porches, decks, and similar attached structures integral to the building and contributing to its mass, but excluding roof overhangs less than two feet in depth.

Building length. The linear dimension of a building façade, measured along a street frontage. Passageways, breezeways, and similar building connections are included in the calculation of total building length. On sites with multiple buildings, building length shall only be measured on buildings abutting a street frontage.

Build-to percentage. The percentage of the building façade that must be located within a build-to zone. Façade articulation meeting the standards of this Code, such as window or wall recesses and projections, are included as part of the required build-to percentage even when they are recessed beyond the build-to zone. Plazas, outdoor dining, and other public open space features that are bounded by a building façade parallel to the frontage are counted as meeting the build-to percentage. Build-to percentage is calculated as a ratio of the total building length of a principal structure, not street frontage.

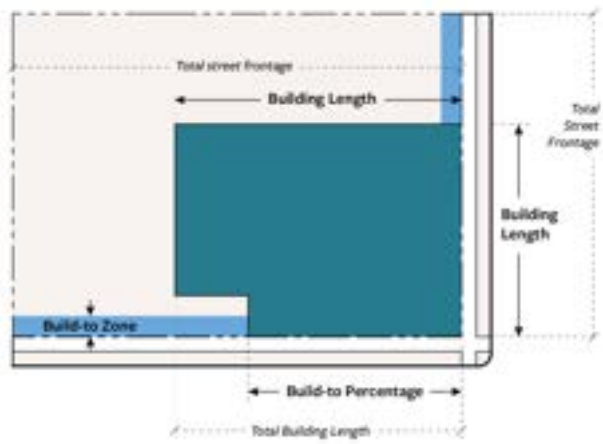


FIGURE 7-B: MINIMUM LENGTH AND BUILD-TO PERCENTAGE

Build-to Zone (BTZ). The area on a lot, measured perpendicular to the front and/or corner side lot line, where all or a portion of the applicable façade of a structure must be located, measured as minimum and maximum range from the lot line. Placement of a building at a build-to zone must not violate corner clearance requirements.

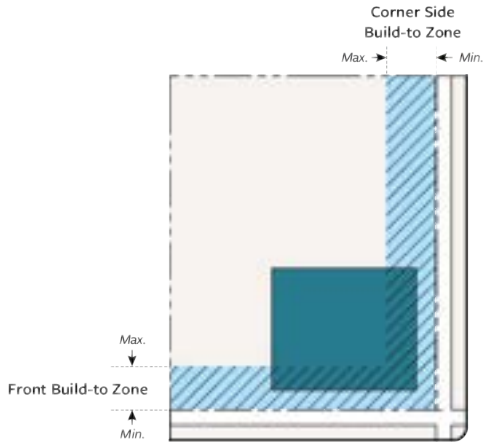


FIGURE 7-C: BUILD-TO ZONE

Floor area. The total floor space enclosed by exterior or standard fire walls and roof of a building, exclusive of vent shafts and courts.

Grade, pre-development. ~~Average grade~~The average of elevation measurements, existing ~~on~~as of October 1, 2000, at ~~the corners of the~~ consistent intervals of no less than three and no more than ten feet around the entire perimeter of a structure. Measurements shall be taken at the foundation of the ~~proposed~~ structure~~.~~ where it meets the grade.

Grade, average. The average of elevation measurements at consistent intervals of no less than three and no more than ten feet around the entire perimeter of a structure. Measurements shall be taken at the foundation of the structure where it meets the grade.

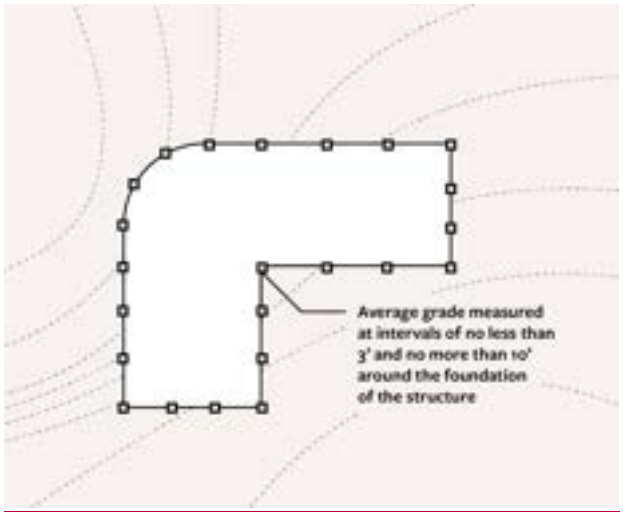


FIGURE 7-D: AVERAGE GRADE

Height. The vertical measurement from average grade, or the pre-development grade on the islands, to the highest point of a structure. For buildings, height shall be measured to the roof beams in flat roofs, to the highest point of the roof beams or the highest point on the deck of mansard roofs, to a level midway between the level of the eaves and highest point of pitched roofs or hip roofs, or to a level two-thirds of the distance from the level of the eaves to the highest point of gambrel roofs. For this purpose, the level of the eaves shall be taken to mean the highest level where the plane of the roof intersects the plane of the outside wall on a side containing the eaves.

~~**Impervious surface ratio.** The proportion of a site covered by impervious surfaces, calculated by dividing the total impervious surface area by the lot area. For the purposes of this measurement,~~

~~impervious surface shall be as defined by the Maine Department of Environmental Protection.~~

FIGURE 7-E: BUILDING HEIGHT MEASUREMENT

Landscaped open space ratio. The proportion of lot area covered by landscaped open space, calculated by dividing the total landscaped open space area by the lot area. For the purposes of this measurement, landscaped open space shall not include ~~rooftop gardens~~green roofs or structured or engineered surfaces.

Lot area. The area of a lot enclosed within the boundary lines of a lot. For townhouse dwellings, the minimum lot area per dwelling unit applies to the overall townhouse development and not to individual lots underlying townhouse dwelling units. On flag lots, no part of the "pole" connecting the main building area to the street shall be calculated as lot area.

Lot coverage. The proportion of lot area covered by building footprint and the footprint of accessory detached structures.

Lot ~~width.~~ ~~The distance measured between~~line. A line of record bounding a parcel or area of land that is designated as an individual unit for use, development, or ownership.

Lot line, corner side. The lot line perpendicular or approximately perpendicular to the front lot line and the longer lot line abutting the street on a corner lot.

Lot line, front. The lot line separating a lot from a street right-of-way. The front lot line of a corner lot is the shorter lot line abutting the street. In the case of a through lot, both lot lines ~~through that part of the principal building~~separating a lot from a street right-of-way are considered front lot lines.

Lot line, interior side. Any lot line that is not a front, rear, or corner side lot line and abuts an adjacent lot.

Lot line, rear. The lot line opposite and most distant from the front lot line. In cases where ~~the lot is narrowest.~~a lot has multiple lot lines that meet this definition, each of those lines shall be

considered a rear lot line for the purposes of applying setback and other dimensional requirements. In the case of triangular or similar irregularly shaped lots, the rear lot line shall be established as a line of ten feet in length entirely within the lot, parallel to and at a maximum distance from the front lot line.

~~**Net land area.** The land area arrived at by subtracting from lot area the square footage of the following: a) areas of special flood hazard; b) existing watercourses measured by the area between the top of the banks at the normal high-water mark; c) wetlands; and d) slopes of 25% or greater. Where a slope of 25% or greater was altered to less than 25% within the two years immediately preceding a development proposal, such slope shall also be subtracted from the lot area.~~

FIGURE 7-F: LOT LINES

Setback. ~~A space on a lot which is~~ The required ~~by this article to be maintained~~ minimum distance a structure shall be located from a lot line, which is open, unoccupied~~,~~ and unobstructed ~~between lot lines and any structure,~~ except as otherwise permitted in this code of ordinances. ~~A~~ setback ~~shall be measured from a line parallel to the lot line drawn through the point of a structure nearest to such lot line. This measurement shall be taken at right angles from such parallel line. When measuring setbacks, setbacks shall be interpreted to include setbacks of structures from property lines and setbacks of principal structures from one another. No principal structure shall occupy the minimum setback of another principal structure.~~ is located along the applicable lot line for the minimum depth specified by the zone in which such lot is located, and may be equal to or lesser than a yard. Setbacks ~~shall~~do not apply to fences, ~~flagpoles~~retaining walls, raised garden beds~~, and other similar structures. When setbacks are established in relationship to height, the height in~~

~~stories or feet of that part of the principal structure adjoining a yard shall be used in determining the required setback~~ and other similar structures.

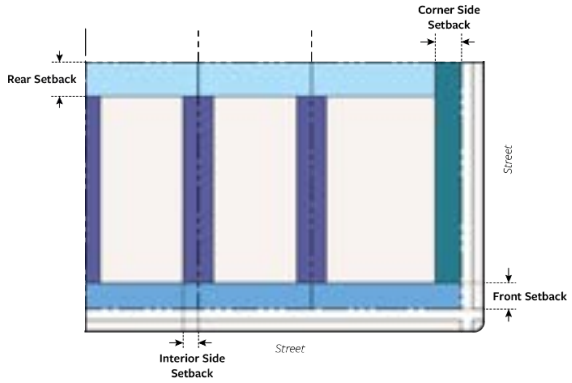


FIGURE 7-G: SETBACKS

Setback, corner side. A setback along the corner side lot line, extending from the front setback to the rear lot line, the depth of which shall be measured perpendicular to the corner side lot line.

Setback, front. A setback along the front lot line, extending between side lot lines, the depth of which shall be ~~the shortest horizontal distance between the front lot line and any structure. In the case of lots with frontages on two or more streets, the orientation of the principal entry to the principal building shall prevail.~~ measured perpendicular to the front lot line. For flag lots, the front setback is measured from the rear lot line of the lot that separates the flag portion of the lot from the street. For through lots, the front setback shall be applied on both street frontages unless the lot is in a residential district, in which case one frontage shall meet the front setback requirement and the other shall meet the rear setback requirement. In the case of lots without frontage on a street, the property line that parallels the nearest developed street shall be considered the front. Where front yard averaging is required to determine the front setback, the average is based upon the two adjacent lots on either side, or, in the case of a corner lot, the next two adjacent lots. In the case of a lot configuration where only one lot is available for averaging, the required front setback shall be that of the adjacent lot. Where no lots are available for averaging, the front setback shall be a minimum of 20 feet in the RN-1 and RN-2 zones, a minimum of 15 feet in the RN-3 zone, and a minimum of five feet in the RN-4 and I-B zones.

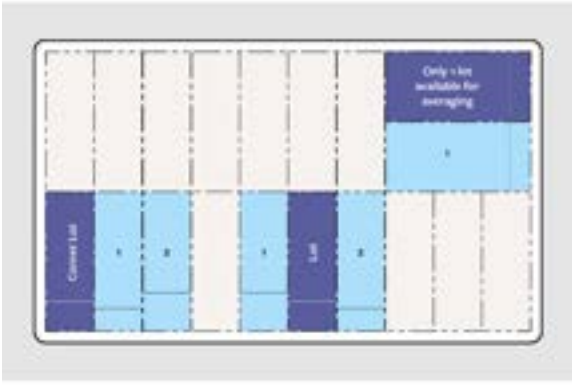


FIGURE 7-H: SETBACK AVERAGING

Setback, rear. A setback along the rear lot line, extending between side lot lines, the depth of which shall be ~~the shortest horizontal distance between~~ measured perpendicular to the rear lot line. ~~the rear lot line and any structure.~~

Setback, side. A setback along a side lot line extending from the front lot line to the rear lot line, the ~~width~~depth of which shall be ~~the shortest horizontal distance between~~measured perpendicular to the side lot line ~~and any structure.~~ For townhouse dwellings, side setback requirements are only applicable to end units, not to any side sharing a party wall.

Stepback. A space on a lot which is required by this article to be maintained open, unoccupied, and unobstructed, measured between lot lines and any structure, that occurs at a prescribed height above the ground. Stepbacks shall apply to all attached accessory structures, including the minimum necessary housing of elevators, stairways, tanks fans, or other building operating equipment not intended for human occupancy.

Story. That portion of a building included between the surface of any floor and the surface of the floor, or the roof, next above. A half story is a story situated under a sloping roof, the area which at a height four feet above the floor does not exceed two-thirds of the floor area of the story immediately below it. A story which exceeds 18 feet in height shall be counted as two stories. A basement shall be counted as a story for the purpose of height measurement where more than one-half of its height is above the average level of the adjoining ground.

Street frontage. The distance for which a lot line adjoins a public street, from one lot line intersecting said street to the furthest distant lot line intersecting the same street.

Yard. The area of a lot between a lot line and a principal structure, measured as the horizontal distance between a specified lot line and a principal structure.

Yard, corner side. A yard along the corner side lot line, extending from the front yard to the rear lot line, measured between the corner side lot line and a principal structure.

Yard, front. A yard along the front lot line, extending between side lot lines, measured between the front lot line and a principal structure. On flag lots, the front yard is measured from the rear lot line of the lot that separates the flag portion of the lot from the street, and a principal structure.

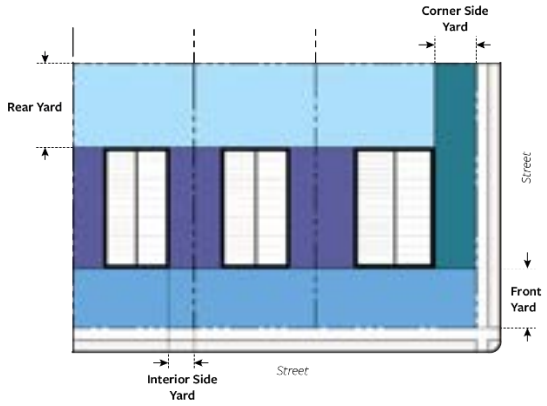


FIGURE 7-I: YARDS

Yard, rear. A yard along the rear lot line, extending between side lot lines or a side lot line and a corner side yard, measured between the rear lot line and a principal structure.

Yard, side. A yard along the side lot line, extending from the front yard to the rear yard, measured between the side lot line and a principal structure.

~~7.3~~ 7.3 DIMENSIONAL STANDARDS

Tables 7-A to 7-~~H~~G shall establish the dimensional standards for each zone. Certain additional standards may apply per Section 6.4 and Sections 7.4, 7.5, and 7.6.

TABLE 7-A: RESIDENTIAL ZONE DIMENSIONAL STANDARDS

		R-1	R-2	R-3[2]	R-4	R-5[2,3]	R-5a[4]	R-6[6,7]	R-6a[13]
Governmental		15,000 SF	10,000 SF	6,500 SF	6,000 SF	6,000 SF	-	-	
Hospital		-	-	10 ac.	-	5 ac.	-	2 ac.	
Intermediate or long-term, extended care facility		3 ac.	3 ac.	2 ac.	-	2 ac.	1.5 ac.	1 ac.[8]	
Lodging house		-	-	-	-	9,000 SF	-	2,000 SF	
Place of assembly	<10,000 SF	1 ac.	1 ac.	1 ac.	15,000 SF	.5 ac.	.5 ac.	10,000 SF	
	>10,000 SF	2 ac.	2 ac.	2 ac.	30,000 SF	1 ac.	1 ac.	15,000 SF	
Post-secondary school		-	2 ac.	-	-	2 ac.	-	2,000 SF	
Elementary, middle, and secondary school		2 ac.	2 ac.	2 ac.	30,000 SF	30,000 SF	-	30,000 SF	
Raising of animals		3 ac.	-	-	-	-	-		
Residential		15,000 SF	10,000 SF	6,500 SF	6,000 SF	6,000 SF[3]	6,000 SF /2 ac. max[5]	2,000 SF	4 ac.
All other uses		15,000 SF	10,000 SF	6,500 SF	6,000 SF	6,000 SF	-	2,000 SF	
Lot area per dwelling unit (min.)		15,000 SF	10,000 SF	6,500 SF	3,000 SF	3,000 SF	1,600 SF	725 SF	
Lot area per rooming unit (min.)						1,000 SF		250 SF[9]	
Lot area per SNIDU[1] (min.)					2,400 SF	3,600 SF			
Street frontage (min.)		75 ft.	50 ft.	50 ft.	50 ft.	50 ft.	50 ft.	20 ft.	
Lot width (min.)		100 ft.	80 ft.	65 ft.	60 ft.	60 ft.	60 ft.	20 ft. -	
Front setback (min.)		25 ft. Or average depth of adjacent front yards	25 ft.	25 ft.	25 ft.	20 ft.		25 ft.	5 ft.
k Rear setback (min.)		25 ft.	25 ft.	25 ft.	25 ft.	20 ft.	25 ft.	10 ft.	
	Detached accessory (< 250 SF footprint)	5 ft.	5 ft.	5 ft.	5 ft.	5 ft.	5 ft.	5 ft.	
Side setback (min.)	<1.5 stories to 1.5 stories	12 ft.	12 ft.	8 ft.	10 ft.	8 ft.	10 ft.	5 ft.[10]	<45 ft. in height: 10 ft.
	2 stories	14 ft.	14 ft.	14 ft.	14 ft.	12 ft.	14 ft.		
	2.5 stories	16 ft.	16 ft.	16 ft.	16 ft.	14 ft.	16 ft.		>45 ft. in height: 15 ft.
	Detached accessory (< 250 SF footprint)	5 ft.	5 ft.	5 ft.	5 ft.	5 ft.	5 ft.		
	On side street (min.)	20 ft. Or depth of front yard directly abutting the lot.	20 ft.	20 ft.	20 ft.	15 ft.	20 ft.	None	

TABLE 7-A (CONT.): RESIDENTIAL ZONE DIMENSIONAL STANDARDS

	R-1	R-2	R-3[2]	R-4	R-5[2,3]	R-5a[4]	R-6[6,7]	R-6a[13]
Stepbacks (above 35 ft. when property line abuts a residential zone)(min.)	-	-	-	-	-	-	10 ft. from side property line and 15 ft. from rear property line[11]	
Structure height (max.)	35 ft.	35 ft.	35 ft.	35 ft.	35 ft.	35 ft.	45 ft.[12]	65 ft.
Detached accessory	18 ft.	18 ft.	18 ft.	18 ft.	18 ft.	18 ft.	18 ft.	
Lot coverage (max.)	20%	20%	35%	30%	40%	30%	60%	
Landscaped open space ratio (min.)	-	-	-	-	-	-	20%	
Width of garage opening on front façade (max.)	-	-	-	-	-	-	9 ft. or 40% of the front facade, whichever is greater, and in no case more than 20 ft.	

[1] Special needs independent dwelling unit.
[2] See Table 7-B for PRUD standards.
[3] Single-family homes may be built on small lots in the R-5 under small residential lot dimensional requirements under certain conditions. See Table 7-C for R-5 Small Residential Lot dimensional requirements.
[4] For R-5a, PRUD standards shall apply to PRUDs, multi-family development of 4 or more units, congregate care, and intermediate, extended, or long-term care facilities, unless noted otherwise in the table above. See Table 7-B for additional standards that apply to these uses.
[5] Applies to 1-, 2-, and 3-family dwellings only.
[6] Alterations to single-family, two-family, and multi-family dwellings in existence as of 6/15/15 shall not result in the creation of any additional dwelling unit of less than 600 square feet of floor area, exclusive of common hallways and storage in basement and attic; and shall not result in any existing dwelling unit being reduced in size to less than 1,000 square feet of floor area, exclusive of common areas and storage in basement and attic.
[7] Subdivisions consisting of horizontally attached dwellings on individual lots are not required to have side yards between such dwellings where a party wall condition will exist. Horizontally attached dwellings located within a single lot shall be required to meet the applicable side setback requirements at the external lot boundaries of the subdivision and internal lot boundaries between such dwellings that are not attached to each other. No minimum lot size or width shall be required for individual lots underlying townhouse (horizontally attached) dwelling types. The applicable minimum lot area per dwelling shall apply to each lot.
[8] Except for long-term and extended care facilities: 10,000 SF for the first 9 residents plus 750 SF for each additional resident, up to a total of 2 ac.
[9] A minimum lot area per intermediate care resident of 250 SF also applies.
[10] Except that a side setback in the R-6 zone may be reduced to zero, provided that the cumulative side yards are not less than 10 ft. A permanent maintenance easement a minimum of 5 ft. in width shall be provided on the parcel adjacent to the lot line with the reduced side setback.
[11] Does not apply on side streets.
[12] Except as provided under the Fort Sumner Park Height Overlay and the Bayside Height Overlay.
[13] All R-6 dimensional standards apply in the R-6a unless otherwise indicated.

TABLE 7-B: PRUD DIMENSIONAL STANDARDS

	R-3	R-5	R-5a[3]
Lot area[1] (min.)	3 ac.	2 ac.	2 ac.[4]
Net land area per dwelling unit (min.)	6,500 SF	3,000 SF	1,600 SF[4,5]
Units per building (max.)	PRUD < 5 ac.: 2 PRUD > 5 ac.: 6	12	-
Average number of units per building (max.)	PRUD > 5 ac.: 5	-	-
Structure height (max.)	35 ft.	35 ft.	55 ft.
Building length (max.)	Without garages: 100 ft. With integral garages: 140 ft.	140 ft.	-
Length of accessory garage structure (max.)	- -	60 ft.	-
Building setback from external subdivision property lines (min.)	3 or fewer D.U. in building: 25 ft. 4 or more D.U. in building: 35 ft.	Bldg. Length 100 ft. or less: 25 ft. Bldg. Length >100 ft.: 35 ft.	Bldg. Length 100 ft. or less: 25 ft. Bldg. Length >100 ft.: 35 ft.
Distance between detached PRUD dwelling units (min.)	16 ft.	-	-
Common recreation open space area[2] (min.)	300 SF/D.U.	300 SF/D.U	200 SF/D.U.[4]
Habitable space elevation	No habitable space in a PRUD shall be below grade, except basements that are a part of and below above-ground units.		

[1] Areas of special flood hazard as defined in Article 12 shall be excluded from lot area calculations.
[2] Common open space shall be designated on the site. The primary purposes of such open space areas shall be for passive or active recreation. Such spaces may include natural, landscaped or hardscaped elements. At a minimum, a contiguous area of 6,000 SF shall be provided.
[3] In the R-5a zone, PRUD standards shall apply to PRUDs, multi-family development of 4 or more units, congregate care, and intermediate, extended, or long-term care facilities unless otherwise noted.
[4] Does not apply to intermediate, extended, or long-term care facilities but does apply to PRUDs, congregate care, and multi-family development of 4 or more units.
[5] Minimum land area per intermediate care facility resident: 8,000 SF lot area for first 35 residents, plus 350 SF for each additional resident.
[6] For PRUD standards in island zones, see Table 7-D.

TABLE 7-C: R-5 SMALL RESIDENTIAL LOT DEVELOPMENT DIMENSIONAL STANDARDS[1]

Lot area (min.)		5,000 SF
Side setback (min.)		7 ft.[2]
	Detached accessory (< 250 SF footprint)	5 ft.
	Side yard on side street	10 ft.
Lot width (min.)		40 ft.
Street frontage (min.)		40 ft.
Lot coverage (max.)		50%

[1] Single-family homes may be built on small lots in the R-5 under small residential lot development dimensional requirements if the lot is: vacant; or used exclusively for parking; or contains structure(s) not used for residential purposes; or is created from a single lot division of a developed lot and results in a lot meeting the small residential lot dimensional requirements with the remaining developed portion meeting the standard dimensional requirements of the R-5 zone.
[2] The width of one side setback may be reduced 1 ft. for every foot that the other side yard is correspondingly increased, but no side yard shall be less than 4 ft. in width.

TABLE 7-A: RESIDENTIAL NEIGHBORHOOD ZONE DIMENSIONAL STANDARDS

		RN-1	RN-2	RN-3	RN-4	RN-5	RN-6
Lot area (min.)	Single-family	6,500 SF	6,000	5,000 SF	2,000 SF	--	--
	Two-family	6,500 SF	6,000	5,000 SF	2,000 SF	--	--
	Three-family	6,500 SF	6,000	5,000 SF	2,000 SF	--	--
	Four-family	6,500 SF	6,000	5,000 SF	2,000 SF	--	--
	Townhouse	--	1,500 SF/unit	--	1,500 SF/unit	--	1,200 SF/unit
	Multi-family		1,200SF/unit		725 SF/unit	1,200 SF/unit, minimum of 40,000 SF	435 SF/unit
	Nonresidential	6,500 SF	6,000 SF	5,000 SF	2,000 SF	40,000 SF	2,000 SF
Street frontage (min.)		40 ft.	40 ft., except 15 ft./unit for townhouse	40 ft.	20 ft., except 15 ft./unit for townhouse	50 ft.	20 ft., except 15 ft./unit for townhouse
Front setback (min.)		Average of adjacent front yards - 5 ft.	Average of adjacent front yards - 5 ft.	Average of adjacent front yards - 5 ft.	Average of adjacent front yards - 5 ft.	25 ft.	--
Rear setback (min.)	Principal structures and detached accessory structures (>250 SF footprint)	25 ft.	20 ft.	20 ft.	10 ft.	25 ft.	5 ft.
	Detached accessory structures (<250 SF footprint)	5 ft.	5 ft.	5 ft.	5 ft.	5 ft.	5 ft.
Side setback, interior (min.)	Principal structures and detached accessory structures (>250 SF footprint)	8 ft.	8 ft., except that a side setback may be reduced to not less than 5 ft. provided that the cumulative side yards are not less than 16 ft.	7 ft., except that a side setback may be reduced to not less than 4 ft. provided that the cumulative side yards are not less than 14 ft.	5 ft., except that a side setback may be reduced to not less than 0 ft. provided that the cumulative side yards are not less than 10 ft.	16 ft.	5 ft., except that a side setback may be reduced to not less than 0 ft. provided that the cumulative side yards are not less than 10 ft.
	Detached accessory structures (<250 SF footprint)	5 ft.	5 ft.	5 ft.	3 ft.	5 ft.	3 ft.
Side setback, corner (min.)		15 ft., or the depth of an adjacent front yard directly abutting the corner side yard of the lot, whichever is less	10 ft, or the depth of an adjacent front yard directly abutting the corner side yard of the lot, whichever is less	10 ft, or the depth of an adjacent front yard directly abutting the corner side yard of the lot, whichever is less	--	25 ft.	--

TABLE 7-A (CONT.): RESIDENTIAL NEIGHBORHOOD ZONE DIMENSIONAL STANDARDS

		RN-1	RN-2	RN-3	RN-4	RN-5	RN-6
Structure height (max.) (Unless otherwise governed by the City of Portland Height Map or the Fort Sumner Park Height Overlay)		35 ft.	35 ft.	35 ft.	35 ft., except 45 ft. for buildings with 3 or more dwelling units. In all cases, height shall be limited to 35 ft. within 15 ft. of a rear lot line when abutting an RN-1, RN-2, or RN-3 zone	55 ft.	65 ft., except 45 ft. within 15 ft. of an RN-1, RN-2, RN-3, RN-4, OS-R, or OS-P zone
Detached accessory structure height (max.)		18 ft.	18 ft.	18 ft.	18 ft.	18 ft.	18 ft.
Building length (max.) (Multi-family + Nonresidential uses)		--	--	--	70 ft.	180 ft.	--
Lot coverage (max.)	**Residential uses**	60%	60%	60%	60%	60%	100%
	Nonresidential uses	35%	50%	50%	60%	50%	100%
Landscaped open space ratio (min.)	**Residential uses**	30%	30%	30%	30%	30%	--
	Nonresidential uses	50%	30%	30%	20%	30%	--
Width of garage opening on front façade (max.)			--	--	9 ft. or 30% of the front façade, whichever is greater, however in no case more than 20 ft.	--	9 ft. or 30% of the front façade, whichever is greater, however in no case more than 20 ft.

TABLE 7-D: ISLAND ZONE DIMENSIONAL STANDARDS

			IR-1	IR-2	IR-3	I-B[10]	
						Served by Public Water & Sewer	*Not Served by Public Water & Sewer*
Lot area (min.)[11]	Bed and breakfast					5,000 SF for 3 guest rooms plus 5,000 SF/ additional room	10,000 SF/ guest room
	Campground		10 ac.	-	5,000 SF/ campsite, but not less than 10 ac.		
	Hotel		-	-	10,000 SF/ guest room	5,000 SF for 3 guest rooms plus 5,000 SF/ additional room	10,000 SF/ guest room
	Lodging house		-	10,000 SF/ rooming unit	10,000 SF/ rooming unit	5,000 SF for 3 rooming units, plus 5,000 SF/ additional rooming unit	10,000 SF/ rooming unit
	Place of assembly	>10,000 SF	30,000 SF	30,000 SF	35,000 SF	20,000 SF	
		<10,000 SF	15,000 SF	15,000 SF			
	PRUD/PUD		5 ac.[1]	5 ac.[1]	20 ac.		
	Raising of animals		3 ac.	-	-	-	
	Residential		40,000 SF[2,3]	20,000 SF[3]	42,500 SF[6]	20,000 SF	
	Restaurant		–		35,000 SF	10,000 SF	20,000 SF
	Retail		-	-	35,000	None	20,000 SF
	Seasonal camp		10 ac.	-	35,000 SF	-	
	School/educational facility		40,000 SF	20,000 SF	35,000	20,000 SF	
	All other uses				35,000 SF	20,000 SF	
Lot area per dwelling unit (min.)			40,000 SF[4]	20,000 SF[4]	42,500 SF[7]	-	
Street frontage (min.)			100 ft.[5]	70 ft.[5]	70 ft.[8]	40 ft.	
Lot width (min.)			100 ft.[5]	80 ft.[5]	80 ft.	40 ft.	
Front setback (min.)			30 ft.[5]	25 ft. or the average of adjacent front yards[5]	25 ft.[9]	20 ft. or avg. depth of adjacent front yards	
Rear setback (min.)			30 ft.[5]	25 ft.[5]	25 ft.[9]	10 ft.	
	Detached accessory (< 250 SF footprint)		10 ft.[5]	10 ft.[5]	10 ft.[9]		

TABLE 7-D (CONT.): ISLAND ZONE DIMENSIONAL STANDARDS

		IR-1	IR-2	IR-3	I-B[10] Served by Public Water & Sewer	I-B[10] Not Served by Public Water & Sewer
Side setback (min.)		20 ft.[5]	20 ft.[5]	20 ft.[9]	10 ft.	
	Detached accessory (< 250 SF footprint)	15 ft.[5]	15 ft.[5]	15 ft.[9]	10 ft.	
	On side street	20 ft.[5]	20 ft.[5]	20 ft.[9]	10 ft.	
Structure height (max.)		35 ft.	35 ft. For Little Diamond Island: 27 ft.	35 ft.	35 ft.	
	Accessory detached	18 ft.	18 ft.	18 ft.	18 ft.	
	Lot coverage (max.)	20%	20%	20%	50%	

[1] PRUDs shall consist of detached dwellings.
[2] 60,000 SF if not served by public water.
[3] For PRUDs, minimum lot area shall be reduced up to 50% provided there is an equivalent corresponding increase in common or public open space that is usable for passive or active recreational opportunities or that serves as a buffer between buildings or between the development and the surrounding neighborhood.
[4] In the case of PRUDs, lot area per dwelling unit shall be calculated based on net land area..
[5] For PRUDS, standard shall be reduced up to 50%. For accessory structures in the IR-1, IR-2, and I-B zones, side setbacks from principal structures shall be 5 feet.
[6] Except that the minimum lot size per dwelling unit shall be reduced by the amounts specified below, to a minimum lot size of 35,000 SF per dwelling unit, provided that the Planning Board finds that the development meets the following criteria: a. The minimum lot size per dwelling unit shall be reduced by 5,000 SF if a public off-island water source provides 75% of the water needs of the development. b. The minimum lot size per dwelling unit shall be reduced by 2,500 SF if the development provides appropriate permanent restrictions or other agreements precluding the use, maintenance and parking of all private motor vehicles exclusive of construction and common service vehicles.
[7] The maximum density for a PUD shall be based on the applicable minimum lot size for each use as measured in terms of net area. For purposes of calculating density, if separately described lots exceed the applicable minimum lot size, the excess area shall not be credited toward the minimum lot size for any other use.
[8] Except where the Planning Board finds that the development has an adequate street network to permit access for pedestrians and emergency service vehicles.
[9] When adjoining any external property boundary.
[10] All I-B standards apply for lots served by public water and sewer and lots not served by public water and sewer unless otherwise indicated.
[11] In the IR-3, the minimum lot area for buildings containing both residential and nonresidential uses shall be cumulative. Where there are two or more residential uses contained in a building, the minimum lot area shall be the larger of the applicable minimum lot sizes.

TABLE 7-B: ISLAND ZONE DIMENSIONAL STANDARDS

		IR-1	IR-2	I-B Served by Public Water & Sewer	I-B Not Served by Public Water & Sewer
Lot area (min.)	Single-family	40,000 SF, except 60,000 SF if not served by public water	20,000 SF, except 3,000 SF if a small island lot per Subsection 7.6.3	5,000 SF	20,000 SF
	Two-family	40,000 SF, except 60,000 SF if not served by public water	20,000 SF, except 3,000 SF if a small island lot per Subsection 7.6.3	5,000 SF	20,000 SF
	Three-family	--	--	5,000 SF	20,000 SF
	Four-family	--	--	5,000 SF	20,000 SF
	Multi-family	--	--	1,200 SF/unit	5,000 SF/unit
	Nonresidential	40,000 SF	20,000 SF	None	20,000 SF
Street frontage (min.)		100 ft.	50 ft., except 30 ft. if a small island lot per Subsection 7.6.3	40 ft.	40 ft.
Front setback (min.)		20 ft.	20 ft. or the average of adjacent front yards, whichever is less	Average of adjacent front yards - 5 ft.	Average of adjacent front yards - 5 ft.
Rear setback (min.)	Principal structures and detached accessory structures (>250 SF footprint)	30 ft.	25 ft., except 15 ft. if a small island lot per Subsection 7.6.3	10 ft.	10 ft.
	Detached accessory (<250 SF footprint)	5 ft.	5 ft., except 3 ft. if a small island lot per Subsection 7.6.3	5 ft.	5 ft.
Side setback, interior (min.)	Principal structures and detached accessory structures (<250 SF footprint)	20 ft.	12 ft., except 8 ft. if a small island lot per Subsection 7.6.3 Small island lots may reduce one side setback to no less than 6 ft. provided that the cumulative side yards are not less than 16 ft.	10 ft.	10 ft.
	Detached accessory (<250 SF footprint)	5 ft.	5 ft., except 3 ft. if a small island lot per Subsection 7.6.3	5 ft.	5 ft.
Side setback, corner (min.)		20 ft.	12 ft., except 8 ft. if a small island lot per Subsection 7.6.3	10 ft.	10 ft.
Structure height (max.)		35 ft.	35 ft., except 27 ft. on Little Diamond Island	35 ft.	35 ft.
Detached accessory structure height (max.)		18 ft.	18 ft.	18 ft.	18 ft.
Lot coverage (max.)		20%	40%, except 60% if small island lot per Subsection 7.6.3	60%	60%
Landscaped open space ratio (min.)		70%	50%, except 30% if a small island lot per Subsection 7.6.3	20%	20%

TABLE 7-E: MIXED-USE ZONE DIMENSIONAL STANDARDS

		B-1/B-1b	B-2/B-2b/B-2c	B-3/B-3b/B-3c	B-4	B-5/B-5b	B-6	B-7
Lot area (min.)	School	20,000 SF			10,000 SF			
	Place of assembly	10,000 SF						
Lot area per dwelling unit (min.)	On-peninsula	435 SF	435 SF	-	-	-	-	-
	Off-peninsula	1,000 SF	1,000 SF, except 435 SF if active street frontage[3]				-	
Lot area per rooming unit (min.)	On-peninsula	150 SF	150 SF					
	Off-peninsula	350 SF	350 SF					
Street frontage (min.)		20 ft.	20 ft.	15 ft.	60 ft.			
Front setback (from all street frontages) (max.)		10 ft., or the average front yard depth of nearest developed lots if < 10 ft.	10 ft.	5 ft.	20 ft.	None, except 10 ft. in B-5b	10 ft.[7]	10 ft.
Rear setback (min.)	Principal	None, except 10 ft. if abutting a residential zone	10 ft.		20 ft.			
	Accessory	None, except 5 ft. if abutting a residential zone	5 ft.		7 ft.			
Side setback (min.)	Principal	None, except 5 ft. if abutting residential zone	None		10 ft.			
	Accessory		5 ft.		5 ft.			
Stepbacks (above 35 ft. when property line abuts a residential zone) (min.)		Side: 10 ft.	Side: 5 ft.	-	-	-	-	-
		Rear: 15 ft.	Rear: 15 ft.					
Length of building wall at maximum setback (min.)		-	-	-	-	-	70% of street frontage or 25% of building perimeter[8]	75% of street frontage or 25% of building perimeter[9]
		-				-		
Length of undifferentiated blank wall along publicly accessible way (max.)				30 ft., except 15 ft. within PAD Overlay				
Floor area (max.)		Non-residential uses on first floor: 10,000 SF total[4]	Laboratory and research facilities, warehousing, 10,000 SF	None, except 15,000 SF for each floor above 125 ft.	-	-	Laboratory and research facilities and warehousing 15,000 SF	
		Restaurants (public area): 2,000 SF					Exhibition and meeting halls: 20,000 SF	
		Clinics: 3,000 SF						

TABLE 7-E (CONT.): MIXED-USE ZONE DIMENSIONAL STANDARDS

	B-1/B-1b	B-2/B-2b/B-2c	B-3/B-3b/B-3c	B-4	B-5/B-5b	B-6	B-7
Structure height (max.)	On Peninsula: 45 ft., except 50 ft. along Congress Street if commercial first floor and residential above[2] Off Peninsula: 35 ft.	45 ft., except 50 ft. if first floor is in commercial use, 65 ft. in B-2 and B-2c on lots >5 ac. if required side and rear setbacks are increased by 1 foot for each foot of height over 45 ft., or as otherwise governed by the Bayside Height Overlay Map	See Downtown and Bayside Height Overlay Maps	65 ft.	65 ft., except in B-5b along W. Commercial St. south of Danforth St.[5] and 120 ft. on Thompson's Point[6]	65 ft. or as otherwise governed by the B-6 Building Height Overlay Map	See Bayside Height Overlay Map
Lot coverage (max.)	-	-	25% of lot area for portions of structures exceeding 125 ft. in height[4]		-	-	-
Impervious surface ratio (max.)	90%	Residential: None Other uses in B-2 and B-2c: 80% Other uses in B-2b: 90%	-	80%	-	- - -	- - -

[1] Uses in structures which existed prior to the date of enactment of the B-1/B-1b zones are exempt.

[2] The commercial first floor uses shall utilize at least 75 % of the first floor frontage along Congress Street and shall have an average depth of at least 20 ft.

[3] A building will be determined to have an active street frontage upon meeting the following guidelines to the greatest extent practicable: the primary building façade shall be within 10 ft. feet of the front lot line; there shall be no parking on the lot within 35 ft. of the front lot line; no more than 25% of the first floor primary façade shall consist of access to garages, unutilized space, service entrances, storage or mechanicals and the remaining minimum 75% shall have an average depth of a minimum of 20 ft. for residential or commercial uses; and all primary ground floor entries to multi-family buildings must orient to street, not to interior blocks or parking lots.

[4] Except that no floor area shall be required to be less than 10,500 SF, gross.

[5] For parcels of land in the B-5b zone located along W. Commercial St. south of Danforth St.: West of the projection of the centerline of the Fletcher St. right-of-way, the maximum building height shall be 45 ft.; and, east of the projection of the centerline of the Fletcher St. right-of-way and west of the projection of the centerline of the Emery St. right-of-way, the maximum building height shall be 55 ft. A projection of the centerline of a street is defined by extending the centerline of the referenced street right-of-way along its most southerly block to the centerline of W. Commercial St. Furthermore, notwithstanding Subsection 7.5.1, no rooftop structure located between the projections of the centerlines of Emery St. and Fletcher St., as described above. shall exceed a height of 62 ft as measured from average grade of the building at its foundation.

[6] Applies only to parcels subject to an approved master development plan. Thompson's Point is defined as the contiguous parcels of upland occupying the peninsula bounded on the east by Route 295, on the north by the Mountain Division Rail right-of-way, and on the south and west by the Fore River and its associated wetlands. Nearby lands accessed from Hobart and Osgood Streets are not included.

[7] Does not apply to parking garages and public transportation facilities. Notwithstanding required setbacks, new structures located in the blocks located south of Fore Street and north of Commercial Street and its extension shall build to the key building envelopes shown on the B6 Building Height Overlay & Building Envelopes map. Buildings located in the area east of the Fore Street Connector shall not have a maximum front setback and shall not be required to build to the key building envelope perimeter. Parking structures and the buildings for public transportation facilities may, however, be set back beyond the key building envelopes (toward the interior of blocks), but may not occupy the land between the key building envelope and the street right-of-way.

[8] For buildings fronting on two or more streets, the minimum building wall on one street may be decreased so long as the frontage is proportionally increased on other streets in so far that the building wall on the secondary street is not reduced to less than 25 ft. Buildings in the area east of the Fore Street Connector shall not be subject to this requirement.

[9] Does not apply to additions to or relocations of designated historic structures or structures determined to be eligible by the Historic Preservation Board.

TABLE 7-C: MIXED-USE ZONE DIMENSIONAL STANDARDS

	B-1	B-2/B-2b	B-3	B-4	B-5	B-6[1]
Lot area (min.)	--	--	--	10,000 SF	--	--
Street frontage (min.)	20 ft.	--	--	60 ft.	--	--
Gross floor area (max.) (Nonresidential uses on the ground floor only, unless otherwise permitted or restricted)	5,000 SF	--	--	--	--	--
Build-to zone	0–5 ft.	0–10 ft.	0-5 ft.	0-20 ft.	0-10 ft.	0-10 ft.
Build-to percentage (min.)	100%	100%	100%	50%	80%	80%
Building length as a percentage of street frontage (min.)	--	B-2: None B-2b: Lots up to 50 ft. in frontage: 80% Lots greater than 50 ft. in frontage: 60%	Lots up to 50 ft. in frontage: 80% Lots greater than 50 ft. in frontage: 60%	--	60%	70%
Blank wall area (max.)	20 ft.	20 ft.	20 ft.	40 ft.	20 ft.	20 ft.
Rear setback (min.)	None, except 10 ft. if abutting a lot in a residential zone	None, except 10 ft. if abutting a lot in a residential zone	--	None, except 20 ft. if abutting a lot in a residential zone	--	--
Side setback, interior (min.)	None, except 5 ft. if abutting a lot in a residential zone	None, except 5 ft. if abutting a lot in a residential zone	--	None, except 10 ft. if abutting a lot in a residential zone	--	--
Structure height (max.)	55 ft., except 35 ft. within 20 ft. of an RN-1, RN-2, RN-3, OS-R, or OS-P zone[2]	75 ft., or as shown on the City of Portland Height Map, except 50 ft. within 15 ft. of an RN-1, RN-2, RN-3, RN-4, OS-R, or OS-P zone	See City of Portland Height Map	65 ft.	75 ft., or as shown on the City of Portland Height Map	See City of Portland Height Map
Landscaped open space ratio (min.)	--	B-2: 10% B-2b: None	--	20%	--	--

[1] In the case of a conflict with the B-6 Building Height and Building Envelopes Map, the map shall control.
[2] In the B-1 zone on Washington Avenue north of Gould Street, structure height shall be limited to 45 ft.

TABLE 7-D: TRANSIT-ORIENTED DEVELOPMENT ZONE DIMENSIONAL STANDARDS

	TOD-1	TOD-2
Lot area (min.)	--	--
Street frontage (min.)	--	--
Build-to zone	0-10 ft.	0-5 ft.
Build-to percentage (min.)	100%	100%
Building length as a percentage of street frontage (min.)	Lots up to 50 ft. in frontage: 80% Lots greater than 50 ft. in frontage: 60%	80%
Blank wall area (max.)	20 ft.	20 ft.
Rear setback (min.)	None, except 20 ft. if abutting a lot in a residential zone	None, except 20 ft. if abutting a lot in a residential zone
Side setback, interior (min.)	None, except 10 ft. if abutting a lot in a residential zone	None, except 10 ft. if abutting a lot in a residential zone
Structure height (min./max.) (Unless otherwise governed by the City of Portland Height Map)	Min.: 35 ft. Max. 85 ft., except 50 ft. within 30 ft. of an RN-1, RN-2, RN-3, or RN-4 zone	Min. 35 ft. Max. 125 ft., except 50 ft. within 30 ft. of an RN-1, RN-2, RN-3, or RN-4 zone
Landscaped open space ratio (min.)	10%	--

1. DIMENSIONAL STANDARDS

TABLE 7-F: OFFICE PARK & RESIDENCE PROFESSIONAL ZONE DIMENSIONAL STANDARDS

		O-P	R-P[1]
Lot area (min.)		1.5 ac.	6,000 SF
Street frontage (min.)		100 ft.	60 ft.
Lot width (min.)		150 ft.	60 ft.
Front setback (min.)		50 ft.	20 ft., or avg. depth of adjacent front yards[2]
Rear setback (min.)	**Principal**	50 ft	20 ft.
	Accessory		7 ft.
Side setback (min.)	**Principal**	25 ft., except 40 ft. where side yard abuts residential zone or use	1 story: 10 ft.
			2 stories: 12 ft.
			3+ stories: 14 ft.
	Accessory		7 ft.
	On side street		1-2 stories: 15 ft.
			3+ stories: 18 ft.
Structure height (max.)		55 ft., except 75 ft., including rooftop appurtenances, on lots within office park subdivisions which are > 50 ac. if each minimum setback is increased by 1 ft. for each 1 ft. of height above 55 ft.	45 ft.
Floor area (max)		High-tech manufacturing: 20,000 SF	
Impervious surface ratio (max.)		60%	70%
Pavement setback (min.)		15 ft.	

[1] Residential uses shall meet the dimensional requirements of the nearest residential zone.
[2] The front yard of a lot existing as of April 4, 1988, which lot is less than 100 ft. deep, need not be deeper than 10% of the depth of the lot.

TABLE 7-E: OFFICE PARK DIMENSIONAL STANDARDS

	O
Lot area (min.)	10,000 SF, except 3 ac. for an office park
Street frontage (min.)	40 ft., except 100 ft. for an office park
Gross floor area (max.) (Nonresidential uses)	--
Front setback (min.)	15 ft., except 50 ft. for an office park
Rear setback (min.)	20 ft., except 50 ft. for an office park
Side setback, interior (min.)	15 ft., except 25 ft. for an office park, or 40 ft. where an office park abuts a residential zone
Side setback, corner (min.)	15 ft., except 50 ft. for an office park
Structure height (max.) (Unless otherwise governed by the City of Portland Height Map)	45 ft., except 55 ft. for an office park, or 75 ft., including rooftop appurtenances, on lots within office parks which are greater than 50 ac. if each minimum setback is increased by 1 ft. for each 1 ft. of height above 55 ft.
Lot coverage (max.)	60%
Landscaped open space ratio (min.)	30%, except 40% for an office park

1. DIMENSIONAL STANDARDS

TABLE 7-G: INDUSTRIAL & AIRPORT ZONE DIMENSIONAL STANDARDS

	I-L/I-Lb		I-M/I-Ma/I-Mb		I-H/I-Hb		A-B
Lot area (min.)							20,000 SF
Street frontage (min.)	60 ft.		60 ft.		60 ft.		50 ft.[2]
Lot width (min.)	-		-				50 ft.
Front setback (min.)	I-L	25 ft.	I-M/I-Ma	1 ft. for each ft. of building height	I-H	25 ft.	None, except 20 ft. if property has frontage on Westbrook St.
	I-Lb	None	I-Mb	None	I-Hb	None	
Rear setback (min.)	I-L	25 ft., except 40 ft. when abutting residential zone	I-M/I-Ma	1 ft. for each ft. of building height up to 25 ft., except 35 ft. when abutting residential zone	I-H	35 ft.	None., except 50 ft. if abutting residential zone or use[3]
	I-Lb	None, except 25 ft. when abutting residential zone	I-Mb	None, except 25 ft. when abutting residential zone	I-Hb		
Side setback (min.)	I-L	25 ft., except 40 ft. when abutting residential zone	I-M/I-Ma	1 ft. for each ft. of building height up to 25 ft., except 35 ft. when abutting residential zone	I-H	35 ft.	None, except 25 ft. if abutting residential zone or use[3]
	I-Lb	None, except 25 ft. when abutting residential zone	I-Mb	None, except 25 ft. when abutting residential zone	I-Hb		
Structure height (max.)	45 ft.		I-M/I-Mb	75 ft.	75 ft.		75 ft., except 45 ft. within 100 ft. of a residential zone
			I-Ma	45 ft.			
Impervious surface ratio (max.)	I-L	65%	I-M/I-Ma	75%	I-H	85%	70%[2]
	I-Lb	100%	I-Mb	100%	I-Hb	100%	
Pavement setback (min.)[1]	15 ft.		10 ft.		10 ft.		-

[1] Shall not apply to entrance drives.
[2] Except for lots in airport restricted access areas, which shall not be subject to this provision.
[3] No structure may extend beyond the building line established for any runway or taxiway. If provided, rear and side yards must not be less than 5 ft. in width.

TABLE 7-F: INDUSTRIAL AND AIRPORT ZONE DIMENSIONAL STANDARDS

	I-L	I-Lb	I-M	I-Mb	I-H	A-B
Lot area (min.)	--	--	--	--	--	20,000 SF
Street frontage (min.)	60 ft.	60 ft.	60 ft.	60 ft.	60 ft.	50 ft.
Setback from street (min.)	15 ft.	--	15 ft.	--	25 ft.	None, except 20' if property has frontage on Westbrook St.

Rear setback (min.)	15 ft., except 35 ft. when abutting residential zone	None, except 25 ft. when abutting residential zone	15 ft., except 35 ft. when abutting residential zone	None, except 25 ft. when abutting residential zone	35 ft.	None, except 50 ft. if abutting residential zone[1]
Side setback, interior (min.)	15 ft., except 35 ft. when abutting residential zone	None, except 25 ft. when abutting residential zone	15 ft., except 35 ft. when abutting residential zone	None, except 25 ft. when abutting residential zone	35 ft.	None, except 25 ft. if abutting residential zone
Structure height (max.) (Unless otherwise governed by the City of Portland Height Map)	50 ft.	50 ft.	75 ft.	75 ft.	75 ft.	75 ft., except 45 ft. within 100 ft. of a residential zone
Landscaped open space ratio (min.)	35%	--	15%	--	15%	--

[1] No structure may extend beyond the building line established for any runway or taxiway. If provided, rear and side yards must not be less than 5 ft. in width.

~~TABLE 7-H: RECREATION OPEN SPACE ZONE DIMENSIONAL STANDARDS~~

		~~R-OS~~[1]
~~Front setback~~ ~~(min.)~~		~~25 ft.~~
~~Rear setback~~ ~~(min.)~~		~~25 ft.~~
~~Side setback~~ ~~(min.)~~	**~~Principal~~** **~~Accessory~~** **~~On side street~~**	~~12 ft.~~
~~Structure height~~ ~~(max.)~~	**~~Principal~~** **~~Accessory~~**	~~35 ft., except 45 ft. if more than 1,000 ft. from a shoreland zone.~~
~~Floor area ratio~~ ~~(max.)~~		~~.5~~
~~Impervious surface ratio~~ ~~(max.)~~		~~25%~~[2]

~~[1] Public open spaces less than 2 ac. and on the peninsula are not required to meet the R-OS dimensional standards.~~
~~[2] Except 75% for sports complexes and 100% for sewage treatment facilities.~~

TABLE 7-G: OPEN SPACE ZONE DIMENSIONAL STANDARDS

	OS-R[1]	OS-P
Lot area (min.)	--	20,000 SF
Front setback (min.)	20 ft.	25 ft.
Rear setback (min.)	20 ft., except none if abutting a parcel in the OS-R or OS-P zone	50 ft.
Side setback, interior (min.)	10 ft., except none if abutting a parcel in the OS-R or OS-P zone	10 ft.
Side setback, corner (min.)	10 ft.	20 ft.
Structure height (max.) (Unless otherwise governed by the City of Portland Height Map)	45 ft.	35 ft.
Lot coverage (max.)	25%	10%
Landscaped open space ratio (min.)	75%, except 25% for stadiums and none for sewage treatment facilities	90%

[1] Public open spaces less than 2 ac. and on the peninsula are not required to meet the OS-R dimensional standards.

7.4 ALTERNATIVE RESIDENTIAL DEVELOPMENT OPTIONS

The following alternative residential development options are available within certain zones as indicated. These alternative residential development options are intended to provide creative opportunities for residential development by modifying standards within certain zones to allow for a variety of densities and site designs. Alternative residential development options may not be combined.

7.4.1 Conservation residential development

A. A conservation residential development permits a reduction in minimum lot area in exchange for provision of common open space, allowing for the efficient use of land and preservation of Portland's natural resources.

B. Conservation residential development is permitted in the RN-1, IR-1, and IR-2 zones.

C. A conservation residential development shall be a minimum of two acres in area.

D. A conservation residential development shall be designed to prioritize the preservation of important natural features such as streams, wetlands, stands of mature trees, and critical wildlife habitats. Development shall minimize impacts on the natural environment by carefully laying out structures, streets, and other infrastructure, including buffer zones to protect and connect existing natural areas on site.

E. Development standards

1. Site layout

a. All lots within a conservation residential development shall have frontage on a street, private way, or common open space within the development.

b. The maximum number of lots permitted within a conservation development shall be determined by the total acreage of the site divided by the applicable minimum residential lot area requirement of the underlying zone.

c. All lots within the conservation residential development shall meet the dimensional requirements of the underlying zone with the exception of the following:

i. Minimum lot area and street frontage may be reduced by no more than 50%.

ii. Maximum lot coverage and minimum landscaped open space ratio requirements do not apply to lots of 5,000 square feet or less in lot area.

iii. A minimum side setback of five feet applies to all lots within a conservation residential development unless otherwise specified below.

iv. A minimum corner side setback of ten feet applies to all corner lots within a conservation residential development unless otherwise specified below.

v. Front and rear setbacks may be reduced by 50% for all lots within the conservation residential development, unless otherwise specified below.

vi. Where a lot within the conservation residential development abuts adjacent property, minimum side and rear setbacks are required in accordance with the standards of the underlying zone.

vii. Where a lot within the conservation residential development abuts a street at the perimeter of the development, minimum front setback and minimum street frontage is required in accordance with the standards of the underlying zone.

2. *Common open space*

a. In addition to any open space otherwise required by this code, 30% of the total site area of a conservation residential development shall comprise common open space. Common open space shall be designed as follows:

i. Required common open space shall maintain a minimum width of at least 30 feet in any direction.

ii. Common open space may be improved for recreational use, or left in a natural state. If improved for recreational use, no more than 10% of the common open space shall comprise impervious surfaces.

iii. No more than 50% of the required common open space shall be covered by water.

iv. Structures located within any common open space shall be accessory to any recreational use of the space.

b. Common open space may be conveyed as follows:

i. To the City of Portland.

ii. To a nonprofit corporation or charitable trust, the purposes or powers of which include retaining or protecting the natural, scenic, or open space values of real property; assuring the availability of real property for agricultural, forest, recreational, or open space use; protecting natural resources; or maintaining or enhancing air or water quality of real property.

iii. To one or more homeowner's associations.

c. Common open space associated with a conservation residential development shall not be sold, and has no future development rights.

7.4.2 Cottage court residential development

A. A cottage court residential development allows for small lot residential development in a manner that coordinates dwelling types and common open space into a cohesive whole, maintained in shared stewardship by residents.

B. Cottage court residential development is allowed in the RN-1, RN-2, RN-3, and IR-2 zones.

C. A cottage court residential development may be designed as dwellings on individual lots, or as multiple dwellings on a lot in common ownership.

D. Use limitations

1. Only single-family and two-family dwellings are permitted within a cottage court residential development.

2. No more than 25% of the residential structures in a cottage court development shall be two-family dwellings.

3. Accessory dwelling units are not permitted within a cottage court residential development.

4. Buildings for common facilities for use by the residents, such as laundry facilities, communal kitchens, and common rooms, are also permitted.

E. Development standards

1. A cottage court residential development shall contain a minimum of four residential structures.

2. The maximum number of residential structures within a cottage court development is 12. When cottage court residential development is occurring on multiple adjacent development sites, the maximum number of residential structures within all development sites is 24.

3. All standards of the underlying zone apply, with the following exceptions:

a. In the RN-1, RN-2, and RN-3zones, the minimum total lot area required for a cottage court residential development is calculated as 50% of the cumulative lot area required for all proposed dwellings under the base zoning district.

b. In the IR-2 zone, the minimum total lot area required for a cottage court residential development is calculated as 3,000 square feet per dwelling, for all proposed dwellings.

c. Individual lots within a cottage court residential development are exempt from the standards of the underlying zone for lot area, street frontage, setbacks, lot coverage, and landscaped open space ratio. However, standards for street frontage, setbacks, lot coverage, and landscaped open space ratio apply to the cottage court residential development as a whole.

4. All residential structures within a cottage court shall front onto a street or a common open space.

5. Common open space areas within cottage court residential developments shall meet the following standards:

a. Required common open space shall be provided at a ratio of 300 square feet per dwelling unit.

b. Required common open space shall be provided in the form of a centrally located, contiguous open space. Such open space shall maintain a minimum dimension of 30 feet in width, and shall front on a public street.

c. A maximum of 30% of the common open space shall be hardscape.

d. Off-street parking may be provided on individual development sites for each residential structure within the cottage court, or in a shared parking area serving multiple residential structures. Common parking areas shall contain no more than ten spaces each and must be screened from abutting lots that are not part of the development. Parking shall not be located between principal structures and the street, or within any required common area.

F. Small unit bonus

1. Cottage court residential developments may be eligible for a development bonus in exchange for construction of small dwelling units as described in this section.

2. To be eligible, all dwelling units, including any dwelling units achieved through the bonus, shall be 800 square feet or less in floor area.

3. *Bonus*

a. The number of residential structures able to be developed as part of the overall cottage court residential development may be increased by 35%, but shall not exceed three bonus residential structures.

b. Residential structures achieved through the bonus shall meet the development standards of the cottage court development as set forth in item E above.

c. Residential structures achieved through the bonus are not included in the calculation of minimum total lot area required for the overall cottage court development, and do not count toward the maximum number of units in the development.

7.5 SUPPLEMENTAL DIMENSIONAL STANDARDS

7.5.1 Corner clearance

No shrub, wall, fence, sign, or pile of material higher than 3 1/2 feet above the lowest elevation at the curbline shall be permitted on a corner lot within the area of a triangle formed by a line connecting the curblines of the intersecting streets at points 25 feet from the corner, unless said obstruction is reviewed by the Public Works Authority and found not to be a traffic or public safety hazard.

7.5.2 Pedestrian passage required

A. Where a nonresidential or mixed-use building exceeds 300 feet in length along a public right-of-way, and abuts two parallel frontages with pedestrian facilities, or one frontage with pedestrian facilities and a public park, or other

public open space on the side of the building opposite the street frontage, a pedestrian passage is required to provide a break in the ground-floor façade and facilitate mid-block connectivity. Such passage shall meet the following standards:

1. Passages shall be designed to accommodate pedestrians and, to the extent practicable, bicyclists. Vehicular access and circulation shall not be allowed as a component of a passage.
2. Passages shall be a minimum of 30 feet in width and 20 feet in height and shall be located within the middle third of the building, measured along the frontage.
3. Ground floor uses shall be oriented toward the passage, including public entrances.
4. Ground floor façades facing into building passages in nonresidential and mixed-use buildings shall maintain a minimum transparency of 35% of the wall area of the passage.
5. Passages shall be designed to maintain views from one end through to the other.
6. Inclusion of decorative elements such as lighting installations or public art within passages is encouraged.
7. Passages shall align with the street grid or other points of access to sidewalks, public paths, parking lots, public parks or other publicly owned open space where feasible.
8. For the purposes of any build-to zone requirement, a building passage is considered part of the building façade that meets such requirement.

B. Where a nonresidential or mixed-use building exceeds 300 feet in length along a public right-of-way, but does not abut two parallel frontages with pedestrian facilities as specified in item A above, a break in the building massing is required as follows:

1. Building mass shall be recessed a minimum of 20 feet in depth for no less than 30 linear feet along the façade. Such recess shall extend the full height of the building, and shall meet the following criteria:
   - **a.** The recess shall be located within the middle third of the building, measured along the frontage.
   - **b.** Ground floor uses shall be oriented toward the recessed area, including public entrances.
   - **c.** The recessed area is subject to all transparency requirements.
   - **d.** The recessed area shall be designed as public or common space including amenities such as seating areas, landscaping, lighting, decorative elements, and public art.
   - **e.** For the purposes of any build-to zone requirement, a building recess meeting these standards is considered part of the building façade that meets such requirement.

C. Where another means of meeting the City's connectivity goals may be preferable to providing a pedestrian passage as specified in this subsection, the Planning Board or Planning Authority may waive these requirements and approve an alternative design.

7.4.2 Fences

In residential zones, no wall or fence within 15 feet of the street shall be more than four feet in height, unless said fence is located in the side or rear yard.

7.4.3 Solar energy systems

B. Setbacks

Solar energy systems shall be located in side or rear yards wherever possible.

1. Minor solar energy systems shall be setback 50 feet from residential, R-P, B-1/B-1b, and B-2/B-2b/B-2c zones.
2. Major solar energy systems shall be setback 75 feet from residential, RP, B-1/B-1b, and B-2/B-2b/B-2c zones.

C. Height

1. *Ground-mounted solar energy systems.* Where the total height of the support structure plus the solar energy system is equal to or below the zone-based height maximum, the absolute height of the solar energy system shall be 20 feet above the ground as measured from the base of the support.
2. *Roof-mounted solar energy systems.* Where the total height of the support structure/building plus the solar energy system is equal to or below the zone-based height maximum, the absolute height of the solar energy system shall be:
   a. In all residential and R-P zones: 5 feet above the roof and set back from the edge of the roof by one foot for every one foot of solar energy system height.
   b. In B-4 and industrial zones: No limit
   c. In all other zones: 8 feet above the roof and set back from the edge of the roof by one foot for every one foot of solar energy system height.

7.4.4 Swimming pools

Outdoor swimming pools as accessory uses shall be subject to the following dimensional standards:

A. No swimming pool shall be sited in the front yard.

B. No part of any swimming pool shall be located closer than 10 feet from the principal structure, nor closer than 10 feet from side or rear lot lines.

7.4.5 Wind energy systems

A. Setbacks

4. Wind energy systems and associated facilities shall meet all setbacks for principal structures for the zone in which the system is located. Where setbacks vary, the largest setback shall apply. All parts of the wind energy system, including associated facilities and guy wires, shall be at least 10 feet from the property line (except where connecting to the grid), any utility line (in any direction), or other easement/right-of-way. The setback from utility lines, easements, and right-of-way lines may be reduced where the owner/benefitted party provides written permission.

5. Roof-mounted wind energy systems shall be set back from property boundaries and street right-of-way lines by a distance equal to or greater than four times the height of the system as measured from the roof surface at the point of attachment. For systems in and adjacent to waterfront zones, mixed-use zones (except B-1/B-1b and I-B), OP zone, industrial zones, the Island Transfer Station Overlay zone, and the R-OS zone, the setback from property boundaries and street right-of-way lines may be reduced to a minimum distance of 1.0 times the height of the system, where the system is incorporated into the architecture of the building and a certified engineer confirms that it would not present and public safety risk. The setback shall be measured to the center of the wind generator base.
7. Freestanding wind energy systems with a total height of less than 85 feet shall be set back from property boundaries and street right-of-way lines by a distance equal to or greater than 1.1 times the total height of the system, and from residential buildings and hospitals on other properties by a distance equal to or greater than twice the total height of the system. The setback distance shall be measured to the center of wind generator base.
8. Freestanding wind energy systems with a total height of greater than 85 feet shall be set back away from property boundaries and street right-of-way lines by a distance equal to or greater than twice the total height of the system, and from residential buildings and hospitals on other properties by a distance equal to or greater than four times the total height of the system.
10. For freestanding wind energy systems in and adjacent to waterfront zones, mixed-use zones (except B-1/B-1b and I-B), the O-P zone, industrial zones, the Island Transfer Station Overlay Zone, and the R-OS zone, the setback from property boundaries and street right-of-way lines may be reduced to a minimum distance of 1.0 times the total height of the system where determined that the minimum required setback would be contrary to the public interest.
11. In residential zones, the B-1/B-1b zones, the I-B zone, and the R-P zone, where the lot is less than 0.5 acres, any vertical element of the wind energy system (tower/pole) shall be located in the rear yard or on the rear half of the existing building. Wind energy systems and associated facilities shall be sited to maximize existing vegetative or other screening from nearby residential buildings and public ways. The location shall minimize changes to existing topography and existing natural vegetation which would result from construction or maintenance of the system.

B. Height

1. Heights of wind energy systems, permitted as either freestanding or roof-mounted structures, shall be as shown in Table 7-I.

2. Roof-mounted wind energy systems shall measure no higher than 10 feet above the highest part of the roof.

TABLE 7-I: WIND ENERGY SYSTEM HEIGHT

Zone	Height (max.)
RPZ	10 ft.
Residential Zones[1], R-P, B-1/B-1b, and I-B	25 ft.
Historic Districts[2] and within 1,000 ft. of designated landmarks	45 ft.
EWPZ, WPDZ, WCZ, B-2/B-2b/B-2c, B-5, and B-6	65 ft.
B-3, B-4, B-7, and O-P	85 ft.
ROS, I-M, I-Mb, I-H, and A-B	160 ft.

[1] Permitted up to 65 ft within USM Overlay Zone or on other sites with institutional uses measuring over 5 acres.

[2] Permitted up to 85 ft in B-3 part of Downtown Historic District.

7.5 SPACE AND BULK EXCEPTIONS

7.5.1 Height

A. In the B-3/B-3b/B-3c zones. Minimum height provisions as depicted on the Downtown Height Overlay Map shall not apply to:

4. Accessory building components and structures such as truck loading docks covered parking, mechanical equipment enclosures and refrigeration units.
5. Information kiosks and ticketing booths.
6. Public transportation facilities of less than 10,000 square feet, or additions of less than 5000 square feet to existing public transportation facilities provided that the cumulative additions as of June 4, 2007 do not exceed 10,000 SF.
7. Additions to buildings existing as of June 4, 2007 provided that the cumulative additions since June 4, 2007 do not exceed 10% of the building footprint on June 4, 2007, except building additions on those portions of the lot located closer to the street line than the building footprint existing as of June 4, 2007 shall not be included in this 10% limitation.
8. Utility substations, including sewage collection and pumping stations, water pumping stations, transformer stations, telephone electronic equipment enclosures, and other similar structures.
9. Additions to and/or relocation of designated historic structures or structures determined by the Historic Preservation Board to be eligible for such designation.
10. Parking attendant booths or bank remote teller facilities.
11. Structures accessory to parks and plazas.
12. Buildings or building additions of less than 2,500 square feet footprint, on lots or available building sites of less than 3,000 square feet.

B. In the B-6 zone. Minimum height provisions as depicted on the B-6 Building Height Overlay and Building Envelopes map shall not apply to:

13. Buildings located in the area east of the Fore Street Connector.
14. Parking attendant booths.

~~15. Information kiosks and ticketing booths.~~
~~16. Parking garages.~~
~~17. Public transportation facilities.~~
~~18. Additions to buildings existing as of December 8, 2004 provided that the cumulative additions since December 8, 2004 do not exceed 25% of the building footprint on December 8, 2004, except that such restriction shall not apply to those portions of the building addition that are constructed closer to the street line than the building footprint existing as of December 8, 2004.~~
~~19. Buildings or building additions of less than 2,000 square feet footprint on lots or available building sites of less than 2,000 square feet.~~
~~20. Utility substations, including sewage collection and pumping stations, water pumping stations, transformer stations, telephone electronic equipment enclosures and other similar structures.~~
~~21. Additions to and/or relocations of designated historic structures.~~

~~C. In the B-7 zone.~~ Minimum floor provisions as ~~depicted on the Bayside Height Overlay Map shall not apply to:~~

~~22. Accessory building components such as truck loading docks, mechanical equipment enclosures and refrigeration units.~~
~~23. Information kiosks and ticketing booths.~~
~~24. Parking garages.~~
~~25. Public transportation facilities.~~
~~26. Additions to buildings existing as of March 9, 2005 provided that the cumulative additions since March 9, 2005 do not exceed 50% of the ground floor building footprint on March 9, 2005, except that such restriction shall not apply to those portions of the building addition(s) that are constructed closer to the street line than the building footprint existing as of March 9, 2005.~~
~~27. Utility substations, including sewage collection and pumping stations, water pumping stations, transformer stations, telephone electronic equipment enclosures, and other similar structures.~~
~~28. Additions to and/or relocation of designated historic structures or structures determined by the Historic Preservation Board to be eligible for such designation.~~
~~29. Portions of buildings more than 50 feet from the street line.~~

7.5.3 Towers

A. Purpose and applicability. Portions of buildings extending above a height of 125 feet shall be considered towers, and are subject to additional standards to ensure their design minimizes encroachment into view corridors, ensures adequate provision of light and air to adjacent streets, trails, and open spaces, and enhances the visual richness and aesthetic appeal of the Portland skyline.

~~D. In the Bayside Gateway Urban Height District A. BUILDINGS IN THE BAYSIDE GATEWAY~~

~~**URBAN HEIGHT DISTRICT A AS DEPICTED ON THE BAYSIDE HEIGHT OVERLAY MAP MAY BE GREATER THAN 125** feet but no more than 165 feet in height provided that:~~

~~1. Such buildings shall be reviewed by the Planning Board as conditional uses under Section 6.5 of this Land Use Code.~~

~~2.~~1. ~~Such buildings shall be sited to minimize encroachment into designated view corridors and visual landmarks to and from the downtown or that do not substantially further obstruct such corridors blocked by existing development as referenced in the Bayside Height Study Map and the B-7 design standards.~~

B. Stepback required

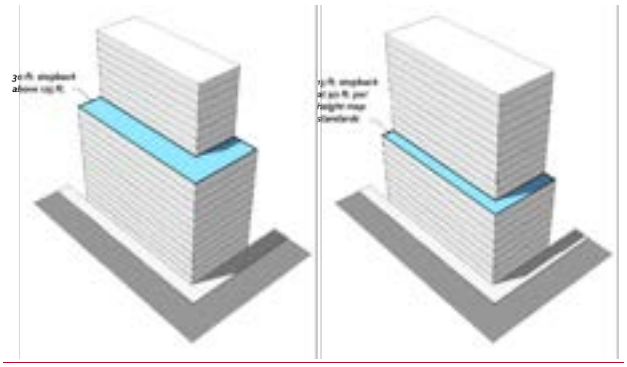
~~3.~~**1.** Portions of ~~such~~ buildings higher than 125 feet shall be stepped back ~~at upper levels to provide light and air to adjacent streets, trails, and open spaces, with a ratio of no less than the ratio of building height to width of adjacent streets, trails and open spaces equivalent to 1.5 to 1. The Planning Board may modify this requirement for master development plans or major site plans provided that the following conditions are met~~a minimum of 30 feet from any street or public open space, with the following exceptions:

~~a. Each building exceeding 125 feet shall contain at least 20 dwelling units per building.~~

~~b. Building wall stepback requirement along public street frontage for buildings with frontage on one street: Minimum 10-foot stepback between third and fifth stories and a minimum 10-foot stepback between the 125 and 145 foot level.~~

a. ~~Building wall~~ Structures subject to standards that require a stepback below 125 feet in height shall be exempt from providing additional stepback above 125 feet. This exemption applies regardless of the dimension of the required stepback at lower building heights.

b. Structures that voluntarily achieve a total stepback ~~requirement along public street frontage for buildings,~~ below 105 feet in height of 20 feet or greater from any street or public open space, with ~~frontage on~~at least one stepback occurring between 35 and 65 feet in height. No individual stepback used to meet this standard shall be less than ten feet in depth.



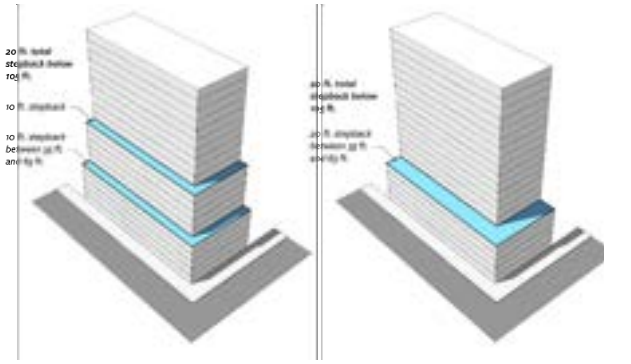


FIGURE 7-J: TOWER STEPBACK

2. Structures with multiple ~~streets: Above~~ façades abutting a street or public open space are subject to the following:

a. Structures with two façades subject to the required stepback must meet the standard as established in paragraph (~~b) requirement along~~ A) above for both façades.

b. Structures with three façades subject to the required stepback must meet the standard as established in paragraph (A) above for the two longest building ~~façade street wall, and of the~~ façades. The third façade shall either meet the standard as established in paragraph (A) above, or provide a 15 foot wide streetscape improvement area containing a public sidewalk, landscaping, and other streetscape improvements within the abutting street right-of-way and/or private property along the street frontage.

~~a.~~**c.** Structures with four or more façades subject to the required stepback must meet the standard as established in paragraph (A) above for the two longest building façades. The remaining ~~street walls~~building façades shall either meet the ~~same requirement~~standard as established in paragraph (~~b)~~A) above, or provide a 15 foot wide streetscape improvement area containing a public sidewalk, landscaping, and other streetscape improvements within the abutting street right-of-way and/or private property along the ~~remaining street frontage. A building with frontage on four streets shall meet the above requirement except that two of the streets shall have the stepback requirement~~street frontages.

~~b.~~**3.** The Planning Board shall have the authority to waive one or more of the required stepbacks provided that one of the following conditions is met:

~~i.~~**a.** The depth of the building lot precludes a building having an average minimum lot depth dimension of 170 feet.

~~ii.~~**b.** The proposed building has an architecturally significant design that is articulated to avoid a monolithic appearance and emphasizes slender, vertically-oriented proportions while employing a variety of scales, materials, fenestration, and massing to assure a rich, visually interesting experience as viewed within the

context of the downtown skyline and provide visual interest and human scale at the pedestrian level.

~~c.~~**4.** In the event ~~such a waiver is granted,~~that the Planning Board grants a waiver for one or more of the required stepbacks, the Board may require the applicant to mitigate the impacts of the waiver by requiring any or all of the following conditions:

~~i.~~**a.** Along all public street frontages and public open spaces, all buildings (regardless of height) shall maintain a pedestrian scale through the use of building elements at the street level as listed in this standard along no less than 60% of the building's horizontal length.

~~ii.~~**b.** Along all public street frontages and public open space for the building(s) over 125 feet, a canopy, awning, or similar permanent architectural feature to provide pedestrian protection and wind mitigation shall be provided within the first 35 feet of height.

~~a.~~**c.** The applicant shall demonstrate that building design elements and location will reasonably mitigate downdraft effects of the proposed building or buildings.

C. Tower floor plates. To minimize shadow and wind impacts, loss of views, and to allow for the passage of light and air into interior spaces, those portions of a building above 125 feet in height are limited to a maximum floor plate of 10,000 square feet.

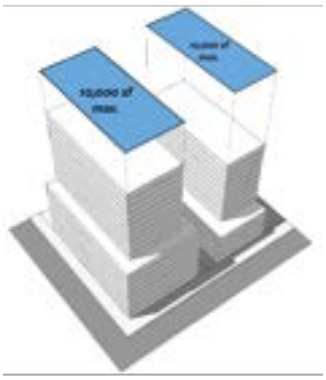


FIGURE 7-K: TOWER FLOOR PLATES

D. Tower separation. In order to preserve view corridors and to maintain a varied skyline, ~~all~~the following tower separation requirements apply:

1. All portions of buildings above 125 in height shall provide a minimum of 35 feet of setback from side and rear lot lines when abutting another tower.

2. Towers within a single development site ~~should~~shall be separated to avoid the appearance of a tall, solid block massing. ~~In accordance with this policy, on~~

3. All portions of buildings above 125 feet in height shall be separated a minimum distance of 75 feet, measured parallel to any applicable street frontage.

~~iii.~~**4.** On development sites of 500 feet or greater as measured parallel to Marginal Way, the aggregate building façade widths above 85 feet shall not exceed 50% of the

total development site distance parallel to Marginal Way. Buildings over 125 feet in height that are being reviewed as separate phases ~~of a master development plan~~ shall be entitled to meet the 50% building requirement in aggregate for all such buildings over 125 feet in height ~~in the master development plan~~, provided that view corridors are retained as each phase is built.

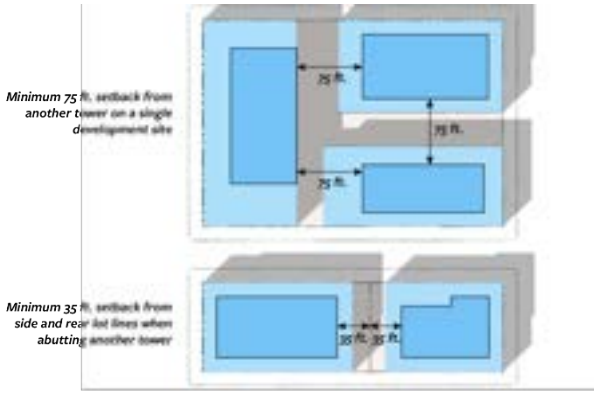


FIGURE 7-L: TOWER SEPARATION

~~iv. The applicant shall demonstrate building design elements and location will reasonably mitigate downdraft effects of the proposed building or buildings.~~

~~4. Such buildings provide publicly accessible and usable open space, meeting the B-7 design standards, of at least 10% of the building lot area.~~

~~5. If located on lots including or adjacent to planned or proposed street or pedestrian way connections, land dedication to such street or connection shall be credited toward the 10% open space requirement. Buildings over 125 feet in height that are being reviewed as separate phases of a master development plan shall be entitled to meet the 10% percent open space requirement in aggregate for all such buildings over 125 feet in height, provided that the open space shall not fall below 10% percent at any built phase or combination of built phases.~~

~~6. Such development shall comply with all other requirements and design standards as required by this article.~~

E. Architectural cap allowance

1. A tower may extend up to 40 feet above the designated height limit for the purpose of enclosing rooftop appurtenances, and providing a distinctive architectural cap that adds visual interest to the Portland skyline. This does not apply to towers in the B-3 zone located north of Cumberland Avenue.

2. No habitable floor area shall be created within the building envelope provided by an architectural cap, unless the following standards are met:

a. A minimum of 50% of such habitable floor area is devoted exclusively to one or more uses open to the public, such as a restaurant, atrium, or viewing area.

b. The primary design intent and expression of the architectural cap shall determine whether additional floor area is created. Such floor area

should be clearly incidental to the design expression, rather than a continuation of floor plates found below the architectural cap.

7.5.4 Supplemental dimensional standards for specific structures

A. Fences. In residential zones, no wall or fence within 15 feet of the street shall be more than four feet in height, unless said fence is located in the side or rear yard.

B. Swimming pools. Outdoor swimming pools as accessory uses shall be subject to the following dimensional standards:

1. No swimming pool shall be sited in the front yard.
2. No part of any swimming pool shall be located closer than 10 feet from the principal structure, nor closer than 10 feet from side or rear lot lines.

7.6 SPACE AND BULK EXCEPTIONS

7.6.1 Height

A. Exceptions to minimum height requirements in any zone. Minimum height requirements in any zone shall not apply to the following:

1. Accessory building components and structures such as truck loading docks, covered parking, mechanical equipment enclosures and refrigeration units.
2. Information kiosks, ticketing booths, parking attendant booths, or bank remote teller facilities.
3. Structures accessory to parks or plazas.
4. Utility substations, including sewage collection and pumping stations, water pumping stations, transformer stations, telephone electronic equipment enclosures, and other similar structures.

B. Exceptions to minimum height requirements in the B-3 zone. Minimum height provisions as depicted on the City of Portland Height Map shall not apply to:

1. Additions to buildings existing as of June 4, 2007 provided that the cumulative additions since June 4, 2007 do not exceed 10% of the building footprint on June 4, 2007, except building additions on those portions of the lot located closer to the street line than the building footprint existing as of June 4, 2007 shall not be included in this 10% limitation.
2. Buildings or building additions of less than 2,500 square feet footprint, on lots or available building sites of less than 3,000 square feet.

~~**E. Roof-mounted solar energy systems.** Photovoltaic panels and thermal water heating panels, whether parallel or angled to a pitched or gable roof, may be erected above the height limitation for principal or accessory buildings as follows:~~

~~1. *In all residential zones.* Up to three feet above the maximum height allowed in the~~

~~underlying zone. In the case of flat roofs, the solar energy system may be up to five feet above the maximum height allowed in the underlying zone. All roof-mounted solar energy systems shall be set back from the edge of the roof by one foot for every one foot of solar energy system height.~~

~~2. *In B-4 and industrial zones.* Up to four feet above the maximum height allowed in the underlying zone. In the case of flat roofs, there are no height limits.~~

~~3. *In all other zones.* Up to three feet above the maximum height allowed in the underlying zone. In the case of flat roofs, the solar energy system may be up to eight feet above the maximum height allowed in the underlying zone. All roof-mounted solar energy systems shall be set back from the edge of the roof by one foot for every one foot of solar energy system height.~~

C. Exceptions to minimum height requirements in the B-6 zone. Minimum height provisions as depicted on the B-6 Building Height Overlay and Building Envelopes map shall not apply to:

1. Buildings located in the area east of Freedom Way.

2. Parking garages.

3. Additions to buildings existing as of December 8, 2004 provided that the cumulative additions since December 8, 2004 do not exceed 25% of the building footprint on December 8, 2004, except that such restriction shall not apply to those portions of the building addition that are constructed closer to the street line than the building footprint existing as of December 8, 2004.

4. Buildings or building additions of less than 2,000 square feet footprint on lots or available building sites of less than 2,000 square feet.

~~F.~~ **D. Exception for public art.** Except in residential zones, public art that has been individually accepted by the City Council for inclusion within the public art collection pursuant to Article ~~21~~20 shall not be subject to the height limitations within the underlying zone.

E. Exceptions for rooftop appurtenances. Unless otherwise noted, rooftop appurtenances for the housing of elevators, stairways, access vestibules, tanks, fans, or other building operating equipment not intended for human occupancy, pedestal paver systems and decks up to 18 inches in height above the surface of the roof, deck railings or guards, skylights, steeples, flag poles, chimneys, smokestacks, radio or television masts, water tanks, or silos may be erected above the height limitations herein prescribed. Unenclosed shade structures covering up to 200 square feet in floor area, and other appurtenances associated with rooftop occupancy may be erected to a height not exceed ten feet above the surface of the roof.

F. Exception for telecommunication towers. Where permitted, ground-mounted telecommunication towers may be erected

above the height limitations within the underlying zone.

G. Exception for accessory structures integral to principal uses in the I-L, I-Lb, I-M, I-Mb, and I-H zones. Where an accessory structure is integral to the operation of a principal use in the I-L, I-Lb, I-M, I-Mb, or I-H zone, such structure shall not be subject to the height maximums for the zone. Such accessory structures may include smokestacks, chimneys, cooling towers, water towers, and similar features.

~~7.5.2 Length of building wall at maximum setback~~

~~A. In the B-6 zone. Buildings located area east of the Fore Street Connector shall not be subject to the building wall requirement.~~

~~In the B-7 zone. Additions to and relocations of designated historic structures or structures determined to be eligible under Article 17~~**G.**

7.6.2 Building length

A. Additions to existing buildings

1. In the B-2b, additions to buildings existing as of the effective date of this Code that do not cumulatively exceed 50% of the building footprint as of the effective date of this Code are not required to meet minimum building length standards. However, any such additions shall increase conformity with the standards to the extent practicable.

2. In the B-3, B-5, B-6, TOD-1, and TOD-2 zones, additions to buildings existing as of the effective date of this Code that do not cumulatively exceed 25% of the building footprint as of the effective date of this Code are not required to meet minimum building length standards. However, any such additions shall increase conformity with the standards to the extent practicable.

B. In the B-6 zone. Buildings located in the area east of Freedom Way shall be exempt from the minimum building ~~wall~~length requirement.

C. Lots with multiple street frontages. Where a minimum building length as a percentage of street frontage applies to a lot with multiple street frontages, the street with the highest traffic volume shall meet the established standard. In the case of a lot with two street frontages, the second frontage shall meet a reduced standard of 40%. If there are more than two frontages, there is no minimum requirement~~.~~ for any frontage beyond the two with the highest traffic volumes.

D. The Planning Board may approve a different building length to comply with the standards of the *City of Portland Design Manual* provided that the building length standard is met to the maximum extent practicable.

7.6.3 Lot area

~~**A. Institutional uses in residential zones.** No minimum lot area shall be required for~~

~~institutional uses in residential zones in the following cases:~~

~~1. Uses existing as of June 1, 1983.~~

~~2. Expansion on to land abutting the lot on which the principal use is located.~~

~~3.~~2. ~~Expansion onto land other than the lot on which the principal use is located to the extent that such expansion consists of the reuse of surface parking area or nonresidential structures existing and in nonresidential use as of June 1, 1983,~~

~~4. Expansion onto land other than the lot on which the principal use is located of no more than 15% of the total contiguous land area of the existing use, or one acre, whichever is less, within any five year period.~~

A. Small island lots

1. Existing developed and undeveloped lots in the IR-2 zone on Peaks Island that do not meet the 20,000 square foot minimum lot area standard as of the effective date of this Code shall be deemed to be small island lots, subject to modified lot area, street frontage, setback, lot coverage, and landscaped open space ratio requirements for residential uses. These standards apply only to lots in the IR-2 zone on Peaks Island.

2. The standards for small island lots shall apply to existing residential uses as well as new residential development on qualifying lots. The small island lot standards shall not apply to lots in nonresidential use or to nonresidential development in the IR-2 zone.

3. A new dwelling may be built on a small island lot subject to modified dimensional standards, provided that the lot is currently vacant, in residential use, used exclusively for parking, or contains structure(s) not used for residential purposes.

4. New small island lots may only be created by a single lot division of an existing lot, with the remaining developed portion meeting the standard dimensional requirements of the IR-2 zone. Further division of the remaining lot to create additional small island lots is prohibited.

5. Lots created as part of a cottage court development in the IR-2 zone shall not be considered small island lots, and shall be subject to the standards for cottage court development.

~~B.~~ **B. Residential lots not served by public sewers.** A lot in an unsewered residential district shall meet the provisions of the state Minimum Lot Size Law, 12 M.R.S. § 4807 et seq., or the applicable minimum lot area, whichever is larger~~, except that the minimum lot size may be reduced on the islands in Casco Bay as provided in (C) below~~.

~~C. In island zones. In issuing any permit for new development in island zones:~~

~~1. The Building or Planning Authority shall require that any lot located in the IR-1 zone shall be at least 40,000 square feet in area~~

and in the IR-2, IR-3, and I-B zones be at least 20,000 square feet in area when the lot is to be serviced by a subsurface wastewater disposal system, except those lots which are located in a subdivision approved by the Planning Board after June 8, 1968 and excluding Peaks Island.

2. Excluding Peaks Island from this paragraph (2), any property owner whose lot does not meet the minimum lot size requirements outlined in (1) above may, for purposes of this subsection only, merge two or more separate lots on the same island in order to meet these requirements. Where the lots so merged are not contiguous, the property owner shall grant to the city as holder a conservation easement upon the lot or lots which will not contain the principal structure. The conservation easement shall contain both an existing legal description and a city assessor's chart, block, and lot description. The Planning Authority shall be authorized to accept such conservation easements on behalf of the city. Said easement shall be recorded by the applicant in the registry of deeds. A copy of the recorded easement and copies of the deeds for both lots shall be submitted to the Planning Authority prior to issuance of a building permit. The property over which the conservation easement has been granted shall be used for passive recreational and conservation purposes only, and shall be subject to the following restrictions:
   a. No structure shall be permitted on this property.
   b. No parking or storage of vehicles or machinery shall be permitted on this property at any time.
   c. No area of this property shall be paved.
   d. No exterior storage for commercial use shall be permitted on this property.
   e. The easement deed shall reference the lot which is benefited by this conservation easement. No conservation easement shall be used to benefit more than one lot.
3. Conservation easements shall only be granted over lots which conform either to the provisions of Subsection 4.3.1 or to the minimum lot sizes set forth in Table 7-D. Conservation easements shall not be granted over any lot which is encumbered by any other easement which prohibits all construction on that lot. A conservation easement may also name as a holder or grant a third-party right of enforcement to a nonprofit corporation or charitable trust, the purposes or powers of which include retaining or protecting the natural, scenic, or open space values of real property; assuring the availability of real property for agricultural, forest, recreational, or open space use; protecting natural resources; or

maintaining or enhancing air or water quality of real property. Nothing in this subsection shall be construed to allow an owner of a currently existing and developed lot to convey or permit a portion of that lot to be used to fulfill the requirements of this subsection if such conveyance would render the existing lot nonconforming under the terms of this Land Use Code. The lot upon which a building is to be constructed shall meet the minimum lot size requirements of Subsection 4.3.1.

4. Where an existing subsurface wastewater disposal system serving an existing structure requires replacement, the replacement system shall meet the applicable state requirements. The land area requirements in paragraph (1) above shall not apply to such a replacement system.

5. For purposes of this subsection, the mean high tide mark shall be considered to be the shoreline lot line.

7.5.4 Lot coverage

A. Lot surrounded by streets or alleys. Where a lot containing ten thousand 10,000 square feet or less is completely surrounded by streets or alleys, the lot coverage may be increased 20%.

7.5.5 Setbacks

A. Setbacks in residential and R-P zones. In any residential zone and the R-P zone, the width of one side setback may be reduced one foot for every foot that the other side setback is correspondingly increased, but no side setback shall be less than the minimum required for a one-story building.

Setbacks in the O-P zone. The Planning Board may reduce by up to 50% the minimum setback

B. if another yard within the lot is correspondingly increased so that the combined minimum yards on all four sides equal 150 feet. If two or more buildings are located on one lot, only the requirements of the front, rear or side setbacks that adjoin any external property boundary must be met, provided a sufficient fire line is provided.

7.6.4 Setbacks

Projections in Permitted encroachments into required setback areas.

C. 1. Any setback may be occupied by a one-story entrance porch not enclosed, with or without a roof, if the area of the porch does not exceed 50 square feet within the side or rear setback or 250 square feet within the front setback, nor the projection from the building exceed six feet. Stairs necessary to access a porch shall not be included in this calculation. A basement bulkhead of similar size, but not more than 24 inches in height, is also permitted. A cornice eave, sill, canopy, chimney, bay window, balcony, or other similar architectural feature may projectencroach into any required setback a distance of not more than two feet.

~~D. Pavement setbacks. Pavement setbacks shall not apply to entrance drives.~~

~~E. Corner lot setbacks. In case a principal residential structure has its front yard upon the long side of a corner lot, the rear setback may be reduced to a depth not less than the required side setback on the lot, provided that the aggregate of the widths of both sides and depths of front and rear yards is not less than the similar aggregate of required dimensions of all setbacks if the front yard were faced on the short side of the lot.~~

~~F. Maximum front setbacks~~

~~Maximum front setbacks~~

2. Ground-mounted and building-mounted mechanical equipment may encroach into a required side or rear setback. This includes mechanical equipment related to the operation of the structure, such as heating, ventilation, and air conditioning (HVAC) equipment, personal electrical generators, and swimming pool pumps and filters. This allowance does not include window-mounted or through-the-wall air conditioning units.

B. Build-to zone exceptions

1. Limited access roads are not considered street frontages for the purposes of build-to zone requirements, and are exempt from build-to zone standards.

~~1.~~ **2.** Build-to zone requirements shall not apply to utility substations, alternative energy installations, and secondary building components such as truck loading docks, mechanical equipment enclosures, and refrigeration units.

~~2. *In the B-1/B-1b zone.* Building additions are encouraged but not required to meet front setbacks.~~

~~3. *In the B-2/B-2b/B-2c zones*~~

~~a. Building additions do not have to meet maximum front setback requirements.~~

~~a.~~ **3.** The Planning Board or Planning Authority may approve a different front setback or build-to zone for irregularly shaped lots ~~or lots with frontage greater than 40 feet in width~~ provided the front setback or build-to zone is met to the maximum extent practicable.

~~b. If a lot has less than 40 feet of frontage and is more than 100 feet deep, then no maximum setback is required.~~

~~c. If existing structures are within 20 feet of the street or meet the front setback maximum and the remainder of the lot has less than 40 feet of frontage, then no maximum setback is required.~~

~~d. The Planning Board or Planning Authority may waive the maximum front setback for utility substations and alternative energy installations.~~

~~a.~~**4.** ~~Where setbacks exceed 10 feet~~In the mixed-use and transit-oriented development zones, where buildings are set back more than 10 feet from a lot line

abutting a street, or in the B-4 zone where buildings are set back more than 20 feet from a lot line abutting a street, a continuous, attractive, and pedestrian-scaled edge treatment shall be constructed along the street, consisting of street trees spaced at no more than 15 feet on center, approved by the City ~~arborist~~Arborist, and a combination of landscaping no less than four feet deep, ornamental brick or stone walls, or ornamental fencing.

~~4.~~ 5. In the B-3~~*/B-3b/B-3c zones.* The~~ zone, the Planning Board may require or approve an ~~additional setback~~alternative build-to zone to comply with the design standards of Article ~~14~~13 and the *City of Portland Design Manual*.

~~5. *In the B-6 zone.* For lots fronting on more than one street in the B-6 zone, the front setback can be increased more than 10 feet if all of the following conditions are met:~~

~~a. The increased setback occurs at the intersection of the streets.~~

~~b. The increased setback area is the primary pedestrian entrance to the building.~~

~~c. 75% of the total building wall length facing the abutting streets shall be setback no greater than 10 feet. All building wall segments which make up the increased setback shall be included in the calculation of the total building wall length.~~

a. ~~For new construction on a lot abutting three or more streets, the maximum setback shall~~ .

~~a.~~ 6. Where build-to zone requirements apply ~~only to~~to a lot with multiple street frontages, the two streets with the highest traffic volume~~.~~

~~6. *In the B-7 zone*~~

~~a. Parking structures, public transportation facilities, utility substations, secondary building components such as truck loading docks, mechanical equipment enclosures, and refrigeration units are not subject to the maximum front setbacks.~~

~~b. The maximum front setback may be increased to more than 10 feet if all of the following conditions are met:~~

~~i. 75% of the total building wall length of an individual building facing the abutting streets is setback no greater than 10 feet.~~

~~ii. The increased setback area shall include a functional and accessible public pedestrian entrance into the building that faces the street, unless a public pedestrian entrance already exists along the same street.~~

~~iii. The increased setback shall not be used for surface parking.~~

~~c. For a corner lot having frontage on two streets, the maximum setback shall apply to both streets.~~ shall meet

the established standard. In the case of a lot ~~having frontage on~~with two ~~or more~~ street ~~corners, newly constructed~~frontages and a corner, buildings shall be sited at ~~street corners and meet the maximum setback requirement prior to other freestanding buildings being constructed on the lot which shall also~~ the street corner and both frontages shall meet the ~~maximum street setback.~~required build-to zone. In the case of a ~~corner~~ lot ~~having frontage on a third street (but not a corner)~~with three or more street frontages encompassing two or more corners, buildings shall be sited at the ~~maximum setback need not apply to~~ corners, and the ~~third street.~~

~~a.~~ ~~In the case of a lot having frontage on~~ two streets ~~but not on a corner, the maximum setback shall apply to all streets but in the case of a lot having frontage on three streets but not on a corner, the maximum setback shall apply to only two streets. For purposes of this subsection only, the first building on a lot~~with the highest traffic volume shall meet the ~~maximum setback on at least one street with future buildings required to meet the maximum setback on the remaining street(s).~~ established standard. Build-to zone requirements shall not apply to any frontage beyond the two with the highest traffic volumes.

~~b.~~ **7.** In the B-6 zone, build-to zone requirements do not apply to parking garages and public transportation facilities. Notwithstanding required setbacks, new structures located in the blocks located south of Fore Street and north of Commercial Street and its extension shall build to the key building envelopes shown on the City of Portland Height Map. Buildings located in the area east of Freedom Way shall not have a maximum front setback and shall not be required to build to the key building envelope perimeter. Parking structures and the buildings for public transportation facilities may, however, be set back beyond the key building envelopes (toward the interior of blocks), but may not occupy the land between the key building envelope and the street right-of-way.~~In the case of a lot in which a minimum 75% of the total lot frontage has a building within ten feet of the street, other buildings may be located on the lot more than 10 feet from the street. In the case of a lot having frontage on Marginal Way and I-295, the property edge along I-295 shall not be considered street frontage.~~

~~The maximum building setback~~

8. Build-to zone requirements shall not apply to additions to existing buildings as follows:

~~d.~~ **a.** Build-to zone requirements shall not apply to vertical ~~building expansions in the following cases:~~

i. The upper floors of a building in which the lower floors meet the maximum setback and the additions to existing buildings to meet minimum height requirement. requirements.

ii. The building existed as of March 9, 2005 and meets the minimum height requirement.

iii. A building not meeting the maximum street setback and the minimum height requirement may vertically expand a total of one floor from March 9, 2005.

iv. b. In the case of a building in which at least 50% of the building wall(s) abutting street(s) is within 20 feet of the street.

v. Additions B-1, B-2, and B-2b zones, build-to parking garages existing as of March 9, 2005.

a. Additionszone requirements shall not apply to additions to buildings existing as of March 9, 2005the effective date of this Code that are nonconforming as to the maximum setback needdo not conform to the maximum street setback provided the cumulative cumulatively exceed 50% of the building footprint since March 9, 2005 does not exceed 50% of the existing building footprint. Such restriction shall not apply to those portions of the building addition that are constructed closer to the street line than the building footprint existing as of March 9, 2005 and to vertical expansions as provided for in (f) above. as the effective date of this Code. However, any such additions shall increase conformity with the standards to the extent practicable.

e. Lots having frontage on streets in which the curve of the street frontage precludes a rectangular-shaped building along the street line, for purposes of calculating the setback, the average setback of the building from the street line may be used, but in no event shall the average setback along the length of the building edge exceed an average setback of 15 feet nor shall the maximum setback exceed 20 feet. The increased setback shall not be used for surface parking, vehicular loading or vehicular circulation.

f. Additions to and relocations of designated historic structures or structures determined to be eligible by the Historic Preservation Board shall be exempt from the maximum setback requirement.

c. In the B-4, B-5, B-6, TOD-1, and TOD-2 zones, build to zone requirements shall not apply to additions to buildings existing as of the effective date of this Code that do not cumulatively exceed 25% of the building footprint as of the effective date of this Code. However, any such

additions shall increase conformity with the standards to the extent practicable.

C. Minimum setback exceptions for nonconforming lots ~~of record~~

1. In the case of a nonconforming lot ~~of record~~ existing as of June 5, 1957 in the ~~R~~RN-1, ~~R~~RN-2, ~~R~~RN-3, ~~R-4, R-5, R-5a,~~ and ~~R-6~~RN-4 zones and less than 100 feet deep, the front setback need not be deeper than 20% of the depth of the lot.

2. In the case of a nonconforming lot ~~of record~~ existing as of June 5, 1957 in a residential zone, the required side setback for principal structures may be reduced in order to provide a buildable width of up to 24 feet~~, but in no case shall the resulting side yards~~ as follows:

a. RN-1, RN-2: No side setback shall be reduced to less than 5 feet.

b. RN-3: One side setback may be reduced to zero feet, provided the ~~following:~~other shall be reduced to not less than 5 feet. A permanent maintenance easement a minimum of 5 feet in width shall be provided on the parcel adjacent to the lot line with the zero foot setback.

7.6.5 Stepbacks and areas of limited height adjacent to RN or open space zones

A. A cornice eave, sill, canopy, chimney, bay window, balcony, or other similar architectural feature may project into any required stepback or area of limited height adjacent to an RN or open space zone a distance of not more than two feet.

B. ~~–~~Building mounted mechanical equipment may encroach into a required stepback or area of limited height adjacent to an RN or open space zone by no more than 50% of the width of such required stepback. This includes mechanical equipment related to the operation of the structure, such as heating, ventilation, and air conditioning (HVAC) equipment.

7.6.6 Street frontage

In the IR-1 and IR-2 zones, a lot ~~of record~~ that is buildable pursuant to Subsection 4.3.1 and lots created after July 15, 1985, which are not part of a subdivision need not provide street frontage if access is available by means of a permanent easement or right-of-way which existed as of July 15, 1985. Such easement or right-of-way shall have a minimum width of 16 feet and a minimum travel width of eight feet except that an easement or right-of-way providing access for three or more lots or providing the only means of access to a parcel or parcels of three acres or more, shall meet the construction requirements of Chapter 25, Article III of the City of Portland Code of Ordinances. In the IR-1 zone, such easement or right-of-way shall conform to the requirements contained within the City of Portland Technical Manual. In the IR-2 zone, such easement or right-of-way shall be a minimum of 32 feet wide. Such easement or right-of-way shall be sufficient to permit municipal service delivery.

7.6.7 Additions to and/or relocations of designated historic structures

Additions to and/or relocations of designated historic structures or structures determined by the Historic Preservation Board to be eligible for such determination shall not be required to meet minimum building height, or minimum building length standards.

Downtown Height Overlay
Portland, Maine

Amended April 24, 2023

Areas Eligible for Architectural Cap***

Eligible areas are shown below:

Height Overlay Legend

Maximum Height (ft.)

35	90**
45	125
50**	150
65	190
85	210

100' offset*

100' offset*

100' offset*

100' offset*

100' offset*

100' offset*

100' offset*

100' offset*

100' offset*

50' offset from parcel line

100' offset***

40' offset from parcel line

65' offset from parcel line

30' offset from parcel line

planning & urban development

0 500 1,000 2,000 3,000 4,000 Feet

Notes:

No new construction of any building shall be less than 35 ft. in height within 50 ft. of any street frontage. See Land Use Code for exceptions.

Maximum street wall height within the B-3 zone is 65 ft. unless otherwise noted.

*Boundary offsets are from street centerline unless otherwise noted.

**Multiple stepbacks cumulatively reaching at least the minimum noted above (15 and 30 ft.) are acceptable.

***Architectural Cap Allowance: The building form may extend up to 40 ft. above the designated height limit for the purpose of proving a distinctive graduated design for an architectural building top and to enclose rooftop appurtenances. No habitable floor area shall be developed within the building envelope provided by the addition 40 ft. unless at least 50% of such habitable floor area is devoted exclusively to one or more publicly accessible uses, and provided that such floor area is incidental to the primary design intent of the space.

Height Districts

A. Gateway Urban Height District
Min. 4 floors, max. ht. 125', except as permitted under subsection 7.5.1.A (Space and Bulk exceptions) of the Land Use Code, where buildings may have a maximum height of 165'.

B. Intermediate Urban Height District
min. 3 floors, max. ht. 105'

C. Transitional Neighborhood Height
min. 3 floors, max. ht. 85'

D. Traditional Neighborhood Height
min. 2 floors, max ht. 55'

I 295 South
I 295 North
Marginal Way
Forest Avenue
Brattle Street
Parris Street
Hanover Street
Preble Street
Alder Street
Somerset Street
Kennebec Street
Pearl Street
Lancaster Street
Portland Street
Mechanic Street
Elm Street
Cedar Street
Chestnut Street
Oxford Street
Stone Street
Myrtle Street
Chapel Street
Wilmot Street
Cumberland Avenue
north
0 200'

Bayside
Height Overlay Map
Amended April 24, 2023

Portland, ME
Height Map

Max. Height (ft)

- 45 ft
- 55 ft
- 65 ft
- 85 ft
- 105 ft
- 125 ft
- 180 ft
- 250 ft
- 325 ft

Maximum Street Wall Height(ft)

- 50' max. street wall height with 15' stepback
- 90' max. street wall height with 15' stepback
- 50' max. street wall height with 30' stepback
- 90' max. street wall height with 30' stepback

Multiple stepbacks cumulatively reaching at least the minimum noted above (15 and 30 ft.) are acceptable.

No new construction of any building shall be less than 35 ft. in height within 50 ft. of any street frontage. See Land Use Code for exceptions.

Boundary offsets are from street centerline unless otherwise noted.

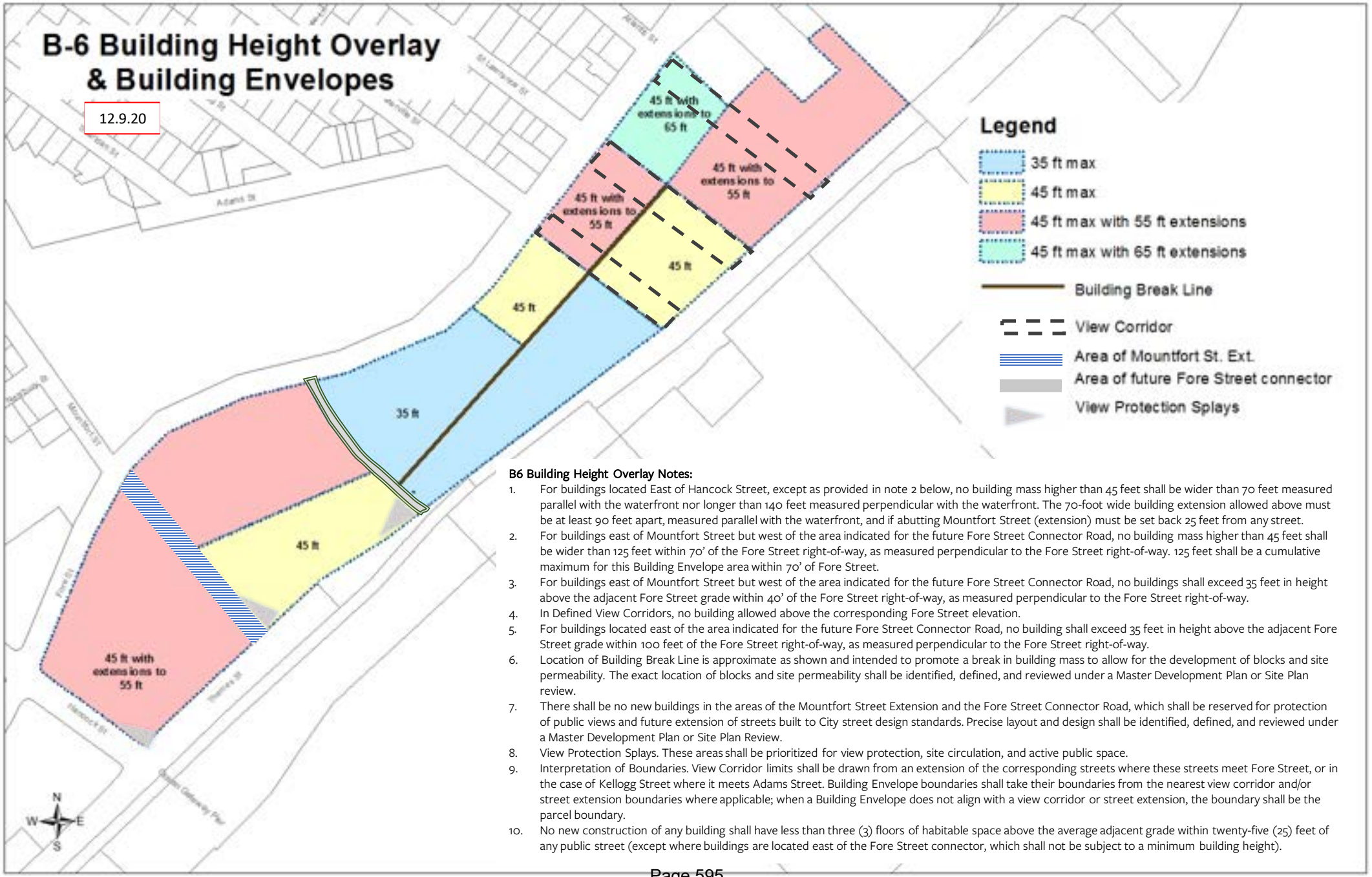
No rooftop structure located between the projections of the centerlines of Emery St. and Fletcher St., as described above. shall exceed a height of 62 ft as measured from average grade of the building at its foundation.

FINAL DRAFT FOR PLANNING BOARD REVIEW

City of portland

B-6 Building Height Overlay & Building Envelopes

12.9.20

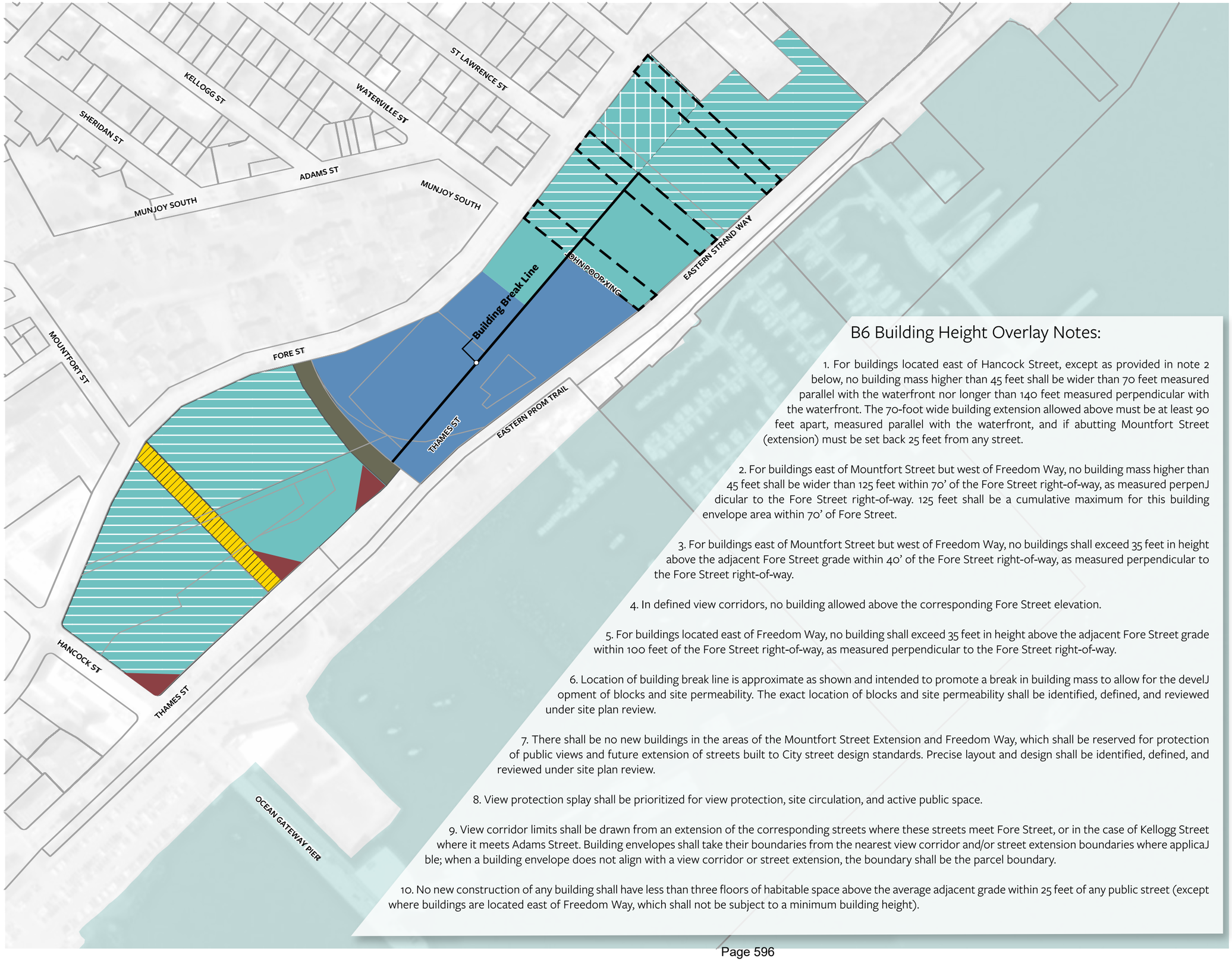


B6 Building Height Overlay Notes:

1. For buildings located East of Hancock Street, except as provided in note 2 below, no building mass higher than 45 feet shall be wider than 70 feet measured parallel with the waterfront nor longer than 140 feet measured perpendicular with the waterfront. The 70-foot wide building extension allowed above must be at least 90 feet apart, measured parallel with the waterfront, and if abutting Mountfort Street (extension) must be set back 25 feet from any street.
2. For buildings east of Mountfort Street but west of the area indicated for the future Fore Street Connector Road, no building mass higher than 45 feet shall be wider than 125 feet within 70' of the Fore Street right-of-way, as measured perpendicular to the Fore Street right-of-way. 125 feet shall be a cumulative maximum for this Building Envelope area within 70' of Fore Street.
3. For buildings east of Mountfort Street but west of the area indicated for the future Fore Street Connector Road, no buildings shall exceed 35 feet in height above the adjacent Fore Street grade within 40' of the Fore Street right-of-way, as measured perpendicular to the Fore Street right-of-way.
4. In Defined View Corridors, no building allowed above the corresponding Fore Street elevation.
5. For buildings located east of the area indicated for the future Fore Street Connector Road, no building shall exceed 35 feet in height above the adjacent Fore Street grade within 100 feet of the Fore Street right-of-way, as measured perpendicular to the Fore Street right-of-way.
6. Location of Building Break Line is approximate as shown and intended to promote a break in building mass to allow for the development of blocks and site permeability. The exact location of blocks and site permeability shall be identified, defined, and reviewed under a Master Development Plan or Site Plan review.
7. There shall be no new buildings in the areas of the Mountfort Street Extension and the Fore Street Connector Road, which shall be reserved for protection of public views and future extension of streets built to City street design standards. Precise layout and design shall be identified, defined, and reviewed under a Master Development Plan or Site Plan Review.
8. View Protection Splays. These areas shall be prioritized for view protection, site circulation, and active public space.
9. Interpretation of Boundaries. View Corridor limits shall be drawn from an extension of the corresponding streets where these streets meet Fore Street, or in the case of Kellogg Street where it meets Adams Street. Building Envelope boundaries shall take their boundaries from the nearest view corridor and/or street extension boundaries where applicable; when a Building Envelope does not align with a view corridor or street extension, the boundary shall be the parcel boundary.
10. No new construction of any building shall have less than three (3) floors of habitable space above the average adjacent grade within twenty-five (25) feet of any public street (except where buildings are located east of the Fore Street connector, which shall not be subject to a minimum building height).

Portland, ME

B-6 Building Height Overlay & Building Envelopes Map



B6 Building Height Overlay Notes:

1. For buildings located east of Hancock Street, except as provided in note 2 below, no building mass higher than 45 feet shall be wider than 70 feet measured parallel with the waterfront nor longer than 140 feet measured perpendicular with the waterfront. The 70-foot wide building extension allowed above must be at least 90 feet apart, measured parallel with the waterfront, and if abutting Mountfort Street (extension) must be set back 25 feet from any street.

2. For buildings east of Mountfort Street but west of Freedom Way, no building mass higher than 45 feet shall be wider than 125 feet within 70' of the Fore Street right-of-way, as measured perpenJ dicular to the Fore Street right-of-way. 125 feet shall be a cumulative maximum for this building envelope area within 70' of Fore Street.

3. For buildings east of Mountfort Street but west of Freedom Way, no buildings shall exceed 35 feet in height above the adjacent Fore Street grade within 40' of the Fore Street right-of-way, as measured perpendicular to the Fore Street right-of-way.

4. In defined view corridors, no building allowed above the corresponding Fore Street elevation.

5. For buildings located east of Freedom Way, no building shall exceed 35 feet in height above the adjacent Fore Street grade within 100 feet of the Fore Street right-of-way, as measured perpendicular to the Fore Street right-of-way.

6. Location of building break line is approximate as shown and intended to promote a break in building mass to allow for the develJ opment of blocks and site permeability. The exact location of blocks and site permeability shall be identified, defined, and reviewed under site plan review.

7. There shall be no new buildings in the areas of the Mountfort Street Extension and Freedom Way, which shall be reserved for protection of public views and future extension of streets built to City street design standards. Precise layout and design shall be identified, defined, and reviewed under site plan review.

8. View protection splay shall be prioritized for view protection, site circulation, and active public space.

9. View corridor limits shall be drawn from an extension of the corresponding streets where these streets meet Fore Street, or in the case of Kellogg Street where it meets Adams Street. Building envelopes shall take their boundaries from the nearest view corridor and/or street extension boundaries where applicaJ ble; when a building envelope does not align with a view corridor or street extension, the boundary shall be the parcel boundary.

10. No new construction of any building shall have less than three floors of habitable space above the average adjacent grade within 25 feet of any public street (except where buildings are located east of Freedom Way, which shall not be subject to a minimum building height).

- 35 ft max
- 45 ft max
- 45 ft max with 55 ft extentions
- 45 ft max with 65 ft extentions
- Monfort Street Extension
- View corridor
- Freedom Way
- View protection splays

FINAL DRAFT FOR PLANNING BOARD REVIEW

City of Portland

8 OVERLAY ZONES

8.1 COMPACT URBAN RESIDENTIAL OVERLAY (R-7)

The purpose of the R-7 Compact Urban Residential Overlay Zone is to encourage and accommodate compact residential development on appropriate locations on the Portland peninsula, pursuant to the *New Vision for Bayside* and housing plans of the City of Portland. Suitable sites should be within walking distance of downtown or other work places, shopping and community facilities, and have access to public or private off-site parking or transit service. The intent of this zone is to foster increased opportunities for compact living for owners and renters representing a variety of income levels and household types.

Locations for siting the R-7 zone are intended to be located on the peninsula of Portland, in the area encompassed in the *New Vision for Bayside* plan, other peninsula R-6 locations characterized by moderate- to high-density multi-family housing in a form and density exceeding that allowed in the R-6 zone and where infill development opportunities exist, and areas on the peninsula with mixed business and residential zoning and uses which can accommodate higher density infill residential development without negatively impacting the existing neighborhood or adjacent properties. It may be appropriate in some cases to apply the R-7 Overlay Zone through conditional or contract zoning to ensure that the new development is architecturally appropriate and compatible with the surrounding neighborhood.

TABLE 8-A: R-7 DIMENSIONAL STANDARDS

Lot area (min.)		None
Street frontage (min.)		None
Setbacks (min.)	**Front**	None
	Rear and side	5 ft.
	Side yard on side street	None
Lot coverage (max.)		100%
Lot area per dwelling unit (min.)		435 SF
Structure height (max.)		50 ft.
Dwelling unit size (min.)		400 SF

8.1.2 Permitted Uses

Permitted uses in the R-7 Compact Urban Residential Overlay Zone shall be the uses permitted in the R-6 zone.

8.1.3 Dimensional standards

Residential uses shall comply with the dimensional requirements in Table 8-A. All other uses in the R-7 zone shall observe the dimensional requirements of the R-6 zone.

8.1.4 Design standards

Residential development shall be reviewed by the Planning Board under Article 14. Such development shall also comply with the following development standards. The general intent of these development standards is to achieve an attractive and comfortable city neighborhood environment. Varied and human-scaled building facades are key to making a place "pedestrian-oriented." Building designs should provide a high level of visual interest, without creating a chaotic image. Residences should include design elements that enhance the streetscape and address the street.

~~A. Porches and bays should face the street.~~

~~B. Primary ground floor residential entries to multi-family buildings must orient to street, not to interior blocks or parking lots. Secondary and upper-floor entries from the interior of a block are acceptable. The front door to single-family homes, duplexes, and townhouses must be visible from the street.~~

~~C. The design approach shall provide an architecture that will be a visible and permanent expression of the character of the neighborhood.~~

~~D. The facade shall be varied and articulated to provide visual interest to pedestrians.~~

~~E. The design shall reinforce the public realm of the public open space, sidewalks, and streets through appropriately scaled entries, porches, fenestration, landscaping, and architectural details.~~

~~F. The design shall provide visual and acoustical privacy between units.~~

~~G.~~A. ~~The design shall maximize natural light and ventilation within units.~~

~~DOWNTOWN ENTERTAINMENT OVERLAY~~

~~8.2.1Purpose~~

~~The purpose of the Downtown Entertainment Overlay Zone is to regulate the location of businesses with entertainment licenses in order to maintain and improve public safety and the quality of life of Portland residents by preventing an over-concentration of businesses with entertainment licenses, particularly those which also have liquor licenses, and the public safety problems that have and will be experienced when too many of these businesses are located too close to each other. These problems include large late-night crowds within which fights and assaults, disorderly conduct and other breaches of the peace occur and that are difficult to effectively police and that expose not only innocent bystanders but also police officers to danger and personal injury.~~

~~8.2.2 Applicability~~

~~For the purposes of this section, the Downtown Entertainment Overlay Zone includes and is defined by the boundaries of the following zones as shown on the Downtown Entertainment Overlay Zone map: the B-3, B-3c, and WCZ zones. Any property that lies partly within the Downtown Entertainment Overlay Zone shall be subject to the regulations of the overlay.~~

~~8.2.3 Dispersal requirement~~

~~A business with an entertainment license as required or authorized by Chapter 4, Section 4-51(a) of the City of Portland Code of Ordinances within the Downtown Entertainment Overlay Zone may not be located within 100 feet of another business with an entertainment license, as measured along or across public ways from the main entrance or entrances of each.~~

~~8.2.4 Exemption~~

~~A. A business with an entertainment license located in the Downtown Entertainment Overlay Zone on or before January 3, 2006 shall not have to comply with the requirements of this section and if located within 100 feet of another licensee shall be considered a nonconforming use controlled by Article 4. Such a business is considered an entertainment business for the purpose of calculating dispersion requirements under Subsection 8.2.3 for a new or relocating entertainment business~~

~~in the Downtown Entertainment Overlay Zone.~~

~~**B.** A business with an entertainment license that does not allow amplified entertainment shall not have to comply with the dispersal requirement of Subsection 8.2.3.~~

~~**8.2.5 Separate business entities**~~

~~Where two or more entertainment businesses operate on one site, and where each business entity requires or has a separate business license, or displays in a manner visible from public property separate business trademarks, logos, service marks, or other mutually identifying names or symbols, each business entity shall be counted as a separate entertainment business for the purpose of this section.~~

~~**8.2.6 Conditions**~~

~~Following a hearing held pursuant to Chapter 15, Section 15-10 of the City of Portland Code of Ordinances, the City Clerk may impose conditions to maintain or improve public safety on the food service license of any business in the Downtown Entertainment Overlay Zone that operates between 1:00 a.m. and 4:00 a.m., following a written recommendation from the Portland Police Department that such conditions are necessary. The City Clerk's decision may be appealed to the City Manager pursuant to Chapter 15, Section 15-9 of the City of Portland Code of Ordinances. Nothing in this section shall be construed to limit the City Clerk's authority in Chapter 15 to deny, suspend, or revoke any license pursuant to the standards and process in that chapter.~~

8.1 COASTAL FLOOD RESILIENCE OVERLAY ZONE (CFROZ)

8.1.1 Purpose

The purpose of the Coastal Flood Resilience Overlay Zone (CFROZ) is to protect persons and structures from the adverse effects of sea level rise and storm surge associated with climate change by:

A. Advancing adaptation strategies for long-term resilience.

B. Complementing public realm resilience measures by guiding development on private property.

C. Mitigating flood risks in a way that is specific to Portland's unique hydrological conditions and affected uses, particularly in areas that are not currently recognized as flood zones but are vulnerable to future sea level rise.

D. Providing a balanced framework in which flood protection requirements are proportional to the vulnerability and risks of various occupancies.

8.1.2 Applicability

The provisions of the CFROZ shall apply to property or proposed projects wholly or partially within the boundaries of the Coastal Flood Resilience Overlay Zone as depicted on the City of Portland Zoning Map. However, property or proposed projects within the CFROZ boundary that are also located wholly or partially within special flood hazard areas with a BFE of 13 feet or higher as defined in Article 12 shall be exempt from the provisions of the CFROZ.

8.1.3 Relationship to underlying zoning

The CFROZ constitutes an overlay zone. The provisions of the underlying zoning, as they may be amended from time to time, continue to apply, except as expressly superseded by this Section. Where conflicts exist between this Section and the remainder of this Code, the more restrictive provision shall govern.

8.1.4 Use classifications

E. For the purposes of this Section, uses in the CFROZ shall be classified as follows:

1. *Critical uses.* Critical uses generally include residential, governmental, educational, medical, emergency, and related high-risk uses.

2. *Non-critical uses.* Non-critical uses generally include retail, restaurant, commercial, and related medium-risk uses.

3. *Exempt uses.* Exempt uses generally include low risk and low occupancy uses such as parking, construction yards, and storage.

F. Table 8-A shall determine whether a use is classified as critical, non-critical, or exempt. For uses not listed in Table 8-A, the Building Authority or the Planning Authority shall determine the classification based upon the most nearly comparable land use. Water-dependent uses shall be considered exempt.

G. All accessory uses shall be considered non-critical, with the following exceptions:

1. Accessory dwelling units.

2. Child care centers and small child care facilities greater than 1,000 square feet in floor area.

3. Clinics greater than 1,000 square feet in floor area.

TABLE 8-A: CLASSIFICATION OF USES AS CRITICAL, NON-CRITICAL, OR EXEMPT

		Critical	Non-Critical	Exempt
Residential	Single-family dwellings	●		
	Two-family dwellings	●		
	Three-family dwellings	●		
	Four-family dwellings	●		
	Townhouse dwellings	●		
	Multi-family dwellings	●		
	Live/work dwellings	●		
	Group homes	●		
	Lodging houses	●		
Institutional	Child care centers + small child care facilities	●		
	Clinics	●		
	Cultural facilities	●		
	Elementary, middle, and secondary schools	●		
	Emergency shelters	●		
	Governmental uses	●		
	Hospitals	●		
	Places of assembly	●		
	Post-secondary schools	●		
	Residential care facilities (small)	●		
	Residential care facilities (large)	●		
Commercial	Adult business establishments		●	
	Animal-related services		●	
	Auto, boat, and related dealerships		●	
	Auto service stations			●
	Bars		●	
	Bed and breakfasts	●		
	Exhibition, meeting, and convention halls		●	
	Funeral homes		●	
	General offices		●	
	General services		●	
	Greenhouse/Nursery, retail			●
	Hostels	●		
	Hotels	●		
	Marijuana retail store		●	
	Market garden			●

TABLE 8-A: CLASSIFICATION OF USES AS CRITICAL, NON-CRITICAL, OR EXEMPT

		Critical	Non-Critical	Exempt
Commercial	Neighborhood nonresidential reuse		●	
	Office park		●	
	Recreation and amusement centers		●	
	Registered marijuana dispensary		●	
	Restaurants		●	
	Retail		●	
	Small-scale marijuana caregiver		●	
	Specialty food service		●	
	Theaters and performance halls		●	
	Veterinary services		●	
Industrial	Communication studios		●	
	Construction & engineering services		●	
	Dairies			●
	Fish waste processing		●	
	Food & seafood processing, packing, and distribution		●	
	High-impact industrial uses		●	
	Impound lots			●
	Intermodal transportation facilities		●	
	Laboratory and research facilities		●	
	Low-impact industrial		●	
	Lumber yards			●
	Marijuana cultivation facility (<2,000 SF plant canopy)			●
	Marijuana cultivation facility (2,000-7,000 SF plant canopy)		●	
	Marijuana cultivation facility (>7,000 SF plant canopy)		●	
	Marijuana manufacturing facilities		●	
	Marijuana testing facilities		●	
	Printing and publishing		●	
	Recycling facilities			●
	Self-storage		●	
	Solid waste disposal facilities			●
	Studios for artists and craftspeople		●	
	Telecommunication towers (ground-mounted)			●
	Warehousing and distribution		●	

TABLE 8-A: CLASSIFICATION OF USES AS CRITICAL, NON-CRITICAL, OR EXEMPT

		Critical	Non-Critical	Exempt
Other	Agriculture			●
	Boathouses and storehouses for fishing equipment			●
	Campgrounds			●
	Cemeteries			●
	Marinas and yacht clubs			●
	Marine uses			●
	Off-street parking			●
	Parks and open spaces			●
	Social service centers	●		
	Solar energy system (minor)			●
	Solar energy system (major)			●
	Utility substations	●		
	Wharves, piers, docks, and landing ramps			●
	Wind energy system (minor)			●
	Wind energy system (major)			●

8.1.5 Projects subject to the standards of the CFROZ

H. Any development located within the established boundary of the CFROZ, and which meets the thresholds listed below, shall be subject to the standards of the CFROZ.

1. All new construction containing a critical use or uses.
2. New construction of greater than 1,000 square feet containing non-critical uses only.
3. Any addition of greater than 1,000 square feet containing critical or non-critical uses.

I. Where a change of use occurs within the CFROZ, all portions of a building containing a critical use and the critical systems supporting such use shall meet the CFROZ standards. Changes of use to non-critical uses shall not require compliance with the CFROZ standards.

J. Structures within the CFROZ that are 50,000 square feet or greater in gross floor area and undergoing substantial improvement are required to meet the CFROZ standards when they contain a critical use or uses. For the purposes of this subsection, substantial improvement shall be as defined in Article 12.

8.1.6 Use and dimensional requirements

K. Sea level rise design flood elevation (SLR-DFE). The required SLR-DFE shall be determined by use classification. For mixed-use developments that contain uses in different classifications sharing a ground floor, each use shall be addressed independently.

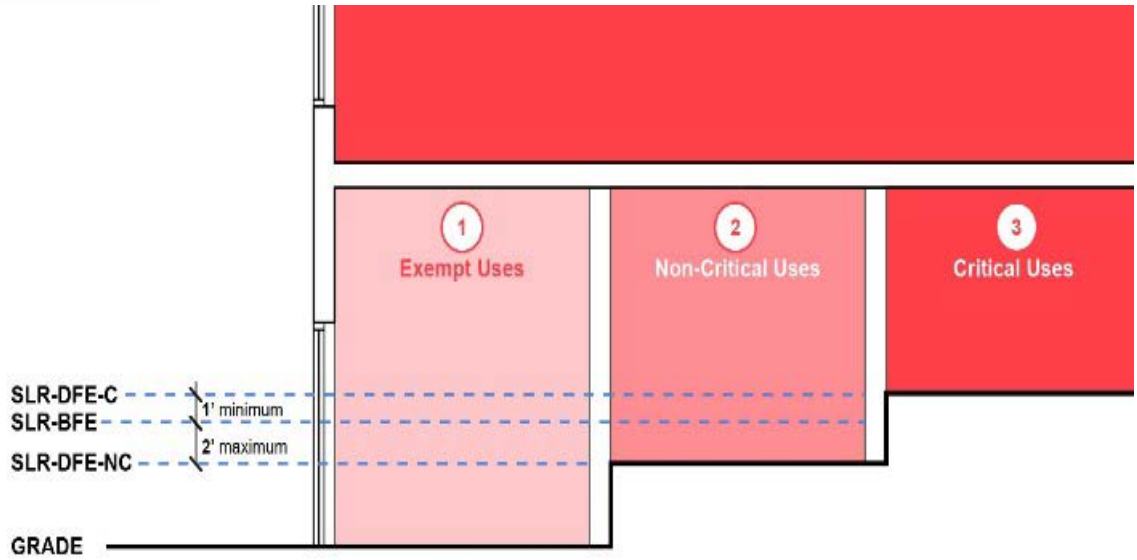


FIGURE 8-A: CFROZ USE CLASSIFICATIONS AND DESIGN FLOOD ELEVATION

1. *Critical uses.* The SLR-DFE for all critical uses (SLR-DFE-C), including the critical systems serving such uses, shall be a minimum of one foot above SLR-BFE, as defined in Article 3. In a proposed project containing critical uses, the following building and site elements are permitted to be located below the SLR-DFE:
   a. Lobbies, entries, egress stairs, and elements required for vertical circulation from the SLR-DFE to grade, such as elevators, ramps, and stairs.
   b. Parking.
   c. Storage.
   d. Flood protection equipment.
2. *Non-critical uses.* The SLR-DFE for non-critical uses (SLR-DFE-NC), including the critical systems serving those uses, shall be no lower than two feet below SLR-BFE, as defined in Article 3. The minimum elevation of the underside of the beams supporting the second floor in a multi-story building, or the roof in a one-story building, shall be no less than 13 feet above SLR-BFE. In a proposed project containing non-critical uses, the following building and site elements are permitted to be located below SLR-DFE:
   a. Lobbies, entries, egress stairs, and elements required for vertical circulation from the SLR-DFE to grade, such as elevators, ramps, and stairs.
   b. Parking.
   c. Storage.
   d. Flood protection equipment.
3. *Exempt uses.* Exempt uses shall not be subject to dimensional requirements with respect to SLR-BFE.

L. **Building height.** Within the CFROZ, if a proposed project contains principal critical or non-critical uses on the ground floor, height shall be measured from the SLR-DFE or from average grade, whichever is higher.

M. **Exemptions for required ramping and stairs.** Ramping and stairs necessary to meet any required SLR-DFE may be included within the calculation of area required to meet landscaped open space ratio requirements,

and shall not be included within the calculation of lot coverage. Ramping and stairs necessary to meet any required SLR-DFE may be located in any required front yard, interior or corner side yard, or rear yard, and in cases where build-to requirements apply, shall be considered to meet the build-to percentage.

Hazardous materials. Any hazardous materials shall be fully contained and elevated a minimum of two feet above SLR-DFE.

8.2 FORT SUMNER PARK HEIGHT OVERLAY

~~8.3.1~~8.2.1 ~~Applicability~~ Purpose.

~~The~~ Fort Sumner Park Height Overlay is ~~established~~ to protect the public interest by limiting the impact of development on the quintessential views of natural resources and the changing Portland skyline from Fort Sumner Park.

8.2.1 Applicability

~~There is established a~~A key apex point is established in Fort Sumner Park at 43° 40' 2.3359" N. 70° 15' 4.3687" W. The Fort Sumner Park Height Overlay includes all land within 200 feet~~, or the R-6 zone~~ ~~boundary, whichever is closer,~~ to the west of this key apex point ~~that is located closer to the middle line~~as indicated on the City of ~~Sheridan Street than said apex point.~~ Portland Zoning Map.

~~8.3.2~~8.2.2 Standards

Notwithstanding any other section of this Land Use Code, development in the Fort Sumner Park Height Overlay shall be subject to the following additional provisions:

A. The top of structures, including rooftop appurtenances, within the overlay shall not exceed the baseline vertical height of the apex point (160.27' City of Portland Datum (Mean Tide)). For each 25' radially away from the apex point, the vertical height permitted in the overlay is reduced by 1 foot. (See Figure 8-~~A~~B.)

~~B.~~ The minimum building setback from the park property shall be 15 feet.

~~8.3.3~~8.2.3 Review process

Any project within the Fort Sumner Park Overlay shall go before the Parks Commission for a recommendation to the Planning Board regarding potential impacts on Fort Sumner Park.

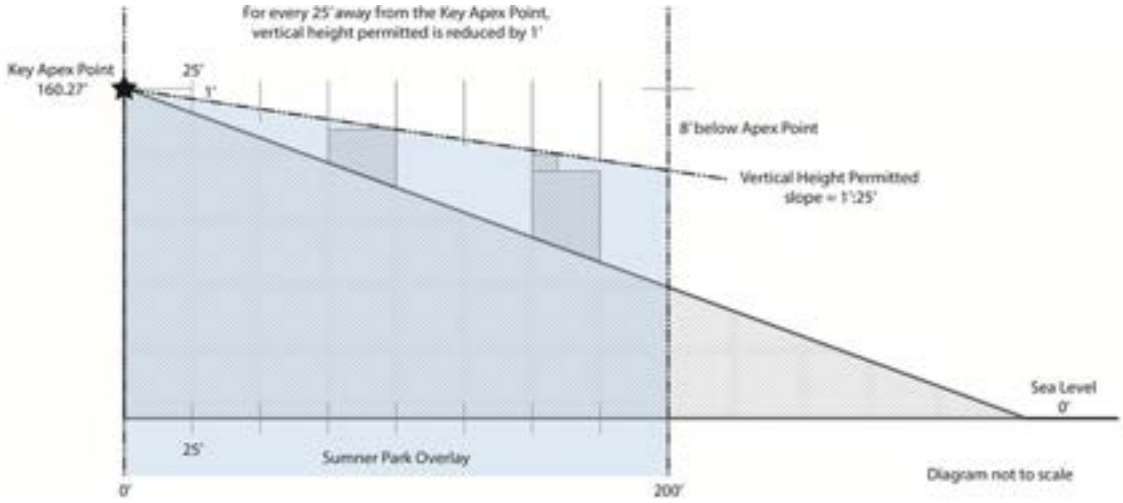


FIGURE 8-B: FORT SUMNER PARK OVERLAY PERMISSIBLE HEIGHT

~~8.3 HELISTOP OVERLAY~~

~~8.4.1 Purpose~~

~~The intent of the Helistop Overlay is to allow for helicopter landing areas on individual sites in addition to those uses permitted in the underlying zone. The purpose of this zone is to protect the public health and safety by allowing helicopters serving medical needs to land in certain areas, while protecting surrounding areas from any negative effects associated with such a use.~~

~~8.4.2 Helistop standards~~

~~C. High volume helistops (more than five landings per month)~~

~~1. All take-off, landing, and parking areas shall be surfaced with grass or with a dust-proof material.~~

~~2. Each landing pad shall be set back at least 200 feet from any residence, school or church. Each landing pad shall be set back at least 50 feet from any commercial or industrial structure. All setbacks shall be measured from the edge of the landing pad.~~

~~3. The area in which a landing pad is located shall be enclosed by a fence or other barrier of not less than three feet in height or shall be secured by a locked gate, as approved by the Fire Department.~~

~~4. All high-volume helistops shall be subject to review under Article 14.~~

~~D. Low volume helistops (five or fewer landings per month)~~

~~1. All low volume helistops shall be subject to approval by the Building Authority and the Fire Department.~~

~~8.4~~8.3 INSTITUTIONAL OVERLAY (IOZ)

~~8.5.1~~8.3.1 Purpose

The Institutional Overlay Zone (IOZ) ~~designation~~ provides a regulatory ~~mechanism~~tool available to the city's ~~five~~ major medical and higher education campuses where an ~~improved~~alternative regulatory structure is needed to facilitate a consistent, predictable, and clear growth management process. The purposes of the Institutional Overlay Zone are to:

A. Acknowledge that the city's major academic and medical institutions play a prominent role in the health and well-being of the local and regional community, and ~~in order~~ to sustain that role, these institutions need flexibility to change and grow.

B. Encourage proactive planning for institutional change and growth which identifies and addresses likely long-term institutional needs and cumulative impacts while leveraging potential benefits at the neighborhood, city, and regional level.

C. Ensure that institutional change and growth both complements and, as appropriate, integrates adjacent or surrounding neighborhoods through carefully planned transitions.

D. Support the formation and continuation of mutually beneficial public-private cooperation.

E. Support an ongoing public engagement process that benefits both the institutions and nearby neighborhoods.

F. Reflect Comprehensive Plan and other policy objectives.

G. Provide a ~~consistent~~ regulatory ~~approach to all~~tool for Portland's major institutions ~~which allows unique regulatory requirements~~ that includes the flexibility required to balance the

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particular needs of institutions with the needs of the surrounding neighborhood and wider community.

~~8.5.2~~8.3.2 Location and applicability

The city's ~~five~~ major medical and higher education institutions are eligible to apply for designation as Institutional Overlay Zones. ~~The eligible institutions are the two major hospital institutions of Maine Medical Center and Mercy Hospital and the three major academic institutions of University of Southern Maine and University of New England, and The Roux Institute at Northeastern University, their successors and assigns. Designation as an IOZ is the preferred mechanism where the eligible institution's proposed development is inconsistent with the existing~~Use of an Institutional Overlay Zone is encouraged for these institutions, particularly where proposed future development may be inconsistent with current base zoning.

~~8.5.3~~8.3.3 Establishment

A. Application for an Institutional Overlay Zone. Where ~~the~~an eligible institution seeks designation as an IOZ, they shall submit a zone change application consisting of two components:

1. An Institutional Development Plan (IDP) in accordance with Subsection 8.~~5~~3.4.
2. A regulatory framework in accordance with Subsection 8.~~5.5 that would, when and if~~3.5. If adopted, ~~be~~this framework shall serve as the text and map amendment to the City's Land Use Code and zoning map.

B. Required public involvement. At least two neighborhood meetings shall be required~~.~~ to establish designation as an IOZ. The first shall be held prior to the formal submission of a zone change application ~~for an Institutional Overlay Zone,~~ and the second shall be held during the City's review. Meetings shall identify the concerns, if any, of affected residents and property owners, and should solicit feedback to inform the ~~development of the~~ Institutional Development Plan (IDP) and regulatory framework proposed. Meetings shall be held in a convenient location proximate to the institution. The applicant shall provide written notification to property owners of record within 500 feet of the proposed IOZ boundary at least ten days prior to the meeting dates, and shall maintain written records of the meetings.

C. Required scoping meeting. The eligible institution shall meet with the Planning Authority after the first required neighborhood meeting and prior to submission of the zone change application to confirm the focus of the Institutional Development Plan (IDP) and regulatory framework, including associated study areas that may be outside of the proposed IOZ boundary. The IDP and regulatory framework will vary in detail and focus depending on the eligible institution and its ~~particular~~ context. The content requirements in Subsections 8.~~5~~3.4 and 8.~~5~~3.5 and the recorded comments from neighborhood meeting(s) shall provide direction for the content of the IDP. The Planning Authority or Planning Board may require additional information or modify content requirements as is relevant to the eligible institution.

D. Reviewing authority. The Planning Board shall review the zone change application, including the IDP and regulatory framework. At least one public workshop and a public hearing before

the Planning Board are required. Upon recommendation of the Planning Board, the City Council shall review and consider adoption of the Institutional Overlay Zone and the accompanying regulatory framework as an amendment to the City's Code of Ordinances.

E. **Future institutional development.** All new development ~~by the eligible institution within the boundary of the IOZ~~ shall be compliant with the established IOZ and accompanying regulatory framework~~,~~. It shall also be consistent with the IDP, consistent with the Comprehensive Plan, and shall meet applicable site plan standards, unless such standards are superseded by the regulatory framework. ~~–~~Any ~~use/~~development proposed by ~~the~~an eligible institution outside the established IOZ boundary ~~that complies with the zoning for permitted uses in that location~~ shall be reviewed under the standards of ~~that~~the applicable zone~~. Any use/development proposed by an eligible institution outside of the IOZ boundary that~~ , unless such development is proposed in a residential zone and is functionally related to the operations within the IOZ, in which case it shall be addressed by the IDP and require an amendment to the IDP~~.~~ as applicable.

~~8.5.4~~8.3.4 Institutional Development Plan (IDP)

A. **Purpose.** Any use conducted by an eligible institution and any construction by an eligible institution in an Institutional Overlay Zone shall be consistent with an Institutional Development Plan (IDP) approved by the Planning Board in accordance with this ~~ordinance~~ section. The purpose of the IDP is to establish baseline data about institutional land uses, facilities, and services, and to measure, analyze, and address the anticipated or potential impacts of planned institutional growth and change. The IDP shall serve as a background document that supports the proposed regulatory framework and ~~frames~~informs subsequent site plan review(s).

B. **Planning horizon.** An IDP shall provide the City and abutting neighborhoods with a clear outline of the anticipated or potential growth and change of the eligible institution for the short- to medium-term (e.g. 1-5 and 5-10 years respectively), as well as a conceptual growth plan for the long-term (e.g. 10 years or more). ~~however~~However, the specific planning horizons for each institution will be determined as part of the IDP approval process.

C. **Content.** The IDP submission shall address the following elements unless specifically modified by the Planning Authority or Planning Board, with the scope and level of detail to be clarified at the required scoping meeting:

1. Context information, including:
   a. The institution's adopted mission, vision, or purpose statement.
   b. A summary of relevant baseline data on the institution, including:
      i. A neighborhood context plan.
      ii. An inventory of current programs and services.
      iii. A current census of the number of people using the institution (e.g., employees, enrollment, patients), with an indication of maximums and minimums over time.

iv. An inventory and/or plan of all existing property holdings within the main campus and within the City of Portland, including an indication of functional land use links between off-campus properties and the main campus (e.g. remote parking).

v. An inventory and/or plan of existing facilities, including data on use, floor area, and any existing functional connections between facilities.

c. A summary of the baseline characteristics of the existing campus and context of the institution, based on identified study areas, including:

i. A summary of existing resources, such as historic, open space, and natural resources.

ii. A summary of the existing transportation system, including vehicular, pedestrian, transit, bicycle, and parking supply, demand, and utilization.

iii. A summary of existing public infrastructure supporting the institution, including demand, utilization and any capacity issues.

iv. Relevant municipal plans, projects, and studies that may influence the IDP study area and opportunities for integrating institutional growth.

d. A summary of public involvement in the development of the IDP, including major areas of public concern.

2. Assessment of future institutional growth and change, including:

a. A description of institutional needs and areas of future institutional growth and change, with:

i. A projected census of users (e.g., enrollment /employment/patient/ visitor figures and anticipated variations over time).

ii. Institutional objectives for property both within and outside the IOZ boundary (e.g. acquisition and/or disposition), including an indication of any functional land use connection for sites outside the IOZ boundary to the main campus.

iii. A development plan addressing anticipated or potential institutional needs and physical improvements, including the proposed boundary of the IOZ and any phasing of the development.

b. Analysis and associated plans that address the following elements in terms of anticipated growth or potential impacts within the identified study area, and support the development parameters as set out in the regulatory framework, including:

i. Transportation and access, with:

a) An analysis of the projected changes in parking demand, supply, and impacts to the off-street and on-street parking capacity, including an explanation of the proposed parking plan.

b) An analysis of the projected changes in vehicular, pedestrian, transit, and bicycle access routes and facilities, their capacity, and safety.

c) A transportation, access, and circulation plan, representing the synthesis of the analysis, and including a program of potential improvements or set of guidelines to address access deficiencies to and within the IOZ. The plan should outline proposed mechanisms and potential strategies to meet transportation objectives, including transportation demand management, phasing, and when a Traffic Movement Permit (TMP) may be required.

ii. Environment, with:

a) An analysis of potential cumulative impacts on natural resources and open spaces.

b) An analysis of projected energy consumption, hazardous materials generation, noise generation, and similar issues as relevant.

c) An environmental plan, representing the synthesis of the analysis and including a proposed program or set of guidelines for future preservation, enhancement, conservation, and/or mitigation.

iii. Infrastructure, with:

a) An analysis of projected public utility demand and the capacity of associated infrastructure.

b) An analysis of projected public safety needs and projected impacts to the capacity of these services.

c) An infrastructure plan, representing the synthesis of the analysis and including a proposed program or set of guidelines to support sustainable growth.

iv. Design, with:

a) An analysis of projected impacts to neighboring properties and public spaces, including potential shadow, wind, and lighting impacts, impacts of height and massing, and impacts to historic resources.

b) An analysis of transition areas between the institution and adjoining neighborhoods, including identification of key character defining components of the surrounding context.

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c) An analysis of existing Crime Prevention Through Environmental Design issues and identification of how these principles would be addressed as part of the proposed campus development.

d) A conceptual built environment/public realm plan, representing the synthesis of the analysis and including a set of guidelines for urban design, landscape, open space, and streetscape treatments, with particular attention to the treatment of edges (both within and abutting the IOZ boundary) to achieve compatible transitions.

v. Neighborhood engagement, with:

a) A plan for ongoing community engagement that represents best practices, promotes collaborative problem solving around community concerns, fosters transparency, and identifies mechanisms for neighborhood feedback and institutional accountability.

b) A property management framework that identifies the institution's process for handling operational property issues with neighbors.

c) Strategies for assuring communication pertaining to property acquisition and disposition in surrounding neighborhoods.

d) A set of construction management principles to apply to all institutional construction, that represent best practice, aim to minimize short- and long-term construction impacts on surrounding residents and businesses, and ensure a clear communication strategy is in place in advance of construction.

D. Standards of review. The IDP shall:

1. Address all content requirements, unless explicitly modified by the Planning Authority or Planning Board.

2. Reflect the issues/topics identified in the required public process.

3. Demonstrate consistency with the City's Comprehensive Plan and the purpose of this ordinance.

4. Demonstrate how the property ownership, proposed growth, and requested regulatory framework relate to the institution's mission.

5. Demonstrate that traffic and parking impacts have been anticipated and that the proposed parking provision is justified as based on an assessment of options for reducing traffic and parking demands.

6. Outline an approach to open space, natural, and historic resources that supports preservation and enhancement.
7. Demonstrate that potential cumulative environmental impacts have been anticipated and can be minimized or satisfactorily mitigated.
8. Demonstrate that utility impacts have been anticipated and can be minimized or satisfactorily mitigated.
9. Reflect a comprehensive design approach that ensures appropriate transitions with the existing or future scale and character of the neighboring urban fabric.
10. Promote compatibility with existing or future uses in adjacent neighborhoods, maintain housing, and support local amenities.
11. Anticipate future off-site improvements that would support the integration of the institution into the community and city-wide infrastructure.
12. Conform with the standards of Article ~~17~~16 for designated landmarks or for properties within designated historic districts or designated historic landscapes, if applicable. When proposed adjacent to or within 100 feet of designated landmarks, historic districts, or historic landscapes, the IDP shall be generally compatible with the major character-defining elements of the landmark or portion of the district in the immediate vicinity.
13. Incorporate strategies to support clear communication and ongoing public engagement between institutions and nearby neighbors.

E. Approval. Upon finding that an eligible institution's IDP meets the standards of review, the Planning Board shall approve, approve with conditions, or deny an IDP.

F. Monitoring. The IDP shall establish a schedule for reporting on IDP implementation at regular intervals of not more than ten years from the date of approval of the initial or amended IDP, and identify thresholds for IDP amendments.

G. Amendments. An approved IDP shall guide campus development unless and until amended. If at any time the eligible institutions request minor amendments to an approved IDP, the Planning Authority may approve such minor amendments, provided that they do not constitute a substantial alteration of the IDP and do not affect any condition or requirement of the Planning Board. The applicant shall apply with a written statement of the proposed amendment and proposed amended IDP to the Planning Authority, whose decision as to whether the amendment is minor shall be final. Major amendments shall be reviewed by the Planning Board. When the IDP is amended, the baseline data in the IDP shall be updated as appropriate.

~~8.5.5~~8.3.5 Regulatory framework

A. Purpose. The regulatory framework translates the IDP into a set of clear and specific zoning requirements for the IOZ that constitute the text and map amendments to the City's Land Use Code and zoning map. The zoning requirements are anticipated to include parameters that guide the growth and change of the institution as well as broad strategies to address potential impacts, with plans and details to be developed under site plan review.

B. Applicability. The regulatory framework shall

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apply only to properties that are within the IOZ boundary and to which the eligible institution holds right, title, or interest. For these properties, the Institutional Overlay Zone shall supersede the underlying zoning, and all new institutional development shall be conducted in compliance with the regulatory framework and the approved Institutional Development Plan. Properties located within the Institutional Overlay Zone not subject to right, title, or interest of the eligible institution shall continue to be governed by the regulations of the underlying zoning designation.

C. Uses. Institutional uses, including hospitals and higher education facilities, shall be permitted, as shall uses that are functionally integrated with, ancillary to, and/or substantively related to supporting the primary institutional use, consistent with the applicable approved IDP.

D. Content. The regulatory framework shall reflect the information and analysis of the IDP. The content shall be tailored to address the ~~particular~~ issues associated with the institution and its neighborhoods. The regulatory framework should be succinct and use tables and graphics ~~as possible~~ to address the following, if applicable:

1. *Zoning boundary of the IOZ.* The area to which the regulations apply, as shown on the zoning map, subject to other provisions of this ordinance (i.e. the map amendment to the City's zoning map).
2. *Phasing and schedules.* Requirements that relate to ~~particular~~ proposed phases; a chart showing the schedule or thresholds for submitting an amended IDP (or elements of an IDP, such as a Transportation Demand Management (TDM) Plan).
3. *Uses.* Clarification, as necessary, on permitted uses.
4. *Dimensional requirements.* Graphics, sketches, or standards, including details for transition zones within the IOZ boundary.
5. *Transportation.* Elements such as Transportation Demand Management Plan (TDM) trip reduction targets or contribution to area-wide TDM measures; broad parameters for ensuring pedestrian, vehicular, bicycle and transit access and safety; parking ratios and management strategies; thresholds for access improvements.
6. *Environment.* The approach to the inclusion of open space and preservation of environmentally-sensitive areas.
7. *Mitigation measures.* The broad approach to identified mitigation measures, which would be addressed in greater detail in the site plan review process; thresholds for addressing deficiencies; goals for preservation/protection.
8. *Design.* Graphics and standards to clarify building placement and envelope (height and massing); guidelines for integration of site features; required treatments for transition zones and treatment for all edges (both within and abutting the IOZ boundary); guidelines for establishing campus identity.
9. *Neighborhood integration.* Thresholds and strategies for neighborhood engagement; mitigation of impacts on neighboring properties, including construction impacts; buffering requirements; objectives for pedestrian linkages and safety; other requirements

that address community concerns.

10. *Monitoring.* A schedule for regular monitoring reports on IDP implementation in accordance with the IDP.

E. Standards of review~~:~~. The regulatory framework shall:

1. Be consistent with the Comprehensive Plan and the Institutional Development Plan.

2. Provide a clear zoning framework, using graphics and tables as appropriate, to apply to future site plan reviews.

3. Provide specific regulatory statements as appropriate that respond to concerns raised during the required public involvement.

4. Outline measurable goals and thresholds for improvements or other actions identified in the IDP to be advanced in subsequent site plan applications.

F. Approval/adoption. The Planning Board shall review the proposed regulatory framework against the standards of review and make a recommendation on the institution's IOZ designation and regulatory framework to the City Council for adoption as part of this Land Use Code.

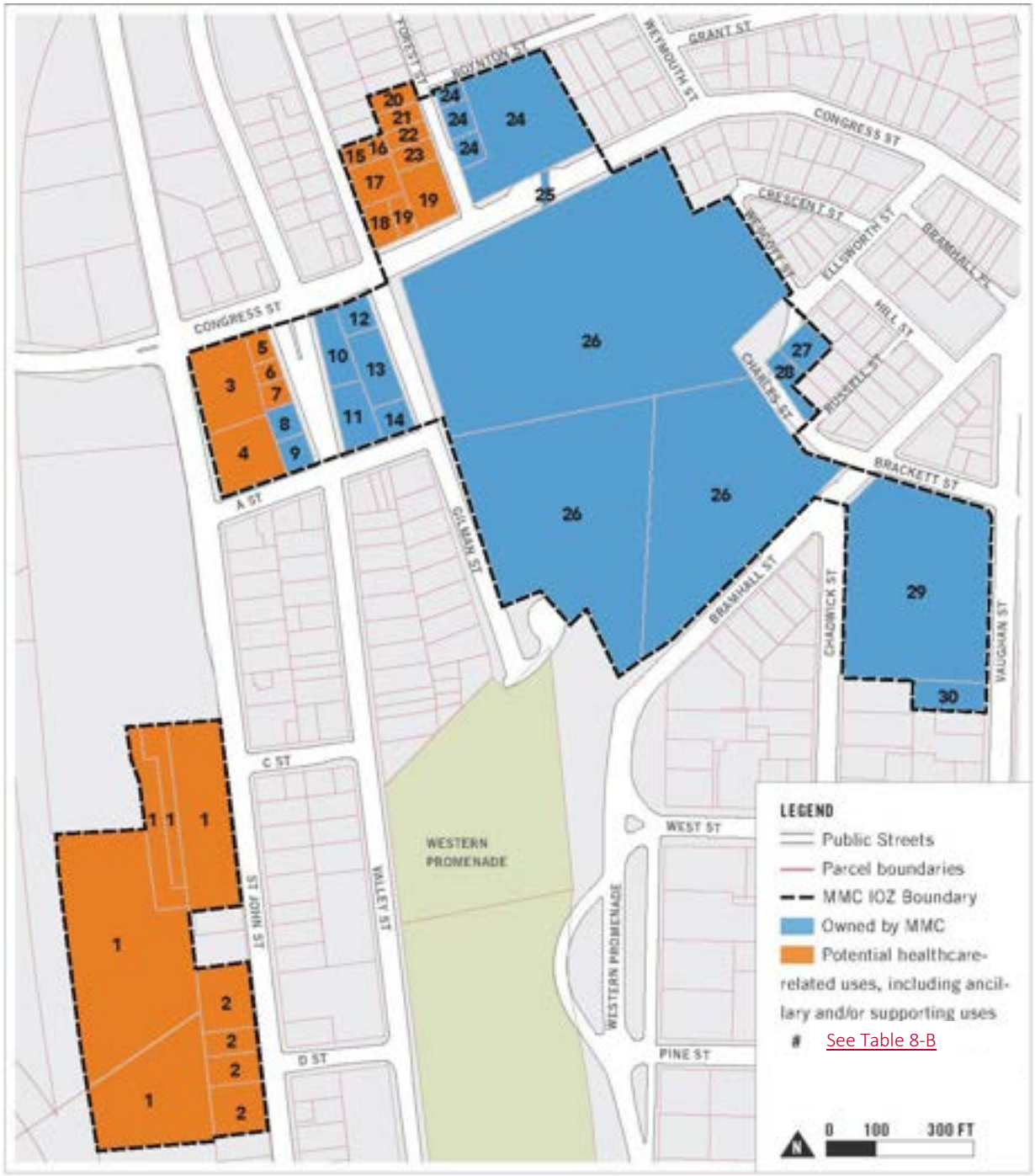
Amendments. A regulatory framework and IOZ boundary as adopted by the City Council shall remain in force unless and until amended. Amendments to a regulatory framework and/or IOZ boundary may be brought forth by the City or eligible institution. Proposed amendments to the IOZ boundary or regulatory framework shall be reviewed by the Planning Board and adopted by the City Council subject to the provisions of this ordinance.

~~8.5.6~~8.3.6 Maine Medical Center Institutional Overlay Zone Regulatory Framework

A. Applicability. All development proposed by Maine Medical Center (MMC) within the boundary of the MMC Institutional Overlay Zone (IOZ) shall be consistent with the approved Institutional Development Plan (IDP), consistent with the Comprehensive Plan, and meet applicable standards of the Land Use Code, unless such standards are superseded by the following regulatory framework. This regulatory framework shall govern future development by MMC within the IOZ unless amended by the Portland City Council upon formal application of MMC. The MMC Institutional Overlay Zone shall have the boundaries depicted in Figure 8-~~B, below~~C, and shall include the properties listed in Table 8-**B**.

~~B.~~ Updates and amendments

~~1.~~. It is intended that the IDP will be updated on a regular basis to ensure that the data is current and that the document remains accurate. Accordingly, monitoring reports will be filed every three years and shall include a summary of progress on IDP implementation and of acquisitions and divestment since the date of IDP approval. At the time of the submission of the monitoring report, MMC shall identify any updates to the IDP which may result from updated master planning, changes in baseline information, or changes in the adjacent neighborhoods which



Note: Refer to Table 8-C for a list of permitted uses.

FIGURE 8-~~B~~C: MMC IOZ BOUNDARY

TABLE 8-B: LIST OF PROPERTIES INCLUDED IN THE MMC IOZ

Map#	Legal Description	Address	Acreage	Ownership
1	64-A-2-8-9-11/74-A-7/75-A-6	222 St John St.	4.6516	Owned by others
2	68-D-1-3-13-14-16	180 St John St.	0.9494	Owned by others
3	65-G-1	950 Congress St.	0.4628	Owned by others
4	64-B-1	275 St John St.	0.4163	Owned by others
5	65-G-2	942 Congress St.	0.0659	Owned by others
6	65-G-3	940 Congress St.	0.0482	Owned by others
7	65-G-4	274 Valley St.	0.0667	Owned by others
8	65-G-5	268-270 Valley St.	0.0978	MMC
9	64-B-2	262-266 Valley St.	0.0895	MMC
10	65-H-1	932 Congress St.	0.1864	MMC
11	65-H-9	261 Valley St.	0.2185	MMC
12	65-H-2	930 Congress St.	0.1040	MMC
13	65-H-5	52 Gilman St.	0.2384	MMC
14	65-H-8	44 Gilman St.	0.1128	MMC
15	65-E-22	85 Gilman St.	0.0565	Owned by others
16	65-E-32	85 Gilman St.	0.0282	Owned by others
17	65-E-24	81 Gilman St.	0.1653	Owned by others
18	65-E-28	919 Congress St.	0.1059	Owned by others
19	65-E-29-30	909 Congress St.	0.3233	Owned by others
20	65-E-19	22 Forest St.	0.0826	Owned by others
21	65-E-21	18 Forest St.	0.0831	Owned by others
22	65-E-23	14 Forest St.	0.0826	Owned by others
23	65-E-25	12 Forest St.	0.0883	Owned by others
24	53-I-1-2-3-12	887 Congress St.	1.3400	MMC
25	53-X-1	Congress St. Pedestrian Walkway	---	MMC
26	53-D-7/54-H-1/64-C-1	22 Bramhall St.	12.563	MMC
27	54-C-6	34 Ellsworth St.	0.1341	MMC
28	54-C-10	40 Ellsworth St.	0.1155	MMC
29	54-I-1	308 Brackett St.	2.5200	MMC
30	63-B-8	214 Vaughan St.	0.1983	MMC

Properties owned by MMC are listed under MMC or MMC Realty Corp.
MMC will not extend its functionally-related Bramhall campus hospital operations beyond the boundary of the IOZ within the City of Portland without further amendment to the IDP. This includes any expansion of functionally-related operations that displace residential uses outside of the IOZ boundary. A functional relationship is defined as uses or activities that are traditionally or customarily linked to the day-to-day operations of the MMC Bramhall Campus that would relocate a significant proportion of the total employee population or activities.

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affect MMC, to allow the IDP to remain current. Updates and minor amendments not described below shall be reviewed administratively by the Planning Authority.

~~2.~~1. Minor amendments that impact phasing of the long-term development blocks or change the approach to parking, transportation, neighborhood engagement or design shall be reviewed by the Planning Board for consistency with the objectives of the IDP. In addition to consistency with the objectives of the IDP, review of phasing and development program amendments shall focus on integration with the campus and impacts on transportation ~~or infrastructure.~~orinfrastructure. This review may occur simultaneously with the site plan review of an anticipated project.

~~3.~~2. Major amendments shall be reviewed by the Planning Board and are required under the following circumstances:

a. A change to the regulatory framework is required.

b. The IDP is no longer representative of the institutional mission or approach to community as a result of redevelopment in the area or City upgrades to neighborhood planning (such as roadway changes, infrastructure upgrades, community design, lighting).

c. Development proposed by MMC is inconsistent with the master facility plan, transportation plan intent, design plan intent, or environment and infrastructure plan intent identified in the IDP.

~~4.~~3. Annual monitoring reports will be submitted for MMC's Transportation Demand Management (TDM) Plan. TDM monitoring reports shall include a summary of progress towards targets established in the TDM Plan.

B. **Uses.** In addition to the uses permitted in the underlying zone, the uses in Table 8-C are permitted as a matter of right. In recognition that MMC is part of a mixed-use area of the city, with important existing services and businesses that serve the local and wider community, healthcare facility development fronting onto Congress Street and St. John Street shall activate the public realm, to the extent able, with uses such as service and

~~C.~~ retail/restaurant, landscaping, active building entrances, pocket parks, etc., on the ground or other publicly accessible level, consistent with the design intent contained in the approved IDP. In areas identified in the IDP as "Priority zone for commercially oriented/retail uses," usable ground floor retail, restaurant, or comparable community-oriented use that provides services to local residents and employees both during the day and evening hours is required. In areas labeled "Street activation through location of windows, entrances, etc.," usable ground floor retail, restaurant, or community-oriented use is encouraged to the extent practicable. Such uses, where constructed or facilitated as part of a healthcare related development, are expressly permitted whether ancillary or supporting the healthcare facility or not, and shall be open and welcoming to the general public in addition to employees or visitors of MMC.

~~D.~~C. ~~-~~**Dimensional requirements.** The MMC Institutional Overlay Zone shall have the dimensional requirements listed in Table 8-D and depicted in Figures 8-C and 8-D.

~~E.~~D. **Design.** New buildings within the IOZ shall adhere to the ~~Design Guidelines~~design guidelines set forth in Chapter 5: Design of the IDP and the site plan standards of Article ~~14~~13.

TABLE 8-C: PERMITTED USES

Healthcare facilities, including but not limited to the following ancillary and/or supporting uses:

- Hospital
- Medical Office/Clinic
- Laboratory Center / Services
- Research and Development (R&D) Laboratory or Facility
- Educational Facility / Conference Center
- Administrative / Business Office
- Accessory Service or Trade Uses
- Guest House
- Multi-family Housing for Healthcare Staff and Students
- Rehab / Skilled Nursing Facility
- Retail
- Restaurant/Cafe
- Employee Service Amenities
- Day Care Center
- Fitness Center or Gymnasium
- Parking Lot or Garage
- Bicycle Storage
- Heliport
- Antenna Station
- Outdoor use areas, such as green areas, parks, gardens, art installations, and other active and passive non-commercial recreation spaces

~~F.~~E. **Signs**

1. At the time of first site plan review following IDP approval, a unified campus-wide signage plan shall be submitted for review and approval by the Planning Authority. Any update to such plan due to a change in name or logo shall not require amendment to the IDP.
2. Signs shall be designed in accordance with the campus-wide signage plan. All signs shall be designed in proportion and character with building facades and adjacent street typology. All signs shall be coordinated with the building and landscaping design and be constructed of appropriate permanent, high quality materials and finishes.

~~G.~~F. **Transportation**

1. *Transportation Demand Management* (*TDM*)
   a. At the time of the first site plan review following IDP approval, MMC shall submit a campus-wide TDM Plan substantially in accordance with those TDM objectives and strategies identified in the approved Institutional Development Plan. The TDM Plan may be phased into short-, mid-, and long-term actions to allow for progressive implementation over time.
   b. The TDM Plan shall be designed to provide transportation choice with the goal of reducing parking demand and single-occupancy vehicle trips to and from MMC by employees and visitors.
   c. The TDM Plan shall establish parking and trip reduction targets associated with the short-term (0-2 years), mid-

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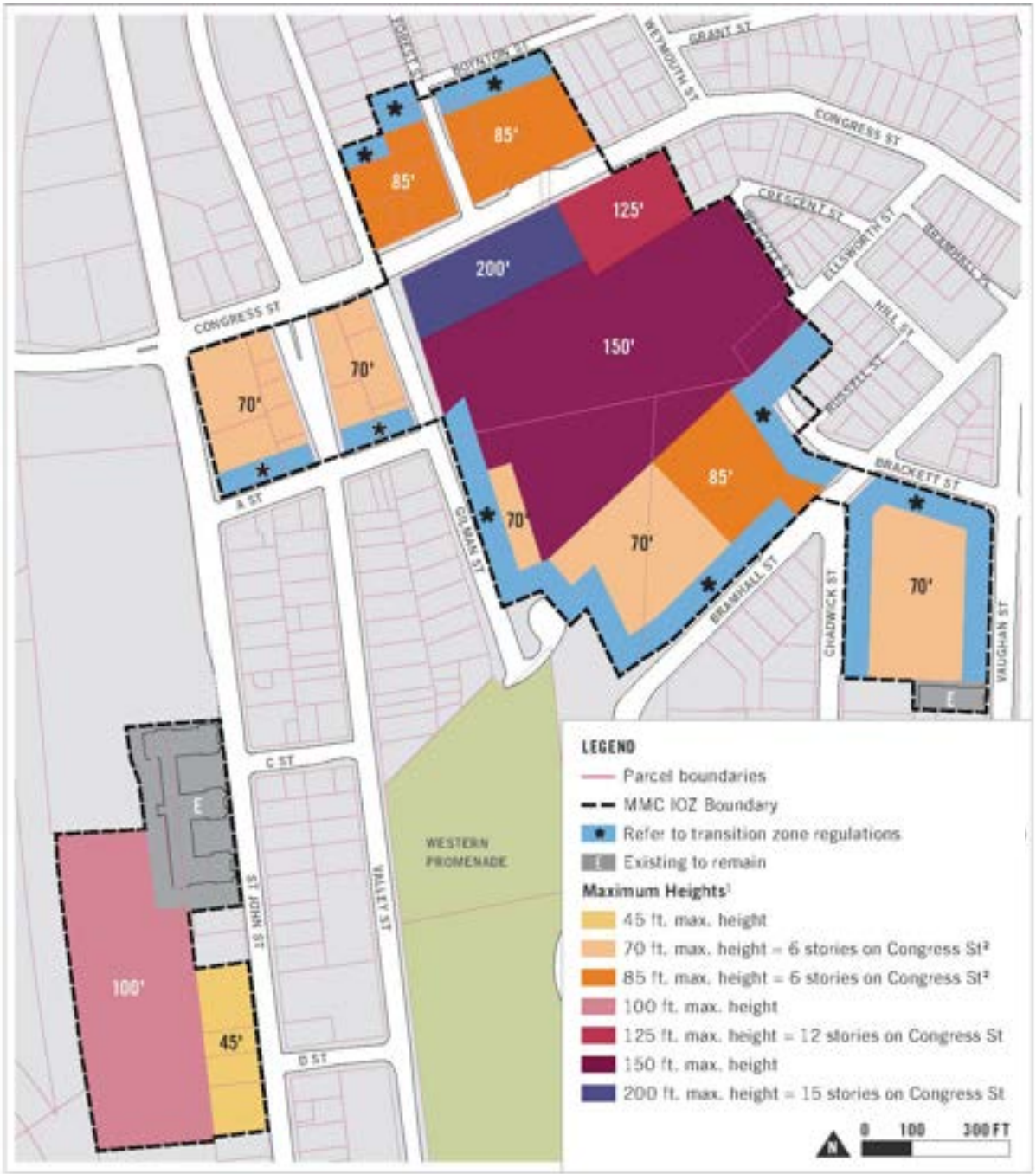
TABLE 8-D: MMC IOZ DIMENSIONAL REQUIREMENTS

Building heights (max.)	Max. building heights for new buildings within the IOZ shall be governed by the Maximum Building Heights Map in Figure 8-D, or by the transition zones clause of this table for those buildings located in transition zones. Refer to IDP "Chapter 5. Design" for methodology on determining heights.
Building heights (min.)	Three stories, except in transition zones, where the minimum building height shall be two stories. Minimum building heights shall not apply to building awnings, associated kiosks, pavilions or similar building components.
Building length (max.)	Length of proposed parking garage at 222 St John St shall not exceed 500 feet as measured roughly parallel to St John St.
Building setbacks (min.)	Minimum building setbacks shall be governed by the Minimum Setbacks Map in Figure 8-~~D~~E. Additional requirements are listed in the transition zones and Congress Street build-to zone sections of this table.
Congress Street build-to zone[1]	A build-to zone is identified for some properties that abut Congress Street. See Minimum Setbacks Map in Figure 8-~~D~~E for the location of build-to zone. i. The Congress Street build-to zone extends between 0 to 40 feet from the right-of-way boundary. ii. Buildings located in these parcels must have a minimum of 70% of the façade facing Congress Street located within the build-to zone.
Transition zones	Transition zones are identified inside the IOZ boundary in areas where the IOZ abuts or is located across a public right-of-way from a residential zone or a historic-designated district. See Maximum Building Heights Map in Figure 8-~~C~~D for location of transition zones. i. Transition zones shall extend 50 feet into the parcel from the parcel boundary. ii. Transition zones that abut a Residential zone with or without an intervening public right-of-way shall have a maximum height limit that matches the maximum height permitted within that Residential zone. iii. In areas where the IOZ abuts a residential zone without an intervening public right-of-way, minimum side and rear yard requirements of the abutting residential zone apply within the IOZ boundary, unless noted otherwise in Minimum Setbacks Map in Figure 8-~~D~~E.

[1]A "build-to zone" is the area on the lot where all or a portion of the street-facing building facade must be located, measured as a minimum and max. yard (setback) range from the public right-of-way boundary.



Notes: 1. Minimum building heights also apply. Refer to Table 8-D.
2. For buildings with residential use above the ground floor, the following height maximums apply: 70 ft. maximum height = 7 stories, and 85 ft. maximum height = 8 stories.

FIGURE 8-~~C~~D: MAXIMUM BUILDING HEIGHTS

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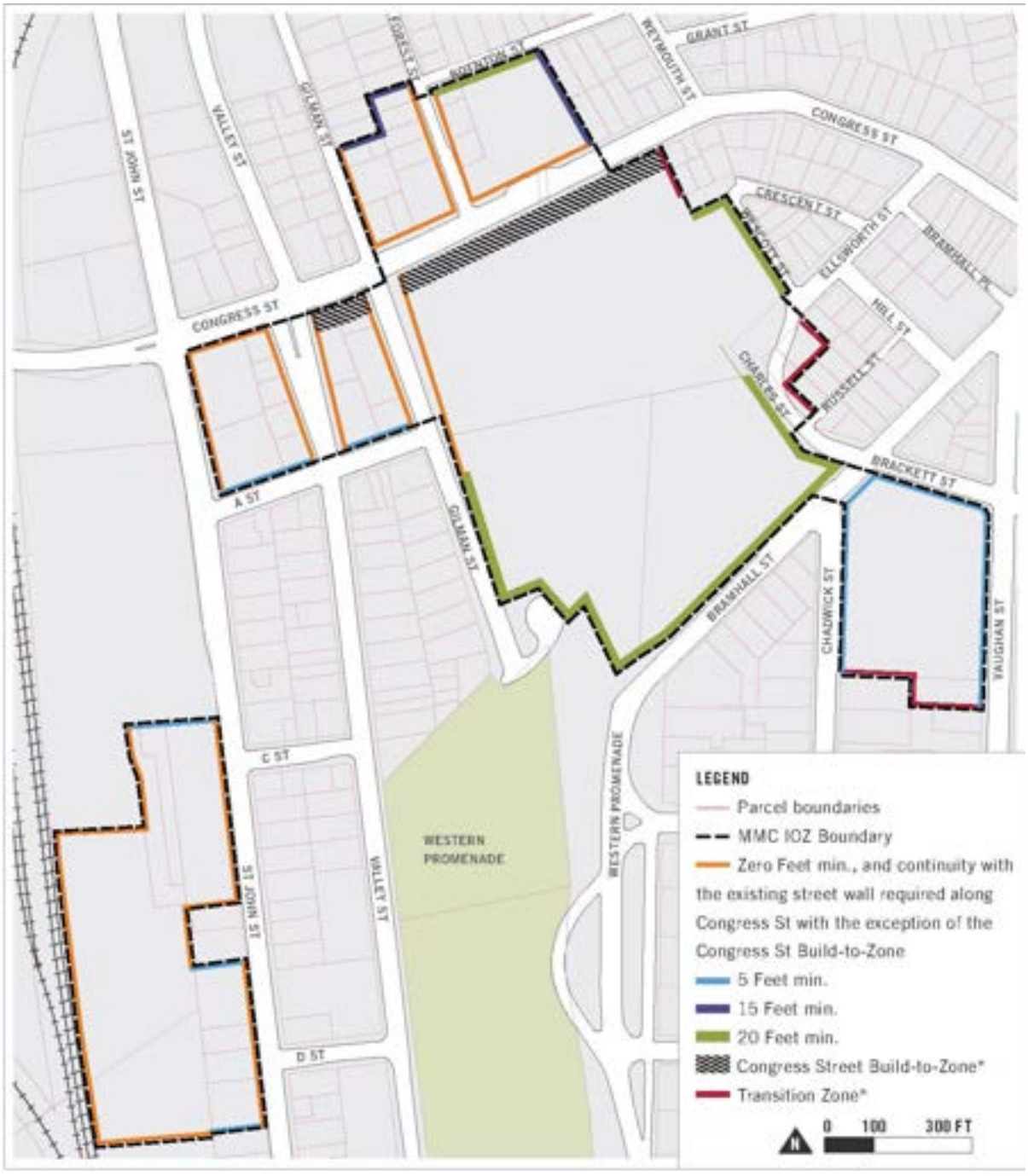

* Refer to Table 8-D Dimensional Requirements

FIGURE 8-~~D~~E: MINIMUM SETBACKS

term (2-5 years), and the long-term (5+ years), as well as a data collection plan.

2. *Parking.* Parking requirements in the IOZ shall be established at the time of site plan review based on a parking study that includes a campus-wide analysis of demand and supply. The parking demand study shall determine parking requirements and shall be sufficient to alleviate parking pressure on surrounding neighborhoods. Parking studies developed by MMC shall integrate parking and trip reduction achievements and data contained in the TDM Plan.

~~H.~~G. **Environment.** Development proposed by MMC shall be designed to integrate with the surrounding context, including open space and pedestrian networks and infrastructure.

~~I.~~H. **Mitigation measures.** MMC shall mitigate site plan impacts to off-premise infrastructure in a manner proportionate to those impacts. Mitigation may include financial or in-kind contributions to existing or planned City projects focused on mitigating the impacts of MMC development. Mitigation contribution shall be determined based on the City's standard procedure in effect at the time of site plan review.

~~J.~~I. **Neighborhood integration and engagement**

1. For the purpose of keeping surrounding residential areas appraised of its future development plans, and to address any neighborhood issues related to the operations of the MMC Bramhall campus, MMC shall adhere to the ongoing community engagement principles identified in the approved Institutional Development Plan.
2. MMC shall conduct ongoing community engagement, including the formation of a Neighborhood Advisory Committee comprised of representatives of MMC, the Parkside neighborhood, the West End neighborhood, the Western Promenade Neighborhood Association, the St. John Valley neighborhood, the Libbytown neighborhood, and the City.

~~K.~~J. **Construction management**

1. At the time of site plan review, MMC shall submit a construction management plan substantially in accordance with those construction management principles identified in the approved Institutional Development Plan for review and approval by the Planning Authority.
2. The construction management plan shall include a construction schedule, as well as strategies for managing neighborhood communication and noise, air quality, traffic, and parking impacts associated with the construction as set forth on the construction management template developed by the City and attached and incorporated to the IDP as Appendix A.

~~L.~~K. **Other requirements**

1. *Helipad.* ~~MMC~~Proposed changes to MMC's helipads, including changes to preferred flight routes, shall be ~~governed~~reviewed and approved by the ~~provisions of the Helistop Overlay Zone~~Planning Authority in accordance with the ~~following exceptions:~~approved Institutional Development Plan.
   ~~a. Setback requirements of Subsection 8.4.2(A)(2).~~

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~~**b.** Fencing requirements of Subsection 8.4.2(A)(3).~~

2. *Snow ban parking.* When the City of Portland declares a snow parking ban, MMC shall make parking available to neighbors in a designated parking area on or near its campus upon the following condition: Due to the patterns of patient flow in the hospital, the hours of snow ban parking for registered vehicles during an announced City of Portland snow parking bans are 6:00 p.m. until 6:00 ~~p~~a.m. Vehicles that are not moved out of these parking areas by the applicable time each morning are subject to towing at the owner's expense.

3. *Healthy communities.* Recognizing that a stable residential and commercial environment is key to the health of any neighborhood, MMC commits to supporting its existing and future neighbors in the St. John Valley, Parkside, West End, Western Prom, and Libbytown neighborhoods. Accordingly, MMC shall implement and participate in the healthy communities programs as described below.

a. Caring Community Grants. MMC shall develop an annual grant program with available funds of up to $30,000. Goals, priorities, eligibility requirements, program guidelines, and allocation approach will be developed by the MMC Neighborhood Advisory Committee, as described in Chapter 6 of the IDP approved on September 26, 2017. Neighborhood associations or other entities located or operating in the St. John Valley, Parkside, West End, Western Promenade, and Libbytown neighborhoods may apply for grant funding relating to the following initiatives:

i. Neighborhood investment and Infrastructure: Focused on creating strong, safe, accessible and vibrant neighborhoods.

ii. Quality of life: Focused on improving access to recreation, arts or cultural experiences in the neighborhoods.

iii. Diversity and inclusion: Focused on fostering the building of relationships and understanding among diverse groups, including capacity building and outreach activities.

iv. Public Safety: Focused on supporting public safety programs through training programs, equipment or other means in the neighborhoods.

v. Environmental sustainability: Focused on preventing waste, increasing recycling or supporting other programs that work to improve the environment.

b. Healthy Neighborhoods Program. MMC shall initiate and adopt a memorandum of understanding

(MOU) by and between ~~the~~ MMC, the City of Portland, ~~an identified Community Housing Development Organization~~ and ~~any~~ other community partners ~~that may be identified later~~ establishing a Healthy Neighborhoods program. Such a program shall be designed to fund and execute housing and community improvement and development programs in St. John Valley and the other neighborhoods surrounding MMC's Bramhall Campus.

~~8.5.7~~8.3.7 The Roux Institute at Northeastern University Overlay Zone Regulatory Framework

A. Applicability. All development proposed by the Roux Institute at Northeastern University ("Roux Institute") within the boundary of the Roux Institutional Overlay Zone (IOZ) shall be consistent with the approved Institutional Development Plan (IDP), consistent with the Comprehensive Plan, and meet applicable standards of the Land Use Code, unless such standards are superseded by the following regulatory framework. This regulatory framework shall govern future development by the Roux Institute within the IOZ unless amended by the Portland City Council upon formal application of the Roux Institute. The Roux Institutional Overlay Zone shall have the boundaries depicted below and shall include the approximately thirteen-acre property located at 1 Bean Pot Circle and identified as parcels 447-A001 and A002 in the City's assessing records.

FIGURE 8-E: ROUX INSTITUTIONAL OVERLAY ZONE BOUNDARY

B. Phasing and monitoring

1. The Roux Institute campus will be developed in phases, as set forth in the IDP. The IDP will be updated on a regular basis to ensure that the data is current and that the document remains accurate. Accordingly, monitoring reports will be filed every three years and shall include a summary of progress on IDP implementation and of acquisitions and divestment since the date of IDP approval. At the time of the submission of the monitoring report, any updates to the IDP shall be identified which may result from updated master planning, changes in baseline information, or changes in the adjacent neighborhood which affect the campus, to allow the IDP to remain current. Updates and minor amendments not

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described below shall be reviewed administratively by the Planning Authority.

2. At completion of each phase, the Roux Institute campus shall have the appearance of a complete and comprehensive design. Permanent and meaningful public space shall be established in the first phase to ensure public benefit. Interim conditions shall be designed for a pleasant pedestrian experience through planting, lighting, wayfinding, graphics, artwork, or ornamental fencing to provide screening, buffers, and enhancement. Interim areas of the site which are not actively used for parking or construction staging will be appropriately landscaped or accommodate gathering on lawns or other aesthetically hardened spaces.
3. Minor amendments that change the approach to parking, transportation, neighborhood engagement or design shall be reviewed by the Planning Board for consistency with the objectives of the IDP. This review may occur simultaneously with the site plan review of a proposed project.
4. Major amendments shall be reviewed by the Planning Board and are required under the following circumstances:
    a. A change to the regulatory framework is required.
    b. The IDP is no longer representative of the institutional mission or approach to community as a result of redevelopment in the area or City upgrades to neighborhood planning (such as roadway changes, infrastructure upgrades, community design, lighting).
    c. A change in approach to parking, transportation, neighborhood engagement or design is inconsistent with the objectives of the IDP, resulting in a modification to the applicable objectives.
5. Review of major amendments may occur simultaneously with the site plan review of the proposed project.

C. Uses

1. The Roux Institute **c**ampus will encompass a variety of uses to support the mission of the ~~Roux Institute to spur innovation, build talent, and drive economic growth. Partnerships with industry, academia, and government are essential components of the institute's success.~~Institute. Campus uses will include classrooms and laboratories, housing, faculty offices, dining areas, convening spaces, fitness centers, retail facilities, entrepreneurial spaces, light manufacturing, incubator space, research and design facilities, hotel, and office space. The mixture of uses ~~on the campus will~~is intended to support collaboration with private industry, other institutions, and community organizations~~, which is essential to the Roux Institute's approach to learning through integrated research, student work opportunities, and entrepreneurial endeavors. Hotel rooms will cater to prospective students, faculty and staff, visiting lecturers, specialists, and business partner guests, providing multiple opportunities for informal and unplanned interactions and collaboration that would otherwise not be available if staying in a hotel miles away from campus.~~. A range of

rental housing options will ~~foster community and~~ provide on-site opportunities for students, faculty, staff, and their families~~. These units will ease~~, easing some of the housing pressure and traffic that might otherwise result from new residents attracted to Portland by the institute. Housing units not occupied by residents affiliated with the Roux Institute may be made available to the public to further assist in easing the housing pressure.

2. ~~Recognizing the community value of a larger waterfront parcel in close proximity to a primary bike and pedestrian trail system, the~~The Roux Institute campus will be designed to include ~~those~~ uses that will welcome ~~the~~ neighbors to the campus, including publicly available open space, waterfront access, recreational opportunities, restaurant, dining, small neighborhood grocery, and/or other limited retail options. ~~These uses will provide a means for serving the residents and other users of the campus, as well as welcoming the neighborhood to foster connectivity and community engagement, activating the public realm, and reducing dependence on automobiles.~~

3. In addition to the uses permitted in the underlying zone, ~~the~~laboratory and research facilities, low-impact industrial uses ~~in Table 8-E~~, and high-tech manufacturing shall also be permitted as a matter of right in all buildings that are located within the IOZ and on land owned or leased by the Roux Institute. ~~In recognition that the Roux Institute is a graduate-level educational and research institution with a number of corporate partners, and in recognition of its location outside of the downtown, the uses in Table 8-E and many that are permitted in the underlying zone, such as multi-family housing, hotels, offices and retail, are ancillary to and support the vision and mission of the institution. In addition, ground~~ Ground floor retail, restaurant, or comparable community-oriented uses that provide services to local residents, students, faculty and staff shall be ~~provided. Such uses are~~ expressly permitted whether ancillary to or supporting the educational institution, and shall be open and welcoming to the general public ~~in addition to students, faculty, staff, or visitors of the Roux Institute~~.

TABLE 8-E: PERMITTED USES

- Laboratory and research facilities
- Low-impact industrial (>10,000 SF)
- High-tech manufacturing

4. Within the boundary of the IOZ, hotels shall be limited as follows:
   a. No more than one hotel shall be located in the IOZ.
   b. The hotel shall contain no more than 130 rooms.
   c. The hotel shall be no more than eight ~~e.~~ stories in height, not including structured parking. There shall be no more than two levels of above grade structured parking beneath the first floor of the hotel. Nothing herein is intended to preclude the co-location

of hotel use and structured parking on one or more levels of the hotel.

5. Notwithstanding any of the above, residential and commercial uses that are not water-dependent shall not be permitted on the pier.

~~TABLE 8-F: DIMENSIONAL REQUIREMENTS~~

~~Building heights (max.)~~	~~Maximum building heights for new principal buildings in the IOZ shall be governed by the Roux IOZ Height Map (Figure 8-F)~~

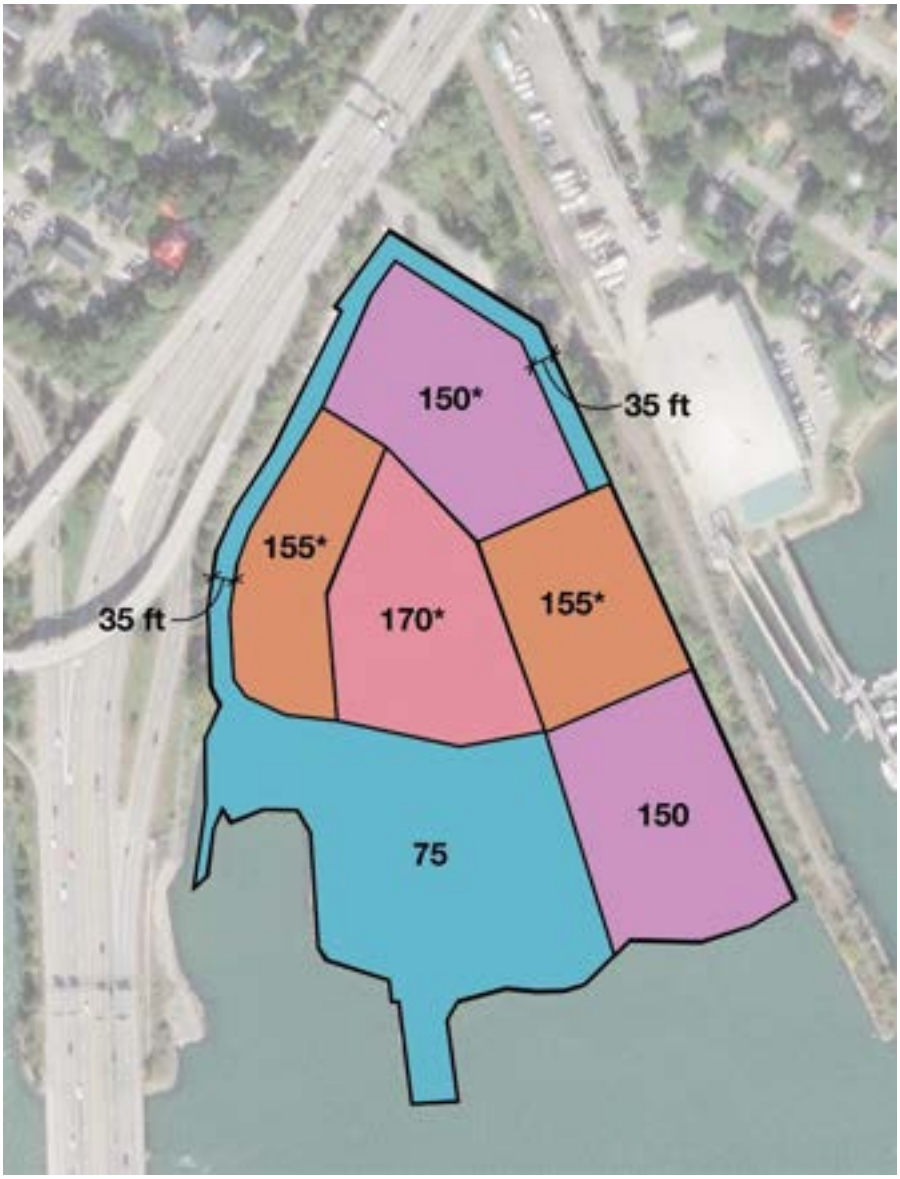
D. Dimensional requirements

1. *Applicability.* All principal buildings and structures located within the IOZ and located on land owned or leased by the Roux Institute shall be subject to the dimensional requirements of the underlying zone, except where modified by the provisions of this section.
2. *Rules of measurement*
   a. Publicly accessible corridor: A corridor accessible to the general public that is open to the sky or enclosed with a minimum width of 20 feet. Enclosed portions of publicly accessible corridors shall have a minimum height of 30 feet.
   b. Street wall: Within the Roux IOZ the term "street wall" shall mean a wall or portion of a wall that includes the principal entry to a building facing a street, public right-of-way, major pedestrian access routes, or open spaces. Orientation of the principal entry to a building shall be determined by the applicant.
3. *Maximum building heights.* Maximum building heights for new principal buildings in the IOZ shall be governed by the Roux IOZ Height Map (Figure 8-G).

~~3.~~4. *Minimum and maximum street wall heights.* New principal buildings in the IOZ shall rise to a minimum street wall height of 45 feet and may rise to a maximum street wall height of 105 feet.

~~4.~~5. *Stepback requirements.* At a height not lower than the minimum street wall height or higher than the maximum street wall height, a stepback with a minimum depth of at least 10 feet shall be provided. Required stepbacks shall only apply to a building's street wall.

~~5.~~6. *Building length requirements*
   a. For buildings with a length greater than 250 feet, a continuous, publicly accessible corridor that connects two streets, public rights-of-way, major pedestrian or bicycle access routes, or open spaces shall be provided, with the precise location to be identified, defined, and reviewed under site plan review. Building length shall be measured at grade in a straight line between the outer corners of the designated street wall.
   b. Publicly accessible corridors need not be linear and may have necessary grade changes.
   c. Any building wall situated along a publicly accessible corridor shall be designed to provide sufficient architectural and graphic amenities to provide visual interest, transparency between interior activities and



~~Notes:~~

1. ~~Applies to zones shown with an asterisk (*): above height of 75 feet, no building floorplate shall exceed 35,000 square feet.~~
2. ~~Above height of 50 feet, no two buildings shall be closer than 40 feet apart.~~
3. ~~Building heights for buildings that span two or more height zones shall be measured by calculating the highest point (as defined in the Land Use Code) of that portion of the building within a particular height zone. If the roof is sloped, height is measured at the midpoint of that portion of the slope located within the particular height zone.~~

FIGURE 8-~~F~~G: HEIGHT OVERLAY MAP

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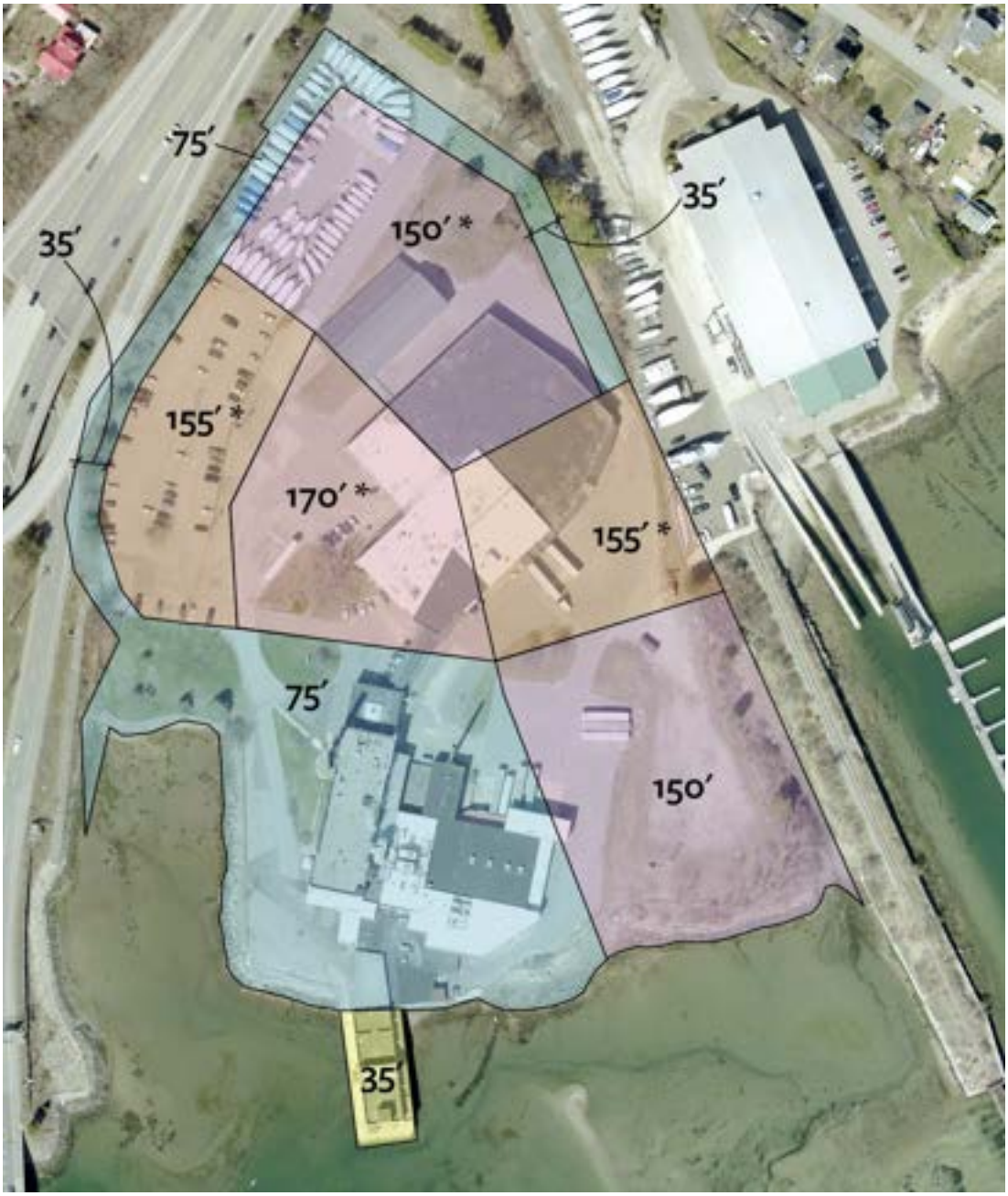

1. Applies to zones shown with an asterisk (*): above height of 75 feet, no building floorplate shall exceed 35,000 square feet.
2. Above height of 50 feet, no two buildings shall be closer than 40 feet apart.
3. Building heights for buildings that span two or more height zones shall be measured by calculating the highest point (as defined in the Land Use Code) of that portion of the building within a particular height zone. If the roof is sloped, height is measured at the midpoint of that portion of the slope located within the particular height zone.

~~d.~~ pedestrian activity, or active uses and relate the building, and its use to passersby.

~~e.~~**d.** Publicly accessible corridors shall:

i. Include bicycle and pedestrian amenities such as benches and other seating;

ii. Be illuminated to levels that are adequate but not excessive for the safety, comfort, and conveniences of occupants and users of the site, and

iii. Provide access to the public during regular operating hours of the institute.

~~f.~~**e.** The Roux Institute may close off public access to a publicly accessible corridor during special events or when determined necessary by the institute for security or public safety purposes.

~~6.~~**7.** *Transitions and buffers*

a. The campus is surrounded by existing buffers, with I-295 to the west, state-owned vacant parcels to the north, the rail corridor and marine business to the east, and Casco Bay to the south. In addition to the existing buffers, development shall further ease the transition to and from the campus ~~through the design methods in areas shown on Figure 8-G~~.

b. Public open space will ease transition from the smaller scale of Sherwood Street. A transition onto the campus

~~FIGURE 8-G: TRANSITION AREAS AND BUFFERS~~

will also be accomplished through thoughtful façade design at the pedestrian level. Potential nuisance features like dumpsters, air handlers, and parking will be appropriately screened. Buildings will avoid blank walls to respect the adjacent neighborhood and facilitate a sense of permeability and welcome.

c. The shoreline transition area between the buildings and the water will serve as meaningful public open space. Building facades facing the water will be considered public-facing, with views designed for interest from the water and Eastern Promenade Trail.

d. The transition area between the campus and I-295 contains a height limitation of 75 feet along the edge and between the highway and the B&M Cannery Building, preserving the historic view of the building from the highway and easing the transition to the greater allowable building heights in the center of campus.

e. The transition area along the edge of the campus adjacent to the rail corridor also contains a height limitation of 75 feet along the edge of the property closest to the residential neighborhood, further easing the transition to the greater allowable building heights at the center of campus, mitigating shadow impacts to adjacent properties.

E. Transportation

1. *Transportation demand management (TDM)*

a. At the time of the first site plan review following IDP approval, the developer ~~a.~~ shall submit a campus-wide TDM Plan substantially in accordance with those TDM objectives and strategies identified in the approved IDP. The TDM Plan may be phased into short-, mid-, and long term actions to allow for progressive implementation over time.

b. The TDM Plan shall be designed to provide transportation choice with the goal of reducing parking demand and single-occupancy vehicle trips to and from the Roux Institute campus and from the Roux Institute campus ~~b.~~ by students, faculty, staff, institutional partners, and visitors.

c. The TDM Plan shall establish parking, mode share, and trip reduction targets associated with each phase of development, as well as a data collection plan.

d. Annual monitoring reports will be submitted for the TDM Plan. TDM ~~d.~~ monitoring reports shall include a summary of progress towards targets established in the TDM Plan. If deficiencies are identified, they will be resolved in accordance with the site plan approval.

2. *Traffic movement permit (TMP)*

a. Any development that will generate over 100 passenger car equivalents will trigger TMP review which will determine applicable mitigation for that development program. There are contributions anticipated to area-wide elements to support trip reduction targets, such as contribution to the

development of shared use path infrastructure and support for additional transit service to the campus. The TMP review may consider an individual site plan or may cover more than one site plan. Each of the TMP submissions and review will continue to contemplate capacity for multimodal connections to continue to reduce automobile trips.

b. Mode shares and trip reduction targets have been identified in the IDP and will be updated and modified with each TMP submission as necessary.

3. *Bicycle and pedestrian access and safety*

a. A Transportation, Access, and Circulation Plan has been provided in the IDP. At the time of the first site plan review, the developer shall submit an updated Plan. Where possible, the bicycle and pedestrian access routes shall connect to established bicycle and/or pedestrian facilities. The developer shall look to establish new bicycle and pedestrian bicycle and/or pedestrian facilities where feasible.

b. The site and building design shall not prohibit the enhancement of transit service to and from the site.

c. Bicycle, pedestrian, transit, and motorized vehicular facilities proposed to and from the site shall provide sufficient capacity and allow for safe connections for modes of transportation.

d. Sherwood Street shall be improved to accommodate bicycles and pedestrians within the existing right-of-way. Separate sidewalks and bicycle lanes shall be provided where feasible.

4. *Parking.* Parking requirements in the IOZ, including but not limited to parking ratios, shall be established at the time of site plan review for each phase of development based on a parking study that includes a campus-wide analysis of demand and supply. Parking studies shall integrate parking and trip reduction achievements and data contained in the TDM Plan. Parking requirements shall be determined in accordance with the requirements in the Land Use Code in effect at the time of site plan review.

5. *Circulation*

a. The campus shall contain a bike and pedestrian circulation network which includes a perimeter access loop, an internal system of pathways and a major campus "promenade" which will link campus developments, the upland, and the waterfront.

b. The perimeter access path for bicycle and pedestrians will serve to connect the campus to primary site entry points from the community and provide a continuous recreational loop. Where appropriate, the perimeter access path will be enhanced by wayfinding, lighting, landscaping, and safe crossings at vehicular intersections. Where possible, building facades will respond to the perimeter access path for views into the building and periodic activation to building entrances.

FINAL DRAFT FOR PLANNING BOARD REVIEW

c. Internal campus circulation pathways will connect major open spaces, buildings entrances, and outdoor plazas to create a network of multiple pathways including the perimeter access path. Pathways will be located along or oriented toward facades that have active programs, architectural articulation, appropriately scaled entrances, and windows. Pathways will avoid traveling along stretches of undifferentiated or blank facades back doors or service areas. Pathways will be generally lower-velocity systems than the access loop. Where appropriate, the internal campus circulation pathways will be enhanced by wayfinding, lighting, landscaping, and safe crossings at vehicular intersections.

d. The campus promenade will serve as a major organizing feature connecting the upland and the water and providing access to open spaces, allowing views of the principal campus of buildings, and connecting to the internal campus circulation pathways and perimeter access path. The promenade will be enhanced by lighting, wayfinding, landscape buffers, and open spaces. Viewsheds and topography along the promenade will emphasize the Roux Institute and Burnham & Morrill (B&M) Cannery Building, pier, and other principal buildings and spaces.

F. Environment

1. The IOZ shall contain a minimum of three acres of public open space designed to enhance waterfront access and provide bicycle/pedestrian network connectivity. This open space requirement shall be met at the completion of construction of the first site plan approval and shall be maintained at all phases of development. The three acres need not be contiguous and may be provided in new and/or different locations following completion of development phases. The public open space shall be meaningful space, functioning as recreation areas, social gathering spaces, or natural buffers consisting of a diverse mix of native woody and herbaceous vegetation. The method of assuring public access to the public open space shall be determined at site plan review.

2. A Sustainability and Resilience Charter will be created by the Roux Institute for the campus. The charter shall contain sustainability goals related to development categories such as energy, water, transportation, equity, and resilience and may be revised over time in response to evolving technology and industry standards. The charter will require all development on the campus to utilize critical components of industry standard benchmarking systems such as LEED, SITES, WELL, ILFI, and Passive House. The charter will be submitted to the Planning Authority prior to submission of the first site plan application. Proposed site plans

shall be consistent with the goals outlined in the charter.

3. Development shall utilize lighting designs required for safety and comfort and that minimize impact to the night sky in accordance with light pollution reduction standards in ANSI/ASHRAE/IESNA 90.1-2007 or its most current edition.
4. Development shall be carried out in such a way as to minimize the impacts of sea level rise, protecting infrastructure and site features by designing to a minimum of 2-feet above the Base Flood Elevation (BFE) as shown on the most current FEMA Flood Insurance Rate Map.
5. The shoreline edge and immediate adjacent upland shall be protected through shoreline armoring and vegetation to prevent erosion and enhance natural resource protection. Vegetation shall consist of a diverse mix of native woody and herbaceous vegetation. Work in coastal wetlands and significant wildlife habitats (as defined by the Maine Department of Environmental Protection) will be minimized to the maximum extent practicable and shall comply with all applicable local, state and federal permitting requirements in effect at the time.
6. Design of exterior building envelopes will be in developed in conjunction with the American Bird Conservancy and Cornell Ornithology Lab standards to mitigate bird strikes to the extent practicable. All buildings will have bird-safe facades with an American Bird Conservancy threat factor of 30 or better.

G. Mitigation measures

1. Site plan impacts to off-premise infrastructure shall be mitigated in a manner proportionate to those impacts. Mitigation may include financial or in-kind contributions to existing or planned City projects focused on mitigating the impacts of the development. Mitigation contribution shall be determined based on the City's standard procedure in effect at the time of site plan review.
2. Impacts to natural resources shall be mitigated in accordance with local, state and federal permitting standards in effect at the time.

H. Design

~~1. *Introduction and intent.* New development in the IOZ shall adhere to the following design guidelines and the site plan standards of the City of Portland. All new development shall be designed to create a visual connection with the goal of achieving a cohesive campus appearance with a strong identity and sense of place. New development may be contemporary and forward looking in architectural style, but shall be informed by or responsive to the iconic B&M Cannery Building as an example of Portland's unique legacy of innovation, adaptation and durability. Reference to the Cannery Building specifically and in general to the early 20th century industrial factory building type may inform the architectural principles of highly functional yet articulated human-centered facades and details, a combination of local and innovative materials, use of natural daylighting, high~~

degree of flexibility and scalability and capacity for long service life. New development shall be characterized by excellence in architectural design, craftsmanship, materials, streetscape, resilience, sustainability and landscape improvements, signage, and lighting appropriate for a campus development on a coastal site. These principles and standards are intended to regulate the future build out of the Roux Institute campus while ensuring that new development is sensitive to adjacent residential neighborhoods and commercial areas and successfully integrates the existing site into the public realm while establishing a global beacon for thought leadership in artificial intelligence, computer and data sciences, digital engineering, and advanced life sciences.

2. *Standards*

a. Waterfront

i. The waterfront will be publicly accessible to provide a variety of open spaces throughout all phases of development that foster social interaction.

ii. New principal buildings on the waterfront shall include a publicly accessible entrance to interior public space, if provided, from the waterfront side and upland side of the building along an anticipated desire line. Said interior public space, if provided, may be closed to the public during special events, outside normal operation hours, and when necessary for security or public safety purposes.

b. Cohesive campus

i. The overall composition and experience of the campus will be considered for cohesive identity from approaches along I-295 and views from the East Deering neighborhood.

c. Historic preservation

i. Buildings, site development, circulation, and open space will respect the B&M Cannery Building, a designated historic landmark.

d. Connectivity

i. Prioritize the bicycle and pedestrian circulation network on campus while providing connectivity for auto, public transit, service and emergency vehicles at each development phase.

ii. Surface parking lots shall be located to the maximum extent practicable toward the rear or side of a building not occupied by a principal entry to a building facing a street, public right-of-way, major pedestrian access routes, open space, and/or the waterfront.

e. Open space

i. Open space will be publicly accessible to provide multiple functions for recreation, social gathering, and buffers that integrate within the overall

~~composition and experience of the campus at each development phase.~~

~~f. Sustainable practice~~

~~i. Buildings and site development will incorporate sustainable technologies in building design, orientation, energy production, and sensitivity to natural resources at each development phase.~~

~~g. Resilience~~

~~i. Buildings and site development will incorporate resilience strategies to account for flooding, severe weather events, and integration of publicly accessible spaces at each development phase.~~

~~h. Building design~~

~~i. Building façade materials will be of high quality, durable to the marine climate and contribute to an attractive public realm. The first 35 feet of building height shall complement the pedestrian character in materiality, transparency, and detailing.~~

~~ii. Rooftop appurtenances will be incorporated, screened, and set back from roof edges to reduce visual impact from the surrounding neighborhood.~~

~~i. Building entrances~~

~~i. Building entrances will include prominent facades and be oriented toward, located adjacent to, or accessible from rights-of-way, major pedestrian access routes, or open spaces.~~

~~j. Mitigation of impacts~~

~~i. Buildings and site development will endeavor to minimize potential negative impacts related to shadows, wind, noise, heat, glare, lighting, contaminants, and the environment.~~

1. All buildings within the IOZ shall adhere to the design guidelines set forth in the IDP.

I. Neighborhood integration

1. *Neighborhood engagement*

   a. For the purposes of keeping surrounding residential areas apprised of its future development plans, and to address any neighborhood issues related to the operations of the Roux Institute campus, the Roux Institute shall adhere to the ongoing neighborhood engagement principles identified in the IDP.

   b. Ongoing community engagement shall be conducted, including the continuation of neighborhood forums and maintenance of the Roux Institute campus website.

   c. A Community Advisory Group shall be created for the purpose of sharing information on project development, planning, and seeking input. To the extent practicable, the group shall be comprised of representatives of interested groups such as the East Deering Neighborhood, East Deering Neighborhood Association, East Deering Neighborhood for Responsible Development, Front Street Area

Neighborhood, a tenant representative from Portland Housing Authority's Washington Gardens and Front Street developments, recreation, parks and trails, including the Friends of Payson Park, from sustainability, rail, bicycle/pedestrian, public transit, Portland Harbor, Portland Public Schools, including a Presumpscot School parent, higher education, and the business community.

d. A designated community contact shall be engaged to be the point of contact for providing information to the neighborhood and receiving feedback.

2. *Construction management.* At the time of site plan review, Northeastern University shall submit a Construction Management Plan substantially in accordance with the construction management principles identified in the Institutional Development Plan for review and approval by the Planning Authority.

J. Historic preservation

1. *Historic preservation review.* The B&M Cannery Building has been designated as a local historic landmark. The area of designation includes the B&M Cannery Building, as well as the area of the former Codfish Building and pier. The Historic Preservation Board's review of activity within the site of the former Codfish Building and pier is limited to review of any activity that would require a Certificate of Appropriateness that is proposed on a newly constructed pier. A Certificate of Appropriateness will not be required for the demolition of the Codfish Building or construction of a new pier and related infrastructure, including future alterations to the pier structure.

2. *Required interpretive elements.* Northeastern University shall include interpretive element(s) on top of or within the surface of the new pier that convey the history and significance of the Codfish Building. Prior to construction of said elements, the University shall submit the proposal to the Historic Preservation Board for its review and approval. The interpretive elements shall be designed in a manner that does not interfere with the use and functionality of the pier as a marine passenger facility and for water access by the Roux Institute and the public.

3. *100-foot review exemption.* The B&M Cannery Building is exempt from Subsection ~~14~~13.6.4(E)(2) for review of development within 100 feet of a landmark.

~~8.5~~8.4 ISLAND TRANSFER STATION OVERLAY

~~8.6.1~~8.4.1 Purpose

The purpose of the Island Transfer Station Overlay Zone is to establish a location for a transfer station for municipal solid waste and municipal public works activities. This zone shall be established through a conditional rezoning process in order to ensure the imposition of appropriate conditions for the protection of neighboring properties.

~~8.6.2~~8.4.2 Permitted uses

A. Municipal solid waste facilities, including compactors and storage bins, provided that the compactor shall be located within a fully enclosed structure.

B. Recycling facilities, provided that all recycling areas shall be buffered and screened from neighboring properties.

C. Municipal garages, material storage, and parking for vehicles.

D. Maintenance of municipal vehicles and equipment.

E. Minor wind energy systems co-located with public industrial or utility facilities, subject to the applicable standards ~~of Subsection~~within Article 6.~~4.18.~~

~~8.6.3~~8.4.3 Conditions

Requirements for setbacks and any operational limitations shall be established as part of the conditional rezoning process.

~~8.6~~8.5 PEDESTRIAN ACTIVITIES DISTRICT (PAD) OVERLAY

~~The following restrictions shall apply in the Pedestrian Activities District (PAD) Overlay Zone, which shall include street frontages as delineated on the PAD Overlay Zone map.~~

~~8.7.1 Permitted uses~~

~~**F.** At least 75% of the street level frontage of a building on a street located within the PAD Overlay Zone must be occupied, and, at minimum, the floor area to be occupied shall be 75% of the street level frontage multiplied by a 20 foot depth, by:~~

8.5.1 Purpose and applicability

The purpose of the Pedestrian Activities District (PAD) Overlay is to ensure that key areas within the City, as identified on the PAD Overlay Zone map (Figure 8-H), are maintained as active, walkable, pedestrian-oriented activity centers. As such, the overlay requires that street-level frontages within those areas identified on the PAD Overlay Zone map should be occupied with active uses as identified in this section.

8.5.2 Use restrictions

A. Within the PAD Overlay Zone, a minimum of 75% of the street level frontage, measured as a percentage of total building length excluding areas of vehicular and pedestrian egress, and any mechanical or electrical equipment rooms servicing the building, shall consist of the uses specified below. Such uses shall occupy a minimum of 40 feet in depth, measured from the street facing façade of the building.

1. Bars

2. Cultural facilities

~~**1.** Retail as permitted in the B-3 zone.~~

~~**2.**~~**3.** General services~~.~~

4. Governmental uses

~~**3.**~~**5.** Hotels~~.~~

~~**4.** Restaurants as permitted in the B-3 zone.~~

~~**5.** Bars.~~

6. Low-impact industrial, provided that only retail sales of products produced on site, or eating and drinking areas shall be located within the required active use area.

7. Restaurants, including food preparation areas visually oriented toward the street.

8. Retail

9. Specialty food services, provided that only retail sales of products produced on site, or eating and drinking areas shall be located within the required active use area.

10. Studios for artists and craftspeople.

~~**6.**~~**11.** Theaters and performance halls, provided that only ticket and refreshment sales, lobbies, lounges and entrances shall be located within ~~this~~the required active use

area.

~~7. Cultural facilities.~~

~~8. Governmental uses.~~

~~9. Studios for artists and craftspeople including, but not limited to, carpenters, cabinetmakers, and silk screeners.~~

~~10.~~12. Other uses ~~where~~may be allowed, provided the applicant can demonstrate to the Building Authority that the proposed use ~~will not differ~~is substantially ~~from~~similar to a ~~required ground floor retail~~ use ~~in its effect on the continuity of pedestrian-oriented use and that the proposal establishes a ground floor use that generates~~listed above and will generate pedestrian interest and activity.

B. First floor windows shall be transparent with uses visible from the public right-of-way.

~~G.~~C. For ~~those~~ buildings ~~which~~that have frontage on more than one street located within the PAD overlay zone, the ~~street level area of each such frontage shall meet the above~~ above requirements apply to each frontage.

In no event shall any required active use area be used for storage or service entrances, including loading docks, dumpsters and compactors, except as provided in Subsection 8.5.4.

~~8.7.2~~8.5.3 Conditional uses

Any use permitted in the B-3 ~~and B-3b~~ zone may be authorized as a conditional use subject to the floor area and transparency requirements of Subsection 8.~~7.1~~5.2, provided that the Planning Authority shall be substituted for the Board of Appeals as the reviewing authority. Such uses shall meet the general conditional use standards of Section 6.5.2, and the following conditions and standards:

~~H.~~ The applicant ~~can~~shall prove by competent evidence (including but not limited to reliable documentation of advertising, real estate

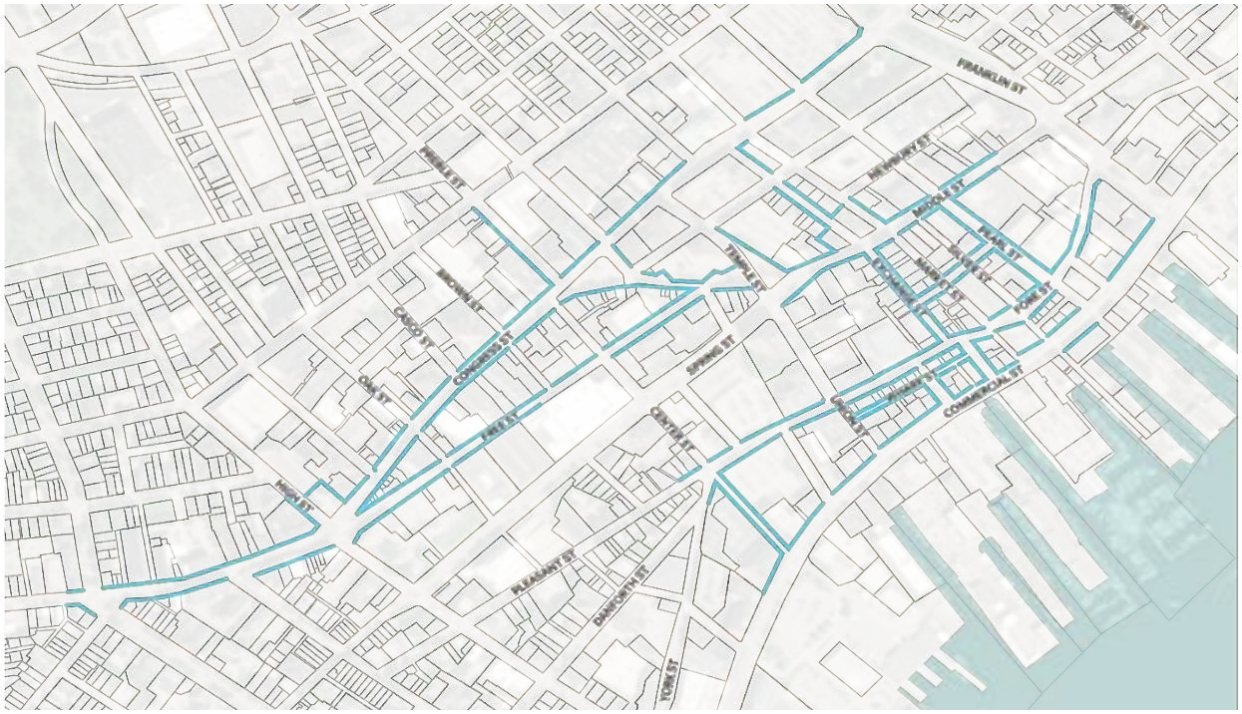

FIGURE 8-H: PEDESTRIAN ACTIVITIES DISTRICT (PAD) OVERLAY

brokerage efforts, and other sales mechanisms) that the space has been actively marketed, and, in the case of new construction, available for permitted uses in the PAD Overlay Zone for a period of six months and that it has been unable to market the space for a permitted use in accordance with Subsection 8.~~7.1.~~

~~I.~~A. ~~The approval of any conditional use under this subsection shall be for the specific tenant proposed for the conditional use approval and shall not run with the space to subsequent tenants. A conditional use approval shall expire at the end of each tenant's use, and a new approval shall be required for new tenants. However, where a conditional use has been approved under this subsection and the term of the effected tenancy is five years or less, the tenant may sublet the area for the approved conditional use which approval may run with said lease but may not be extended without review by the Planning Authority.~~5.2.

~~J.~~B. The Planning Authority may impose reasonable conditions concerning the design, appearance, use, and extent of use of the space along the street frontage to ensure maximum pedestrian compatibility and interest.

~~K.~~C. Notwithstanding the above, the Planning Authority may authorize a reduction in the percentage of required ground floor pedestrian-oriented uses where the physical limitations of an existing building so require. Any such reduction shall be the least necessary to provide relief and shall include mitigating design factors.

~~L. The Planning Board shall adopt rules and regulations governing the Planning Authority's review of an applicant's marketing efforts under this subsection.~~

~~8.7.3 Prohibited uses~~

~~In no event shall any required retail frontage area be used for any of the following:~~

~~M.~~a. Storage.

~~N. Service entrances, including loading docks, dumpsters and compactors, except as provided in Subsection 8.7.4.~~

~~O. Food preparation areas, unless such preparation areas are visually oriented toward pedestrians on streets located within a PAD Overlay Zone.~~

~~8.7.4~~8.5.4 Exceptions

For ~~those~~ buildings ~~which~~that have 40 feet or less of frontage on a street within the PAD Overlay Zone, the ground floor area requirements for permitted uses under Subsection 8.~~7.1~~5.2 shall be reduced to 50% of the frontage where required to accommodate a service entrance. For buildings ~~which~~that have frontage on more than one street located within a PAD Overlay Zone, only one such frontage shall be permitted to reduce the required ~~retail~~active use area to 50% of the frontage.

~~8.7 STREAM PROTECTION OVERLAY (S-P)~~

~~8.5.1 Purpose~~

~~The purpose of the Stream Protection Overlay Zone is to preserve and protect significant streams outside of the Shoreland Zone by providing a buffer from land development activities in order to conserve stream channel capacity and to minimize siltation and stream bank erosion.~~

~~8.5.2 Applicability~~

~~The Stream Protection Overlay Zone includes all land areas within 75 feet, horizontal distance, of the normal high-water line of a stream as shown on the~~

~~City of Portland zoning map. These standards apply only to areas within the Stream Protection Overlay Zone. Streams within the Shoreland Zone are subject to the provisions of Article 11.~~

~~**8.5.3 Development standards**~~

~~**A. Minimum building setback from normal high-water line of stream:** 75 feet. Notwithstanding this requirement, when a lot is a lot of record under Subsection 4.3.1 or cannot otherwise meet the setback requirement of this subsection due to physical limitations of the site, the Planning Board may approve a reduction of the setback requirement for a principal structure to the least amount necessary to achieve a building dimension of 28 feet, provided that the setback is not reduced to less than 40 feet. Structures in existence on June 15, 1992 may be expanded once during the lifetime of the structure up to 25 feet toward a stream or tributary stream, provided that the setback is not reduced to less than forty 40 feet and the floor area or volume is not increased by more than 30%.~~

~~**B. Filling of material.** Filling of material within a Stream Protection Zone shall require site plan review under the provisions of Article 14.~~

~~**C. Minimum parking setback from normal high-water line of stream:** 75 feet. Notwithstanding this requirement, the Planning Board may reduce the parking setback where the required setback cannot be met to the least extent necessary, provided that such setback shall not be less than the setback of the principal structure from the stream.~~

~~8.8~~8.6 ~~UNIVERSITY OF SOUTHERN MAINE~~ OVERLAY

~~8.9.1~~8.6.1 ~~Purpose~~

The intention of the University of Southern Maine Overlay Zone is to establish an overlay zone in which an existing university campus can be continued and reasonably expanded within defined boundaries, in addition to those uses permitted in the underlying zone or zones. The purpose of this section is to recognize the unique qualities of a university campus while at the same time protecting the value and integrity of established neighborhoods.

~~8.9.2~~8.6.2 ~~Location and applicability~~

The University of Southern Maine Overlay Zone is intended to encompass and define the University of Southern Maine campus west of Forest Avenue. Properties in the University of Southern Maine Overlay Zone shall continue to be governed by the regulations applicable to the underlying zone except as specifically modified by this section.

~~8.9.3~~8.6.3 ~~Permitted uses~~

A. In addition to the permitted uses allowed in the underlying zones and notwithstanding anything to the contrary in the use regulations for the underlying zones, post-secondary schools and university uses are permitted in the University of Southern Maine Overlay Zone, including, but not limited to:

1. Classrooms.
2. Laboratory and research facilities.
3. Student unions.
4. Dining halls.
5. Bookstores.
6. Auditoriums.
7. Concert and lecture halls.

8. Gymnasiums.
9. Libraries.
10. Outdoor use areas, such as "quads", greens, parks, gardens, art installations, and other active and passive noncommercial recreation spaces.
11. Faculty and student housing.
12. Parking lots and garages.
13. Community meeting spaces.
14. Administrative and faculty offices.
15. Transportation facilities.
16. Maintenance facilities.
17. Utility buildings.
18. Student health services.
19. Daycare facilities, nursery schools ~~and kindergartens operated in conjunction with university programs or serving students, faculty or employees of the university and their families, with associated outside play areas.~~, and kindergartens.
20. Other buildings, structures and uses customarily incidental to a university.

B. On lots fronting on Chamberlain Avenue and Exeter Street, university uses shall be limited to faculty housing, graduate student housing, faculty offices ~~and administrative offices, and buildings containing such uses shall be designed and maintained so as to complement the residential character of the street as required in Subsection 8.9.9~~, and administrative offices.

~~**C.** No change of use permit shall be required for any of the above uses in actual existence as of the date of enactment of the University of Southern Maine Overlay Zone.~~

~~8.9.4~~8.6.4 Conditional uses

The following uses are permitted as provided in Section 6.5:

~~D.~~**C.** Minor wind energy systems, subject to the standards of ~~Subsection~~subsection 6.4.~~18~~41.

~~8.9.5~~8.6.5 ~~–~~Dimensional requirements

University buildings and structures shall be subject to the dimensional requirements of the underlying zone, except as follows:

A. Minimum setbacks. Minimum setbacks shall be the same as in the underlying zone, except as shown on the University Campus Overlay Setback Map, incorporated herein by reference. Side and rear setbacks shall not be required between buildings on contiguous lots owned by the university on the condition that such contiguous lots shall be considered merged and shall not be separately conveyed unless required setbacks in the underlying zones are provided.

B. Maximum building height. Maximum building height shall be the same as in the underlying zone, except as shown on the University Campus Overlay Height Map, incorporated herein by reference.

C. Minimum building height. All new freestanding buildings in height zone B and height zone C must be built to a height of at least 35 feet or designed and constructed so that they can be expanded to 35 feet or higher. As used in this paragraph, the term "new freestanding building" means any building which is not an addition to or expansion of a building which existed on the date of enactment of the University of Southern Maine Overlay Zone. Minimum building height provisions shall not apply to maintenance

facilities, utility buildings, information kiosks, additions to and/or relocations of designated historic structures, and transportation facilities, including bus shelters, parking attendant booths, and other similar structures.

D. Maximum impervious surface ratio. A maximum of 66% of the total land area within the University of Southern Maine Overlay Zone, exclusive of public streets, shall be impervious.

E. Maximum coverage by buildings. 40% of the total land area within the University of Southern Maine Overlay Zone, exclusive of public streets, shall be covered by building footprint.

~~8.9.6~~8.6.6 ~~–~~Parking

The amount of parking required for any university building or building addition shall be determined by the Planning Board during site plan review, based on an analysis of campus-wide parking demand and supply, pursuant to a comprehensive university parking management plan, and treating all contiguous land (including land on opposite sides of the street) owned by the university as one lot. In determining the amount of parking required for any university building, the Planning Board may take into account such factors as:

A. The availability of off-campus parking and shuttle transportation to and from such off-campus facilities.

B. The ratio of commuter students to resident students.

C. The use of centrally located on-campus parking facilities so situated that students, faculty, staff and visitors arriving on campus can reasonably be expected to park in the central facilities and walk to their various on-campus destinations during the course of a school day.

D. Shared use of a single parking facility by two or more buildings when the peak parking demand period for such buildings do not overlap.

E. Development and implementation of a parking management plan which discourages on-street parking. On-street parking shall not be used to satisfy the university's parking demand.

F. Development and implementation of programs designed to reduce the number of automobiles parking on campus, such as ride share programs and incentives for use of bicycles and public transportation.

~~8.9.7~~8.6.7 ~~-~~Loading

The amount of loading area required for any university building shall be determined by the Planning Board during site plan review, based on a campus-wide analysis, treating all contiguous lots owned by the university as one lot. In determining the amount of loading space required for any university building, the Planning Board may take into account such factors as:

A. The use of centrally located on-campus loading facilities so situated that vehicles making deliveries can load and unload in the central facilities, provided no single location is overburdened with loading facilities.

B. Shared use of a single loading facility by two or more buildings.

C. Impacts of the loading area on adjacent uses outside the University of Southern Maine Overlay Zone.

~~8.9.8~~8.6.8 Signage

Signs shall comply with the requirements of Article ~~20~~19, except as those regulations are modified or augmented below:

A. Signs shall be designed in accordance with

signage standards promulgated by the university, providing for a unified and ADA-compliant campus-wide system for identification, orientation, and regulatory signage.

B. Banners are allowed as follows:

1. Generic banners containing the logo and colors of the university, used for decorative purposes.

2. Banners used for advertising university events, which can be displayed for a maximum of four weeks prior to and one week following the event.

~~8.9.9~~8.6.9 Design principles and standards

All development in the University of Southern Maine Overlay Zone is subject to the requirements contained within the City of Portland *Design Manual*.

~~8.6.10 Campus housing~~

~~For any development requiring major site plan review, the university shall submit to the Planning Board a campus housing analysis. The analysis shall include a description of housing demand and supply at the time of the application, a projection of housing demand expected to arise from the proposed development and/or as a result of program changes anticipated to occur concurrently with the proposed development, and a description of how the university intends to meet any increased housing demand through on-campus housing, off-campus housing developed by the university, and/or off-campus housing developed by others.~~

~~8.6.11 Required review for change of use, additions, and renovations~~

~~In the case of properties fronting Chamberlain Avenue, Exeter Street, and the northerly side of Bedford Street from Surrender Street to Deering Avenue, minor site plan review shall be required of all changes of use and all building additions and renovations affecting an area equivalent to 25% or more of the existing floor area of a structure, unless major site plan review is otherwise required under Article 14.~~

~~8.9~~8.7 WAYNFLETE SCHOOL OVERLAY

~~8.10.1~~8.7.1 Purpose

The intent of this section is to establish a Waynflete School Overlay Zone which protects the value and integrity of established residential neighborhoods, establishes clearly defined boundaries beyond which residential conversions cannot occur and results in no net loss of dwelling units, while allowing Waynflete School, an existing private day school, to continue and reasonably augment its existing uses and programs, thereby maintaining compatible development at medium densities appropriate to the existing neighborhood patterns. As used in this section, the term "Waynflete School" includes any successor institution that operates as a private day school.

~~8.10.2~~8.7.2 Location and applicability

The Waynflete School Overlay Zone, as shown on the zoning map, is intended to encompass and define Waynflete School's principal campus on the Portland peninsula. Properties in the Waynflete School Overlay Zone shall continue to be governed by the regulations applicable to the underlying zone except as specifically modified by this section.

~~8.10.3~~8.7.3 Subdistricts

The Waynflete School Overlay Zone consists of two

subdistricts. Except where otherwise specified in this Section 8.~~10~~7, all provisions of this Waynflete School Overlay Zone apply in both subdistricts. The subdistricts, as shown on the Waynflete School Overlay Zone subdistrict map, incorporated herein by reference, are as follows:

A. The Campus Core subdistrict defines the interior core of the campus and is intended to allow compact development of school uses, with specific space and bulk regulations designed to accommodate school uses.

B. The Campus Edge subdistrict is intended to preserve residential character along the streets bordering the campus by limiting the amount of residential space which can be converted to school uses, by maintaining a number of dwelling units within the subdistrict which equals the number of dwelling units existing in the subdistrict at the time of enactment of this Overlay Zone, and by encouraging mixed-use buildings along the street frontages. The space and bulk regulations of the ~~R-4~~RN-3 zone continue to apply within the Campus Edge subdistrict.

~~8.10.4~~8.7.4 Permitted uses

In addition to the permitted uses allowed in the underlying zones and notwithstanding anything to the contrary in the use regulations for the underlying zones, the following uses are permitted in the Waynflete School Overlay Zone:

A. **School uses.** Elementary, middle and secondary school uses including, but not limited to, the following:

1. Classrooms.
2. Laboratory facilities.
3. Dining halls.
4. Auditoriums.
5. Concert and lecture halls.
6. Gymnasiums.
7. Libraries.
8. Outdoor use areas, such as "quads", greens, parks, gardens, art installations, and other active and passive recreation spaces.
9. Parking lots and structures.
10. Community meeting spaces.
11. Administrative and faculty offices.
12. Transportation facilities.
13. Maintenance facilities.
14. Utility buildings.
15. Student health services.
16. Bookstores.
17. Accessory uses which are customarily incidental and subordinate to the location, function and operation of a private day school.

B. **Residential uses.** Faculty or staff housing, which shall be considered a residential use, and not a school use, for all purposes under this overlay zone.

~~8.10.5~~8.7.5 Prohibited uses

A. Boarding schools.

B. Dormitories.

~~8.10.6~~8.7.6 Residential conversions prohibited

A. Conversions of existing residential buildings within the Waynflete School Overlay zone shall be prohibited.

B. The existing houses at 11 Fletcher Street, 3 Storer Street, 305 Danforth Street, and 299 Danforth Street shall not be relocated from their locations existing as of January 20, 2010. This provision shall not apply to garages.

C. At no time shall the number of dwelling units

within the Waynflete School Overlay Zone be reduced below four (the number existing at the time of enactment of this Overlay Zone).

~~8.10.7~~8.7.7 Dimensional requirements

Buildings and structures in the Waynflete School Overlay Zone shall be subject to the applicable dimensional requirements of the underlying zones, except as follows:

A. Minimum setbacks shall be the same as in the underlying zone, except that side and rear setbacks shall not be required between buildings on contiguous lots owned or occupied by Waynflete School on the condition that such contiguous lots shall be considered merged and shall not be separately conveyed unless required yard dimensions in the underlying zones are provided.

B. Minimum street frontage shall be the same as in the underlying zone, except that all the land within the Waynflete School Overlay Zone owned or occupied by Waynflete School shall be considered a single lot for the purpose of complying with minimum street frontage.

C. Maximum coverage by buildings shall be the same as in the underlying zone, except that in the Campus Core subdistrict the maximum coverage by buildings shall be 40% and all the land within the Campus Core subdistrict owned or occupied by Waynflete School shall be considered a single lot for the purpose of calculating maximum coverage by buildings.

~~8.10.8~~8.7.8 Parking

The amount of parking required for any change of use, new building, or building addition within the zone shall be determined during site plan review, based on an analysis of school-wide demand and supply, pursuant to a comprehensive school-wide Transportation Demand Management Plan (TDM), and treating all land owned by Waynflete School within the Waynflete School Overlay Zone as one lot. Any existing parking management or TDM plan approved as part of a previous approval shall remain in effect until revised or updated pursuant to this section. In determining the amount of parking required for any building within the Waynflete School Overlay Zone, the Planning Authority or the Planning Board may take into account such factors as:

A. The use of centrally located on-campus parking facilities so situated that students, faculty, staff and visitors arriving on campus can reasonably be expected to park in the central facilities and walk to their various on-campus destinations during the course of a school day.

B. Shared use of a single parking facility by two or more buildings when the peak parking demand periods for such buildings do not overlap.

C. Development and implementation of a parking management plan which discourages on-street parking.

D. Development and implementation of a TDM plan subject to the review and approval of the Planning Authority or the Planning Board. The TDM plan shall employee elements such as public transit initiatives, parking cash-out, car sharing, car and van pooling incentives, provision of bicycle and pedestrian commuting accommodations, guaranteed ride home programs, employee surveys, newsletters, alternative transportation information sharing, and other such strategies that reduce single occupancy vehicle trips to and from Waynflete school. Waynflete School shall follow the standards and guidelines for developing a TDM

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plan found in the TDM section of the City of Portland *Technical Manual*.

~~8.10.9~~8.7.9 Loading

The amount of loading area required for any building within the Waynflete School Overlay Zone shall be determined by the Planning Board during site plan review, based on a campus-wide analysis, treating all land owned by Waynflete School within the Waynflete School Overlay Zone as one lot. In determining the amount of loading space required for any building within the Waynflete School Overlay zone, the Planning Board may take into account such factors as:

A. The use of centrally located on-campus loading facilities so situated that vehicles making deliveries can load and unload in central facilities, provided no single location is overburdened with loading facilities.

B. Shared use of a single loading facility by two or more buildings.

C. Impacts of the loading area on adjacent uses outside the Waynflete School Overlay Zone.

~~8.10.10~~8.7.10 Signage

Signs shall comply with the requirements of Article ~~20~~19.

~~8.10.11~~8.7.11 Restrictions

Notwithstanding the conditional use provisions for institutional uses within the ~~R-4~~RN-3 or ~~R-6~~RN-5 zones, Waynflete School cannot locate a school use listed in Subsection 8.~~10~~7.4 on any lot in the ~~R-4~~RN-3 or ~~R-6~~RN-5 zones outside the boundaries of the Waynflete School Overlay Zone that was occupied by a residential use or structure on or after January 20, 2010. This restriction does not prevent Waynflete School from seeking a conditional use permit for a school use, where otherwise allowed by the zoning regulations, on lots outside the Waynflete School Overlay Zone that were not occupied by a residential use or structure on or after January 20, 2010.

9 FORM-BASED ZONES

9.1 INDIA STREET FORM-BASED ZONE

9.1.1 Purpose

The India Street Form-Based Code is different than traditional zoning, placing the primary emphasis on a building's physical form and its relationship to the street, and de-emphasizing land use. The intent of the India Street Form-Based Code Zone is to establish a zone that encourages a vibrant, walkable, mixed-use urban district, preserves and values the existing historic neighborhood fabric, and fosters and supports local businesses and residential areas. The goal of the India Street Form-Based Code is the creation and preservation of an active and human-scale public realm and the reinforcement of existing neighborhood character through good ~~street space~~streetscape design. The components of the form-based code include the guiding principles, Regulating Plan, subdistricts, general development standards, dimensional requirements, building design standards, diagrams, and definitions.

9.1.2 General guiding principles

The general guiding principles set forth here shall be applicable to all subdistricts within the India Street Form-Based Code Zone:

A. The street is a coherent space, with consistent building and streetscape character on both sides of the street. This agreement of buildings and streetscape across the street contributes to a clear public space and district identity.

B. The street wall is visually well defined. Land should be clearly public or private. Buildings contribute to the vital and safe public space while providing a clear boundary to the private, protected realm.

C. Street walls are engaged with the street environment. Buildings are inviting places that interact with and contribute to the street vitality. Inactive edges, vehicle storage, garbage, and mechanical equipment should be kept away from the street. Shared infrastructure, to the extent practicable, including, but not limited to, service alleys, parking areas, stormwater treatment, public transportation facilities, and driveways, shall be utilized.

D. Buildings are designed for the urban environment. Buildings must be designed for the urban situation within the subdistrict which often includes mixed-uses. Buildings are positioned near the street and facades are oriented to the street.

E. Respect historic character. If a property is within the India Street Historic District, Article 16~~7~~ is applicable. New construction, building additions, or alterations in the India Street Historic District shall reflect and complement the character-defining features and elements of the existing historic development to which it is visually related.

9.1.3 Applicability

A. The requirements set forth in this Section 9.1 shall apply to all new development, primary and accessory structures, including building additions within the India Street Form-Based Code Zone as designated on the India Street Regulating Plan.

B. A ~~partial~~ waiver of the requirements listed below may be granted if it can be demonstrated to the satisfaction of the

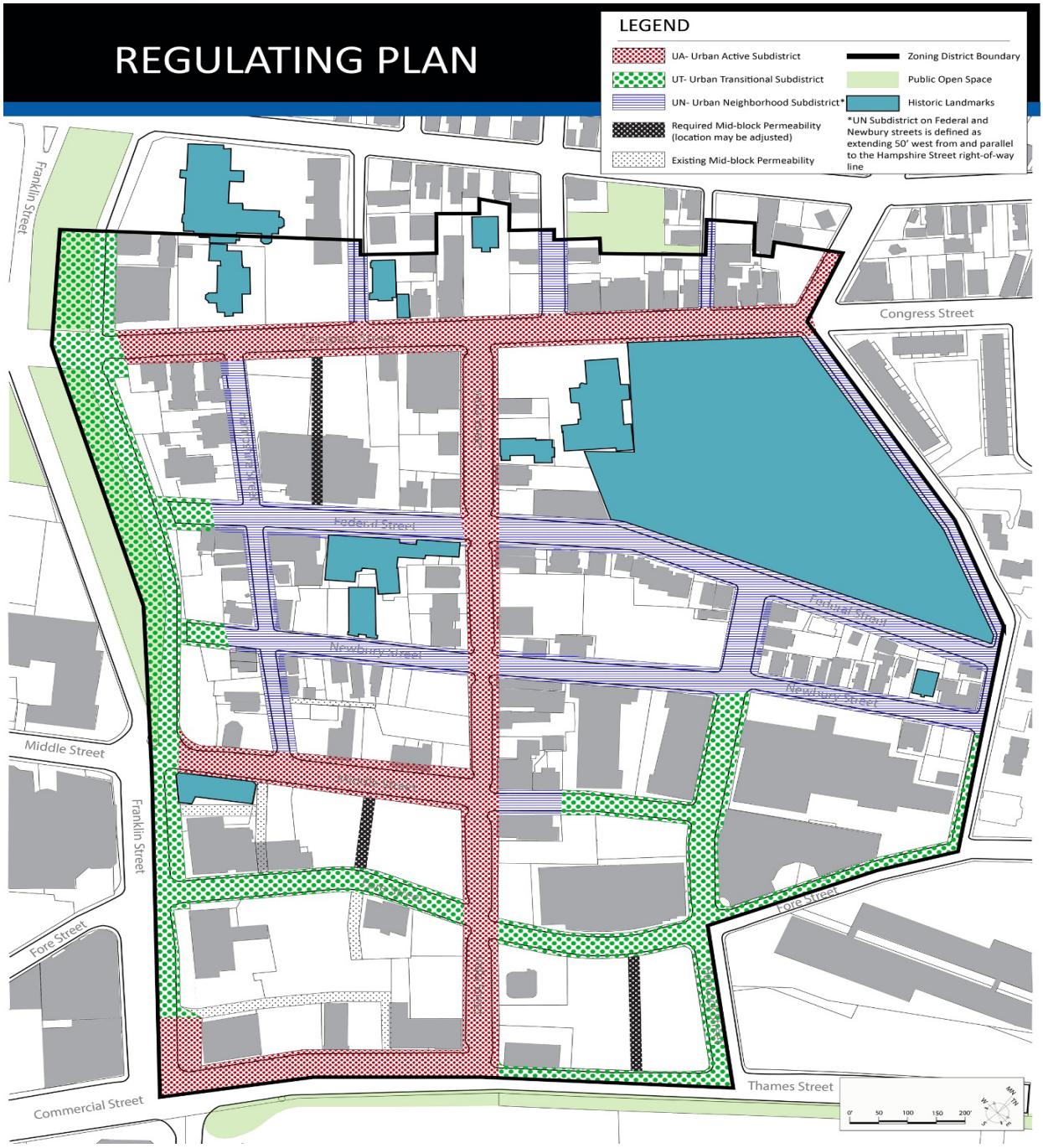

FIGURE 9-A: IS-FBC REGULATING PLAN

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Planning Authority that the requirements in Subsection 9.1.3(C) below have been met:

1. Building orientation.
2. Blank façade length (max.).
3. Fenestration, ground floor facade area.
4. Building entry frequency, orientation, or elevation.
5. Garage door setback or width.
6. Additional building length – ground floor partition or module requirements.

C. A ~~partial~~ waiver request must meet the following requirements:

1. The intent of the IS-FBC ~~zone~~Zone as stated in Subsections 9.1.1 and 9.1.8.
2. Be the least adjustment necessary to satisfy the practical, programmatic, or functional needs of the proposed development.
3. At least one of the following applies:
   - **a.** The proposed zoning alternative better achieves the zone and subdistrict intent.
   - **b.** The zone or subdistrict intent will not be met by applying the requirement in this particular circumstance.
   - **c.** There is a legal or practical necessity or unique conditions.
   - **d.** Unique site factors make the zoning requirement impractical or cost prohibitive.

9.1.4 Establishment of subdistricts

The India Street Form-Based Code Zone as shown on the Regulating Plan is divided into three subdistricts:

A. Urban Neighborhood (UN) Subdistrict.
B. Urban Transitional (UT) Subdistrict.
C. Urban Active (UA) Subdistrict.

9.1.5 Regulating Plan

The Regulating Plan shows the location of the zone boundary and subdistricts subject to regulation by the IS-FBC ~~zone~~Zone.

~~9.1.6 Definitions~~

~~Terms used throughout this India Street Form-Based Code Zone may be defined in Article 3 or in Article 7. Terms not so defined shall be accorded their commonly accepted meanings. In the event of any conflict between the definitions in this section and those in Article 3, Article 7, or any other local land use ordinances, rules, or regulations, those of this India Street Form-Based Code Zone shall take precedence. For reference, terms are illustrated in Figure 9-B.~~

~~**Building, accessory.** A detached structure that is incidental and subordinate in area and extent, and/or use to the principal building(s) on the property. A lot may have more than one accessory building.~~

~~**Building addition.** Any increase to footprint or volume of an existing structure.~~

~~**Building, principal**. The main structure(s) on a lot having the predominant area and extent, and/or use. A lot may have more than one principal building.~~

~~**Buildings, attached**. Two or more independent buildings that share at least one common party wall but have full building separation and independent principal entries; not free-standing. Attached buildings may or may not have common ownership.~~

~~**Building Design Standard (BDS).** The basic design parameters governing building form, including~~

intent, guidelines, and standards for architectural elements such as proportion, articulation, fenestration, entries, roof lines, and materials.

Elevation. An exterior wall of a building not along a frontage line.

Entrance, principal. The main point of access for pedestrians into a building. A building may have more than one principal entrance.

Façade. Any exterior wall of a structure exposed to public view from a public right-of-way.

Façade, blank. A building façade that contains expanses of wall area with no windows, no entrances, no articulation, and no other elements or features, or is otherwise undifferentiated.

Green roof. A roof of a building that is partially or completely covered with vegetation and designed to meet the Maine Stormwater Best Management Practices Manual standards and recommendations. A green roof installation must serve the purpose of reducing stormwater runoff through retention or slowing and consist of an assembly that at a minimum includes a root repellent system, a drainage system, a filtering layer, a growing medium and plants, and shall be installed on a waterproof membrane. The vegetated area of a green roof may be considered pervious for zoning impervious calculations.

Mid-block permeability. A continuous, open-air corridor at least 20' in width that connects two streets or public rights-of-way and physically provides a break in the street wall. The corridor must be unobstructed and open to the sky for the majority of its length.

Party wall. Any partition wall common to two adjacent or attached buildings.

Regulating plan. A zoning map that shows the boundary of the area and subdistricts subject to regulation by the India Street Form-Based Code.

Stepback. A building setback of a specified distance measured from the ground floor building face that occurs at a prescribed number of stories or height above the ground and excludes the minimum necessary housing of elevators, stairways, tanks, fans, or other building operating equipment not intended for human occupancy.

Yard, side. A yard adjoining a side lot line extending from the front yard to the rear yard, the width of which shall be the shortest horizontal distance between the side lot line and any structure. On corner lots, non-frontage yards shall be considered side yards.

Zero lot line. The location of a structure on a lot such that one or more of the structure sides rests directly on a lot line.

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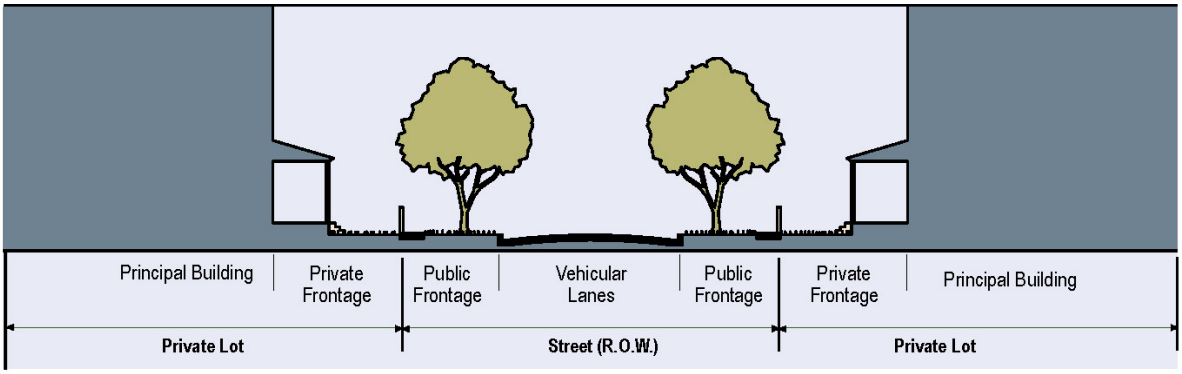
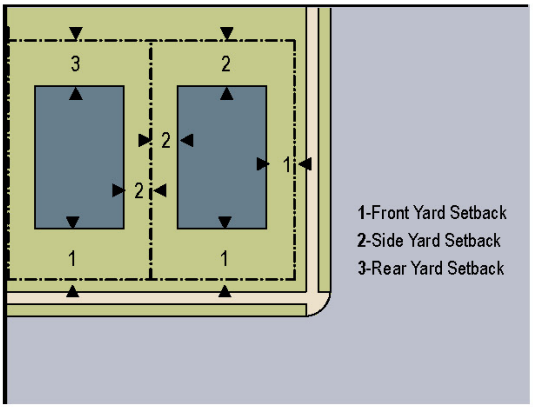
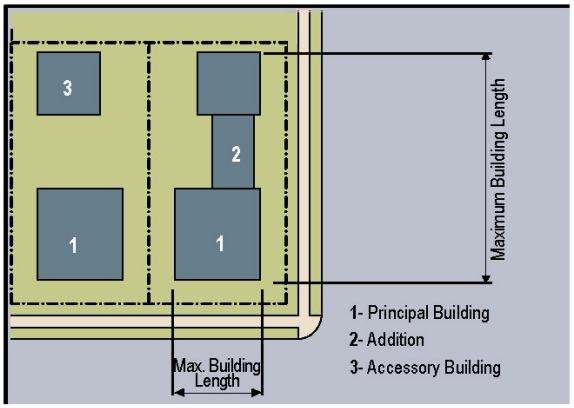
STREETS & FRONTAGES



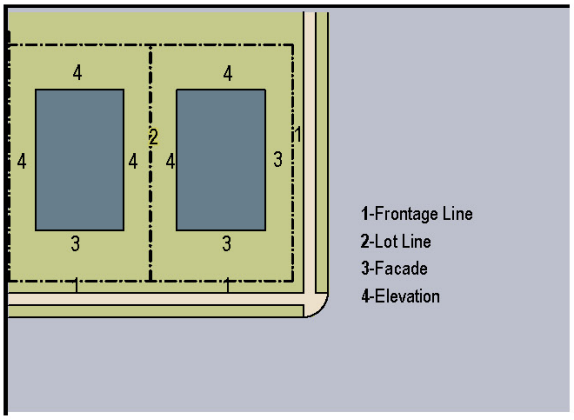
SETBACK DESIGNATIONS



BUILDING - PRINCIPAL & ACCESSORY



FRONTAGE & LOT LINES



~~FIGURE 9-B: IS-FBC TERMS ILLUSTRATED~~

~~9.1.7~~9.1.6 General development standards

A. Prohibited uses

1. Correctional pre-release facilities.
2. Funeral homes.
3. Drive-through facilities.
4. High-impact industrial uses.
5. Auto service stations.
6. Truck terminals.
7. Recycling and solid waste disposal services.
8. Storage and parking facilities for Class 1 flammable and combustible liquids (having an aggregate total of more than 100 gallons) but excluding storage that is part of a motorized vehicle or pleasure craft facility.

B. Performance standards. All uses permitted within this Article 9 shall conform to the mixed-use and B-2/B-2b zone performance standards established in Section 6.8. Where no zone is specified in Section 6.8, the performance standard applies.

~~B.~~C. Siting standards

1. *Mid-block permeability*
   - **a.** On lots with frontage on two streets roughly parallel to Commercial/Thames Street, for each and every 200 feet in street line length of lot, a full break between structures of at least 20 feet in width shall be provided roughly perpendicular to Commercial/Thames Street and within the middle third of the applicable street frontage. (See Figure 9-~~G~~F.)
   - **~~b.~~** Is encouraged in any location that connects existing public or private alleys, passages, or streets.
   - **~~c.~~b.** Any development providing mid-block permeability with public access in the form of a continuous path of travel with a minimum clear width of 10 feet between two streets is eligible for one additional story of up to 12 feet in height under the provisions of Subsection 9.1.~~7(C~~6(D). Public access shall be defined through a legal agreement such as an easement or license.
   - **~~d.~~c.** ~~Refer to Regulating Plan for identified required~~For locations where mid-block permeability ~~locations~~is required, refer to the Regulating Plan.
2. *Frontage requirements*
   - **a.** Minimum street frontage: 30 feet
   - **b.** Building length measurement shall not include porches, decks, or balconies that are appended to the principal structure.
   - **c.** In the case of a corner lot or lot bounded by at least three streets,

TABLE 9-A: ADDITIONAL BUILDING LENGTH

Subdistrict	Attached Buildings	Ground Floor Partitions	Massing Variation	Structured Parking Exception
UN	~~unlimited~~Unlimited run	Not allowed	Not allowed	Not allowed
UT	~~unlimited~~Unlimited run	200 ft. max. length; 2 modules	200 ft. max. length	200 ft. max. length
UA	~~unlimited~~Unlimited run	150 ft. max. length; 3 modules	Not allowed	150 ft. max. length

maximum building lengths may not be exceeded in order to meet front yard setbacks.

d. Additional building length is allowed beyond the maximum building length under the following circumstances and according to Table 9-A:

i. Attached buildings: An unlimited number of attached buildings having up to 30 feet of street-facing building length is allowed. A party wall condition is required at least every 30 feet and for the entire height of each building. (See Table 9-A Additional Building Length – Attached Buildings.)

ii. Ground floor partitions: Additional building length is permitted with the provision of ground floor partitions where the following conditions are met. (See Table 9-A Additional Building Length – Ground Floor Partitions.):

a) Partitions must extend from the facade at least 2/3rds of the building depth.

b) Partitions must be architecturally expressed on the building exterior.

c) Each module created by partition must have at least one functional, street-facing entry.

d) Modules created by partition shall be sized to have reasonable function and proportion in relation to overall building length.

e) In the UA subdistrict, number of modules are required based on building length. In a building with a length greater than 50 feet but less than 100 feet, at least two modules are required. In a building with a length greater than 100 feet but less than or equal to 150 feet, at least three modules are required.

f) Massing Variation: Additional building length is permitted where at least 30% and up to 40% of the total façade building length is set back at least 20 feet. (See Table 9-A Additional Building Length – Massing Variation.)

g) Structured Parking Exception: Additional building length for one facade without partition walls is allowed for the use of ground-level structured parking.

3. *Setbacks*

a. Lots with a street frontage of less than 35 feet are exempt from providing side

TABLE 9-B: WALL/FENCE DIMENSIONAL REQUIREMENTS

Location	Height	Visual Permeability
Within front yard	6 ft. max.	Required above 2 ft. from sidewalk grade
Side or rear yard	8 ft. max.	n/a

yards but only where required yard is perpendicular to the frontage that is less than 35 feet.

b. Where new construction or building additions create a side yard of less than five feet, a maintenance easement is required where a combination of the side yard and easement must be at least five feet. Party wall conditions are exempt from providing a maintenance easement. Corner lots may only apply the side yard reduction to one required side yard.

c. Building facades within 10 feet of a corner are exempt from setback requirements in order to allow special corner architectural treatments.

d. Subdivision developments consisting of horizontally attached buildings on individual lots are not required to have side yards between buildings where a party wall condition will exist, but shall be required to meet the applicable side setbacks at the external and internal subdivision lot boundaries between buildings that are not attached to each other.

4. *Landscaping and screening*

a. Surface parking areas shall be screened from view from sidewalks, public rights-of-way, and public open spaces using landscaping, walls, fencing, or a combination thereof.

b. Walls and fences shall meet the dimensional requirements in Table 9-B.

5. *Building additions*

~~**a.** Building additions which exceed the footprint of the existing building to which it is an addition or which exceeds 50,000 square feet shall be subject to major site plan review.~~

~~**b.** Exemptions~~

~~i. A building addition may not cause the building to exceed the maximum building length requirement except in the case that the building addition is located between a street frontage and an existing building with a legally non-conforming length. In such an instance, a building addition length may match but not exceed the legally non-conforming length of the existing building to which it is an addition. (See Figure 9-G.)~~

ii. Building additions are exempt from story minimums or maximums in order to match existing building in number of stories. All other subdistrict height standards shall apply including height minimum and maximums in feet.

~~C.~~D. Height standards

1. *Height bonus applicability*. Only one height bonus may be applied per structure.

~~1.~~2. If a frontage faces a UT street, UN street, or allowed UA street according to Table 9-C, then the portion of the building facing that street is eligible for a height bonus. For lots with multiple frontages where a frontage faces an ineligible street, bonus story must be stepped back at least 35 feet

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TABLE 9-C: HEIGHT BONUSES

Subdistrict	Pre-Bonus Height (max.)	Mid-Block Permeability[1]	~~Residential Density~~	Green Roof	~~Affordable Housing~~	Height With Bonus (max.)	Bonus Floor Stepback[2] (min.)
UN	45 ft. and 4 stories	n/a	~~n/a~~	n/a	~~1 story up to 12 ft.~~	57 ft. up to 5 stories	15 ft.
UT	65 ft. and 6 stories	1 story up to 12 ft.	~~1 story up to 12 ft.~~	1 story up to 12 ft.	~~1 story up to 12 ft.~~	77 ft. up to 7 stories	15 ft.
UA (Congress Street and Commercial Street only)	50 ft. and 4 stories	1 story up to 12 ft.	~~1 story up to 12 ft.~~	1 story up to 12 ft.	~~1 story up to 12 ft.~~	62 ft. up to 5 stories	15 ft.

[1] Must be publicly accessible in the form of a continuous path with a minimum clear width of 10 feet.
[2] Measured from the ground floor building edge facing any public right-of-way.

from ineligible street line. (See Subsection 9.1.8(D).)

a. ~~Only one height bonus may be applied per structure.~~

~~2.~~3. One additional story of up to 12 feet in height is allowed ~~if one of the following provisions is met:~~

~~a. For residential development with residential density equal to or greater than 150 dwelling units per acre (density may be achieved with the bonus floor).~~

~~For~~for any development providing a green roof, where:

i. At least 50% of the cumulative lot area is pervious.

ii. At least 50% of the cumulative roof area is a green roof. Green roof area may be applied towards the 50% lot area requirement. Maintenance shall be assured by a maintenance plan and maintenance agreement approved by the Planning Authority.

~~For residential development where 20% of the units meet the definition of either "Workforce Housing Unit for Sale" or "Low-income Housing Unit for Rent" as per Article 3.~~

~~3.~~ For affordable housing projects in which over 75% of units are low-income or workforce units, maximum heights may be increased by 12 feet.~~Affordable housing projects shall be subject to the affordable housing bonus provisions of Subsection 17.2.2.~~

~~D.~~E. **Parking standards**

1. Parking shall be provided as per Article 18~~9~~.

~~2. Structured parking must meet the Building Design Standard for structured parking. (See City of Portland *Design Manual.*)~~

~~3.~~2. In the case of a building addition, non-conforming existing surface parking may remain. In the case of new construction, surface parking must be brought into conformance with IS-FBC standards.

9.1.7 Subdistrict dimensional requirements

A. Urban Neighborhood (UN) subdistrict

The intent of this subdistrict is to maintain and promote a small-scale, less active urban fabric. Buildings may be more private in character and have smaller footprints with building types including, but not limited to, single-family, townrowhouses,

SITING STANDARD	SITING STANDARDS	
Orientation - Principal Frontage	Orientation - Principal Frontage	determined by applicant
Lot Coverage	Lot Coverage	90% max
FRONTAGE REQUIRE	**FRONTAGE REQUIREMENTS**	
Building Length - Principal facad	Building Length - Principal facade	50' max.
Building Length - Secondary fa	Building Length - Secondary fac.	50' max.
BLANK FACADE length (max)	BLANK FACADE length (max)	15'
Additional Building Length	Additional Building Length	(see also Table 9-A)
ATTACHED BUILDINGS	ATTACHED BUILDINGS	unlimited run
Ground Floor Partitions	Ground Floor Partitions	not allowed
Massing Variation	Massing Variation	not allowed
Structured Parking Exceptio	Structured Parking Exception	not allowed
SETBACKS	**SETBACKS**	
Principal Building	**Principal Building**	
(a) Front Yard	**(a)** Front Yard	5' max.
Setback Applicability (se Figure 9-G)	Setback Applicability (see Figure 9-G)	75% of total building length must meet front yard setback
(b) Side Yard*	**(b)** Side Yard*	5' min. - May be reduced provided that the cumulative side yards are not less than 10'
(c) Rear Yard	**(c)** Rear Yard	10' min.
Accessory Building Front Yar	**Accessory Building** Front Yard	5' min.
Side Yard	Side Yard	5' min.
Rear Yard	Rear Yard	5' min.
BUILDING ENTRIES (S	**BUILDING ENTRIES (SEE ALSO BDS)**	
Frequency at frontage	Frequency at frontage	at least 35'
Principal Entries	Principal Entries	
Orientation	Orientation	any orientation allowed
Elevated Stoop (> 1 step)	Elevated Stoop (> 1 step)	allowed
HEIGHT STANDAR	**HEIGHT STANDARDS**	
Principal Building	**Principal Building**	
Building Height Min.	Building Height Min.	25', at least 2 stories
Building Height Max.	Building Height Max.	45', up to 4 stories
Accessory Building	**Accessory Building**	
Building Height Max.	Building Height Max.	25'
PARKING STANDA	**PARKING STANDARDS**	
Surface Parking Location	Surface Parking Location	35' min. setback from street
Within Side Yard	Within Side Yard	20' max in width per lot; may not exceed 50% of frontage length
Garage at frontage (attached	**Garage at frontage (attached or detached)**	
Garage Door Setback (mir	Garage Door Setback (min)	5'
Garage Door Opening (ma	Garage Door Opening (max)	9' up to 40% of facade length
		20' max. limit
Notes and Exceptions	Notes and Exceptions	

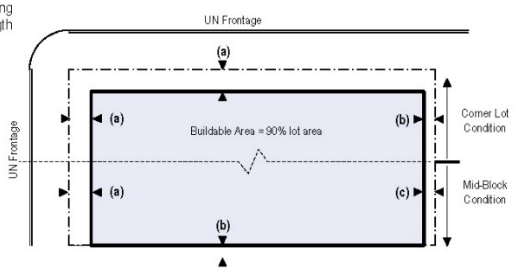
* Reduced side yards and ze conditions (see Subsection

* Reduced side yards and zero lot lines are allowed under certain conditions (see Subsection 9.1.7(B)(3) Setbacks)

UN

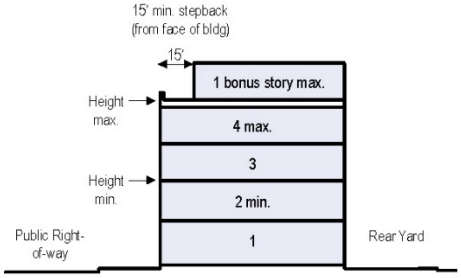
SITING STANDARDS

1. The FACADES and ELEVATIONS of Principal Buildings shall be distanced from the lot lines as shown.
2. FACADES shall be built along the frontage lines to the length specified in the table.



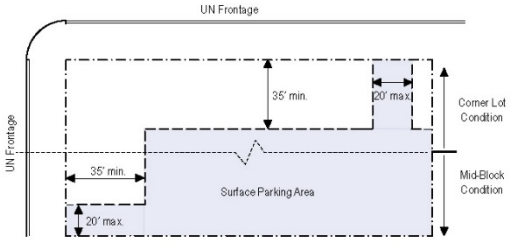
HEIGHT STANDARDS

1. Height shall be measured as specified in Article 7.
2. Number of stories excludes attics and raised basements.



PARKING STANDARDS

1. Surface parking areas may be provided within the shaded area shown.



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duplexes, triple-deckers, and double-triples. Building frontages may be less transparent and entries may be raised above sidewalk level with frontage types including raised, recessed doorways, porches, and stoops. The streetscape has variable setbacks and landscaping with many buildings within one block and streets tend to be narrow.

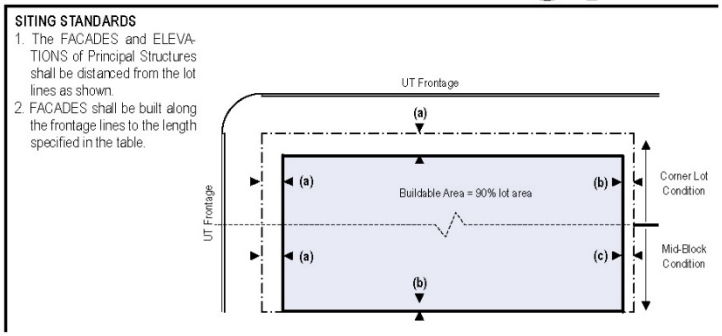
B. Urban Transitional (UT) subdistrict

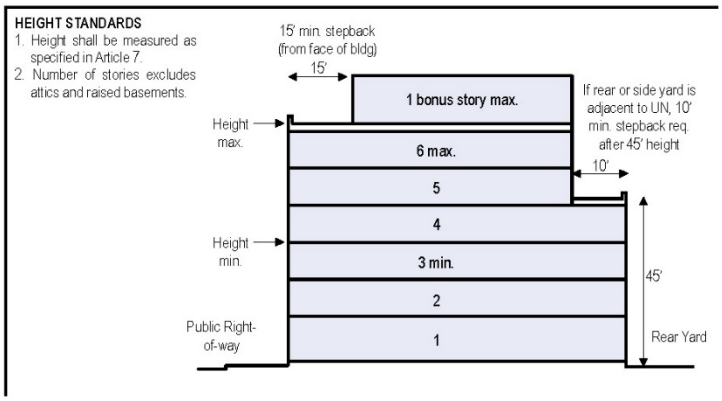
The intent of this subdistrict is to encourage higher density, mixed-use building types that accommodate any use. Building frontages are a mix of activity level, have larger footprints, and the most flexibility of height and scale. Building ground floor spaces tend to accommodate flexible and changing uses with frontage types including doorways,

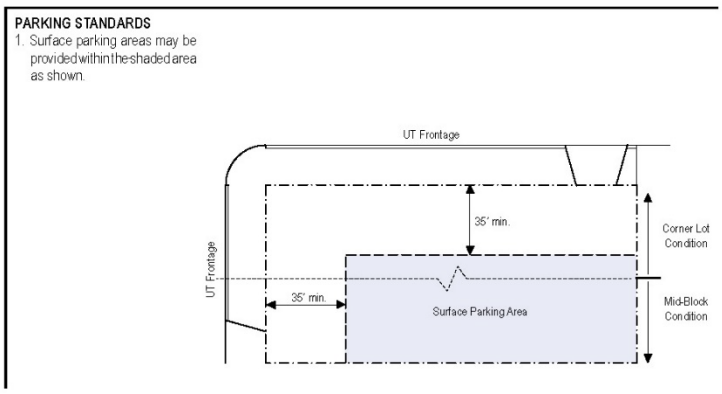
UT

SITING STANDARDS	
Orientation - Principal Frontage	determined by applicant
Lot Coverage	90% max
FRONTAGE REQUIREMENTS	
Building Length	100' max.
BLANK FACADE length (max)	30'
Additional Building Length	(see also Table 9-A)
ATTACHED BUILDINGS	unlimited run
Ground Floor Partitions	200' max., 2 modules
Massing Variation	200' max.
Structured Parking Exception	200' max.
SETBACKS	
Principal Building	
(a) Front Yard	10' max.
Setback Applicability (see Figure 9-G)	75% of total building length must meet front yard setback
(b) Side Yard*	10' min. - May be reduced provided that the cumulative side yards are not less than 20'
(c) Rear Yard	10' min.
(d) STEPBACK (adjacent to UN)	10' min. stepback after 45' height
Accessory Building Front Yard	5' min.
Side Yard	5' min.
Rear Yard	5' min.
BUILDING ENTRIES (SEE ALSO BDS)	
Frequency at frontage	at least 95'
Principal Entries	
Orientation	any allowed
Elevated Stoop (>1 step)	allowed
HEIGHT STANDARDS	
Principal Building	
Building Height Min.	3 stories
Building Height Max.	65', up to 6 stories
Ground Story Height	n/a
Accessory Building	
Building Height Max.	25'
PARKING STANDARDS	
Surface Parking Location	35' min. setback from street
Garage at frontage (attached or detached)	
Garage Door Setback (min)	10'
Garage Door Opening (max)	9' up to 40% of facade length
	20' max. limit
Notes and Exceptions	

* Reduced side yards and zero lot lines are allowed under certain conditions (see Subsection 9.1.7(B)(3) Setbacks)







forecourts, arcades, and storefronts. The streetscape may be less active than the UA subdistrict with wide sidewalks, street trees, and setbacks and stepbacks providing relief from large building masses.

The intent of this subdistrict is to maintain and promote a moderate-scale, diverse, mixed-use neighborhood with vibrant streets and active ground floor spaces. Buildings are more active and engage the street at the ground level. Building

C. Urban Active (UA) subdistrict

UA

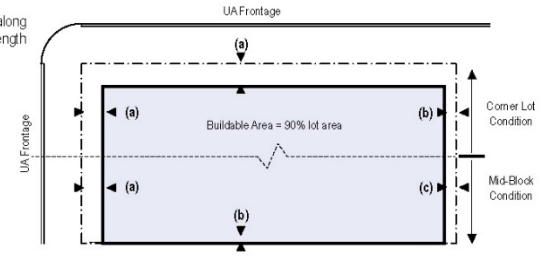
SITING STANDARDS	
Orientation - Principal Frontage	face a UA street
Lot Coverage	90% max
FRONTAGE REQUIREMENTS	
Building Length	50' max.
BLANK FACADE length (max)	15'
Additional Building Length	(see also Table 9-A)
ATTACHED BUILDINGS	unlimited run
Ground Floor Partitions	150' max., up to 3 modules
Massing Variation	not allowed
Structured Parking Exception	150' max.
Fenestration, ground floor	60-90% (see BDS) facade area
SETBACKS	
Principal Building	
(a) Front Yard*	5' max.
Setback Applicability (see Figure 9-G)	75% of total building length must meet front yard setback
(b) Side Yard**	5' min. - May be reduced provided that the cumulative side yards are not less than 10'
(c) Rear Yard	10' min.
Accessory Building Front Yard	5' min.
Side Yard	5' min.
Rear Yard	5' min.
BUILDING ENTRIES (SEE ALSO BDS)	
Frequency at frontage	at least 40'
Principal Entries	
Orientation	at least 1 facing UA street or corner
Elevated Stoop (>1 step)	not allowed
HEIGHT STANDARDS	
Principal Building	
Building Height Min.	3 stories
Building Height Max.	50', up to 4 stories
Accessory Building	
Building Height Max.	25'
PARKING STANDARDS	
Surface Parking Location	35' from street
Garage at frontage (attached or detached)	
Garage Door Setback	20' min. from street
Garage Door Opening (max)	n/a
Notes and Exceptions	

* Up to 10'0" max. front yard setback is allowed if ground plane at frontage is a continuation of the accessible public right-of-way

** Reduced side yards and zero lot lines are allowed under certain conditions (see Subsection 9.1.7(B)(3) Setbacks)

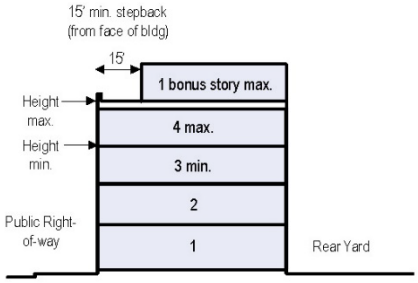
SITING STANDARDS

1. The FACADES and ELEVATIONS of Principal Buildings shall be distanced from the lot lines as shown.
2. FACADES shall be built along the frontage lines to the length specified in the table.



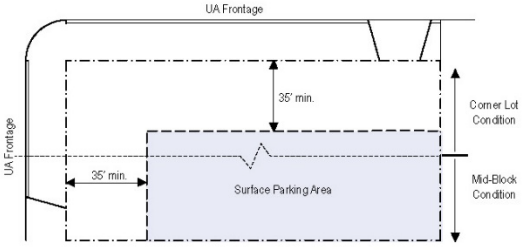
HEIGHT STANDARDS

1. Height shall be measured as specified in Article 7.
2. Number of stories excludes attics and raised basements.



PARKING STANDARDS

1. Surface parking areas may be provided within the shaded area as shown.



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frontages are transparent and entries are at sidewalk level with frontage types including storefronts and recessed doorways. The streetscape has steady street planting, and buildings set close to the street providing a consistent street wall.

D. Corner conditions

For corner lots where two subdistricts intersect at a street corner, the dimensional requirements and

ORIENTATION	ORIENTATION
• Corner lots shall be treated a streets regardless of build	• Corner lots shall be treated as having street frontage on all streets regardless of building orientation
• Principal Building shall desig Secondary Frontage*	• Principal Building shall designate a Principal Frontage and Secondary Frontage*
• In the case of a corner lot ha Frontage must face a UA	• In the case of a corner lot having UA frontage, the Principal Frontage must face a UA street*

SETBACKS	SETBACKS	
(a) Front Yard (1st Lot Layer)	(a) Front Yard (1st Lot Layer)	according to subdistrict
(b) Side Yard	(b) Side Yard	according to subdistrict
Building facades within 10' of a requirements in order to allow	Building facades within 10' of a corner are exempt from setback requirements in order to allow special architectural treatments.	

UA INTERSECTS UT	UA INTERSECTS UT	
Dominant Subdistrict (35' deep)	Dominant Subdistrict (35' deep)	UA
Orientation - Principal Frontage	Orientation - Principal Frontage	UA street
Dominant Building Design Standa	Dominant Building Design Standards (applicable 35' deep)	
Ground Story Height	Ground Story Height	12' min. clear
Fenestration, ground floor	Fenestration, ground floor	60-90% (see BDS) facade area
(measured as a percentage o sidewalk grade)	(measured as a percentage of the FACADE that is 2' above sidewalk grade)	

UA INTERSECTS UN	UA INTERSECTS UN	
Dominant Subdistrict (35' deep)	Dominant Subdistrict (35' deep)	UA
Orientation - Principal Frontage	Orientation - Principal Frontage	UA street
Building Length - UN FACADES	Building Length - UN FACADES	100' max.
Dominant Building Design Standa	Dominant Building Design Standards (applicable 35' deep)	
Ground Story Height	Ground Story Height	12' min. clear
Fenestration, ground floor	Fenestration, ground floor	60-90% (see BDS) facade area
(measured as a percentage of sidewalk grade)	(measured as a percentage of the FACADE that is 2' above sidewalk grade)	

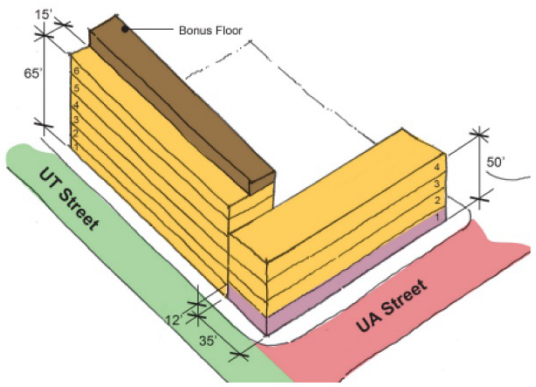
UT INTERSECTS UN	UT INTERSECTS UN	
Dominant Subdistrict (35' deep)	Dominant Subdistrict (35' deep)	UN
Orientation - Principal Frontage	Orientation - Principal Frontage	determined by applicant
• Corner lots shall be treated a streets regardless of build	• Corner lots shall be treated as having street frontage on all streets regardless of building orientation	

UN INTERSECTS UN	UN INTERSECTS UN	
Building Length maximums:	Building Length maximums:	
Principal Frontage	Principal Frontage	30' max.
Secondary Frontage	Secondary Frontage	50' max.

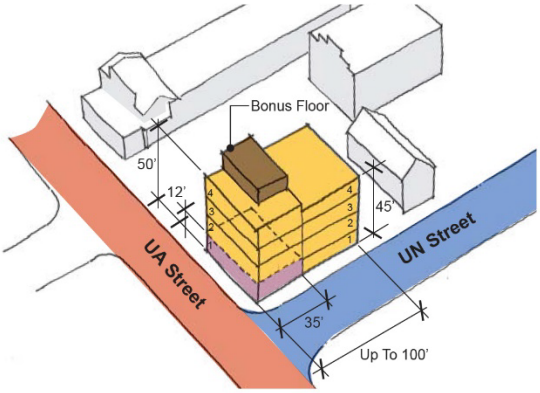
Notes and Exceptions	Notes and Exceptions
* Does not have to correspond to	* Does not have to correspond to legal building address

CORNER

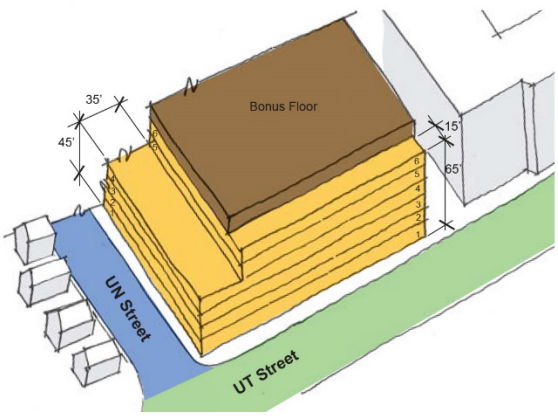
UA INTERSECTS UT
(example only)



UA INTERSECTS UN
(example only)

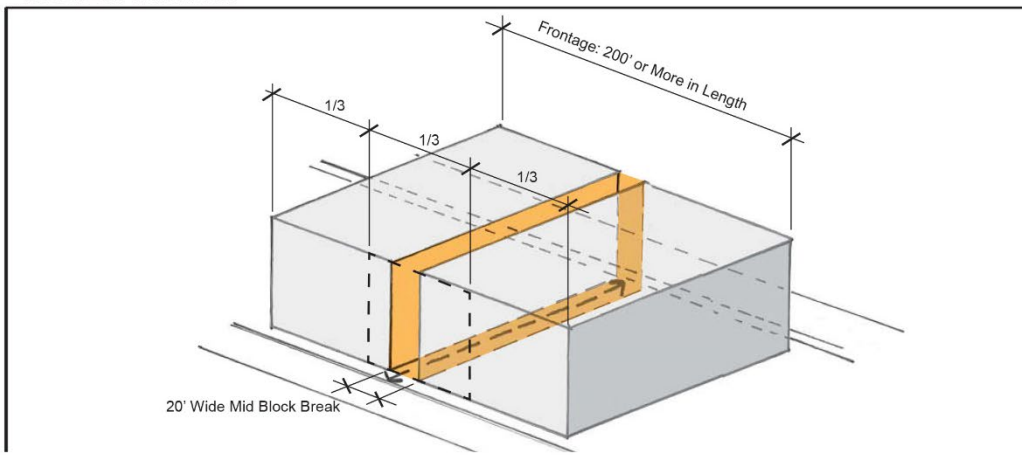


UT INTERSECTS UN
(example only)

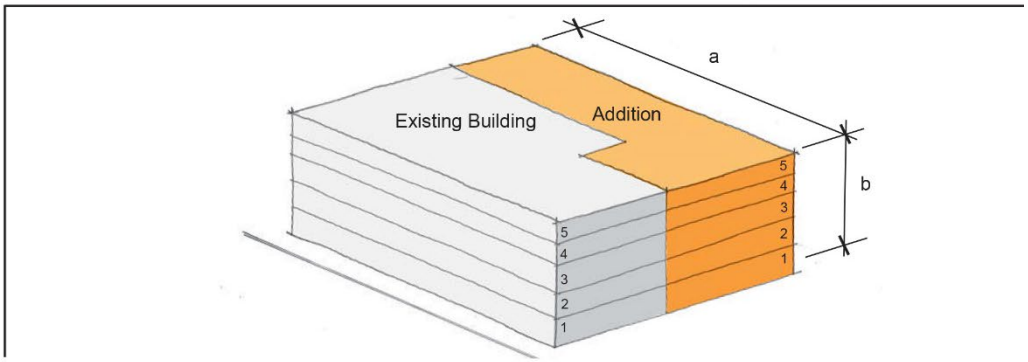


building design standards of the "dominant" subdistrict shall apply 35 feet deep into the lot measured from the dominant lot line along its associated street frontage or public ways including required mid-block permeability. Otherwise, dimensional requirements shall be according to the subdistrict onto which the building façade faces.

MID-BLOCK PERMEABILITY



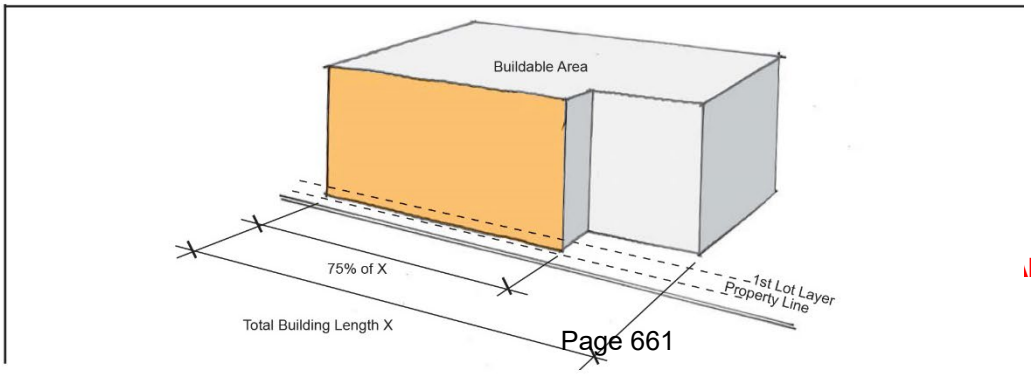
ADDITION



a - Addition length may match but not exceed the length of existing building to which it is an addition. All other Subdistrict Dimensional Requirements apply.

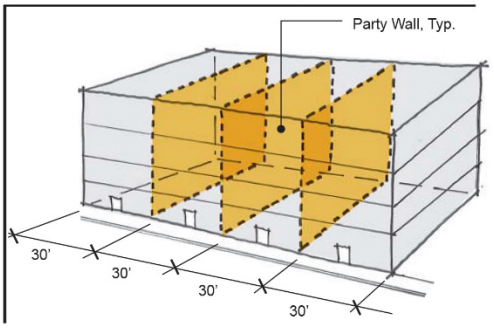
b - Addition height may match existing building in number and height of stories. All other Subdistrict Height Standards apply.

BUILDING LENGTH - 1st LOT LAYER



RD REVIEW

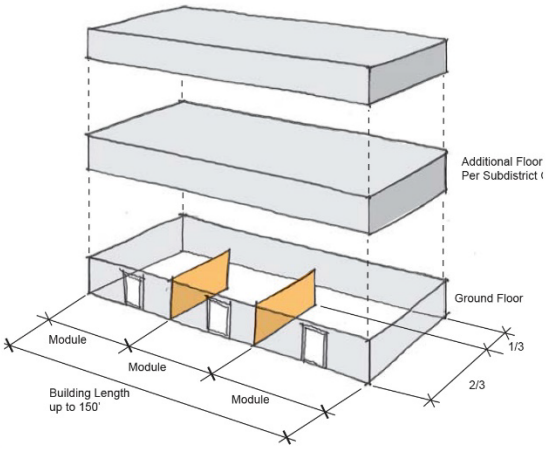
ADDITIONAL BUILDING LENGTH - ATTACHED BUILDINGS



An unlimited number of ATTACHED BUILDINGS having up to 30' street-facing building length is allowed.

A PARTY WALL condition is required at least every 30' and for the entire height of each building.

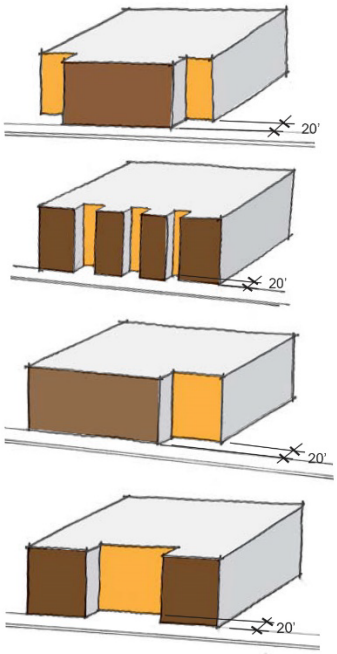
ADDITIONAL BUILDING LENGTH - GROUND FLOOR PARTITIONS (UA)



Additional Building Length is permitted up to 150' with the provision of a least two Ground Floor Partitions

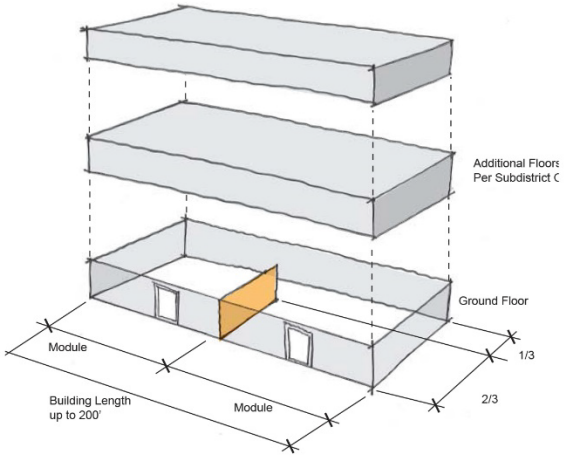
See General Development Standards and BDS for additional requirements.

ADDITIONAL BUILDING LENGTH - MASSING VARIATION (UT)



Additional building length is permitted where at least 30% and up to 40% of the total building length is setback to the 3rd LOT LAYER (20').

ADDITIONAL BUILDING LENGTH - GROUND FLOOR PARTITIONS (UT)



Additional Building Length is permitted up to 200' with the provision of at least one Ground Floor Partition.

See General Development Standards and the BDS for additional requirements.

10 WATERFRONT ZONES

10.1 IN GENERAL

Portland's waterfront zones were developed to support a wide range of industries unique to the city's maritime environment that rely upon access to the working waterfront. Competing demands for limited access require a more exhaustive use list, specialized performance standards, and a unique set of dimensional restrictions that are unlike those of other zones. Given this high degree of specialization, Article 10 should generally be viewed in isolation from other articles within the Land Use Code, with the exception of waterfront-specific definitions, listed within Article 3. -Uses listed within this article may typically be considered part of a larger generic use category as defined within Article 3. These specific ~~to Article 10 may feature some degree of~~ uses are listed only for the purposes of this article, and do not indicate whether such uses are permitted or conditional in any other zone. In the case of any overlap or conflict with ~~other~~uses defined ~~uses allowed~~ elsewhere within ~~the city. However, in such instances~~this Code, the use as referenced within this article shall control~~.~~ within the waterfront zones.

10.2 EASTERN WATERFRONT PORT ZONE (EWPZ)

10.2.1 Purpose

A. The Eastern Waterfront Port Zone is created to ~~nurture~~support deepwater-dependent activity within the context of the established waterfront.- The transport of goods and passengers by water is an important component of both the local and regional economies and this transport and other forms of marine industry are dependent upon land and piers with direct access to Portland Harbor. -Given the existing pier infrastructure, proximity to deep water, and urban context, Portland's Eastern Waterfront is uniquely situated to support a wide range of water-dependent industry and commerce through a variety of marine activities.

B. The support and expansion of Portland's marine industry requires piers, uplands, and circulation consistent with the transportation purpose and use of marine facilities. -The growth of Portland's marine passenger industry also requires supporting services and activities to provide a safe, convenient, and enjoyable travel experience for users of marine passenger facilities. -Non-marine uses that complement the marine passenger industry, are compatible with existing and future water-dependent uses, and provide opportunities for residents and visitors alike to enjoy the Eastern Waterfront throughout the year, are encouraged.

C. The primary use of the deep-water resources ~~must~~shall be for the berthing and support of large vessels.- Non-marine uses that complement and support the deepwater infrastructure and do not conflict or compete for limited space with existing or anticipated deepwater-dependent uses are encouraged. Existing and future pier infrastructure and upland support areas should be designed and maintained to support a variety of marine uses and be responsive to future technologies and trends in the marine industry.

D. Given the need to nurture and support deepwater-dependent uses and the need for non-deepwater-dependent uses to complement the marine passenger industry and to support the maintenance and repair of

pier infrastructure, the Eastern Waterfront Port Zone recognizes the following hierarchy of uses:

1. The first priority of this zone is to protect and ~~nurture~~support existing and potential deepwater-dependent uses (those uses requiring a minimum of 15 feet of water depth).
2. The second priority is to allow shallow water-dependent and other permitted marine uses, so long as they do not interfere with deepwater-dependent uses, either directly by displacement or indirectly by placing incompatible demands on the zone's infrastructure.
3. Other uses specified herein are allowed only if they do not interfere with and are not incompatible with higher priority uses.

10.2.2 No adverse impact on marine uses

No use shall be permitted, approved or established in this zone if it will have an impermissible adverse impact on future marine development opportunities. ~~-~~A proposed non-water-dependent component of a development will have an impermissible adverse impact if it will result in any one or more of the following:

A. The proposed use will displace an existing water-dependent use.

B. The proposed use will reduce existing commercial vessel berthing space.

C. The proposed use, structure or activities, including but not limited to access, circulation, parking, dumpsters, exterior storage or loading facilities, and other structures, will unreasonably interfere with the activities and operation of existing water-dependent uses or significantly impede access to vessel berthing or other access to the water by water-dependent uses.

D. The siting of a proposed use will substantially reduce or inhibit existing public access to marine or tidal waters.

10.2.3 Permitted uses

Subject to a determination that the proposed use meets the standards of Subsection 10.2.2, the following uses are permitted in the Eastern Waterfront Port Zone:

A. Marine passenger

1. Intermodal marine passenger facilities.
2. Cruise ship home port and port-of-call berthing and support.
3. International and domestic ferries.

B. Marine commercial

1. Transient and long-term commercial berthing.
2. Marine-related warehousing.
3. Marine-related construction, manufacturing, fabrication, salvage, and repair.
4. Storage and repair of fishing equipment.
5. Ship and other marine vessel construction, building, servicing, and repair.
6. Boat and marine equipment storage.
7. Harbor and marine supplies and services, chandleries, and ship supply such as fueling and bunkering of vessels.
8. Public, non-profit, or commercial marine transportation and excursion services, including captained charter services, sport fishing, and water taxis.
9. Ship and off-shore support services, including but not limited to tug boats, pilot boats, and chandleries.

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10. Facilities for marine pollution control, oil spill cleanup, and servicing of marine sanitation devices.
11. Marinas located east of the eastern boundary of the parcel of land owned by the City of Portland pursuant to a deed from the State of Maine dated February 1982 and recorded in the Cumberland County Registry of Deeds at Book 4916, Page 26.
12. Marine office, including but not limited to offices of owners of marinas, wharves or their agents, ~~and~~ naval architects, and seafood brokers.

C. Commercial

1. Professional, business, government, and general office located in upper floors of structures existing as of September 18, 2006.

~~*Editor's Note - On-site parking for non-marine commercial uses are permitted as conditional uses subject to the provisions of Subsection 10.2.4.~~

2. Temporary events, except festivals as otherwise governed under paragraph (3) listed below.~~-~~ Buildings, piers and lands within the EWPZ may be used for temporary public and private events including but not limited to exhibitions, conferences, meetings, and trade shows under the following conditions:
   a. Temporary events occupying more than 10,000 square feet of building or outdoor space shall not exceed a combined total of 60 days between May 1st to October 31st.
   b. No temporary event may continue for more than 14 days of continuous operation.
   c. Any temporary event that anticipates more than 5,000 people in attendance on any single day ~~must~~shall provide and be subject to a parking management plan. ~~-~~The parking management plan ~~must~~shall be submitted for the review and approval of the public works authority at least 60 days prior to the first day of the event.
3. Festivals subject to City license.
4. Street vendors licensed pursuant to Chapter 19 of the City of Portland Code of Ordinances.

D. Public

1. Fire, police, and emergency services.
2. Governmental agency emergency operations/crisis centers.
3. Research, military, and visiting attraction vessel berthing.
4. Landscaped pedestrian parks, plazas, and other similar outdoor pedestrian spaces, including without limitation pedestrian and/or bicycle trails.

E. Other

1. A facility for non-profit organizations whose facility may include offices, classrooms, equipment, equipment rentals, storage, and bathrooms for the public.
2. Accessory uses customarily incidental and subordinate to the location, function, and operation of permitted uses, such as food service establishments, newsstands, and other similar uses. Individual accessory uses shall not exceed 2,000 square feet in

area, or 25% of the total area of the principal use. Such accessory uses shall provide goods or services that are supportive of the principal use and its clientele.

10.2.4 Conditional uses

A. The ~~following~~ uses identified in Section 10.2.4(C) below shall be ~~permitted~~allowed as conditional uses in the Eastern Waterfront Port Zone, ~~provided that, notwithstanding~~subject to the standards of Section 6.5 of this Code, with the following exceptions:

1. Notwithstanding Subsection 6.5.1, or any other provision of this code, the Planning Board shall be substituted for the Board of Appeals as the review authority~~, and provided further that in~~.

~~A.~~**2.** In addition to the provisions of Subsection 6.5.2, such uses ~~will~~shall not impede or preclude existing or potential water-dependent development within the zone, ~~will~~shall allow for adequate right-of-way access to the water, ~~are~~shall be compatible with marine uses, and shall meet all additional standards set forth below.

~~C.~~B. **Conditional use standards**

1. *Marine compatibility.* The proposed use shall be compatible with existing and potential marine uses in the vicinity, as required by Subsection 10.2.8(M) and (N).
2. *Parking and traffic circulation.* ~~-~~All applications for conditional use in the EWPZ shall submit a parking and circulation plan for review and approval by the Planning Board.~~-~~ The parking and circulation plan shall show the location of all existing and proposed structures, travel ways, and parking under the common ownership and/or control of the subject pier or property. The plan shall demonstrate that the parking and circulation of the conditional use does not interfere with the functional marine utility of the property and otherwise meets the standards and conditions of the EWPZ.

~~H.~~C. **Conditional uses**

1. *Marine*
   - **a.** Marine products, wholesaling, and retailing.
   - **b.** Ice-making services.
   - **c.** Marine freight facilities providing service for, and/or intermodal transfer of, container and breakbulk freight.
   - **d.** Marine educational facilities.
   - **e.** Seafood retailing, wholesaling, packaging, and shipping.
   - **f.** Seafood processing for human consumption, subject to the performance standards applicable to the I-L zone as listed in Section 6.8.
   - **g.** Commercial marinas serving commercial and recreation boats located west of the eastern boundary of the parcel of land owned by the City of Portland pursuant to a deed from the State of Maine dated February 1982 and recorded in the Cumberland County Registry of Deeds at Book 4916, Page 26, provided that such facilities are located in areas that do not conflict with the navigation and handling of deepwater-dependent vessels accessing existing or potential deepwater berthing.

h. Fish byproducts processing, provided that:

i. Any fish byproducts processing facility has a valid rendering facility license under Chapter 12 of the Portland City Code of Ordinances.

ii. Any fish byproducts facility shall employ current and appropriate odor control technology to eliminate or minimize detectable odors from such a process, and in no case shall odors exceed the odor limitation performance standards of the IM zone in Subsection 6.8.~~10~~7.

iii. The processing other material wastes or byproducts shall not be deemed a lawful accessory use permitted herein.

2. *Commercial*

a. Structured parking available to the general public.

b. Professional, business, government and general offices uses in upper floors of structures constructed after September 18, 2006.

c. Passenger support services supporting a marine passenger use listed under Subsection 10.2.3(A). -The total ground floor area occupied by any combination of the following uses (regardless of ownership) shall not exceed 35% of the gross floor area of the principal associated marine passenger use and no more than 35,000 square feet cumulative within the EWPZ:

i. Retail.

ii. Restaurants/food service other than street vendors.

iii. Retail service.

iv. Passenger information services.

3. *Industrial.* -The following industrial uses are permitted provided that such uses shall conform to the IM zone performance standards set forth in Section 6.8 in addition to the performance standards of Subsection 10.2.8. -Where redundant or contradictory performance standards exist, the more restrictive standard applies.

a. Non-marine-related warehousing in structures existing as of September 18, 2006.

b. Facilities for combined marine and general construction.

c. ~~Low impact industrial~~Industrial uses as permitted in the IL zone in structures existing as of September 18, 2006, excluding all auto repair service facilities.

4. *Public*

a. ~~Utility substations.~~ -Public utility substations, including but not limited to electrical transformers, sewage and stormwater pumps, and telecommunication switching stations, are permitted under the following conditions:

i. The facility is located more than 100 feet from the water's edge.

ii. The facility occupies no more than 50 square feet of structure above ground.

iii. The facility provides no dedicated on-site parking and all subsurface

elements of the facility are installed and operated such that land occupied by the facility is otherwise useable and made available for marine-related uses, including but not limited to parking, travel ways, and/or storage.

iv. The facility shall be sized, sited and screened to minimize visual impact and prominence from public ways.

b. Maritime museums, limited to 5,000 square feet of ground floor footprint.

5. ~~*Editor's Note—~~*Parking for non-marine uses.* On-site parking for non-marine commercial and industrial uses ~~are permitted~~is allowed as a conditional ~~uses~~use subject to the following~~ provisions.~~ :

~~5.~~a. ~~Parking for non-marine uses.~~ Notwithstanding ~~Subsection 19.1.6~~Article 18 and Article ~~14~~13 of this Land Use Code, no parking shall be allowed in this zone for non-marine uses unless the applicant can demonstrate that the number of parking spaces on-site exceeds the number of parking spaces needed to accommodate the demand for marine and water-dependent uses that are permitted by Subsections 10.2.3 and 10.2.4 which are or may be located on the subject property. (See editor's note below.) -The remainder of parking required, if any, for such non-marine uses shall be provided off-site.

b. ~~*Editor's Note—Vacant~~For the purposes of this section, vacant ground floor space should be considered to have a parking demand similar to other space housing an existing water-dependent use elsewhere on the subject property, or on a comparable property.

~~I.~~D. The following ~~use~~uses shall be permitted only upon the issuance of a conditional use permit subject to the provisions of Section 6.5, and any special provisions, standards, or requirements specified below:

1. Wind energy systems.

2. Solar energy systems.

10.2.5 Prohibited uses

Uses, whether floating or fixed to land, ~~which~~that are not enumerated in Subsections 10.2.3 or 10.2.4 as permitted or conditional uses are prohibited. Those uses that are specifically prohibited shall include, without limitation:

A. Residential uses.

B. Amusement/theme parks.

C. Bulk freight facilities.

D. On-site gambling casinos not accessory to and located aboard either a ferry or inter-port cruise ship.

10.2.6 Contract or conditional rezoning

In addition to those marine and non-marine uses authorized in Subsections 10.2.3 and 10.2.4, an applicant may apply to locate a non-marine use not otherwise permitted, if the reviewing body finds the applicant has met the standards of Subsection 10.2.2, the performance standards of Subsection 10.2.8, the applicable standards of

contract/conditional rezoning contained in Section 5.3, and conforms to the following requirements:

A. Standards for contract or conditional rezoning:

1. All non-marine uses ~~are either~~shall be those permitted or conditionally permitted in the B-5 zone, and ~~are~~ not specifically prohibited in Subsection 10.2.5 ~~-~~above.~~-~~ Any hotel, inn, or other similar transient lodging establishment proposed ~~must~~shall be located landward of the spring tide line and westerly of the extension of the India Street right-of-way.

2. The aggregate ground floor area of any development permitted hereunder located within 100 feet of the pier edge or working edge of the hardened shoreline shall be occupied by at least 50% of one or more marine uses set forth in Subsections 10.2.3 and 10.2.4. ~~Note: the circulation~~Circulation areas and areas occupied for accessory parking serving marine uses shall not be used as the basis for calculating the ~~50% provision above.~~required 50%.

3. The development is consistent with the Comprehensive Plan, and without the non-marine use component ~~authorized herein~~proposed, the site could not otherwise support an economically viable water-dependent use.

4. The project's public benefits outweigh its potential negative impacts, provided that such public benefits include one or more of the following: protection of existing water-dependent uses, preservation of future water-dependent use development opportunities, contribution to the development of and/or on-going maintenance of the marine infrastructure for commercial vessels, and visual and physical access to the waterfront for the general public.

5. The non-marine portion of the development will not significantly restrict air or light for marine uses located in the immediate vicinity; will not create significant adverse local climatic effects on marine uses such as an undue increase of winds or shadowing; and will not adversely affect the efficient operation of marine uses, such as by producing less efficient traffic, parking or circulation patterns.

6. The rezoning contains adequate provisions and/or conditions to ensure that on-site water-dependent infrastructure remains occupied by commercial marine use(s) listed in Subsections 10.2.3 and 10.2.4 ~~-~~and that said use is not abandoned after the project is developed.

B. Notwithstanding ~~Subsection 10.2.8(H) and~~the off-street parking standards of Article ~~14~~13, all on-site parking constructed or used for non-marine uses allowed only by contract or conditional rezoning shall be subject to the conditional use provisions Subsection 10.2.4(C)(5). ~~-~~Additionally, the total amount of parking shall be established by the City Council in the conditional or contract rezoning agreement after consideration of the Planning Board's recommendation ~~on the same~~.

10.2.7 Dimensional requirements.

In addition to the generally applicable provisions of ~~Section~~Article 7~~.5~~ of this Land Use Code, lots in the EWPZ shall be subject to the following requirements:

A. Minimum lot size: None

B. Minimum frontage: None

C. Minimum yard dimensions:

1. *Front setback:* None
2. *Side setback:* None
3. *Rear setback:* None
4. *Setback from pier line:* Notwithstanding the above requirements, a minimum setback of 25 feet from the edge of any pier, wharf or working edge of the hardened shoreline shall be required for any structure, provided that marine offices, as defined in Section 10.2.3(B)(12), may be located up to five feet from the edge of any pier, wharf, or working edge of the hardened shoreline. The setback area may be utilized for water-dependent uses, and public uses and activities, subject to the provisions of Subsections 10.2.2 and 10.2.4, and shall not be utilized for ~~restaurant, drinking, or other~~ non water-dependent uses, or for off-street parking. The edge of any pier, wharf or bulkhead shall include any attached apron(s).

D. Maximum impervious surface: 100%

E. Maximum building height: 45 feet, except as follows:

1. For purposes of this subsection only, moveable elements such as cranes and gantries, connection devices such as conveyors or bridges, and floating vessels shall not be subject to the space and bulk requirements, but shall be subject to a determination by the Federal Aviation Administration that the location of such equipment will not create a hazard to air traffic.
2. Rooftop appurtenances may exceed the maximum height ~~limits~~limit of 45 feet providing that their design and placement is either fully screened or integrated into the architecture of the structure on which they sit.
3. The applicant ~~must~~shall provide a determination from the Federal Aviation Administration that structures and equipment in excess of 45 feet will not exceed the applicable height guidelines for the runway approach and will not create a conclusive evidence that the proposed development will not create a hazard.

10.2.8 Performance standards

Development in the Eastern Waterfront Port Zone shall comply with the following standards:

A. Outdoor storage of materials. -Outdoor storage of commodities and materials accessory to normal conduct of business shall be entirely contained, including runoff contaminants and residual material, within a designated area.

B. Noise

1. The level of sound, measured by a sound level meter with frequency weighting network (manufactured according to standards prescribed by the American National Standards Institute, Inc.), inherently and recurrently generated within the EWPZ between the hours of 7:00 p.m. and 7:00 a.m. from facilities or operations commenced on or after July 1, 1988, shall not exceed 55 decibels on the A scale at or within the boundaries of any residential zone, except for sound from construction activities, sound from traffic

on public streets, sound from temporary activities such as festivals, sound created as a result of, or relating to, an emergency, including sound from emergency warning signal devices, and maritime navigation signals.

2. In measuring sound levels under this subsection, sounds with a continuous duration of less than 60 seconds shall be measured by the maximum reading on a sound level meter set to the A weighted scale and the fast meter response (L maxfast). Sounds with a continuous duration of 60 seconds or more shall be measured on the basis of the energy average sound level over a period of 60 seconds (LEQ1).
3. In addition to the sound level standards otherwise established, facilities or operations established or built in the EWPZ on or after July 1, 1988, shall employ best practicable sound abatement techniques to prevent tonal sounds and impulse sounds or, if such tonal and impulse sounds cannot be prevented, to minimize the impact of such sounds in residential zones. Tonal sound is defined as a sound wave usually perceived as a hum or which because its instantaneous sound pressure varies essentially as a simple sinusoidal function of time. Impulse sounds are defined as sound events characterized by brief excursions of sound pressure, each with a duration of less than one second.

C. **Vibration.** Vibration inherently and recurrently generated shall be imperceptible without instruments at lot boundaries. This shall not apply to vibration resulting from activities aboard a vessel or from railroad vehicle activities, or from activities on a pile-supported pier.

D. **Federal and state environmental regulations.** All uses shall comply with federal and state environmental statutes and regulations regarding emissions into the air, except where provisions of this code are more stringent.

E. **Discharges into harbor areas.** No discharge into harbor water areas shall be permitted, unless permitted by the Maine Department of Environmental Protection under a waste discharge license and as approved by the Department of Public Works in accordance with Chapter 24, Article III of the City of Portland Code of Ordinances. All private sewage disposal or private wastewater treatment facilities shall comply with the provisions of Chapter 24, Article II of the City of Portland Code of Ordinances and federal and state environmental statutes and regulations regarding wastewater discharges.

F. **Storage of vehicles.** Storage of any unregistered automotive vehicle on the premises for more than 10 days shall not be permitted.

G. **Landfill of docking and berthing areas.** Landfill of docking and berthing areas shall be governed by 38 M.R.S. § 471-478, and permitted only if the landfill does not reduce the amount of linear berthing areas or space, or berthing capacity. If approved, construction shall be undertaken using methods approved by the Department of Public Works and shall be accomplished in a manner so as to ensure that a stable and impermeable wall of acceptable

materials will completely contain the fill material and will not permit any fill material to leach into docking areas or navigable waters.

H. Off-street parking and loading. Off-street parking and loading ~~is subject to provisions as provided in~~ shall be exempt from the standards of Article ~~19~~18.

I. Shoreland and ~~Flood Plain~~Floodplain Management regulations. ~~-~~Any lot or a portion of a lot located in a Shoreland Overlay Zone as identified on the City zoning map or in a flood hazard area shall be subject to the requirements of Articles 11 and 12.

J. Lighting. ~~-~~All lighting on the site shall be shielded such that direct light sources shall not interfere with vessels transiting the harbor, nor have an unreasonable adverse impact on adjacent residential zones, and shall be compliant with the site lighting standards of the City of Portland *Technical Manual*.

K. Signs. ~~-~~Signs shall be permitted as set forth in Article ~~20~~19.

L. Storage of pollutants and oily wastes. On-premises storage of pollutants and oily wastes shall not be permitted for more than 45 days.

M. Compatibility of non-marine uses with marine uses. Non-marine uses, structures, and activities, including but not limited to access, circulation, parking, dumpsters, exterior storage, and loading facilities or other structures shall neither unreasonably interfere with the existence or operation of marine uses nor significantly impede access to vessel berthing or other access to the water by existing or potential marine uses.

N. Functional utility of piers and access to the water's edge. All development, whether for marine or non-marine uses, ~~must~~shall anticipate current and future needs of water-dependent uses to functionally access the water's edge for the transfer of goods, materials, and passengers between berthed vessels and land bound vehicles. ~~-~~Provisions for the storage and movement of goods, materials, and passengers ~~must~~shall be designed into all waterside development and internal circulation routes ~~must~~shall be maintained or otherwise provided as an element of any development.

10.3 WATERFRONT CENTRAL ZONE (WCZ)

10.3.1 Purpose

A. The Waterfront Central Zone was created to protect and ~~nurture~~support water-dependent and marine-related ~~support~~ uses ~~so that they may grow and prosper in the~~ to ensure their present and ~~into the~~ future ~~in an environment and area dedicated to this purpose.~~viability as key features of Portland's waterfront. The Waterfront Central Zone recognizes the following ~~priority~~hierarchy of uses ~~is recognized~~:

1. The first priority of this zone is to protect and ~~nurture~~support existing and potential water-dependent uses in a setting that ~~enforces~~ensures their continued economic viability.
2. The second priority is to encourage other marine and marine-related support uses ~~so long as~~provided they do not interfere with water-dependent uses, either directly by displacement or indirectly by placing incompatible demands on the zone's infrastructure.
3. Non-marine uses are encouraged provided that they do not interfere with and are not incompatible with first and second priority

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uses. Non-marine uses are beneficial to the waterfront economy because they provide the financial return to property owners necessary for the maintenance and improvement of ~~the~~ marine infrastructure.

B. Water-dependent and marine-related support uses ~~by their nature have~~ include unique activities and operational needs ~~that are unique to this area and are~~ not shared by other commercial and industrial uses in the city. ~~These~~The first and second priority uses ~~and related activities~~established in the WCZ may result in noise, odor, dust, hours of operation, parking~~,~~ and traffic patterns, and traffic control needs that are necessary for the convenient and successful conduct of such uses. ~~Other uses may not be compatible with these types of effects.~~ Other specified uses are permitted in the Waterfront Central Zone, provided that they do not significantly interfere with the activities and operation of water-dependent and marine-related support uses. ~~S~~such uses ~~must~~shall be, and are assumed to be, aware of the impacts associated with marine uses and therefore ~~must~~shall accept and be tolerant of them. ~~O~~other specified uses in the zone shall accommodate ~~to those patterns and~~the needs of ~~the~~ higher priority uses ~~so long~~ as ~~those~~established in this section, provided such higher priority uses are not detrimental to public health and safety, and ~~the higher priority activities~~ are conducted in accordance with ~~sound practices or~~best practices customary in the trade.

C. Commercial Street is recognized as an important economic center for the city and region. ~~M~~marine-compatible uses are encouraged to locate and grow along Commercial Street, while higher priority water-dependent and marine uses are protected on the waterfront.

~~**10.3.2 Definitions**~~

~~For the purposes of the Waterfront Central Zone only, the following terms shall have the following definitions:~~

~~**Common circulation drives.** Private driveways, roadways and circulation areas accessible to all on-site tenants and/or occupants of a lot within the Waterfront Central Zone providing access from/to the public street network.~~

~~**Lot.** Any abutting property under common ownership.~~

10.3.2 Commercial Street ~~Overlay Zone (CSOZ).~~Subdistrict

A. Purpose. The Commercial Street ~~Overlay Zone (CSOZ~~Subdistrict (CSSD) is a portion of the Waterfront Central Zone~~, as described below,~~ where new and existing development may be occupied with 100% non-marine ~~use tenants~~uses, as listed ~~under~~within Subsection 10.3.3(B~~), subject to the standards and use limitations provided in Subsection 10.3.7(B).~~).

B. Geographic limits. The geographic limits of the ~~CSOZ~~CSSD are defined by parcels of land and piers within the Waterfront Central Zone located on the landward side of a line established 125 feet south of the southerly sideline of Commercial Street and modified as follows: ~~the~~

1. The seaward limit of the ~~CSOZ~~CSSD extends to a line 300 feet south of the southerly sideline of Commercial Street in the area between the easterly and westerly

sideline of Long Wharf. ~~-~~Additionally, all areas subject to this provision are set back landward at least 25 feet from the average high tide line of Portland Harbor and associated coastal wetlands.

2. Where the 125 foot offset intersects with the footprint of a building existing as of May 2019 and such intersection leaves 75% or more of the building within the ~~CSOZ~~CSSD, the entire building shall be considered included in the ~~CSOZ~~CSSD. All offset distances are measured horizontally.

C. Demonstration of location. All applicants for development within the ~~CSOZ~~CSSD are responsible for demonstrating their location within ~~CSOZ~~the CSSD according to the findings of a site specific land survey conducted by a professional land surveyor licensed by the State of Maine. ~~-~~The limits of the ~~CSOZ~~CSSD shall be shown on all site plans and subdivision plats for proposed development within the ~~CSOZ.~~ CSSD.

~~**On-site.** That portion of any lot included within or directly impacted by a proposed development.~~

10.3.3 Permitted uses

~~Subject to a determination that the proposed use meets the standards of Subsection 10.3.7, as applicable, the~~The following uses ~~listed under Subsection 10.3.3(A), (B), (C), and (D)~~ are permitted ~~anywhere in~~within the Waterfront Central Zone. ~~Uses listed under Subsection 10.3.3(E) are only permitted in the CSOZ.~~

A. Marine

1. Marine products wholesaling, distribution and retailing.

2. Marine repair services and machine shops.

3. Tugboat, fireboat, pilot boat and similar services.

4. Harbor and marine supplies and services, chandleries, and ship supply such as fueling and bunkering of vessels.

5. Marine industrial welding and fabricating.

6. Shipbuilding and facilities for construction, maintenance, and repair of vessels.

7. Commercial marine transport and excursion services, including ferries, captained charter services, sport fishing, and water taxis.

8. Cargo handling facilities, including docking, loading, and related storage.

9. Boat repair yards.

10. Boat storage facilities, excluding rack storage facilities (Boat rack storage facilities are included as a conditional use).

11. Seafood processing and retailing.

12. Seafood packing and packaging.

13. Seafood loading and seafood distribution.

14. Fabrication, storage, and repair of fishing equipment.

15. Ice-making services.

16. Facilities for marine construction and salvage.

17. Facilities for marine pollution control, oil spill cleanup, and servicing of marine sanitation devices.

18. Fabrication of marine-related goods.

19. Fishing and commercial vessel berthing.

20. Non-commercial berthing of a maximum of 50 linear feet per pier. ~~-~~A non-commercial berth may not displace a commercial berth.~~-~~ Parking for any non-commercial berthing is subject to the provisions of Subsection 10.3.9(G).

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21. Marine office, including but not limited to offices of owners of wharves or their agents, and naval architects, and seafood brokers.
22. Public landings.
23. Marine research, education, and laboratory facilities.
24. Bait sales and processing.
25. Harbor security and emergency response services including but not limited to Harbor Master, Marine Patrol and Coast Guard.
26. Commercial parking for water-dependent use business owners and employees.

B. Non-marine commercial and industrial uses. ~~Non-marine uses permitted by this subsection are subject to the standards listed in Subsection 10.3.7.~~

1. Professional, business, government, and general offices, except for offices for health care practitioners or health clinics which are only permitted in the ~~CSOZ~~CSSD.
2. Cabinet and carpentry shops, studios for artists and crafts people.
3. Intermodal transportation facilities.
4. Cold storage facilities.
5. Commercial kitchens.
6. Outside accessory activities.

C. Public

1. Landscaped pedestrian parks, plazas, and other similar outdoor pedestrian spaces, including without limitation pedestrian and/or bicycle trails.

D. Other

1. ~~Interior accessory~~Accessory uses customarily incidental and subordinate to the location, function, and operation of permitted uses~~. Food~~, such as food service establishments, newsstands, and other similar retail and service support uses shall only be permitted as accessory uses if they are part of and located within the lot lines of ~~a use set forth in Subsections 10.3.3(A)(1), (7), (11) or (22); such uses do not exceed 2,000 square feet in total floor area of the building, or 25% of the total floor area of the building, whichever is less, and each individual accessory use does not exceed 1,000 square feet in total floor area of the building; and further provided that such accessory uses provide goods or services that are supportive of the principal use and its clientele. Exterior accessory uses shall be otherwise subject to the provision of Subsection 10.3.7(A).~~the following principal uses:
   - **a.** ~~Interior meeting or classroom space accessory to uses permitted in Subsection 10.3.3(A)(23) may be rented out for meeting use by~~ Marine products wholesaling, distribution and retailing.
   - **b.** Commercial marine~~-related or non-marine-related groups or organizations, or the general public, and such~~ transport and excursion services, including ferries, captained charter services, sport fishing, and water taxis.
   - **c.** Seafood processing and retailing.
   - **d.** Public landings.

2. Individual accessory uses shall not ~~be subject to the limitations contained in (B) above, but shall only be permitted as accessory uses if the total of all support uses, including interior meeting or classroom space, does not exceed 3~~exceed 1,000 square feet in ~~total floor~~ area ~~per building, or 15%~~, and all accessory uses shall not exceed 2,000 square feet in area, or 25% of the total area of the ~~total floor area per building~~principal use, whichever is less. Such accessory uses shall provide goods or services that are supportive of the principal use and its clientele.

E. Uses permitted only within the Commercial Street ~~Overlay Zone (CSOZ). Uses permitted by this subsection are subject to the standards listed in Subsection 10.3.7(B).~~ Subdistrict

1. Retail and service establishments, including craft and specialty shops.
2. Restaurants, provided that full ~~course~~ meal ~~food~~ service ~~and consumption~~ shall be the primary function of the restaurant, and full ~~course~~ meal service shall be continued up until the hours of closing.
3. Banking services without drive-up ~~services~~facilities.
4. Museums and art galleries.
5. Street vendors licensed pursuant to Chapter 19.
6. Offices of health care practitioners or health care clinics.
7. Personal service establishments.

10.3.4 Conditional ~~use~~uses

The uses ~~listed herein~~identified in below shall be ~~permitted~~allowed as conditional uses in the Waterfront Central Zone, ~~provided that, notwithstanding Section~~subject to the standards below, as well as applicable standards within Article 6~~.5, or~~ of this Code. Notwithstanding any other provision of this ~~code~~Code, the Planning Board shall be substituted for the Board of Appeals as the review authority~~, and further provided that in addition to the provisions of Subsection 6.5.2, they shall also meet the applicable Waterfront Central Zone development standards in Subsection 10.3.7:~~.

A. Commercial marine conditional uses

1. Fish by-products processing, provided that:
   a. Any fish by-products processing facility has a valid rendering facility license under Chapter 12 of the City of Portland Code of Ordinances.
   b. Any existing fish by-products facility shall employ current and appropriate odor control technology (and any new fish by-product use shall employ current, available odor control technology) to eliminate or minimize detectable odors from such a process, and in no case shall odors exceed the odor limitation performance standards of ~~the I-M zone~~Section 6.8.7.
   c. The processing of other material wastes or by-products shall not be deemed a lawful accessory use under any other provision of this article.
2. Boat rack storage facilities, provided that:
   ~~a. Parking shall be provided for 100% of the demand generated by the use (nothwithstanding Subsection 10.3.9(G), and such parking shall be~~

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~~provided off-site, in another zone permitting such use.~~

a. No parking for the use is provided on-site.

b. Boat rack structures shall not exceed 10,000 square feet of building footprint.

B. Utility substations. Public utility substations, including but not limited to electrical transformers, sewage, and stormwater pumps, and telecommunication switching stations, are permitted under the following conditions:

1. The facility is located more than ~~-~~100 feet from the water's edge.
2. The facility occupies no more than 50 square feet of structure above ground.
3. The facility provides no dedicated on-site parking and all subsurface elements of the facility are installed and operated such that land occupied by the facility is otherwise usable and made available for marine uses, including but not limited to parking, travel ways, and/or storage.
4. The facility shall be sized, sited and screened to minimize visual impact and prominence from public ways.

C. Wind energy systems~~.~~

~~-~~

10.3.5 Prohibited uses

Uses which are not enumerated in either Subsections 10.3.3 or 10.3.4 as permitted or conditional uses are prohibited. Uses enumerated in Subsection 10.3.3(E) shall be considered prohibited uses outside of the ~~CSOZ.~~Commercial Street Subdistrict. Those uses that are prohibited shall include, without limitation:

A. Residential uses.

B. Hotels, motels, hostels, bed and breakfasts, inns, lodging houses, tourist homes, short-term rentals, or boatels.

C. Auditoriums, civic centers, convention centers, or other meeting facilities not accessory to an otherwise permitted use.

D. Drinking establishments, private clubs, or non-profit social and recreational clubs.

E. Ground mounted telecommunication towers, antennas, and/or disks.

F. Drive-up services for any use other than a permitted ~~use listed under Subsections 10.3.3(A) or 10.3.4(A)(1).~~marine use, not including boat rack storage facilities.

G. Auto service stations.

H. Laundry and dry-cleaning services.

I. Convenience stores with gas pumps.

J. Commercial parking for non-marine uses.

10.3.6 Dimensional requirements

In addition to the generally applicable provisions of ~~Section~~Article ~~7.5~~ 7 of this Land Use Code, lots in the Waterfront Central Zone shall be subject to the following requirements:

A. Minimum lot size: None

~~**B. Minimum frontage along Commercial Street:** 75 feet~~

~~**C.**~~**B.** ~~**Minimum**~~, with a minimum lot width ~~**within the CSOZ:**~~of 50 feet, measured parallel with Commercial Street ~~and such lot width shall be continuous,~~ for the full depth of the lot located within the CSOZ.

~~**D.**~~**C. Minimum yard dimensions:**

1. *Front setback:* None
2. *Side setback:* ~~-~~None
3. *Rear setback:* ~~-~~None
4. *Setback from pier edge:*~~-~~ Notwithstanding the above requirements, a minimum first-

floor setback of 10 feet from the edge of any pier, wharf, or bulkhead shall be required for any structure, exclusive of structurally necessary posts supporting upper floors, and deck-mounted equipment for loading and unloading vessels. -The edge of any pier, wharf, or bulkhead shall include any attached apron(s). Floats, rafts, and/or barges not structurally integral to the pier, wharf, or bulkhead may not be used to satisfy this requirement. Parking for non-marine uses shall not occupy the 10-foot setback.

~~E.~~D. **Maximum lot coverage:** 100%

~~F.~~E. **Maximum building height:** 50 feet. -Except as provided ~~in (H)~~ below, a structure in the Waterfront Central Zone shall provide no more than three habitable floors~~, however, typical rooftop~~. Rooftop appurtenances and/or enclosed or open mechanical installations shall be allowed over the third floor.

~~G.~~F. **Minimum ground floor clearance:** -Any new building proposed to be larger than 300 square feet and located more than 35 feet from the southerly sideline of Commercial Street shall provide no less than 15 feet of first floor to ceiling vertical clearance to promote marine industrial use potential. -New buildings less than 300 square feet or additions to existing multistory buildings are exempt from this provision but shall provide the maximum ground floor clearance practicable.

~~H.~~G. ~~New non~~Non-marine use building exception for ~~usable~~habitable floors and minimum ground floor clearance: ~~Notwithstanding provisions (F) and (G) above, for new~~For newly constructed non-marine use buildings ~~permitted~~ within the ~~CSOZ~~Commercial Street Subdistrict, four ~~usable~~habitable floors are allowed, and ground floor clearance minimums ~~do~~shall not apply.

10.3.7 Development standards

A. Standards for non-marine uses located outside of the ~~CSOZ.~~ Commercial Street Subdistrict. Non-marine uses ~~listed above in Subsection 10.3.3(B) and 10.3.4(B) that are~~ located outside of the ~~CSOZ~~CSSD shall be subject to the ~~performance standards listed in Subsection 10.3.9 as well as the~~ following ~~standards:~~:

1. *55% marine use required on ground floors.* At least 55% of the leasable ground floor area of all buildings on a lot ~~(defined in Subsection 10.3.2 above),~~ shall be occupied by marine uses~~, as listed under Subsection 10.3.3(A) or 10.3.4(A)(1).~~.
2. *55% marine use required for all open areas.* After subtracting areas used for common circulation drives ~~(defined in Subsection 10.3.2 above),~~ at least 55% of ~~unbuilt~~the remaining area ~~(meaning area~~of the lot not occupied by a building~~) on the lot, when calculated using the aggregate of all such unbuilt areas,~~ shall be occupied by marine uses ~~as listed under Subsection 10.3.3(A) or 10.3.4(A)1.~~, not including boat rack storage facilities.
3. *Ground floor vacancies and change of occupancy offered to water-dependent/marine uses.* -Ground floor vacant space and areas proposed for a change of occupant outside of the ~~CSOZ~~CSSD shall not be filled with any non-marine use without adequate opportunity for marine uses to occupy the space.

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a. ~~Ground floor vacancy and change of occupant outside of the CSOZ advertised to marine users: In~~On any lot or portion of a lot outside of the ~~CSOZ~~CSSD, each time a ground floor occupant departs or gives notice to depart from the lot, the space, along with any associated parking spaces to be vacated, ~~must~~shall be made available to new marine occupants. Prior to renting to a non-marine user the property owner shall advertise for a new marine occupant for not less than a 180-day period in targeted media and by other means reasonably calculated to reach marine users (e.g. local marine trade publications, marine trade websites, waterfront bulletins.) -Should one or more marine users apply, the property owner shall make the space available to a marine occupant, in accordance with terms and rates generally consistent with comparable space in the 55% marine use portion of the zone (outside of the ~~CSOZ.)~~ CSSD.) The property owner may stop advertising sooner than the end of the 180-day period if a lease is signed with a marine user. Should no marine user apply by the end of the 180-day period, the owner may fill the space with a non-marine user provided that the new non-marine occupant will not cause the lot to exceed the non-marine use occupancy maximum of 45% of the ground floor area or open area.

b. Uses inventoried:- To demonstrate adherence to the 55% marine use requirement, the applicant shall submit to the Planning Authority, upon request, an inventory which lists each occupant (tenant or otherwise), as well as a map which depicts the location of each occupant. -The map shall show all ground level space, including buildings, parking, open areas and submerged lands associated with the subject lot. For each occupant, the property owner ~~must~~shall indicate the square footage of area occupied and whether the occupant is a marine use as defined herein. -For vacant space, the last previous occupant shall be listed, along with the date of departure.

c. Prior to changes of occupancy and/or as part of applications for new development -outside of the ~~CSOZ~~CSSD, the property owner or applicant shall provide proof of compliance with the requirements of this section as a condition of approval.

4. *Pier or bulkhead edge reserved for marine uses.* -Notwithstanding any- provision of this ordinance to the contrary, excepting only the portion of any pier which might be used for non-commercial berthing ~~pursuant to Subsection 10.3.3(A)(20),~~ all berthing and/or dockage space and associated floats plus the entire linear edge of that portion of every pier or bulkhead which is adjacent to greater than zero feet of water depth at mean low water, to a minimum setback line of at least 10 feet

from the edge of the pier, bulkhead, or engineered shoreline may only be used or occupied by one or more marine uses ~~as defined in Subsection 10.3.3(A) or 10.3.4(A).~~ . Said edge shall be the seaward extent of any engineered shoreline or working deck of any pier or wharf.

B. ~~CSOZ~~**Commercial Street Subdistrict standards.** Non-marine uses ~~listed under Subsections 10.3.3(B), 10.3.3(E) and 10.3.4 located within~~ in the ~~CSOZ, as defined in Subsection 10.3.2,~~CSSD shall be subject to the ~~performance standards listed in Subsection 10.3.9 as well as~~ the following standards:

1. *Vessel access.* ~~-~~ Non-marine uses allowed under this provision shall not disrupt or block access to vessel berthing and shall otherwise adhere to the performance standards of this zone described in Subsection 10.3.9.

2. *Maximum setback for new development on lots with 75 or more feet of Commercial Street frontage.* ~~-~~Any new non-marine development constructed subject to this provision which is located on a lot with 75 or more feet of frontage along the Commercial Street right-of-way shall be located with its front façade no further than 35 from the southerly sideline of the Commercial Street right-of-way. Furthermore, any such development shall orient its front façade and its primary pedestrian entrance toward Commercial Street and no vehicular circulation or parking may occupy the land or pier area between the front façade of the building and Commercial Street. ~~-~~Non-marine development subject to this provision on lots with fewer than 75 feet of frontage along the Commercial Street right-of-way, changes of use within existing buildings, and/or building additions of less than 5,000 square feet of new development to existing buildings are exempt from the maximum setback provisions established herein.

3. *Investment in marine infrastructure.* All applicants for site plan review or a change of use permit for non-marine development in the ~~CSOZ~~CSSD are required to invest in marine infrastructure as a condition of development, provided that the total project costs exceed $250,000. ~~-~~The value of the investment shall be not less than 5% of total project costs over $250,000 for constructing non-marine space and associated site improvements in the ~~CSOZ.~~ CSSD. Required investment may occur by one or both of the following methods:

a. Direct investment in marine infrastructure located on the same lot: Investment shall be for the benefit of marine uses ~~listed in Subsection 10.3.3(A)~~ within the same lot as the proposed non-marine development. Investment may include dredging, pile replacement, new or replaced structural decking (but not pavement resurfacing), new or replaced fendering systems, new or replaced floats, pier expansions, permanent conversions of recreational berthing to commercial berthing, bulkhead or seawall repair or improvements, or any combination of similar improvements. ~~-~~Plans for the marine

infrastructure investment shall be submitted to the Planning Authority with the application for site plan review or change of use permit and shall include details and a commitment as to how the marine infrastructure will be utilized by marine users. ~~-~~The marine infrastructure improvements shall be completed prior to the issuance of a certificate of occupancy for the non-marine development project.

b. Financial contribution: ~~-~~If direct investment in marine infrastructure is not made, the developer shall make a financial contribution to the City's Waterfront Loan and Investment Fund.

10.3.8 No contract or conditional rezoning permitted

~~**C.** This section is intended to accomplish goals from *Portland's Plan* 2030. Specifically, these changes will:~~

~~**1.** Prioritize and promote Portland's unique mix of water-dependent, marine-related and compatible non-marine uses.~~

~~**2.** Recognize and reinforce the respective roles of the Eastern, Central, and Western Waterfronts.~~

~~**3.** Celebrate, promote, and protect Portland's lobster and fishing industry as a foundation of the region's economy and a feature of civic pride.~~

~~**B.**~~**A.** ~~In light of these goals and the significance of the Central Waterfront to the City's future, no~~No contract or conditional rezoning applications may be approved in the Waterfront Central Zone.

10.3.9 Performance standards

~~All uses in the Waterfront Central Zone shall comply with the following standards:~~

A. Outdoor storage of materials. Outdoor storage of commodities and materials accessory to normal conduct of business, except pilings and/or cranes, shall be permitted to a maximum height of 45 feet, and such materials shall be entirely contained, including runoff contaminants and residual material, within a designated area within the lot boundaries.

B. Noise. The level of sound, measured by a sound level meter with frequency weighting network (manufactured according to standards prescribed by the American National Standards Institute, Inc.), inherently and recurrently generated within the Waterfront Central Zone shall not exceed 75 decibels on the A scale at the boundaries of any lot, except for sound from construction activities, sound from traffic on public streets, sound from temporary activities such as festivals, and sound created as a result of, or relating to, an emergency, including sound from emergency warning signal devices. In measuring sound levels under this subsection, sounds with a continuous duration of less than 60 seconds shall be measured by the maximum reading on a sound level meter set to the A weighted scale and the fast meter response (L maxfast). Sounds with a continuous duration of 60 seconds or more shall be measured on the basis of the energy

average sound level over a period of 60 seconds (LEQ1).

C. **Entertainment businesses.** Businesses with entertainment licenses shall be subject to the standards of Subsection 6.8.14.

~~C.~~D. **Vibration.** Vibration inherently and recurrently generated shall be imperceptible without instruments at lot boundaries. This shall not apply to vibration resulting from activities aboard a vessel or from railroad vehicle activities, or from activities on a pile supported pier.

~~D.~~E. **Discharges into harbor areas.** No discharge into harbor water areas shall be permitted, unless permitted by the Maine Department of Environmental Protection under a waste discharge license and as approved by the Department of Public Works in accordance with Chapter 24, Article III of the City of Portland Code of Ordinances. All private sewage disposal or private wastewater treatment facilities shall comply with the provisions of Chapter 24, Article II of the City of Portland Code of Ordinances and federal and state environmental statutes and regulations regarding wastewater discharges.

~~E.~~F. **Storage of vehicles.** ~~-~~Storage of any unregistered automotive vehicle on the premises for more than 60 days shall not be permitted.

~~F.~~G. **Landfill of docking and berthing areas.** Landfill of docking and berthing areas shall be governed by 38 M.R.S. § 480-A through 480-HH, and permitted only if the landfill does not reduce the amount of linear berthing areas or space, or berthing capacity. If approved, construction shall be undertaken using methods approved by the Department of Public Works and shall be accomplished in a manner so as to ensure that a stable and impermeable wall of acceptable materials will completely contain the fill material and will not permit any fill material to leach into docking areas or navigable waters.

~~G.~~H. **Off-street parking and loading.** ~~No off~~Off-street parking ~~or~~and loading shall be ~~required under~~exempt from the standards of Article ~~19~~18.

I. **Shoreland and Floodplain Management regulations.** Any lot or a portion of a lot located in a Shoreland Overlay Zone as identified on the City zoning map or in a flood hazard area shall be subject to the requirements of Articles 11 and 12.

~~H.~~J. **Lighting.** All lighting on the site shall be shielded such that direct light sources shall not unreasonably interfere with vessels transiting the harbor nor have an unreasonable adverse impact on adjacent residential zones.

~~I.~~K. **Storage of pollutants and oily wastes.** On-premises storage of pollutants and oily wastes shall not be permitted for more than 45 days.

~~J.~~L. **Urban design.** ~~-~~Construction of new structures located within 35 feet of the southerly edge of Commercial Street between Maine Wharf and the easterly property line of the City fish pier shall conform to the guidelines set forth in the ~~Downtown Urban~~*City of Portland Design ~~Guidelines~~Manual*, unless such structures are also located within 100 feet of the water. Such structures that are also located within 100 feet of the water shall conform to the extent practicable to the ~~Downtown Urban~~*City of Portland Design ~~Guidelines~~Manual*.

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~~K.~~M. **Pier and wharf expansions.** ~~-~~ In addition to meeting Harbor Commission and Coast Guard requirements for navigation, any expansion or extension of a pier and or wharf in the Waterfront Central Zone shall demonstrate its compatibility with fixed route ferry service and emergency vessel operations.

~~L.~~N. **Public view protection**

1. Any new development in the Waterfront Central Zone shall perform a public view impact analysis for review and approval by the Planning Board or Planning Authority as a condition of site plan approval. ~~-~~The analysis shall:
   a. Demonstrate the project's adherence to the ~~Portland~~ View Corridor Protection Plan ~~(~~within the City of Portland ~~Comprehensive Plan, 2002)~~Design Manual to the extent practicable.
   b. Promote the public's visual access to the water through sensitive building placement.
2. The Planning Board or Planning Authority shall find at a minimum that the proposed development:
   a. Retains street corridor views as extended across Commercial Street from the Portland peninsula.
   b. Retains panoramic views of the water from Commercial Street to the extent practicable.
   c. Where loss of existing public views to the water is shown to be necessary for the reasonable development of the site, the developer provides alternative public views to the water through newly established view corridors or publicly accessible pedestrian ways. Such pedestrian ways shall not interfere with existing or potential water-dependent uses, nor shall they endanger the public through uncontrolled proximity to industrial activity.

~~M.~~O. **Operations and access management plan**

1. Any new development, including changes of use or expansion of uses in the Waterfront Central Zone, shall submit a scaled plan and accompanying narrative that demonstrates waterfront access and functional accommodation for water-dependent uses. ~~In accordance with *Portland's Plan 2030, the*~~The plan shall demonstrate consistency with the hierarchy of waterfront uses, as further detailed in Subsection 10.3.1, with non-marine and marine-related uses being subordinate in placement and disposition to water-dependent uses, and designed so as not to impede access to the pier edge and vessel berthing nor interfere with marine operations.
2. The plan shall, at a minimum, illustrate the following information:
   a. Location of all existing and proposed structures, rights-of-way, common circulation drives ~~as defined in Subsection 10.3.2~~, access-ways, sidewalks, pier edges, floats, and docks, showing the entire lot in the context of its respective pier.
   b. Existing and proposed off-street parking, labeled with associated uses.

c. Facilities for the loading and unloading of goods and materials.

d. Regularly occurring exterior activities including but not limited to the storage of material, equipment and vehicles, yard area, outdoor seating, and on-site waste management.

e. Signage showing parking use, wayfinding, and posted operational restrictions.

f. Plan narrative detailing how the standards listed below are achieved, tenant/landlord communication protocols, private enforcement actions to be employed to ensure plan compliance, and the responsible parties representing the property owner.

3. The operations and access management plan shall be reviewed by the Planning Authority.

4. In addition to the information above, the plan shall demonstrate compliance with the following standards:

a. Off-street parking is subject to the limitations described in Subsection 10.3.7 (A)("55% Rule"). Off-street parking spaces intended for use by water-dependent uses shall be sited as close as reasonably possible to associated vessels and/or ground-floor lease area.

b. Proposals for new non-marine parking, accessory to an otherwise permitted use in the WCZ, shall submit a parking analysis for all uses on the subject lot, justifying the number of non-marine spaces based upon the proposed use and demonstrating sufficient parking supply for marine uses. If sufficient parking is not available to marine uses, off-street parking for non-marine uses shall not be permitted.

c. Off-street parking, loading facilities, and access ways designated for water-dependent uses shall be exclusive to such uses, except that, if not being occupied by water-dependent tenants, such parking may be made available to non-marine uses between the hours of 5:00 p.m. and 2:00 a.m. Any such shared parking arrangements shall be documented in the operations and access management narrative described above, and clearly signed on-site.

d. All properties providing commercial berthing shall demonstrate reasonable opportunities to load and unload vessels from the subject lot.

e. Facilities for the loading and unloading of goods shall account for the frequency of use and vehicle type and, to the extent possible, minimize impacts to pedestrian and vehicle circulation patterns.

f. Provisions for the storage and movement of goods and materials shall be designed into all pier edge development. Circulation routes ~~must~~shall be maintained or otherwise provided as an element of all development. The siting, design, and circulation of non-marine uses, particularly those allowed on first

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floors, shall accommodate reasonable access for pedestrians, vehicles, and freight transfer to and from berthed vessels.

g. Non-marine uses shall provide a dedicated pedestrian route between the proposed use and Commercial Street, and shall seek to minimize conflict with vehicle traffic.

10.4- WATERFRONT PORT DEVELOPMENT ZONE (WPDZ)

10.4.1 Purpose

Transport of goods by water to and from Portland is an important component of both the local and regional ~~economy. This commerce is dependent upon land with direct access to the dredged deep-water channel of the Fore River and Portland Harbor. The~~economies. As such, the Port of Portland is integral to the City's economic, cultural and fiscal health. ~~This zone exists to ensure the continued viability of the Port of Portland. Uses in the~~The Waterfront Port Development Zone~~, while governed~~ (WPDZ) aims to support the ongoing success of the Port by ~~the similar performance standards as other industrial zones,~~regulating the development of land directly connected to the dredged deep-water channel of the Fore River and Portland Harbor. Activities within the WPDZ are primarily limited to those ~~uses which are dependent upon~~requiring deep water access and ~~which contribute~~contributing to port ~~activity~~operations. Non-marine ~~activity~~activities may be ~~allowed to the extent it will~~permitted if they do not ~~have any adverse impact on~~adversely affect marine uses.

10.4.2 No adverse impact on marine uses

No use shall be permitted~~, approved or established~~ in ~~this zone~~the WPDZ if it will have an ~~impermissible~~ adverse impact on future marine development. A proposed development ~~will~~is deemed to have an ~~impermissible~~ adverse impact if it will result in any one or more of the following:

A. The proposed ~~non-water-dependent~~ use will displace an existing water-dependent use.

B. The proposed use will reduce existing commercial vessel berthing space.

C. The proposed ~~nonwater-dependent~~ use~~,~~ and any associated structure~~,~~(s) or ~~activities,~~site elements including but not limited to access, circulation, parking, dumpsters, exterior storage, or loading facilities, ~~and other structures,~~ will unreasonably interfere with the activities and operation of existing water-dependent uses or significantly impede access to vessel berthing or other access to the water by water-dependent uses.

D. The siting of a proposed ~~nonwater-dependent~~ use will substantially reduce or inhibit existing public access to marine or tidal waters.

10.4.3 Permitted uses

Subject to a determination that the proposed use meets the standards of Subsection 10.4.2, the uses in Table 10-A are permitted (●) or conditional (◐) in the Waterfront Port Development Zone.

10.4.4 Conditional use standards

Conditional uses shall be permitted in the Waterfront Port Development Zone~~,~~ provided that~~,~~ notwithstanding Section 6.5 or any other provision of this code, the Planning Board shall be substituted for the Board of Appeals as the review authority. In

addition to the provisions of Section 6.5, such uses ~~will~~shall:

A. Not impede or preclude existing or potential water-dependent development on other lots.

B. Allow for adequate access to the water.

C. Be compatible with water-dependent and marine uses.

D. Operationally support one or more water-dependent use(s), or be located in a building or structure that is physically adaptable or relocatable to make way for future development of water-dependent uses.

E. Meet any additional performance and dimensional standards set forth below.

10.4.5 Prohibited uses

Uses which are not enumerated in Table 10-A as permitted or conditional uses are prohibited. Those uses that are prohibited shall include, without limitation:

A. Residential uses.

B. Hotels~~,~~ or motels, or boatels.

C. Auditoriums, civic centers, convention centers, or other meeting facilities.

D. Restaurants and ~~drinking establishments~~bars.

E. Marinas, including marina associated boat storage facilities.

F. Truck terminals.

~~**F.**~~

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TABLE 10-A: WPDZ PERMITTED AND CONDITIONAL USES

Marine	Marine repair services and machine shops	●
	Tugboat, fireboat, pilot boat, and similar services	●
	Harbor and marine supplies and services and ship supply, such as fueling and bunkering of vessels	●
	Shipbuilding and facilities for construction, maintenance, and repair of vessels	●/◐[1]
	Marine cargo handling facilities, including docking, loading and related storage	●/◐[1]
	Boat repair yards	●/◐[1]
	Facilities for marine construction and salvage	●/◐[1]
	Facilities for marine pollution control, oil spill cleanup, and servicing of marine sanitation devices	●
	Marine retail and wholesale sales, including yacht brokerage	◐
	Boat storage facilities	●/◐[1]
	Seafood processing	◐
	Seafood packing and packaging	◐
	Fabrication, storage, and repair of fishing equipment	◐
	Ice-making services	◐
	Fabrication of marine-related goods	◐
	Fish by-products processing, provided that any fish by-product processing facility has a valid rendering facility license under Chapter 12 and the processing of other material wastes or by-products shall not be deemed a lawful accessory use under any other provision of this article.	◐
	Commercial berthing	●
Industrial	Intermodal transportation facilities principally for vessels with regularly scheduled destination service or for railroad transportation service	●/◐[1]
	Marine cargo container and chassis maintenance and repair	●
	Facilities for combined marine and general construction	◐[1]
	Cold storage facility, warehousing, and storage of goods which are awaiting shipment via cargo carriers	◐[1]
	Low impact industrial uses, including but not limited to bakeries, breweries, bottling, printing and publishing, pharmaceuticals, machine shops, manufacture of products, assembly of electrical components, tool and die shops, and the packaging of food, provided that such uses shall be subject to the performance standards of the I-M zone	◐
Public	Public uses including pedestrian and bicycle trails	●
	Utility substations, including sewage collection and pumping stations, water pumping stations, transfer stations, telephone electronic equipment enclosures and other similar structures, provided that such structures are located more than 100 feet from the water.	◐
Other	Off-street parking lots, excluding parking structures	◐
	Accessory uses customarily incidental and subordinate to the location, function, and operation of permitted uses[2]	●
	Minor solar energy systems	●
	Minor wind energy systems	◐

[1] Uses that may be located in buildings that exceed the maximum permitted height. Uses marked ●/◐ will be considered permitted uses when occupying buildings with a maximum height equal to or less than the maximum applicable height allowable under the permitted use dimensional standards, and conditional ~~Uuses~~uses when above that height.

[2] Food service establishments, including food trucks and other similar retail and service support uses shall only be permitted as accessory uses if ~~all such uses do not exceed 2,000 SF in total floor area of the building and~~ each individual use does not exceed 1,000 SF in ~~total~~ floor area, and the total of all such uses does not exceed 2,000 SF in floor area ~~of the building~~; and further provided that such accessory uses provide goods or services that are supportive of the principal use and its clientele.

TABLE 10-B: WPDZ DIMENSIONAL REQUIREMENTS

	-Permitted Use Dimensional Standards	-Conditional Use Dimensional Standards
Setbacks (min.)	N/A	N/A
Lot size (min.)	N/A	5 acres, limited to 1 building greater than the maximum applicable height allowed under the permitted use dimensional standards.
Setback from pier line, wharf, or bulkhead (including any attached aprons)(min.)[1]	5 ft.	5 ft.
Lot coverage (max.)	50% east of a line projected due south from the centerline intersections of W. Commercial Street and the easterly most Cassidy Point Drive.	~~50% east of a line projected due south from the centerline intersections of W. Commercial Street and the easterly most Cassidy Point Drive.~~
	100% west of a line projected due south from the centerline intersections of W. Commercial Street and the easterly most Cassidy Point Drive.	~~100% west of a line projected due south from the centerline intersections of W. Commercial Street and the easterly most Cassidy Point Drive.~~
Building height (inclusive of roof forms and rooftop appurtenances)(max.)[2]	55 ft. east of a line projected due south from the centerline intersections of West Commercial Street and the easterly most Cassidy Point Drive and west of Casco Bay Bridge.	60 ft. west of the Casco Bay Bridge[7], except as follows: 75 ft. in the area east of a line projected due south from the centerline intersections of W. Commercial Street and the easterly most Cassidy Point Drive and west of Casco Bay Bridge, on lots 5 contiguous acres or larger.[4] 130 ft. for bulk storage[3] facilities west of the projection of the westerly most Cassidy Point Drive segment.
	60 ft. west of a line projected due south from the centerline intersections of West Commercial Street and the easterly most Cassidy Point Drive.	
	In no case may any ~~permitted~~ heights exceed 50ft within 100ft of W.Commercial Street and all area of the WPDZ east of the Casco Bay Bridge.[5]	~~In no case may any conditionally permitted heights exceed 50ft within 100ft of W. Commercial Street and all area of the WPDZ east of the Casco Bay Bridge.[5]~~
Building length (max.)[6]	450 ft.	450 ft.
		300 ft. within 100ft of W. Commercial Street and all area of the WPDZ east of the Casco Bay Bridge.
	300 ft. within 100 ft. of W. Commercial Street and all ~~area~~areas of the WPDZ east of the Casco Bay Bridge.	300 ft. for buildings or portions of buildings exceeding the maximum applicable height allowed under the permitted use dimensional standards.

[1] The setback area may be used for activities related to the principal uses in the structure, but shall not be used for off-street parking.
[2] Buildings and/or structures shall be limited to an absolute height measured from average grade with no portion of the structural roof system or roof top appurtenances exceeding the limits set forth under Table 10-B with the exception of moveable elements or connection devices as listed under Subsection 10.4.7
[3] Bulk storage dedicated to materials delivered or awaiting transportation to a site by waterborne transportation.
[4] A projection of the street centerline shall consist of an extension of the centerline to the water side boundary of the WPDZ.
[5] Height limitations east of the Casco Bay Bridge are intended to protect vistas of the harbor from public open space.
[6] As measured by a line parallel with the southern edge of the West Commercial Street right-of-way.
[7] Only those conditional uses so designated in Note 1 of the Waterfront Port Development Zone Use Table 10-A may be located in buildings taller than 60 ft.

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10.4.6 Dimensional requirements

In addition to the generally applicable provisions of ~~Section~~Article ~~7.5~~ 7 of this Land Use Code, lots in the Waterfront Port Development Zone shall be subject to the requirements of Table 10-B.

10.4.7 Additional bulk, height, and location standards.

A. ~~For structures exceeding~~Moveable elements or connection devices may exceed the maximum ~~applicable~~ height ~~allowed under~~limits set forth in Table 10-B, subject to the ~~permitted use dimensional standards~~following:

1. Moveable elements such as cranes and gantries, and connection devices such as conveyors or bridges shall not be subject to the space and bulk requirements, but shall be subject to a determination by the Federal Aviation Administration that the location of such equipment will not create a hazard to navigation.

2. The applicant ~~must~~shall provide a determination from the Federal Aviation Administration that structures and equipment will not exceed the applicable height guidelines for the runway approach and will not create a hazard to navigable airspace. Such a determination shall be accepted as conclusive evidence that the proposed development will not create a hazard.

3. For each lot, at least one view corridor of at least 90 feet in width shall be left unbuilt to preserve a clear line of sight between West Commercial Street and the water.

10.4.8 Performance standards

Proposals in the Waterfront Port Development Zone that qualify for site plan review shall submit, in addition to site plan submission requirements (if applicable), an impact mitigation narrative summarizing how the project meets the applicable performance standards. All uses in the Waterfront Port Development Zone shall comply with the following standards:

A. Outdoor storage of materials. Outdoor storage of commodities and materials accessory to normal conduct of business, except pilings and/or cranes, shall be permitted to a maximum height of 45 feet, and such materials shall be entirely contained, including runoff contaminants and residual material, within a designated area within the lot boundaries.

B. Noise.

1. The level of sound, measured by a sound level meter with frequency weighting network (manufactured according to standards prescribed by the American National Standards Institute, Inc.), inherently and recurrently generated within the Waterfront Port Development Zone between the hours of 7:00 p.m. and 7:00 a.m. from industrial facilities or operation commenced on or after July 1, 1988, shall not exceed 55 decibels on the A scale at or within the boundaries of any residential zone, except for sound from construction activities, sound from traffic on public streets, sound from temporary activities such as festivals, and sound created as a result of, or relating to, an

emergency, including sound from emergency warning signal devices.

2. In measuring sound levels under this subsection, sounds with a continuous duration of less than 60 seconds shall be measured by the maximum reading on a sound level meter set to the A weighted scale and the fast meter response (L maxfast). Sounds with a continuous duration of 60 seconds or more shall be measured on the basis of the energy average sound level over a period of 60 seconds (LEQ1).
3. In addition to the sound level standards otherwise established, facilities or operations established or built in the Waterfront Port Development Zone on or after July 1, 1988, shall employ best practicable sound abatement techniques to prevent tonal sounds and impulse sounds or, if such tonal and impulse sounds cannot be prevented, to minimize the impact of such sounds in residential zones. Tonal sound is defined as a sound wave usually perceived as a hum or which because its instantaneous sound pressure varies essentially as a simple sinusoidal function of time. Impulse sounds are defined as sound events characterized by brief excursions of sound pressure, each with a duration of less than one second.

C. **Vibration.** Vibration inherently and recurrently generated shall be imperceptible without instruments at lot boundaries. This shall not apply to vibration resulting from activities aboard a vessel or from railroad vehicle activities, or from activities on a pile supported pier.

D. **Federal and state environmental regulations.** All uses shall comply with federal and state environmental statutes and regulations regarding emissions into the air, except where provisions of this Land Use Code are more stringent.

E. **Discharges into harbor areas.** No discharge into harbor water areas shall be permitted, unless permitted by the Maine Department of Environmental Protection under a waste discharge license and as approved by the Department of Public Works in accordance with Chapter 24, Article III of the City of Portland Code of Ordinances. All private sewage disposal or private wastewater treatment facilities shall comply with the provisions of Chapter 24, Article II of the City of Portland Code of Ordinances and federal and state environmental statutes and regulations regarding wastewater discharges.

F. **Storage of vehicles.** Storage of any unregistered automotive vehicle on the premises for more than 60 days shall not be permitted.

G. **Landfill of docking and berthing areas.** Landfill of docking and berthing areas shall be governed by 38 M.R.S. § 471 through 478, and permitted only if the landfill does not reduce the amount of linear berthing areas or space, or berthing capacity. If approved, construction shall be undertaken using methods approved by the Department of Public Works and shall be accomplished in accordance with the provisions of this Land Use Code and in a manner so as to ensure that a stable and impermeable wall of acceptable materials will completely contain the fill material and will not

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permit any fill material to leach into docking areas or navigable waters.

H. Off-street parking. Off-street parking ~~is required as provided in~~and loadingshall be exempt from the standards of Article ~~19.~~18.

I. Shoreland and ~~Flood Plain~~Floodplain Management regulations. Any lot or portion of a lot located in a Shoreland Overlay Zone as identified on the City zoning map or in a flood hazard area shall be subject to the requirements of Articles 11 and 12.

J. Lighting. All lighting on the site shall be shielded such that direct light sources shall not unreasonably interfere with vessels transiting the harbor nor have an unreasonable adverse impact on adjacent residential zones.

K. Signs. Signs shall be permitted as set forth in Article ~~20~~19.

L. Storage of pollutants and oily wastes. On-premises storage of pollutants and oily wastes shall not be permitted for more than 45 days.

~~**M. Compatibility of non-marine uses with marine uses.** Non-marine uses, structures and activities, including but not limited to access, circulation, parking, dumpsters, exterior storage and loading facilities or other structures shall neither unreasonably interfere with the existence or operation of marine uses nor significantly impede access to vessel berthing or other access to the water by existing or potential marine uses.~~

~~**N. Design.** Design and visual character shall:~~

~~1. In building design, including placement and screening of mechanical equipment, take into consideration long views to minimize negative visual impact and provide visual interest, and architecturally integrate exposed industrial systems and equipment where practical.~~

~~2. Organize massing to emphasize certain parts of the building such as entries, corners, or different uses.~~

~~3. Treat all facades, including the roof, with equal level of detail and articulation.~~

~~4. Vary and articulate building facades to add scale and avoid large monotonous walls. Treatments such as texture, color, material changes, or shadow lines or murals must be used to add visual interest and avoid dull, flat, repetitive facades.~~

~~5. Use a scaling or articulation element such as stepback, canopy, or fenestration as required for any street facing façade within 50 feet of West Commercial Street.~~

11 SHORELAND OVERLAY ZONE

11.1 PURPOSE

The purpose of this article is to further the maintenance of safe and healthful conditions; prevent and control water pollution; protect fish spawning grounds, aquatic life, bird and other wildlife habitat; protect buildings and lands from flooding and accelerated erosion; protect archaeological and historic resources; protect commercial fishing and maritime industries; protect freshwater and coastal wetlands; control building sites, placement of structures, and land uses; conserve shore cover and visual as well as actual points of access to inland and coastal waters and natural beauty, as appropriate in an urbanized environment; and to anticipate and respond to the impact of development in shoreland areas.

11.2 APPLICABILITY

A. This article applies to all land areas, uses, structures, and land use activities in all zones of the city within:

~~a.~~1. 250 feet, horizontal distance, of the normal high-water line of any river~~;~~,

~~b.~~2. 250 feet, horizontal distance, of the upland edge of a coastal wetland, including all areas affected by tidal actions~~;~~,

~~c.~~3. 250 feet, horizontal distance, of the upland edge of a freshwater wetland~~;~~,

4. 75 feet, horizontal distance, of the normal high-water line of a stream~~;~~,

and any other areas as added to Shoreland Zoning Overlay by order of the City Council.

~~C.~~B. This article also applies to any structure built on, over or abutting a dock, wharf, or pier, or other structure extending beyond the normal high-water line of a water body, meaning for the purposes of this article any river or stream, or within a wetland.

~~D.~~C. For the purposes of this article, wetlands shall include coastal and freshwater wetlands as defined in Article 3.

~~E. The regulations and controls of this article apply to all land areas, uses, structures, and land use activities cited within this subsection in all zones of the city.~~

D. The Shoreland Overlay Zone shall include a Resource Protection subdistrict, which shall consist of areas in which development would adversely affect water quality, productive habitat, biological ecosystems, or scenic and natural values. This subdistrict shall include the following areas when they occur within the limits of the Shoreland Overlay Zone, except that areas which are currently developed shall not be included:

1. Floodplains along rivers defined by the 100-year floodplain as designated on the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps or Flood Hazard Boundary Maps, or the flood of record, or in the absence of these, by soil types identified as recent floodplain soils. This zone shall also include 100-year floodplains adjacent to tidal waters as shown on FEMA's Flood Insurance Rate Maps or Flood Hazard Boundary Maps.
2. Areas of two or more contiguous acres with sustained slopes of 20% or greater.
3. Areas of two or more contiguous acres supporting wetland vegetation and hydric soils, which are not part of a freshwater or coastal wetland as defined, and which are not surficially connected to a water body during the period of normal high water.

~~1.~~4. Land areas along rivers subject to severe bank erosion, undercutting, or river bed movement, and lands adjacent to tidal waters which are subject to severe erosion or mass movement, such as steep coastal bluffs.

11.3 REVIEW PROCEDURE

11.3.1 Review authority

Development activities within the Shoreland Overlay Zone ~~are~~shall be reviewed by the Building Authority and/or the reviewing authority designated under Article 13 of this Land Use Code for compliance with the requirements ~~of Section 11.4. Submission~~and standards of ~~plans~~this article.

11.3.2 Review procedure

~~A.~~ Every applicant for ~~such development activity~~a site plan or building permit within the Shoreland Overlay shall submit a written application, including a scaled plan, on a form provided by the review authority. Plans shall be prepared by qualified professionals, based upon a boundary survey.

A. ~~Use Specific~~ All applications shall be signed by an owner or individual who can show evidence of right, title or interest in the property or by an agent, representative, tenant, or contractor of the owner with authorization from the owner to apply for a permit hereunder, certifying that the information in the application is complete and correct.

B. All applications shall include preconstruction photographs and, no later than 20 days after completion of the development, postconstruction photographs of the shoreline vegetation and development site.

C. If the property is not served by a public sewer, a valid plumbing permit or a completed application for a plumbing permit, including the site evaluation approved by the Building Authority, shall be submitted whenever the nature of the proposed structure or use would require the installation of a subsurface sewage disposal system.

11.3.3 Rules of measurement

For the purposes of this article:

A. Footprint shall be measured as the entire area of ground covered by the structure(s) on a lot, including but not limited to cantilevered or similar overhanging extensions, as well as unenclosed structures, such as patios and decks.

B. Height shall be measured as vertical distance between the mean original (prior to construction) grade at the downhill side of the structure and the highest point of the structure, excluding chimneys, steeples, antennas, and similar appurtenances that have no floor area, except that with respect to existing principal or accessory structures, including legally existing nonconforming structures, located within an area of special flood hazard that have been or are proposed to be relocated, reconstructed, replaced or elevated to be consistent with the minimum elevation required in Article 12, height shall be measured as the vertical distance between the bottom of the sill of the structure to the highest point of the structure, excluding chimneys, steeples, antennas and similar appurtenances that have no floor area.

C. Lot area shall be measured as the area of land enclosed within the boundary lines of a lot,

minus land below the normal high-water line of a water body or upland edge of a wetland and areas beneath roads serving more than two lots.

D. Setback shall be the nearest horizontal distance from the normal high-water line of a water body or tributary stream, or upland edge of a wetland, to the nearest part of a structure, road, parking space or other regulated object or area.

11.4 LAND USE STANDARDS

11.4.1 Principal and accessory structures

A. Setbacks

~~A.~~1. All principal and accessory structures shall be ~~set back~~setback at least 75 feet horizontal distance from the normal high-water line of ~~water bodies,~~a river, stream, or tributary stream, or the upland edge of a wetland ~~or associated tributary streams~~ within ~~a~~the Shoreland Overlay Zone, except that in the following zones the setback shall be as indicated below:

~~1.~~a. *B-~~3~~, B-5~~/B-5b~~, I-L on-peninsula, and I-M on-peninsula:* 25 feet.

~~2.~~b. *I-B, WCZ, WPDZ, EWPZ:* No setback required. However, pier edge setbacks shall apply in the EWPZ, the WCZ, and the WPDZ.

~~B.~~2. For principal structures, setback measurements shall be taken from the top of a coastal bluff that has been identified on coastal bluff maps as being "highly unstable" or "unstable" by the Maine Geological Survey~~, as adopted on the City of Portland zoning map~~.

~~**C.** Notwithstanding this requirement, when a lot is a lot of record as defined in Subsection 4.3.1 or cannot otherwise meet the setback requirement of this subsection due to physical limitations of the site, the Planning Board may approve a reduction of the setback requirement for a principal structure to the least amount necessary to achieve a building dimension of 28 feet, provided that the setback is not reduced to less than 40 feet. Structures in existence on June 15, 1992, may be expanded once during the lifetime of the structure up to 25 feet toward a freshwater wetland, stream or tributary stream, provided that the setback is not reduced to less than 40 feet and the floor area or volume is not increased by more than 30%. In no event shall the setback from a coastal wetland be reduced to less than 75 feet, except as set forth in Subsection 11.4.1(A), above.~~

~~D.~~3. In all cases, accessory detached structures of less than 100 square feet of floor area shall be permitted with no setback, provided that such structures shall be used only for the storage of fish, bait, and related equipment. No setback shall be required for piers, docks, retaining walls, or any other structures which require direct access to the water as an operational necessity, nor to other water-dependent uses.

~~**E.** The lowest floor elevation or openings of all buildings and structures including basements shall be elevated at least one foot above the elevation of the 100-year flood, the flood of record, or in the absence of these, the flood as defined by soil types identified as recent flood plain soils.~~

~~F.~~4. Notwithstanding the requirements of this section, stairways or similar structures may

be allowed with a permit from the Building Authority to provide shoreline access in areas of steep slopes or unstable soils, provided that:

~~1.~~**a.** The structure is limited to a maximum of four feet in width.

~~2.~~**b.** The structure does not extend below or over the normal high-water line of a water body or upland edge of a wetland, unless permitted by the Department of Environmental Protection pursuant to 38 M.R.S. § 480 C.

~~3.~~**c.** The applicant demonstrates that no reasonable access alternative exists on the property.

B. Finished floor elevation. The lowest floor elevation or openings of all buildings and structures including basements shall be elevated at least one foot above the elevation of the 100-year flood, the flood of record, or in the absence of these, the flood as defined by soil types identified as recent floodplain soils.

C. Non-vegetated lot area.

1. With the exception of the EWPZ, WCZ, WPDZ, B-3, B-5, B-6, I-B, I-L (on-peninsula), and I-M zones (on-peninsula), non-vegetated surfaces shall not exceed a total of 20% of the portion of the lot located within the Shoreland Overlay Zone. This limitation does not apply to public boat launching facilities regardless of the zone in which the facility is located.

2. For the purposes of this article, non-vegetated surfaces shall include, but are not limited to structures, driveways, parking areas, and other areas from which vegetation has been removed. Naturally occurring ledge and rock outcroppings are not counted as non-vegetated surfaces for lots existing on March 24, 1990 and in continuous existence since that date.

11.4.2 Piers, docks, wharves, bridges, ~~and~~ other structures and uses extending over or below the normal high-water line of a water body or within a wetland, and shoreline stabilization

A. For the purposes of this subsection, temporary shall mean structures which remain in or over the water for less than seven months in any period of 12 consecutive months and permanent shall mean structures which remain in or over the water for 7 months or more in any period of 12 consecutive months.

B. No more than one pier, dock, wharf or similar structure extending or located below the normal high-water line of a water body is allowed on a single lot, with the exception that this provision shall not apply in the WCZ, EWPZ, and WPDZ.

~~A.~~**C.** Access from shore shall be developed on soils appropriate for such use and constructed so as to control erosion.

~~B.~~**D.** The location shall not interfere with existing developed or natural beach areas.

~~C.~~**E.** The facility shall be located so as to minimize adverse effects on fisheries.

~~D.~~**F.** The facility shall be no larger in dimension than necessary to carry on the activity and shall be consistent with surrounding character and uses.

~~E.~~**G.** New permanent structures, and expansions thereof, projecting into or over water bodies shall require a permit from the Department of Environmental Protection pursuant to the

National Resources Protection Act, 38 M.R.S. § 480-C. Permits may also be required from the Army Corps of Engineers and Board of Harbor Commissioners if located in navigable waters.

H. ~~Except in the WCZ, EWPZ, WPDZ, and I-B zones, no~~New permanent piers and docks on non-tidal waters shall not be permitted unless it is clearly demonstrated to the review authority that a temporary pier or dock is not feasible, and a permit has been obtained from the Department of Environmental Protection, pursuant to the Natural Resources Protection Act.

~~F.~~I. No new structure shall be built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high-water line of a water body or within a wetland unless the structure requires direct access to the water as an operational necessity. Where such a structure is permitted under this subsection, such structures shall not exceed 20 feet in height above the pier, wharf, dock, or other structure. This subsection shall not apply in the WCZ, EWPZ, WPDZ, and I-B zones.

J. A structure constructed on a float or floats is prohibited unless it is designed to function as, and is registered with the Maine Department of Inland Fisheries and Wildlife as, a watercraft.

~~G.~~K. No existing structures built on, over or abutting a pier, dock, wharf, or other structure extending beyond the normal high-water line of a water body or within a wetland shall be converted to residential dwelling units in any zone.

L. Vegetation may be removed in excess of the standards in Subsection 11.4.3(A) of this article in order to conduct shoreline stabilization of an eroding shoreline, provided that approval is obtained from the review authority. Construction equipment must access the shoreline by barge when feasible as determined by the review authority. When necessary, the removal of trees and other vegetation to allow for construction equipment access to the stabilization site via land must be limited to no more than 12 feet in width. When the stabilization project is complete the construction equipment accessway must be restored to its pre-development state. Revegetation must occur in accordance with Subsection 11.4.3(C).

11.4.3 Vegetation and clearing

~~11.4.3~~A. Clearing or removal of vegetation

~~**A.** In all shoreland areas in Resource Protection Zones, the cutting or removal of vegetation shall be limited to that which is necessary for uses expressly authorized in that zone.~~

~~**B.** The clearing or removal of vegetation standards of this subsection shall not apply to the following zones: EWPZ, WCZ, WPDZ, B-3, B-5/B-5b, B-6, B-7, I-L (on peninsula), and I-M zones (on peninsula).~~

~~b)~~**1.** The clearing or removal of vegetation standards of this subsection shall not apply to those portions of public recreational facilities adjacent to public swimming areas. Cleared areas in these locations shall be limited to the minimum amount necessary.

2. In the Resource Protection subdistrict, the cutting or removal of vegetation shall be limited to that which is necessary for uses expressly authorized in the underlying zone.

TABLE 11-A: SHORELAND TREE STAND RATING SYSTEM

Diameter (at 4½ ft. above ground level)	Points
2 in. ≤ 4 in.	1
4 in. ≤ 8 in.	2
8 in. – 12 in.	4
12 in. or greater	8

~~A.~~3. Other than cutting or removal of vegetation as provided for in this subsection, timber harvesting shall not be permitted. For purposes of this subsection, timber harvesting is defined as the cutting and removal of timber for the primary purpose of selling or processing forest products. The cutting or removal of trees in the Shoreland Overlay Zone on a lot that has less than two acres within the Shoreland Overlay Zone shall not be considered timber harvesting. Cutting or removal of such trees shall be regulated pursuant to this subsection.

~~B.~~4. For purposes of this subsection, vegetation is defined as all live trees, shrubs, and other plants including without limitation, trees both over and under ~~4~~four inches in diameter, measured at ~~4 ½~~four and one half feet above ground level.

~~C.~~5. In all areas other than the Resource Protection ~~Zone~~subdistrict, a buffer strip of vegetation shall be preserved, except where clearance is required for development of permitted uses, within a strip of land extending 75 feet, horizontal distance, from the normal high-water ~~or upland edge~~line of a ~~coastal wetland,~~ river, stream, or tributary stream, or the upland edge of a coastal wetland or freshwater wetland within ~~a~~the Shoreland Overlay Zone, in accordance with the following:

~~1.~~**a.** There shall be no cleared opening greater than 250 square feet in the forest canopy or other existing vegetation if a forested canopy is not ~~presented~~present as measured from the outer limits of the tree or shrub crown. Notwithstanding this limitation, a single footpath not to exceed six feet in width as measured between tree trunks and/or shrub stems is allowed for accessing the shoreline provided that a cleared line of sight to the water through the buffer strip is not created.

~~a.~~ Selective cutting of trees within the buffer strip is allowed provided that a well distributed stand of trees and other vegetation is maintained. For the purposes of this subsection, a "well~~-~~distributed stand of trees" adjacent to a water body, tributary stream or wetland shall be defined as maintaining a minimum rating score of 16 or more in any 25-foot by 50-foot rectangle area as determined by the

b. rating system in Table 11-A. The following shall govern in applying the point system in Table 11-A:

~~a.~~**i.** The 25-foot by 50-foot rectangular plots must be established where the landowner or lessee proposes clearing within the required buffer;

~~b.~~**ii.** Each successive plot must be adjacent to, but not overlap a previous plot.

~~c.~~**iii.** Any plot not containing the required points must have no vegetation removed except as otherwise allowed by this ordinance.

~~d.~~**iv.** Any plot containing the required points may have vegetation removed down to the minimum points required or as otherwise allowed by this ordinance.

~~e.~~**v.** Where conditions permit, no more than 50% of the points on any 25-foot by 50-foot rectangular area may consist of trees greater than 12 inches in diameter.

6. For the purposes of this subsection, "other natural vegetation" is defined as retaining existing vegetation under three feet in height and other ground cover and retaining at least five saplings less than two inches in diameter at ~~4 ½~~four and one half feet above ground level for each 25-foot by 50-foot rectangular area. If five ~~samplings~~saplings do not exist, no woody stems less than two inches in diameter can be removed until five ~~samplings~~saplings have been recruited into the plot. Notwithstanding the above provisions, no more than 40% of the total volume of trees four inches or more in diameter, measured at ~~4 ½~~four and one half feet above ground level may be removed in any ten-year period.

~~3.~~**7.** In order to protect water quality and wildlife habitat, existing vegetation under three feet in height and other groundcover, including leaf litter and the forest duff layer, shall not be cut, covered, or removed, except to provide a footpath or other permitted uses as described in this subsection.

~~4.~~**8.** Pruning of tree branches on the bottom one third of the tree is allowed.

~~5.~~**9.** In order to maintain a buffer strip of vegetation when the removal of storm damaged~~, diseased, unsafe~~ or ~~dead~~hazard trees results in the creation of cleared openings exceeding 250 square feet, these openings shall be replanted with native tree species in accordance with Subsection 11.4.3(D) unless existing new tree growth is present.

10. In order to maintain the vegetation in the shoreline buffer, clearing or removal of vegetation for allowed activities, including associated construction and related equipment operation, within or outside the shoreline buffer, must comply with the requirements of Subsection 11.4.3(A)5.

~~6.~~**11.** Selective cutting of not more than 40% of the volume of trees four inches or more in diameter, measured at ~~4 ½~~four and one half feet above ground level, shall be allowed within any ten-year period at distances greater than 75 feet, horizontal distance, from the normal high-water line of any ~~other water body,~~ river, stream, or tributary stream, or the upland edge of a wetland~~, except to allow for the development of permitted uses~~. Tree removal in conjunction with the development of permitted uses shall be included in the 40% calculation. For the purposes of these standards, volume may be considered to be equivalent to basal

area. In no event shall cleared openings for any purpose, including but not limited to, principal and accessory structures, driveways, lawns, and sewage disposal areas, exceed in the aggregate 25% percent of the lot area within the Shoreland Overlay Zone or 10,000 square feet, whichever is greater, including land previously cleared. This provision applies to the portion of a lot within the Shoreland Overlay Zone, including the buffer area.

~~H.~~12. Legally existing nonconforming cleared openings may be maintained but shall not be enlarged, except as allowed by this article.

~~I.~~13. Fields and other cleared openings which have reverted to primarily shrubs, trees, or other woody vegetation shall be regulated under the provisions of this subsection.

B. Exemptions to clearing and vegetation removal requirements.

1. The clearing and removal of vegetation standards of Subsection 11.4.3(A) shall not apply in the following zones: EWPZ, WCZ, WPDZ, B-3, B-5, B-6, I-L (on peninsula), and I-M (on peninsula), except that the following standards do apply:
   a. Within a strip extending 75 inland from the normal high water line, there shall be no cleared opening or openings, except for approved construction, and a well-distributed stand of vegetation shall be retained.
   b. Selective cutting of no more than 40% of the trees four and one half inches or more in diameter, measured at four and one half feet above ground level, is allowed in any 10-year period, as long as a well-distributed stand of trees and other natural vegetation results.
2. The following activities are exempt from the clearing and vegetation removal standards set forth in Subsection 11.4.3(A), provided that all other applicable requirements of this article are met, and the removal of vegetation is limited to that which is necessary:
   a. The removal of vegetation that occurs at least once every two years for the maintenance of legally existing areas that do not comply with the vegetation standards in this chapter, such as but not limited to cleared openings in the canopy or fields. Such areas shall not be enlarged, except as allowed by this section. If any of these areas, due to lack of removal of vegetation every two years, reverts back to primarily woody vegetation, the requirements of Subsection 11.4.3(A) apply:
   b. The removal of vegetation from the location of allowed structures or allowed uses, when the shoreline setback requirements of section 11.4.1 are not applicable;
   c. The removal of vegetation from the location of public swimming areas associated with an allowed public recreational facility;
   d. The removal of vegetation associated with allowed agricultural uses, provided best management practices are utilized, and provided all requirements of Subsection 11.4.14 are complied with;

e. The removal of vegetation associated with brownfields or Voluntary Response Action Program (VRAP) projects provided that the removal of vegetation is necessary for remediation activities to clean-up contamination on a site that is part of a state or federal brownfields program or a Voluntary Response Action Program pursuant 38 M.R.S. section 343-E, and that is located along a coastal wetland or a river.

f. The removal of non-native invasive vegetation species, provided the following minimum requirements are met:

i. If removal of vegetation occurs via wheeled or tracked motorized equipment, the wheeled or tracked motorized equipment is operated and stored at least 25 feet, horizontal distance, from the shoreline, except that wheeled or tracked equipment may be operated or stored on existing structural surfaces, such as pavement or gravel;

ii. Removal of vegetation within 25 feet, horizontal distance, from the shoreline occurs via hand tools; and

iii. If applicable clearing and vegetation removal standards are exceeded due to the removal of non-native invasive species vegetation, the area shall be revegetated with native species to achieve compliance.

g. The removal of vegetation associated with emergency response activities conducted by the Maine Department of Environmental Protection, the U.S. Environmental Protection Agency, the U.S. Coast Guard, and their agents.

C. Revegetation requirements. When revegetation is required in response to violations of the vegetation standards set forth in Subsection 11.4.3(A), to address the removal of non- native invasive species of vegetation, or as a mechanism to allow for development that may otherwise not be permissible due to the vegetation standards, including removal of vegetation in conjunction with a shoreline stabilization project, the revegetation must comply with the following requirements.

1. The property owner must submit a revegetation plan, prepared with and signed by a qualified professional, that describes revegetation activities and maintenance. The plan must include a scaled site plan, depicting where vegetation was, or is to be removed, where existing vegetation is to remain, and where vegetation is to be planted, including a list of all vegetation to be planted.

2. Revegetation must occur along the same segment of shoreline and in the same area where vegetation was removed and at a density comparable to the pre-existing vegetation, except where a shoreline stabilization activity does not allow revegetation to occur in the same area and at a density comparable to the pre-existing vegetation, in which case revegetation must occur along the same segment of

shoreline and as close as possible to the area where vegetation was removed:

3. If part of a permitted activity, revegetation shall occur before the expiration of the permit. If the activity or revegetation is not completed before the expiration of the permit, a new revegetation plan shall be submitted with any renewal or new permit application.
4. Revegetation activities must meet the following requirements for trees and saplings:
   a. All trees and saplings removed must be replaced with native noninvasive species;
   b. Replacement vegetation must at a minimum consist of saplings;
   c. If more than three trees or saplings are planted, then at least three different species shall be used;
   d. No one species shall make up 50% or more of the number of trees and saplings planted;
   e. If revegetation is required for a shoreline stabilization project, and it is not possible to plant trees and saplings in the same area where trees or saplings were removed, then trees or sapling must be planted in a location that effectively reestablishes the screening between the shoreline and structures; and
   f. A survival rate of at least 80% of planted trees or saplings is required for a minimum five year period.
5. Revegetation activities must meet the following requirements for woody vegetation and other vegetation under three feet in height:
   a. All woody vegetation and vegetation under three feet in height must be replaced with native noninvasive species of woody vegetation and vegetation under three feet in height as applicable;
   b. Woody vegetation and vegetation under three feet in height shall be planted in quantities and variety sufficient to prevent erosion and provide for effective infiltration of stormwater;
   c. If more than three woody vegetation plants are to be planted, then at least three different species shall be planted;
   d. No one species shall make up 50% or more of the number of planted woody vegetation plants; and
   e. Survival of planted woody vegetation and vegetation under three feet in height must be sufficient to remain in compliance with the standards contained within this chapter for a minimum of five years
6. Revegetation activities must meet the following requirements for ground vegetation and ground cover:
   a. All ground vegetation and ground cover removed must be replaced with native herbaceous vegetation, in quantities and variety sufficient to prevent erosion and provide for effective infiltration of stormwater;
   b. Where necessary due to a lack of sufficient ground cover, an area must

be supplemented with a minimum four inch depth of leaf mulch and/or bark mulch to prevent erosion and provide for effective infiltration of stormwater; and

c. Survival and functionality of ground vegetation and ground cover must be sufficient to remain in compliance with the standards contained within this chapter for a minimum of five years.

D. Hazard trees, storm-damaged trees, and dead tree removal

1. Hazard trees in the Shoreland Overlay Zone may be removed without a permit after consultation with the Building Authority and City Arborist if the following requirements are met:

a. Within the shoreline buffer required under Subsection 11.4.3(A)5, if the removal of a hazard tree results in a cleared opening in the tree canopy greater than 250 square feet, replacement with native tree species is required, unless there is new tree growth already present. New tree growth must be as near as practicable to where the hazard tree was removed and be at least two inches in diameter, measured at four and one half feet above the ground level. If new growth is not present, then replacement trees shall consist of native species and be at least four feet in height, and be no less than two inches in diameter. Stumps may not be removed.

b. Outside of the shoreline buffer, when the removal of hazard trees exceeds 40 percent of the volume of trees four inches or more in diameter, measured at four and a half feet above ground level in any 10 year period, and/or results in cleared openings exceeding 25% of the lot area within the Shoreland Overlay Zone, or 10,000 square feet, whichever is greater, replacement with native tree species is required, unless there is new tree growth already present. New tree growth must be as near as practicable to where the hazard tree was removed and be at least two inches in diameter, measured at four and one half feet above the ground level. If new growth is not present, then replacement trees shall consist of native species and be at least two inches in diameter, measured at four and one half feet above the ground level.

c. The removal of standing dead trees, resulting from natural causes, is permissible without the need for replanting or a permit, as long as the removal does not result in the creation of new lawn areas, or other permanently cleared areas, and stumps are not removed. For the purposes of this provision dead trees are those trees that contain no foliage during the growing season.

d. The Building Authority or City Arborist may require the property owner to submit an evaluation from a licensed forester or arborist before any hazard tree can be removed within the Shoreland Overlay Zone.

e. The Building Authority or City Arborist may require more than a one–for-one replacement for hazard trees removed that exceed eight inches in diameter measured at four and one half feet above the ground level.

3. Storm-damaged trees in the Shoreland Overlay Zone may be removed without a permit after consultation with the Building Authority or City Arborist if the following requirements are met:

a. Within the shoreline buffer, when the removal of storm-damaged trees results in a cleared opening in the tree canopy greater than 250 square feet, replanting is not required, but the area shall be required to naturally revegetate, and the following requirements must be met:

i. The area from which a storm-damaged tree is removed does not result in new lawn areas, or other permanently cleared areas;

ii. Stumps from the storm-damaged trees may not be removed;

iii. Limbs damaged from a storm event may be pruned even if they extend beyond the bottom one-third of the tree; and

iv. If after one growing season, no natural regeneration or regrowth is present, replanting of native tree seedlings or saplings is required at a density of one seedling per every 80 square feet of lost canopy.

b. Outside of the shoreline buffer, if the removal of storm damaged trees exceeds 40% of the volume of trees four inches or more in diameter, measured at four and one half feet above the ground level in any 10 year period, or results, in the aggregate, in cleared openings exceeding 25% of the lot area within the Shoreland Overlay Zone or 10,000 square feet, whichever is greater, and no natural regeneration occurs within one growing season, then native tree seedlings or saplings shall be replanted on a one-for-one basis.

11.4.4 Erosion and sedimentation control

~~3.~~A. All activities which involve filling, grading, excavation or other similar activities which result in unstabilized soil conditions and which require a permit shall require a written soil erosion and sedimentation control plan in accordance with Maine Erosion and Sediment Control Handbook for Construction: Best Management Practices, published by the Cumberland County Soil and Water Conservation District and the Maine Department of Environmental Protection and the City of Portland *Technical Manual*. The plan shall be submitted to the ~~Building Authority~~review authority for approval and shall include, where applicable, provisions for:

1. Mulching and revegetation of disturbed soil.
2. Temporary runoff control features such as hay bales, silt fencing, or diversion ditches.
3. Permanent stabilization structures such as retaining walls or riprap.

~~4.~~B. In order to create the least potential for erosion, development shall be designed to fit

with the topography and soils of the site. Areas of steep slopes where high cuts and fills may be required shall be avoided wherever possible, and natural contours shall be followed as closely as possible.

~~5.~~**C.** Erosion and sedimentation control measures shall apply to all aspects of the proposed project involving land disturbance and shall be in operation during all stages of the activity. The amount of exposed ground area at every phase of construction shall be minimized to reduce the potential for erosion.

~~6.~~**D.** Any exposed ground area shall be temporarily or permanently stabilized within one week from the time it was last actively worked, by use of riprap, sod, seed, and mulch, or other effective measures. In all cases, permanent stabilization shall occur within nine months of initial exposure. The following standards shall also be met:

1. Where mulch is used, it shall be applied at a rate of at least one bale per 500 square feet and shall be maintained until a catch of vegetation is established.
2. Anchoring the mulch with netting, peg, and twine or other suitable method may be required to maintain the mulch cover.
3. Additional measures shall be taken where necessary in order to avoid siltation into the water. Such measures may include the use of staked hay bales, and/or silt fences.

~~7.~~**E.** Natural and man-made drainage ways and drainage outlets shall be protected from erosion from water flowing through them. Drainage ways shall be designed and constructed in accordance with the City of Portland *Technical Manual*.

F. When an excavation contractor will perform an activity that requires or results in more than one cubic yard of soil disturbance, the person responsible for management of erosion and sedimentation control practices at the site must be certified in erosion control practices by the Maine Department of Environmental Protection. This person must be present at the site each day earth-moving activity occurs for a duration that is sufficient to ensure that proper erosion and sedimentation control practices are followed. This is required until erosion and sedimentation control measures have been installed, which will either stay in place permanently or stay in place until the area is sufficiently covered with vegetation necessary to prevent soil erosion. The name and certification number of the person who will oversee the activity causing or resulting in soil disturbance shall be included on the permit application. This requirement does not apply to a person or firm engaged in agriculture or timber harvesting if best management practices for erosion and sedimentation control are used; and municipal, state and federal employees engaged in projects associated with that employment.

11.4.5 Soils

All land uses shall be located on soils in or upon which the proposed uses or structures can be established or maintained without causing adverse environmental impacts, including severe erosion, mass soil movement, improper drainage, and water pollution, either during or after construction. Proposed uses requiring subsurface wastewater disposal and commercial or industrial development or other similar intensive land uses shall require a

soils report based on an on-site investigation and prepared by state certified professionals. Certified persons may include Maine Certified Soil Scientists, Maine Registered Professional Engineers, Maine State Certified Geologists and other persons who have training and experience in the recognition and evaluation of soil properties. The report shall be based upon the analysis of the characteristics of the soil and surrounding land and water areas, maximum ground water elevation, presence of ledge, drainage conditions, and other pertinent data which the evaluator deems appropriate. The soils report shall include recommendations for a proposed use to counteract soil limitations where they exist.

11.4.6 Water quality

No activity shall deposit on or into the ground or discharge to the waters of the state any pollutant that by itself or in combination with other activities or substances will impair designated uses or the water classification of the water body, tributary stream or wetland.

11.4.7 Archaeological sites

Any proposed land use activity involving structural development or soil disturbance on or adjacent to sites listed on, or eligible to be listed on, the National Register of Historic Places, as determined by the Department of Planning and Urban Development, shall be submitted by the applicant to the Maine Historic Preservation Commission for review and comment at least 20 days prior to action being taken by the ~~Planning Authority. The Planning Authority~~review authority. The review authority shall consider comments received from the commission prior to rendering a decision on the application. Such sites shall also comply with all applicable provisions of Article ~~17~~16 of this chapter.

11.4.8 Installation of public utility service

No public utility of any kind shall install services to any new structure located in the Shoreland Overlay Zone unless written authorization attesting to the validity and currency of all local permits required under this Code has been issued by the ~~appropriate municipal authorities.~~Building Authority. Following installation of service, the public utility shall ~~forward the~~provide written ~~authorization~~documentation to the ~~appropriate municipal authorities, indicating~~Building Authority that installation has been completed.

11.4.9 Essential services

A. Where feasible, the installation of essential services shall be limited to existing public ways and existing service corridors.

B. The installation of essential services, other than road-side distribution lines and within existing service corridors, is not allowed in a Resource Protection subdistrict or ~~Stream Protection Zone~~within 75 feet of the normal high-water line of a stream, except to provide services to a permitted use within the underlying zone, or where the applicant demonstrates that no reasonable alternative exists. Where allowed, such structures and facilities shall be located so as to minimize any adverse impacts on surrounding uses and resources, including visual impacts.

C. Damaged or destroyed public utility transmission and distribution lines, towers, and related equipment may be replaced or reconstructed without a permit.

11.4.10 Roads and driveways

A. Roads and driveways shall be setback a minimum of 75 feet from the normal high-water ~~or~~ line of a river, stream, or tributary stream, or upland edge of a coastal ~~wetland,~~or freshwater wetland~~, river or tributary stream~~ within a Shoreland Overlay Zone, except:

1. In the EWPZ, WCZ, WPDZ, B-3, B-5~~/B-5b~~, I-L (on-peninsula) and I-M (on-peninsula~~)~~), roads and driveways shall be setback as established for structures in those zones as specified in Subsection 11.4.1(A).

2. If no other reasonable alternative exists, the ~~Planning Board~~review authority may reduce the road and/or driveway setback requirement to no less than 50 feet, horizontal distance, upon clear showing by the applicant that appropriate techniques will be used to prevent sedimentation of the water body, tributary stream or wetland. Such techniques may include, but are not limited to, the installation of settling basins, and/or effective use of additional ditch relief culverts and turnouts place so as to avoid sedimentation of the water body, tributary stream, or wetland.

3. On slopes greater than 20%, the road and/or driveway setback shall be increased by 10 feet, horizontal distance, for each five percent increase in slope above 20%.

4. Subsection 11.4.10(A) does not apply to approaches to water crossings or to roads or driveways that provide access to permitted structures and facilities located nearer to the shoreline or tributary stream due to an operational necessity, excluding temporary docks for recreational uses. Roads and driveways providing access to permitted structures within the setback area shall comply fully with the requirements of Subsection 11.4.10 except for that portion of the road or driveway necessary for direct access to the structure.

B. Existing public roads may be expanded within the legal road right of way regardless of their setback from a waterbody, tributary stream, or wetland.

C. New roads and driveways are prohibited in a Resource Protection ~~Zone~~subdistrict except that the ~~Planning Board~~review authority may grant ~~a permit~~approval to construct a road or driveway to provide access to permitted uses within the district. A road or driveway may also be approved by the ~~Planning Board~~review authority in a Resource Protection ~~Zone~~subdistrict, upon a finding that no reasonable alternative route or location is available outside the district. When a roadway or driveway is permitted in a Resource Protection subdistrict,

~~C.~~ the road and/or driveway shall be setback as far as practicable from the normal high-water line of a water body, tributary stream, or upland edge of wetland.

D. Road and driveways banks shall be no steeper than slope of two horizontal to one vertical and shall be graded and stabilized in accordance with the provisions for erosion and sedimentation control contained in Subsection 11.4.4.

E. Road and driveway grades shall be no greater than 10% except segments of less than 200 feet.

F. In order to prevent road and driveway surface drainage from directly entering water bodies, tributary streams, or wetlands, roads and driveways shall be designed, constructed, and maintained to empty onto an unscarified buffer strip at least 50 feet plus two times the average slope~~,~~ in width between the outflow point of the ditch or culvert and the normal high-water line of a water body, tributary stream, or upland edge of a wetland. Surface drainage which is directed to an unscarified buffer strip shall be diffused or spread out to promote infiltration of the runoff and to minimize channelized flow of the drainage through the buffer strip.

G. Ditch relief (cross drainage) culverts, drainage dips, and water turnout shall be installed in a manner effective in directing drainage onto unscarified buffer strips before the flow gains sufficient volume or head to erode the road, driveway, or ditch. To accomplish this, the following shall apply:

~~a)~~**1.** Ditch relief culverts, drainage dips, and associated water turnouts shall be spaced along the road or driveway at intervals no greater than indicated in Table 11-B.

~~a.~~**2.** Drainage dips may be used in place of ditch relief culverts only where the grade is 10% or less.

TABLE 11-B: DRAINAGE SPACING

Grade (%)	Spacing
0-2	250 ft.
3-5	200-135 ft.
6-10	100-80 ft.
11-15	80-60 ft.
16-20	60-45 ft.
21+	40 ft.

~~b.~~**3.** On sections having slopes greater than ten 10%, ditch relief culverts shall be placed at approximately a 30 degree angle downslope from a line perpendicular to the centerline of the road or driveway.

~~c.~~**4.** Ditch relief culverts shall be sufficiently sized and properly installed in order to allow for effective functioning, and their inlet and outlet ends shall be stabilized with appropriate materials.

~~d.~~**5.** Ditches, culverts, bridges, dips, water turnouts, and other storm water runoff control installations associated with roads and driveways shall be maintained on a regular basis to assure effective functioning.

11.4.11 Parking areas

Parking areas shall be set back a minimum of 75 feet from the normal high-water ~~or~~ line of a river, stream, or tributary stream, or the upland edge of a coastal wetland~~,~~ or freshwater wetland~~, river, or tributary stream~~ within ~~a~~the Shoreland Overlay Zone except:

~~H.~~**A.** In the EWPZ, WCZ, WPDZ, B-3, B-5~~/B-5b~~, I-L, and I-M zones, parking setbacks shall be as established for structures in those zones, as specified in Subsection 11.4.1(A).

~~I.~~**B.** Where the ~~Planning Board~~review authority finds that no other reasonable alternative exists further from the shoreline or tributary stream, the ~~board~~review authority may reduce the parking setback requirement to no less than 50 feet in the ~~R~~ OS-R and I-B zones to the least amount necessary for construction, provided that the applicant proves by a preponderance of the evidence that appropriate techniques

will be used to prevent sedimentation of the water body.

C. Parking areas shall be adequately sized for the proposed use and shall be designed to prevent stormwater runoff from flowing directly into a water body, tributary stream, or wetland, and where feasible, to retain all runoff on site.

11.4.12 Septic waste disposal

All subsurface sewage disposal systems shall be installed in conformance with the State of Maine Subsurface Wastewater Disposal Rules and the following:

~~J.~~A. Clearing or removal of woody vegetation necessary to site a new system and any associated fill extensions, shall not extend closer than 75 feet, horizontal distance, from the normal high-water line of a water body or the upland edge of a wetland.

~~K.~~B. A holding tank is not allowed for a first-time residential use in the Shoreland Overlay Zone.

11.4.13 Stormwater runoff

All new construction and development shall be designed to be in compliance with the City of Portland *Technical Manual* to minimize stormwater runoff from the site in excess of the natural predevelopment conditions. Where possible, existing natural runoff control features, such as berms, swales, terraces, and wooded areas shall be retained in order to reduce runoff and encourage infiltration of stormwater. Stormwater runoff control systems shall be maintained as necessary to ensure proper functioning.

11.4.14 Agriculture

A. All spreading or disposal of manure shall be accomplished in conformance with the Manure Utilization Guidelines published by the Maine Department of Agriculture on November 1, 2001, and the Nutrient Management Law (7 M.R.S. §§ 4201-4209).

B. Manure shall not be stored or stockpiled within 75 feet, horizontal distance, of water bodies, tributary streams, or wetlands. All manure storage areas within the Shoreland Overlay Zone must be constructed or modified such that the facility produces no discharge of effluent or contaminated stormwater.

C. Agricultural activities involving tillage of soil greater than 40,000 square feet in surface area within the Shoreland Overlay Zone shall require a conservation plan to be filed with the Planning Authority.

D. There shall be no new tilling of soil within 75 feet, horizontal distance, from water bodies and coastal wetlands or within 25 feet, horizontal distance, of tributary streams and freshwater wetlands when such new tilling, by itself or combined with all other contiguous tillage, shall exceed 40,000 square feet in surface area. Operations in existence on the effective date of this section and not in conformance with these provisions may be maintained but shall not be expanded. When the new tilling, by itself or combined with all other contiguous tillage, shall total 40,000 square feet or less, the tillage shall be set back a minimum of 25 feet from all water bodies, tributary streams, or wetlands.

E. Newly established livestock grazing areas shall not be permitted within 75 feet, horizontal distance, of water bodies and coastal wetlands or within 25 feet, horizontal distance, of tributary streams and wetlands. Livestock grazing associated with ongoing farm activities

and which are not in conformance with the above setback provisions may continue, provided such grazing is conducted in accordance with a soil and water conservation plan filed with the Planning Authority.

11.5 SUPPLEMENTAL SITE PLAN STANDARDS

11.5.1 Site plan standards

The Planning Board or Planning Authority shall approve a site plan located within a Shoreland Overlay Zone if it finds that the following standards, in addition to the standards set forth in Article ~~14~~13, are met:

A. The proposal will maintain safe and healthful conditions.

B. The proposal will not result in water pollution, erosion, or sedimentation to surface waters.

C. The proposal will adequately provide for the disposal of all wastewater.

D. The proposal will not have an adverse impact on spawning grounds, fish, aquatic life, bird, or other wildlife habitat.

E. The proposal will conserve shore cover and visual, as well as actual, points of access to inland and coastal waters.

F. The proposal will protect archaeological and historic resources.

G. The proposal will not adversely affect existing commercial fishing or maritime activities.

H. The proposal will avoid problems associated with ~~flood plain~~floodplain development and use.

I. The proposal is in conformance with the standards set forth in this article.

11.6 NONCONFORMING STRUCTURES

11.6.1 Increase in nonconformity

For the purposes of this section, increase in nonconformity of a structure shall mean any change in a structure or property which causes further deviation from the dimensional standard(s) creating the nonconformity such as, but not limited to, reduction in water body, tributary stream or wetland setback distance, increase in lot coverage, or increase in height of a structure. Property changes or structure expansions which either meet the dimensional standard or which cause no further increase in the linear extent of nonconformance of the existing structure shall not be considered to increase nonconformity. For example, there is no increase in nonconformity with the setback requirement for water bodies, wetlands, or tributary streams if the expansion extends no further into the required setback area than does any portion of the existing nonconforming structure. Hence, a structure may be expanded laterally provided that the expansion extends no closer to the water body, tributary stream, or wetland than the closest portion of the existing structure from that water body, tributary stream, or wetland. Included in this allowance are expansions which in-fill irregularly shaped structures.

11.6.2 Expansions

A. For the purposes of this section, an expansion of a structure shall mean an increase in the footprint or height of a structure, including all extensions such as, but not limited to: attached decks, garages, porches, and greenhouses.

B. All new principal and accessory structures, excluding functionally water-dependent uses, must meet the water body, tributary stream, or wetland setback requirements contained in

Subsection 11.4.1. A nonconforming structure may be added to or expanded after obtaining a permit from the Building Authority if such addition or expansion does not increase the nonconformity of the structure and is in accordance with 1 and 2 below.

1. Expansion of any portion of a structure within 25 feet of the normal high-water line of a water body, tributary stream, or upland edge of a wetland is prohibited, even if the expansion will not increase nonconformity with the water body, tributary stream or wetland setback requirement. Expansion of an accessory structure that is located closer to the normal high-water line of a water body, tributary stream, or upland edge of a wetland than the principal structure is prohibited, even if the expansion will not increase nonconformity with the water body, tributary stream, or wetland setback requirement.

2. Notwithstanding subsection (1) above, if a legally existing nonconforming principal structure is entirely located less than 25 feet from the normal high-water line of a water body, tributary stream, or upland edge of a wetland, that structure may be expanded as follows, as long as all other applicable land use standards are met and the expansion is not prohibited by Subsection 11.6.2 due to an increase in the nonconformity. The maximum total footprint for the principal structure may not be expanded to a size greater than 800 square feet or 30% larger than the footprint that existed on January 1, 1989, whichever is greater. The maximum height of the principal structure may not be made greater than 15 feet or the height of the existing structure, whichever is greater.

3. All other legally existing nonconforming principal and accessory structures that do not meet the water body, tributary stream, or wetland setback requirements of Subsection 11.4.1 may be expanded or altered as follows, as long as other applicable land use standards are met and the expansion is not prohibited by Subsection 11.6.2(C)1, above.

a. For nonconforming structures located less than 75 feet from the normal high-water line of a water body, tributary stream, or upland edge of a wetland, the maximum combined total footprint for all structures may not be expanded to a size greater than 1,000 square feet or 30% larger than the footprint that existed on January 1, 1989, whichever is greater. The maximum height of any structure may not be made greater than 20 feet or the height of the existing structure, whichever is greater.

b. In addition to the limitations in subsection (a) above, for structures that are legally nonconforming due to their location within the Resource Protection subdistrict when located at less than 250 feet from the normal high-water line of a water body or the upland edge of a wetland, the maximum combined total footprint for all structures may not be expanded to a size greater than 1,500 square feet or 30% larger than the footprint

that existed at the time the Resource Protection subdistrict was established on the lot, whichever is greater. The maximum height of any structure may not be made greater than25 feet or the height of the existing structure, whichever is greater, except that any portion of those structures located less than 75 feet from the normal high-water line of a water body, tributary stream, or upland edge of a wetland must meet the footprint and height limits in Subsection 11.6.2(C)2 and Subsection 11.6.2(C)3.a, above.

4. An approved plan for expansion of a nonconforming structure must be recorded by the applicant with the Cumberland County Registry of Deeds within 90 days of approval. The recorded plan must show the existing and proposed footprint of the nonconforming structure, the existing and proposed structure height, the footprint of any other structures on the parcel, the Shoreland Overlay Zone boundary and evidence of approval by the Building Authority.

11.6.3 Foundations

Whenever a new, enlarged, or replacement foundation is constructed under a nonconforming structure, the structure and new foundation must be placed such that the setback requirement is met to the greatest practical extent as determined by the Building Authority, basing its decision on the criteria specified in Subsection 11.6.4.

11.6.4 Relocation

A nonconforming structure may be relocated within the boundaries of the parcel on which the structure is located provided that the site of relocation conforms to all setback requirements to the greatest practical extent as determined by the Building Authority, and provided that if the structure is not connected to a public sewer system, the applicant demonstrates that the present subsurface sewage disposal system meets the requirements of State law and the State of Maine Subsurface Wastewater Disposal Rules, or that a new system can be installed in compliance with the law and said rules and further provided that the relocation meets the following standards:

A. In no case shall a structure be relocated in a manner that causes the structure to be more nonconforming.

B. In determining whether the building relocation meets the setback to the greatest practical extent, the Building Authority shall consider the size of the lot, the slope of the land, the potential for soil erosion, the location of other structures on the property and on adjacent properties, the location of the septic system and other on-site soils suitable for septic systems, and the type and amount of vegetation to be removed to accomplish the relocation.

C. When it is necessary to remove vegetation within the water or wetland setback area in order to relocate a structure, the Building Authority shall require replanting of native vegetation to compensate for the destroyed vegetation in accordance with Subsection 11.4.3(C). In addition, the area from which the relocated structure was removed must be

replanted with vegetation. Replanting shall be required as follows:

1. Trees removed in order to relocate a structure must be replanted with at least one native tree, three feet in height, for every tree removed. If more than five trees are planted, no one species of tree shall make up more than 50% of the number of trees planted. Replaced trees must be planted no further from the water or wetland than the trees that were removed. Other woody and herbaceous vegetation, and ground cover, that are removed or destroyed in order to relocate a structure must be re-established. An area at least the same size as the area where vegetation and/or ground cover was disturbed, damaged, or removed must be reestablished within the setback area. The vegetation and/or ground cover must consist of similar native vegetation and/or ground cover that was disturbed, destroyed or removed.
2. Where feasible, when a structure is relocated on a parcel the original location of the structure shall be replanted with vegetation which may consist of grasses, shrubs, trees, or a combination thereof.

11.6.5 Reconstruction or replacement

Any nonconforming structure which is located less than the required setback from a water body, tributary stream, or wetland and which is removed, damaged, or destroyed, regardless of the cause, by more than 50% of the market value of the structure before such damage, destruction, or removal may be reconstructed or replaced provided that a permit is obtained within two years of the date of said damage, destruction, or removal, and provided that such reconstruction or replacement is in compliance with the water body, tributary stream or wetland setback requirement to the greatest practical extent as determined by the Building Authority in accordance with the purposes of this ordinance and the following standards:

A. In no case shall a structure be reconstructed or replaced so as to increase its nonconformity. If the reconstructed or replacement structure is less than the required setback it shall not be any larger than the original structure, except as allowed pursuant to Subsection 11.6.1 above, as determined by the nonconforming footprint of the reconstructed or replaced structure at its new location.
B. If the total footprint of the original structure can be relocated or reconstructed beyond the required setback area, no portion of the relocated or reconstructed structure shall be replaced or constructed at less than the setback requirement for a new structure.
C. When it is necessary to remove vegetation in order to replace or reconstruct a structure, vegetation shall be replanted in accordance with Subsection 11.6.4(C).
D. Any nonconforming structure which is located less than the required setback from a water body, tributary stream, or wetland and which is removed by 50% or less of the market value, or damaged or destroyed by 50% or less of the market value of the structure, excluding normal maintenance and repair, may be reconstructed in place if a permit is obtained from the Building Authority within one year of such damage, destruction, or removal.
E. In determining whether the building reconstruction or replacement meets the

setback to the greatest practical extent the Building Authority shall consider, in addition to the criteria in Subsections 11.6.4 and 11.6.5(A) through (D) above, the physical condition and type of foundation present, if any.

11.6.6 Elevation of structures in flood hazard areas

The height of a structure that is a legally existing nonconforming principal or accessory structure may be raised to, but not above, the minimum elevation necessary to be consistent with the local floodplain management elevation requirement or to three feet above base flood elevation, whichever is greater, as long as the structure is relocated, reconstructed, replaced or elevated within the boundaries of the parcel so that the water body or wetland setback requirement is met to the greatest practical extent. This subsection applies to structures that:

A. Have been or are proposed to be relocated, reconstructed, replaced or elevated to be consistent with the local floodplain management elevation requirement; and,

B. Are located in an area of special flood hazard.

12 FLOODPLAIN MANAGEMENT

12.1 PURPOSE

Certain areas of the City of Portland, Maine are subject to periodic flooding, causing serious damage to properties within these areas. Relief is available in the form of flood insurance as authorized by the National Flood Insurance Act of 1968. Therefore, the City of Portland, Maine has chosen to become a participating community in the National Flood Insurance Program and agrees to comply with the requirements of the National Flood Insurance Act of 1968 (P.L. 90-448), as amended from time to time an as delineated in this article. It is the intent of the City of Portland to require the recognition and evaluation of flood hazards in all official actions relating to land use in the floodplain areas having special flood hazards.

The National Flood Insurance Program, established in the aforesaid act, provides that areas of the city having a special flood hazard be identified by the Federal Emergency Management Agency and that floodplain management measures be applied in such flood hazard areas. This article establishes a Flood Hazard Development Permit system and review procedure for development activities in the designated flood hazard areas of the city. The purposes of this article are to reduce future flood risks and losses, protect against financial and human loss resulting from flood disasters, and to control the placement of structures, construction materials, and methods used to minimize potential property damage due to flooding. The City of Portland has the legal authority to adopt land use and control measures to reduce future flood losses pursuant to Title 30-A M.R.S. § 2001-3007, 4352, 4401-4407, and Title 38 M.R.S. § 440.

12.2 APPLICABILITY

This article applies to all land areas, uses, structures, and land use activities lying in the special flood hazard areas, Zones A, AE, AO, AH, and VE, as identified by the Federal Emergency Management Agency in a report entitled *Flood Insurance Study - Cumberland County, Maine,* with accompanying "Flood Insurance Rate Map," dated June 20, 2024. This *Flood Insurance Study* with accompanying maps, and any subsequent amendments thereto, including Letters of Map Revision approved by FEMA, is hereby adopted by reference and declared to be a part of this Land Use Code.

12.3 STRUCTURE AND DEVELOPMENT TYPES

12.3.1 Structure types

A. For the purposes of this article, structure shall mean a walled and roofed building. A gas or liquid storage tank that is principally above ground is also a structure.

B. Accessory structure shall mean a structure which is on the same parcel of property as a principal structure and the use of which is incidental to the use of the principal structure.

C. The following types of structures shall have the following meanings:

1. *Agricultural structure*. Structures that are used exclusively for agricultural purposes or uses in connection with the production, harvesting, storage, raising, or drying of agricultural commodities and livestock. Structures that house tools or equipment used in connection with these purposes or uses are also considered to have agricultural purposes or uses.
2. *Elevated building*. A non-basement building that is:

a. Built, in the case of a building in Zones A, AE, AO, or AH, so that the top of the elevated floor, or in the case of a building in Zones VE or Coastal AE, to have the bottom of the lowest horizontal structural member of the elevated floor, elevated above the ground level by means of pilings, columns, posts, or piers; and,

b. Adequately anchored to not impair the structural integrity of the building during a flood of up to two feet above the magnitude of the base flood.

In the case of Zones A, AE, AO, or AH, elevated building also includes a building elevated by means of fill or solid foundation perimeter walls with hydraulic openings sufficient to facilitate the unimpeded movement of flood waters, as required in Subsection 12.4.5(N) In the case of Zones VE or Coastal AE, elevated building also includes a building otherwise meeting the definition of elevated building, even though the lower area is enclosed by means of breakaway walls, if the breakaway walls meet the standards of subsection 12.4.5(R)(2)(c)(iii).

3. *Historic structure*. Any structure that is:

a. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

b. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary of the Interior to qualify as a registered historic district;

c. Individually listed on a Maine state inventory of historic places at such time that one is created; or,

d. Designated as a local landmark or identified as a contributing property under Article ~~17~~16.

4. *Manufactured home*. A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term manufactured home also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days.

5. *Manufactured home park or subdivision*. A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale. Existing manufactured home park or subdivision shall mean a manufactured home park or subdivision that was recorded in the deed registry prior to July 17, 1986.

12.3.2 Development classifications

A. Development. Any human-made change to improved or unimproved real estate. This includes, but is not limited to, buildings or other structures; mining, dredging, filling, grading, paving, excavation, drilling operations or storage

of equipment or materials; and the storage, deposition, or extraction of materials.

B. **New construction.** Structures for which the "start of construction" commenced on or after July 17, 1986 and includes any subsequent improvements to such structures. For purposes of this article, start of construction shall mean the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, substantial improvement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, or modification of any construction element, whether or not that alteration affects the external dimensions of the building.

C. **Minor development.** All development that is not new construction or a substantial improvement, such as repairs, maintenance, renovations, or additions, whose value is less than 50% of the market value of the structure. It also includes, but is not limited to: accessory structures as provided in subsection 12.4.5(L), mining, dredging, filling, grading, paving, excavation, drilling operations, storage of equipment or materials, deposition or extraction of materials, public or private sewage disposal systems or water supply facilities that do not involve structures; and non-structural projects such as bridges, dams, towers, fencing, pipelines, wharves, and piers

D. **Substantial damage.** Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damage condition would equal or exceed 50% of the market value of the structure before the damage occurred.

E. **Substantial improvement.** Any, reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure before start of construction of the improvements. This term includes structures which have incurred substantial damage, regardless of the actual work performed. The term does not, however, include:

   1. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions.
   2. Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued

designation as a historic structure, and a variance is obtained from the Zoning Board of Appeals.

12.4 FLOOD HAZARD DEVELOPMENT PERMIT

12.4.1 Permit required

A. The Zoning Administrator shall be designated as the local floodplain administrator. The floodplain administrator shall have the authority to implement the commitment made to administer and enforce the requirements for participation in the National Flood Insurance Program.

B. Before any construction or other development as defined Subsection 12.3.2, including the placement of manufactured homes, begins within any areas of special flood hazard, a Flood Hazard Development Permit shall be obtained from the Building Authority, except as established in Section 12.5. This permit shall be required prior to issuance of a building permit, if one is required, and shall be in addition to any other permit, site plan, and subdivision review which may be required pursuant to the codes and ordinances of the City of Portland. If only a site plan is required for a development, the Flood Hazard Development Permit shall be obtained prior to approval of the site plan.

12.4.2 Filing of application

The application for a Flood Hazard Development Permit shall be submitted in writing to the Building Authority and shall include the following:

A. A final site plan, where applicable, showing information as required by Article 1~~4~~3.

B. A final subdivision plat, where applicable, providing information as required in Article 15~~4~~.

C. The name, address, and phone number of the applicant, owner, and contractor.

D. A map with address indicating the location of the development site.

E. A plan showing the location of existing and proposed development, including but not limited to specific dimensions of existing and proposed structure(s), wastewater disposal facilities, water supply facilities, areas to be cut and filled, and the dimensions of the lot.

F. A statement of the intended use of any structure and/or development.

G. A statement of the cost of the development including all materials and labor.

H. A statement of the type of wastewater disposal system proposed.

I. Specification of dimensions of the proposed structure and/or development.

J. For new construction and substantial improvements, the elevation in relation to the National Geodetic Vertical Datum (NGVD), North American Vertical Datum (NAVD), or to a locally established datum for Zone A only, of the:

1. Base flood at the proposed site of all new or substantially improved structures, which is determined:
   a. In Zones AE, AO, AH, , and VE from data contained in the *Flood Insurance Study — Cumberland County, Maine*.
   b. In Zone A:
      i. From any base flood elevation data from federal, state, or other technical sources (such as FEMA's Quick-2 model, FEMA 265), including information obtained pursuant to Subsection 12.4.5(M) and 12.4.4.(B)4, or
      ii. In the absence of all data described in Subsection

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12.4.2(J)(1)(b)(i), information to demonstrate that the structure shall meet the elevation requirement in Subsections 12.4.5(H)(4)(b), 12.4.5(I)(4)(b), or 12.4.5(J)(4)(b).

2. Highest and lowest grades at the site adjacent to the walls of the proposed building.
3. Lowest floor, including basement, and whether or not such structures contain a basement.
4. Lowest machinery and equipment servicing the building.
5. Level, in the case of nonresidential structures only, to which the structure will be floodproofed.

K. For new construction and substantial improvements, a description of an elevation reference point established on the site of all new developments for which elevation standards apply as required in Subsection 12.4.5.

L. For new construction and substantial improvements, a written certification by:
   1. A professional land surveyor that the grade elevations shown on the application are accurate.
   2. A professional land surveyor, registered professional engineer or architect that the base flood elevation shown on the application is accurate

M. For new construction and substantial improvements, the following certifications as required in Subsection 12.4.5 by a registered professional engineer or architect:
   1. A floodproofing certificate (FEMA form FF-206-FY-22-153, as amended) to verify that the floodproofing methods for any nonresidential structures will meet the floodproofing criteria of Subsection 12.4.5(I); and other applicable standards of Subsection 12.4.5.
   2. A V-Zone Certificate to verify that the construction in coastal high hazard areas, Zones VE and Coastal AE, will meet the criteria of Subsection 12.4.5(R); and other applicable standards in Subsection 12.4.5.
   3. A Hydraulic Openings Certificate to verify that engineered hydraulic openings in foundation walls will meet the standards of Subsection 12.4.5(N)(2)(a)

N. A certified statement from a registered professional engineer or architect that bridges will meet the standards of Subsection 12.4.5(O)

O. A certified statement from a registered professional engineer or architect that containment walls will meet the standards of Subsection 12.4.5(P).

P. A description of the extent to which any watercourse will be altered or relocated as a result of the proposed development.

Q. A statement of construction plans describing in detail how each applicable development standard in Subsection 12.4.5 will be met.

R. Cross section(s) of the site acceptable to the Public Works Authority.

12.4.3 Fee

A nonrefundable Flood Hazard Development Permit fee as established by the City Council for all minor development and for all new construction and substantial improvements shall be paid to the Building Authority, and a copy of a receipt for the same shall accompany the application. An

additional fee may be charged if the Code Enforcement Officer, Planning Board, and/or Board of Appeals needs the assistance of a professional engineer or other expert. The expert's fee shall be paid in full by the applicant within 10 days after the City submits a bill to the applicant. Failure to pay the bill shall constitute a violation of the ordinance and be grounds for issuance of a stop work order. An expert shall not be hired by the City at the expense of an applicant until the applicant has either consented to such hiring in writing or been given an opportunity to be heard on the subject. An applicant who is dissatisfied with a decision to hire expert assistance may appeal that decision to the Board of Appeals.

12.4.4 Review procedure

A. Upon determination by the Building Authority that an application is complete, the Building Authority shall coordinate review of the application by the City to assure that proposed developments are reasonably safe from flooding. No permit shall be issued until the Building Authority finds that the development proposal is in compliance with the standards of this article. Compliance with the provisions of this article shall be required prior to beginning any development as defined herein.

B. The Building Authority shall, when reviewing subdivisions under Article ~~15~~ 14 and other proposed developments that require review under Article ~~14~~ 15 or federal law, state law, or local ordinances or regulations and all projects on five or more acres, or in the case of manufactured home parks divided into two or more lots, assure that:

1. All such proposals are consistent with the need to minimize flood damage.

2. All public utilities and facilities, such as sewer, gas, electrical and water systems are located and constructed to minimize or eliminate flood damages.

3. Adequate drainage is provided so as to reduce exposure to flood hazards.

4. All proposals include base flood elevations, flood boundaries and, in a riverine floodplain, floodway data. These determinations shall be based on engineering practices recognized by the Federal Emergency Management Agency.

5. Any proposed development plan must include a condition of plan approval requiring that structures on lots in the development be constructed in accordance with Subsection 12.4.5 of this article. Such requirement shall be included in any deed, lease, purchase and sale agreement, or document transferring or expressing an intent to transfer any interest in real estate or structure, including but not limited to a time-share interest. The condition shall clearly articulate that the municipality may enforce any violation of the construction requirement. The construction requirement shall also be clearly stated on any map, plat, or plan as part of the approval process.

C. In the review of all Flood Hazard Development Permit applications for compliance with the standards herein:

1. The Building Authority shall utilize:

a. The base flood and floodway data contained in the *Flood Insurance Study – Cumberland County, Maine,* as described in Section 12.2.

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b. In special flood hazard areas where base flood elevation and floodway data are not provided in the above cited study, the Building Authority shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from federal, state, or other technical sources, including information obtained pursuant to Subsection 12.4.2(J)(1)(b)(i), 12.4.5(M), and 12.4.4(B)(4), in order to administer this article.

c. When a base flood elevation is established in a Zone A by methods outlined in Section 12.4.2(J)(1)(b)(ii), that data shall be submitted to the Maine Floodplain Management Program.

2. The Building Authority shall make interpretations of the location of boundaries of special flood hazard areas shown on the maps described in Section 12.2.

3. Prior to approval of issuance of the Flood Hazard Development Permit, the Building Authority shall determine that all necessary permits have been obtained from those federal, state, and local authorities from which prior approval is required by federal or state law, including but not limited to Section 404 of the Federal Water Pollution Control Act Amendments of 1972 (33 U.S.C. 1344 as may be amended from time to time), provided, however, that conditional approval may be granted pending proof of receipt of any required permits, but no Flood Hazard Development Permit shall be finally issued until proof of issuance of all such other permits is received by the Building Authority.

4. The Building Authority shall notify adjacent municipalities, the Maine Department of Environmental Protection and the Maine Floodplain Management Program, prior to any alteration or relocation of a watercourse, and submit copies of such notifications to the Federal Emergency Management Agency.

5. The Building Authority shall maintain, as a permanent record, copies of all Flood Hazard Development Permit applications, corresponding permits issued, and data relevant thereto, including reports of the Board of Appeals on variances granted under the provisions of Section 12.7 of this article, and copies of elevation certificates, floodproofing certificates, certificates of compliance, and certifications of design standards required under the provisions of Sections 12.4 and 12.6.

12.4.5 Review standards

All development in areas of special flood hazard shall meet the following standards:

A. All development. All development shall:

1. Be designed or modified and adequately anchored to prevent flotation (excluding piers and docks), collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.

2. Use construction materials that are resistant to flood damage.

3. Use construction methods and practices that will minimize flood damage.

4. Use electrical, heating, ventilation, plumbing, and air conditioning equipment, and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during flooding conditions.

B. Water supply. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems.

C. Sanitary sewage systems. All new and replacement sanitary sewage systems shall be designed and located to minimize or eliminate infiltration of flood waters into the system and discharges from the system into flood waters.

D. On-site waste disposal systems. On site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during floods.

E. Altered or relocated watercourses. All development associated with altered or relocated portions of a watercourse shall be constructed and maintained in such a manner that no reduction occurs in the flood carrying capacity of the watercourse.

F. Utilities. New construction or substantial improvement of any structure (including manufactured homes) located within:

1. Zones A, AE, AO, and AH shall have the bottom of all electrical, heating, plumbing, ventilation and air conditioning equipment, permanent fixtures and components, HVAC ductwork and duct systems, and any other utility service equipment, facilities, machinery, or connections servicing a structure, elevated to at least two feet above the base flood elevation.
2. Zone VE shall meet the requirements of Subsection 12.4.5(R)(2)(a).

G. Physical changes to the natural landscape. Certain development projects, including but not limited to, retaining walls, sea walls, levees, berms, and rip rap, can cause physical changes that affect flooding conditions.

1. All development projects in Zones AE, Coastal AE, and VE that cause physical changes to the natural landscape shall be reviewed by a ~~professional engineer~~qualified professional to determine whether or not the project changes the base flood elevation, zone, and/or the flood hazard boundary line. For the purposes of this article, qualified professional shall mean an individual either licensed by the State of Maine or qualified in another manner to perform the specified work in accordance with all applicable design standards and codes, and whose qualifications indicate that the work as designed and as performed will not increase flood risk to public safety. If the qualified professional is not licensed by the State of Maine, the local permitting authority shall request that the qualified professional identify their qualifications in writing.
   a. If the qualified professional~~professional engineer~~ determines, through the use of ~~engineering judgement~~standard practices, that the project would not necessitate a Letter of Map Revision (LOMR), a certified statement shall be provided.

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b. If the qualified professional~~professional engineer~~ determines that the project may cause a change, a hydrologic and hydraulic analysis that meets current FEMA standards shall be performed.

2. If the hydrologic and hydraulic analysis performed indicates a change to the base flood elevation, zone, and/or the flood hazard boundary line, the applicant may submit a Conditional Letter of Map Revision (C-LOMR) request to the Federal Emergency Management Agency for assurance that the as-built project will result in a change to the Flood Insurance Rate Map. Once the development is completed, a request for a Letter of Map Revision (LOMR) shall be initiated; or~~.~~

3. If the hydrologic and hydraulic analysis performed show a change to the base flood elevation, zone, and/or the flood hazard boundary line, as soon as practicable, but no later than six months after the completion of the project, the applicant shall submit the technical data to FEMA in the form of a Letter of Map Revision request.

H. Residential. New construction or substantial improvement of any residential structure located within:

1. Zones AE, AO, and AH shall have the lowest floor (including basement) elevated to at least two feet above the base flood elevation.

2. Zones AO and AH shall have adequate drainage paths around structures on slopes, to guide flood water away from the proposed structures.

3. Zone AO shall have the lowest floor (including basement) elevated above the highest adjacent grade:

a. At least two feet higher than the depth specified in feet on the Flood Insurance Rate Map, or

b. At least three feet if no depth number is specified.

4. Zone A shall have the lowest floor (including basement) elevated:

a. To at least two feet above the base flood elevation utilizing information obtained pursuant to Subsections 12.4.2(J)(1)(b)(i))(), 12.4.4(C), or 12.4.4(B)(4), or

b. In the absence of all data described above, to at least two feet above the highest adjacent grade to the structure.

5. Zones VE and Coastal AE shall meet the requirements of Subsection 12.4.5(R).

I. Nonresidential. New construction or substantial improvement of any nonresidential structure located within:

1. Zones AE, AO, and AH shall have the lowest floor (including basement) elevated to at least two feet above the base flood elevation, or together with attendant utility and sanitary facilities shall:

a. Be floodproofed to at least two feet above the base flood elevation so that below that elevation the structure is watertight with walls substantially impermeable to the passage of water;

b. Have structural components capable of resisting hydrostatic and

hydrodynamic loads and the effects of buoyancy; and

c. Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section. Such certification shall be provided with the application for a Flood Hazard Development Permit, as required by Subsection 12.4.2(M)(N), and (O) and shall include a record of the elevation above mean sea level to which the structure is floodproofed.

2. Zones AO and AH shall have adequate drainage paths around structures on slopes, to guide flood water away from the proposed structures.

3. Zone AO shall have the lowest floor (including basement) elevated above the highest adjacent grade:

a. At least two feet higher than the depth specified in feet on the Flood Insurance Rate Map; or

b. At least three feet if no depth number is specified; or

c. Together with attendant utility and sanitary facilities be floodproofed to meet the elevation requirements of this subsection and floodproofing standards of Subsection 12.4.5(I).

4. Zone A shall have the lowest floor (including basement) elevated:

a. To at least two feet above the base flood elevation utilizing information obtained pursuant to Subsections 12.4.2(K)(1)(b)(i), 12.4.4(C), 12.4.4(B)(4); or

b. In the absence of all data described in Subsection 12.4.5(I)(4)(a), to at least two feet above the highest adjacent grade to the structure, or

c. Together with attendant utility and sanitary facilities, be floodproofed to two feet above the base elevation established in Subsection 12.4.5(I)(4)(a) or (b) above and meet the floodproofing standards of Subsection 12.4.5(I)(1)(a), (b), and (c).

5. Zones VE and Coastal AE shall meet the requirements of Subsection 12.4.5(R).

J. Manufactured homes. New or substantially improved manufactured homes located within:

1. Zones AE, AO, and AH shall:

a. Be elevated such that the lowest floor is at least two feet above the base flood elevation;

b. Be on a permanent foundation, which may be poured masonry slab or foundation walls, with hydraulic openings, or may be reinforced piers or block supports, any of which support the manufactured home so that no weight is supported by its wheels and axles; and

c. Be securely anchored to an adequately anchored foundation system to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to:

i. Over the top ties anchored to the ground at the four corners of the manufactured home, plus two additional ties per side at intermediate points

(manufactured homes less than 50 feet long require one additional tie per side).

ii. Frame ties at each corner of the home, plus five additional ties along each side at intermediate points (manufactured homes less than 50 feet long require four additional ties per side).

iii. All components of the anchoring system shall be capable of carrying a force of 4,800 pounds.

2. Zones AO and AH shall have adequate drainage paths around structures on slopes, to guide flood water away from the proposed structures.

3. Zone AO shall have the lowest floor (including basement) elevated above the highest adjacent grade:

a. At least two feet higher than the depth specified in feet on the Flood Insurance Rate Map, or

b. At least three feet if no depth number is specified, and

c. Meet the anchoring requirements of Subsection 12.4.5(J)(1)(c).

4. Zone A shall:

a. Be elevated on a permanent foundation, as described in Subsection 12.4.5(J)(1)(b), such that the lowest floor (including basement of the manufactured home is at least two feet above the base flood elevation utilizing information obtained pursuant to Subsection 12.4.2(J)(1)(b)(i), 12.4.4(C), or 12.4.4(B)(4), or

b. In the absence of all data described in Section 12.4.5(J)(4)(a), to at least two feet above the highest adjacent grade to the structure, and

c. Meet the anchoring requirements of Subsection 12.4.5(J)(1)(c).

5. Zones VE and Coastal AE shall meet the requirements of Subsection 12.4.5(R).

K. **Recreational vehicles.** Recreational vehicles located within:

1. Zones A, AE, AO, and AH shall either:

a. Be on the site for fewer than 180 consecutive days, and

b. Be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only be quick disconnect type utilities and security devices, and has no permanently attached additions, or

c. Be permitted in accordance with the elevation and anchoring requirements for manufactured homes in Subsection 12.4.5(J)(1).

2. Zones VE and Coastal AE shall meet the requirements of either Subsection 12.4.5(K)(1)(a) and(b), or 12.4.5(R).

L. **Accessory structures.** New construction or substantial improvement of accessory structures, as defined in Subsection 12.3.1, shall be exempt from the elevation criteria required Subsections 12.4.5(H) and (I) if all other requirements of Subsection 12.4.5 and all the following requirements are met.

1. Accessory structures located within Zones A, AE, AO, AH shall:

a. Meet the requirements of Subsection 12.4.5(A)(1) to (4) as applicable.

b. Be limited in size to a one-story two-car garage.

c. Have unfinished interiors and not be used for human habitation.

d. Have hydraulic openings, as specified in Subsection 12.4.5(N)(2), in at least two different walls of the accessory structure.

e. Be located outside the floodway.

f. When possible be constructed and placed on the building site so as to offer the minimum resistance to the flow of flood waters and be placed further from the source of flooding than is the primary structure.

g. Have only ground fault interrupt electrical outlets. The electric service disconnect shall be located above the base flood elevation and when possible outside the special flood hazard area.

h. Be located outside the Coastal AE Zone.

2. Accessory structures in Zones VE and Coastal A shall meet the requirements of Subsection 12.4.5(R).

M. Floodways

1. In Zone AE riverine areas, encroachments, including fill, new construction, substantial improvement, and other development shall not be permitted within a regulatory floodway designated on the Flood Insurance Rate Map unless a technical evaluation certified by a registered professional engineer is provided demonstrating that such encroachments will not result in any increase in flood levels within the city during the occurrence of the base flood discharge.

2. In Zones A and AE riverine areas for which no regulatory floodway is designated, encroachments, including fill, new construction, substantial improvement, and other development shall not be permitted in the floodway as determined in (3) below, unless a technical evaluation certified by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing development and anticipated development:

a. Will not increase the water surface elevation of the base flood more than one foot at any point within the city.

b. Is consistent with the technical criteria contained in FEMA's guidelines and standards for flood risk analysis and mapping.

3. In Zones A and AE riverine areas for which no regulatory floodway is designated, the regulatory floodway is determined to be the channel of the river or other watercourse and the adjacent land areas to a distance of 1/2 the width of the floodplain as measured from the normal high-water mark to the upland limit of the floodplain. Encroachments, including fill, new construction, substantial improvement, and other development shall not be permitted unless a technical evaluation certified by a registered professional engineer is provided meeting the requirements of (2) above.

N. Hydraulic openings/flood vents. New construction or substantial improvement of any structure in Zones A, AE, AO, and AH that meets the development standards of Subsection 12.4.5, including the elevation requirements of Subsection 12.4.5(H), (I), or (J) and is elevated on posts, columns, piers, piles, or crawl spaces may be enclosed below the base flood elevation requirements provided all the following criteria are met or exceeded:

1. Enclosed areas are not basements as defined in Article 3.

2. Enclosed areas shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood water. Designs for meeting this requirement must either:

a. Be engineered and certified by a registered professional engineer or architect, or

b. Meet or exceed the following minimum criteria:

i. A minimum of two openings having a total net area of not less than one square inch for every square foot of the enclosed area;

ii. The bottom of all openings shall be below the base flood elevation and no higher than two feet above the lowest grade.

iii. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the entry and exit of flood waters automatically without any external influence or control such as human intervention, including the use of electrical and other non-automatic mechanical means.

3. The enclosed area shall not be used for human habitation.

4. The enclosed areas are usable solely for building access, parking vehicles, or storing of articles and equipment used for maintenance of the building.

O. Bridges. New construction or substantial improvement of any bridge in Zones A, AE, AO, AH, and VE shall be designed such that:

1. When possible, the lowest horizontal member (excluding the pilings, or columns) is elevated to at least two feet above the base flood elevation.
2. A registered professional engineer shall certify that:

a. The structural design and methods of construction shall meet the elevation requirements of this section and the floodway standards of Subsection 12.4.5(M).

b. The foundation and superstructure attached thereto is anchored to resist flotation, collapse, and lateral movement due to the effects of wind and water loads acting simultaneously on all structural components. Water loading values used shall be those associated with the base flood.

P. Containment walls. New construction or substantial improvement of any containment wall shall meet the following requirements by zone:

1. Zones A, AE, AO, AH, and VE shall:

a. Have the containment wall elevated to at least two feet above the base flood elevation;

b. Have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.

c. Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section. Such certification shall be provided with the application for a Flood Hazard Development Permit, as required by Subsection 12.4.2(M), (N), and (O).

2. Zones AO and AH shall have adequate drainage paths around containment walls on slopes, to guide flood water away from the proposed walls.

3. Zone AO shall have the top of the containment wall elevated above the highest adjacent grade:

a. At least two feet higher than the depth specified in feet on the Flood Insurance Rate Map, or

b. At least three feet if no depth number is specified, and

c. Shall meet the requirements of Subsection 12.4.5(P)(1)(b) and (c).

Q. Wharves, piers, and docks. New construction or substantial improvement of wharves, piers, and docks are permitted in and over water and seaward of the mean high tide if the following requirements are met:

1. In Zones A, AE, Coastal AE, AO, and AH, permanent wharves, piers, and docks shall comply with all applicable local, state, and federal regulations, must be reasonably safe from flooding, and shall not increase flood risk~~,~~ or

2. In Zone VE, permanent wharves, piers, and docks shall have a qualified professional~~registered professional engineer~~ develop or review the structural design~~, specifications, and plans for construction~~ and specifications, must be designed to be reasonably safe from flooding, and shall not increase flood risk.

R. Coastal floodplains

1. All new construction located within Zones AE and VE shall be located landward of the reach of mean high tide except as provided in Subsection 12.4.5(R)(~~6~~8).

2. New construction or substantial improvement of any structure located within Zones VE or Coastal AE shall:

a. Have the bottom of all electrical, heating, plumbing, ventilation and air conditioning equipment, permanent fixtures and components, HVAC ductwork and duct systems, and any other utility service equipment, facilities, machinery, or connections servicing a structure, elevated to at least two feet above the base flood elevation. Systems, fixtures, equipment, and components shall not be mounted on or penetrate through walls intended to break away under flood loads.

b. Be elevated on posts or columns such that:

i. The bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated to

two feet above the base flood elevation.

ii. The pile or column foundation and the elevated portion of the structure attached thereto is anchored to resist flotation, collapse, and lateral movement due to the effects of wind and water loads acting simultaneously on all building components.

iii. Water loading values used shall be those associated with the base flood. Wind loading values used shall be those required by applicable state and local building standards.

c. Have the space below the lowest floor:

i. Free of obstructions, or

ii. Constructed with open wood lattice work or insect screening intended to collapse under wind and water without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting piles or columns, or

iii. Constructed with non-supporting breakaway walls which have a design safe loading resistance of not less than 10 or more than 20 pounds per square foot.

d. Require a registered professional engineer or architect to:

i. Develop or review the structural design, specifications, and plans for the construction, which must meet or exceed the technical criteria contained in the *Coastal Construction Manual* (FEMA-55).

ii. Certify that the design and methods of construction to be used are in accordance with accepted standards of practice for meeting the criteria of Subsections 12.4.5(R)(2)(b), (c), and (d).

3. The use of fill for structural support in Zones VE and Coastal AE is prohibited.

4. Human alteration of sand dunes within Zones VE and Coastal AE is prohibited unless it can be demonstrated that such alterations will not increase potential flood damage.

5. The area below the lowest floor may be used solely for parking vehicles, building access, and storage.

6. Physical changes to the natural landscape in Zone VE are subject to the minimum requirements of Subsection 12.4.5(G).

~~5.~~**7.** Wharves, piers, and docks in Zone VE are subject to the requirements of Subsection 12.4.5(Q).

~~6.~~**8.** Lobster sheds and fishing sheds may be located seaward of mean high tide and shall be exempt from the elevation requirement in Subsection 12.4.5(I) only if reviewed and approved as a conditional use by the Zoning Board of Appeals, as provided in Section 12.5, and if all the following requirements of Subsections 12.4.5(A), (M), and (N) are met:

a. The conditional use shall be limited to low value structures such as metal or wood sheds 200 square feet or less

and shall not exceed more than one story.

b. The structure shall be securely anchored to the wharf or pier to resist flotation, collapse, and lateral movement due to the effect of wind and water loads acting simultaneously on all building components.

c. The structure will not adversely increase wave or debris impact forces affecting nearby buildings.

d. The structure shall have unfinished interiors and shall not be used for human habitation.

e. Any mechanical, utility equipment and fuel storage tanks must be anchored and either elevated or floodproofed to two-feet above the base flood elevation.

f. All electrical outlets shall be ground fault interrupt type. The electrical service disconnect shall be located on shore above the base flood elevation and when possible outside the special flood hazard area. If a flood hazard permit application is granted, the applicant shall be notified in writing that flood insurance is not available for structures located entirely over water or seaward of mean high tide.

12.4.6 Permit

A. Upon determination that the development or substantial improvement plan is in compliance with this article, the Building Authority shall issue one of the following Flood Hazard Development Permits based on the type of development:

1. *Two-part Flood Hazard Development Permit for elevated structures*. Part I shall authorize the applicant to build a structure to and including the first horizontal floor only above the base flood level. At that time the applicant shall provide the Code Enforcement Officer with an "under construction" elevation certificate (FEMA form FF-206-FY-22-152) completed by a professional land surveyor based on the Part I permit construction, "as built," for verifying compliance with the elevation requirements of Subsections 12.4.5(H), (I), (J), or (R). Following review of the elevation certificate data, which shall take place within 72 hours of receipt of the application, or as soon as practicable thereafter, the Code Enforcement Officer shall issue Part II of the Flood Hazard Development Permit. Part II shall authorize the applicant to complete the construction project.

2. *Flood Hazard Development Permit for floodproofing of nonresidential structures*. This permit shall apply for nonresidential structures that are new construction or substantially improved nonresidential structures that are not being elevated but that meet the floodproofing standards of Subsection 12.4.5(I)(1). The application for this permit shall include a floodproofing certificate signed by a registered professional engineer or architect.

3. *Flood Hazard Development Permit for minor development*. This permit shall apply for all other development and

building permits that are not new construction or a substantial improvement, such as repairs, maintenance, renovations, or additions, whose value is less than 50% of the market value of the structure. This includes, but is not limited to: accessory structures as provided for in Subsection 12.4.5(L), mining, dredging, filling, grading, paving, excavation, drilling operations, storage of equipment or materials, deposition or extraction of materials, public or private sewage disposal systems or water supply facilities that do not involve structures, and nonstructural projects such as bridges, dams, towers, fencing, pipelines, wharves, and piers.

B. For development that requires review and approval as a conditional use, as provided for in this article, the Flood Hazard Development Permit application shall be acted upon by the Zoning Board of Appeals as required under Section 12.5.

12.5 CONDITIONAL USE REVIEW

12.5.1 Review authority

The Zoning Board of Appeals shall hear and approve, approve with conditions, or disapprove all applications for conditional uses provided for in this article. An applicant informed by the Building Authority that a conditional use approval is required shall file an application for the permit with the Zoning Board of Appeals.

12.5.2 Review procedure

A. The Flood Hazard Development Permit application with additional information attached addressing how each of the conditional use criteria specified in this article will be satisfied may serve as the application for the conditional use review.

B. Before deciding any application, the Zoning Board of Appeals shall hold a public hearing on the application within thirty days of their receipt of the application.

C. If the Zoning Board of Appeals finds that the application satisfies all relevant requirements of this article, the Zoning Board of Appeals must approve the application or approve with conditions within 45 days of the date of the public hearing.

D. A conditional use approval issued under the provisions of this article shall expire if the work or change involved is not commenced within 180 days of the approval by the Zoning Board of Appeals.

E. The applicant shall be notified by the Zoning Board of Appeals in writing over the signature of the Chair of the Board of Appeals that flood insurance is not available for structures located entirely over water or seaward of mean high tide.

12.5.3 Expansion of conditional uses

No existing building or use of premises may be expanded or enlarged without approval under this section if that building or use was stablished or constructed under a previous conditional use approval or if it is a building or use which would require a conditional use approval if being newly-established or constructed under this article.

12.6 CERTIFICATE OF COMPLIANCE

A. A certificate of compliance shall be signed by the Building Authority stating that a structure is in compliance with all of the provisions of this article.

B. No land in an area of special flood hazard shall be occupied or used in violation of this article, and no structure in such an area which is developed or substantially improved shall be occupied until a certificate of compliance is issued by the Building Authority. Said certificate of compliance shall be issued only after the Building Authority has received all permits and certificates from the applicant as required by this article.

C. For new construction or substantial improvement of any elevated structure, the applicant shall submit to the Building Authority:

1. An elevation certificate (FEMA form FF-206-FY-22-152) completed by a professional land surveyor for compliance with Subsection 12.4.5(H), (I), (J), or (R).

2. For structures in Zones VE and Coastal AE, a written certification by a registered professional engineer or architect shall be provided to the Building Authority stating that the design and methods of construction used are in compliance with the applicable provisions of Subsection 12.4.5(R)(2)(b), (c), and (d).

D. The applicant shall submit written notification to the Building Authority that the development is complete and complies with the provisions of this article.

E. Within 10 working days, the Building Authority shall review the elevation certificate (FEMA form FF-206-FY-22-152) and the applicant's written notification and, upon determination that the development conforms with the provisions of this article, shall issue a certificate of compliance.

12.7 VARIANCES AND APPEALS

12.7.1 Authority

A. The Zoning Board of Appeals of the City of Portland may, upon written application of an aggrieved party, hear and decide appeals where it is alleged that there is an error in any order, requirement, decision, or determination made, or failure to act, in the administration or enforcement of the provisions of this article.

B. The Board of Appeals may authorize variances, meaning the granting of relief from the provisions of this article, as authorized in Subsection 2.3.11 except:

1. As otherwise expressly provided in Subsection 2.3.11(E).

2. Variances shall not be granted within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.

12.7.2 Standards

Subsection 2.3.11 notwithstanding, variances from the requirements of this article shall be granted only upon:

A. A showing of good and sufficient cause.

B. A determination that should a flood comparable to the base flood occur, the granting of a variance will not result in increased flood heights, additional threats to public safety, or public expense, or create nuisances, cause fraud or victimization of the public, or conflict with existing local laws or ordinances.

C. A showing that the issuance of the variance will not conflict with other state, federal, or local laws or ordinances.

D. A determination that failure to grant the variance would result in "undue hardship," which in this subsection means:

1. That the land in question cannot yield a reasonable return unless a variance is granted.
2. That the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood.
3. That the granting of a variance will not alter the essential character of the locality.
4. That the hardship is not the result of action taken by the applicant or a prior owner.

E. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief, and the Zoning Board of Appeals may impose such conditions to a variance as is deemed necessary.

12.7.3 Standards for specific variances

A. Variances may be issued for new construction, substantial improvements, or other development for the conduct of a functionally-dependent use provided that:
1. The criteria in Subsection 12.7.2 and 12.4.5(M) are met.
2. The structure or other development is protected by methods that minimize flood damage during the base flood and create no additional threats to public safety.

B. Variances may be issued for the repair, reconstruction, rehabilitation, or restoration of historic structures upon the determination that:
1. The development meets the criteria of Subsection 12.7.2.
2. The proposed repair, reconstruction, rehabilitation, or restoration will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

C. Variances may be issued for new construction and substantial improvement of agricultural structures being used for the conduct of agricultural uses provided that:
1. The development meets the criteria of Subsection 12.7.2 and Subsection 12.4.5 are met.
2. The development meets the criteria of Subsection 12.4.5(M) and (N).

12.7.4 Notice to applicants

Any applicant who meets the criteria of Subsections 12.7.2 and 12.7.3(A), (B), or (C) shall be notified by the Board of Appeals in writing with the signature of the Chair of the Board of Appeals that:

A. The issuance of a variance to construct a structure below the base flood level will result in greatly increased premium rates for flood insurance up to amounts as high as $25 per $100 of insurance coverage.

B. Such construction below the base flood level increases risks to life and property.

C. The applicant agrees in writing that the applicant is fully aware of all the risks inherent in the use of land subject to flooding, assumes those risks and agrees to indemnify and defend the municipality against any claims filed against it that are related to the applicant's decision to use land located in a floodplain and that the applicant individually releases the municipality from any claims the applicant may have against the municipality that are related to the use of land located in a floodplain.

12.7.5 Record of variances

The Board of Appeals shall submit to the Building Authority a report of all variance actions, including justification for the granting of the variance and an authorization for the Building Authority to issue a Flood Hazard Development Permit, which includes any conditions to be attached to said permit.

12.7.6 Appeal procedure

A. An administrative appeal may be taken to the Board of Appeals by an aggrieved party within 30 days after receipt of a written decision of the Building Authority.

B. Upon being notified of an appeal, the Building Authority shall transmit to the Board of Appeals all of the documents constituting the record of the decision appealed from.

C. The Board of Appeals shall hold a public hearing on the appeal within 35 days of its receipt of an appeal request.

D. The person filing the appeal shall have the burden of proof.

E. The Board of Appeals shall decide all appeals within 35 days after the close of the hearing and shall issue a written decision on all appeals.

F. Any aggrieved party who participated as a party during the proceedings before the Board of Appeals may take an appeal to Superior Court in accordance with state laws within 45 days from the date of any decision of the Board of Appeals.

12.8 RECORDS & REPORTING

A. The Building Authority shall maintain, as a permanent record, copies of all Flood Hazard Development Permits issued, certificates of compliance and data relevant thereto, including reports of the Board of Appeals on variances granted hereunder.

B. The Building Authority shall be responsible for filing such annual reports regarding participation in the National Flood Insurance Program as may be required by FEMA. Said annual reports shall include, but not be limited to, a report on implementation of this article and on any variances granted hereunder. A copy of such annual reports shall also be sent to the Maine Floodplain Management Program.

12.9 PENALTIES

It shall be the duty of the Building Authority to enforce the provisions of this ordinance pursuant to Title 30-A M.R.S. § 4452. The penalties contained in Title 30-A M.R.S. § 4452 shall apply to any violation of this ordinance. In addition to any other actions, the Building Authority, upon determination that a violation exists, shall submit a declaration to the Administrator of the Federal Insurance Administration requesting a denial of flood insurance. The valid declaration shall consist of:

A. The name of the property owner and address or legal description of the property sufficient to confirm its identity and location.

B. A clear and unequivocal declaration that the property is in violation of a cited state or local law, regulation, or ordinance.

C. A clear statement that the public body making the declaration has authority to do so and a citation to that authority.

D. Evidence that the property owner has been provided notice of the violation and the prospective denial of insurance. A clear statement that the declaration is being submitted pursuant to Section 1316 of the

National Flood Insurance Act of 1968, as amended.

12.10 DISCLAIMER OF LIABILITY

The degree of flood protection required by the ordinance is considered reasonable but does not imply total flood protection.

~~14~~13 SITE PLAN

~~14.1~~13.1 PURPOSE

Pursuant to Portland's Comprehensive Plan, this article advances the vision for a sustainable city with shared goals for the environment, community, and economy. ~~-~~This article complements the zoning and subdivision regulations of this Land Use Code.

~~14.2~~13.2 APPLICABILITY

~~14.2.1~~ 13.2.1 Site plan approval required

A. All development meeting any one of the thresholds of Table ~~14~~13-A shall require site plan approval prior to commencing any work or undertaking any alteration or improvement of the site.

B. A final, approved site plan is a prerequisite to issuance of building, street opening, or certificate of occupancy permits for development subject to the provisions of this article. ~~-~~No such permit shall be issued until such permit is determined to be consistent with the final, approved site plan and any conditions of approval. ~~-~~In the event of any inconsistency between the approved site plan and any permit issued, the approved site plan shall control, provided, however, site plan approval shall not excuse failure to meet any independent requirement of any other law or ordinance. Neither the acceptance of any application nor any determination or approval hereunder shall authorize the issuance of a permit under Chapter 6 of the City of Portland Code of Ordinances for any use which would violate the provisions of Articles 6, 7, 8, 9 and ~~7~~10 of this Land Use Code.

~~14.2.2~~ 13.2.2 Exceptions

A. The Planning Authority may grant written authorization for the release of a demolition or interior building permit for a development subject to this article upon written request of the applicant describing the extent of proposed work~~.~~, provided that final plans have been submitted by the applicant. Any exterior demolition requires a performance guarantee for site stabilization.

B. The Planning Authority may grant written authorization for advanced site work, provided that final plans have been submitted by the applicant. Such permission shall be granted only after submission of a written request describing the proposed scope of work to be conducted on the site and a determination by the Planning Authority that the request is reasonable, time is imperative, and the work will not compromise any aspect of the ensuing review process. All such work shall be done in compliance with information provided as part of the site plan application including, but not limited to, an erosion control plan. Such written permission shall not be required if the only work proposed is the digging of test pits. Advanced site work shall require a performance guarantee.

~~14.3~~13.3 PROJECT CLASSIFICATION

~~14.3.1~~13.3.1 Site plan ~~classifications~~

The Planning Authority shall classify each development proposal as a major or minor site plan application according to the classifications in Table ~~14~~13-A. ~~-~~The Planning Authority may, due to the ~~scope or~~ anticipated impacts of a project, classify any project a review level higher than otherwise indicated in Table 14-A.

~~14.3.2~~13.3.2 ~~Master development~~ plan

~~A.~~ An applicant may elect to submit a ~~master development~~phased site plan application for a large, multi-phase development program consisting of multiple buildings and site improvements on a site of one acre or more of total land area which is designed ~~as a cohesive and integrated whole. The master development plan option shall not apply in residential zones, except for institutional, multi-family, congregate care, and intermediate, extended, and long-term care uses in the R-5a and R-6a zones.~~to be cohesive and integrated within the surrounding context.

~~A master development plan approval, including an approval of waivers, establishes the general parameters for the development, including the general development program, massing, open space plan, and infrastructure plan. A master development plan approval shall not be construed as final authorization of the development. Approval shall confer pending proceeding status upon the development with the effect of maintaining the applicability of regulations in effect at the time of approval for as long as the master development plan approval remains valid, including permissible extensions if granted. Subsequent site plan approvals shall be required.~~

~~B.~~

TABLE ~~14~~13-A: SITE PLAN CLASSIFICATIONS

	~~Minor~~[1]Minor	Major
New construction or ~~additions~~[2]additions[1]	Single- ~~or two~~to four-family ~~structures~~development ~~500~~1,000 – 10,000 SF ~~500~~1,000 – 20,000 SF in industrial zones ~~500~~1,000 – 50,000 SF in TOD zones and IS-FBC zone	Multi-family development of ~~3~~five or more ~~units~~[3, 4]-units > 10,000 SF > 20,000 SF in industrial zones and TOD zones > 50,000 SF in IS-FBC zone
~~Stripping, grading, grubbing, filling, or excavation~~Creation of disturbed area	1,000 SF - 3 ac.	> 3 ac.
Site alterations	Alteration of watercourse or wetland	--
Creation of impervious surface	1,000 SF – 1 ac.	> 1 ac.
Construction or paving of ~~existing~~ parking	5 – ~~75~~25 parking spaces	> ~~75~~25 vehicles
~~Construction of structures[5] in the Shoreland Zone~~	~~Rehabilitation, reconstruction or new construction~~	
Change of ~~use[6]~~use[2]	10,000 – 20,000 SF	> 20,000 SF
~~Other~~	~~Auto service station~~	~~Development with drive-through facilities~~

~~[1] For purposes of fee assignment and submission requirements, the minor application includes two exceptions: "minor residential" and "low-impact site development." See Section 16 of the *Technical Manual* for more information.~~

[2] Includes cumulative expansion of building floor area within a three-year period.

~~[3] Includes any division of a new or existing structure into 3 or more dwelling units whether the division is accomplished by sale, lease,~~

~~14.4~~13.4 REVIEW AND APPROVAL AUTHORITY

The review and approval authority for site plans ~~and master development plans~~ shall be determined based on the classification of the project as shown in Table ~~14~~13-B.~~-~~ At any point in the review process, the applicant may request that the Planning Authority reclassify the application to the next highest review level.

~~14.5~~ REVIEW PROCEDURES

~~14.5.1~~13.5.1 Pre-application meeting

Applicants for site plan ~~or master development plan~~ review are encouraged to schedule a pre-application meeting. ~~-~~The purpose of this meeting is to familiarize the applicant with the City of Portland, site plan submittal requirements, review procedures, and applicable review standards. ~~-~~A pre-application meeting shall not confer pending proceeding status under Title 1 ~~MRSA~~M.R.S. § 302.

TABLE 14-B: REVIEW AND APPROVAL AUTHORITY

Plan Classification	Review Authority
Minor	Planning Authority
Major	Planning Board
Master Development Plan	Planning Board

No decisions relative to the plan shall be made at the pre-application meeting, nor shall any advice or information provided by the City be construed as a decision.

~~14.5.2~~13.5.2 Application, plans, and submittals

All applicants shall submit a site plan ~~or master development plan~~ application to the Planning Authority in such form as prescribed by the Planning Authority.~~-~~ A payment of a nonrefundable application fee, as established by the City Council to cover administrative costs ~~and costs of a hearing~~, shall accompany each application.

~~14.5.3~~13.5.3 Staff completion check

A. The Planning Authority shall determine whether the application, plans, and submittals meet the submittal requirements of the *Technical Manual*. ~~-~~If the application is deemed incomplete or not in compliance with Articles 6, 7, 8, 9, or ~~7~~10, the Planning Authority shall inform the applicant in writing of the finding and the additional plans or submittals required to complete the application. A review of the

TABLE 14-C: SITE PLAN REVIEW PROCEDURES

	Minor	Major	Master Development Plan	Public Notice Requirement
Pre-application meeting	◐	◐	◐	
Site plan, application, plans, and submittals	●	●	●	
Staff completion check	●	●	●	●
Staff review	●	●	●	
Neighborhood outreach		●	●	●
Planning Board workshop		◐	●	●
Revised plans and submittals	●			
Final staff review & recommendation	●*	●	●	
Planning Board public hearing		●*	●*	●

● Required ◐Recommended * Decision point: approve/approve with conditions/deny

application will not be conducted until the application is found complete.

B. Once the application is determined to be complete, receipt of application notices shall be sent to all property owners within 500 feet of the subject property lines~~, unless the Planning Authority, in its discretion, chooses to notice a larger area and incur the additional expense for the expanded notification. Notices shall be sent to all others, including neighborhood organizations, as may be required by the Planning Authority~~.

~~14.5.4~~13.5.4 ~~-~~Staff review

When the application is determined to be complete, the plans and submittals shall be reviewed by the Planning Authority and other departments of the City of Portland as appropriate against the review standards of this article. ~~Written comments~~ If the application qualifies as a minor site plan review and is determined to meet all applicable standards of this article, the Planning Authority shall approve the application. Otherwise, written comments from reviewers shall be provided to the applicant~~ and~~. Written comments shall include a staff recommendation to~~ either~~ provide a revised plan and submittals, schedule a Planning Board workshop, or schedule a public hearing.

~~14.5.5~~13.5.5 ~~meeting~~outreach

Applicants for major site plan ~~and master development plan~~ review shall conduct ~~at least one~~ neighborhood ~~meeting~~outreach, either through neighborhood meeting(s) or another method approved by the Planning Authority, in accordance with the following:

A. Timing and location. ~~-~~The ~~meeting~~neighborhood outreach shall be conducted ~~within 30 calendar days of an application being deemed complete and~~ no less than ~~seven~~21 calendar days before a workshop or, in the case that no workshop is required, a public hearing~~.~~ on the application. The ~~meeting~~outreach shall be ~~held at a convenient location~~conducted in a manner that is accessible to stakeholders within the City of Portland neighborhood ~~surrounding~~where the project is proposed~~ site~~. All costs associated with the neighborhood outreach shall be borne by the applicant.

B. Notice. The applicant shall mail notice to all property owners within 500 feet of the subject property ~~lines, and to all others, including neighborhood organizations, as may be required by the Planning Authority~~boundaries, at least 10 calendar days prior to the neighborhood ~~meeting~~outreach or event. ~~-~~The notice shall contain a brief description of the proposal and information about how to access the neighborhood outreach (e.g. the date, time, and place of the neighborhood meeting or event~~.~~ or other relevant information regarding approved forms of neighborhood outreach). A digital copy of the neighborhood notice shall be sent to the Planning Authority, which shall be distributed to the City's list of interested citizens.

C. ~~Meeting~~Outreach procedures

1. *Record of participants.* The applicant shall keep a record of neighborhood participants in the outreach. ~~-~~A copy of this record shall be submitted to the Planning Authority prior to final review.

2. *Record of presenters and/or representatives.* The applicant shall keep a record of all presenters and/or representatives of the applicant participating in the outreach.
3. *Content.* The neighborhood outreach shall include an explanation of the proposal and provide an opportunity for public questions and comment.
4. *Record of feedback.* The applicant shall keep a record of feedback generated through the neighborhood outreach. In addition to any comments, questions, data, or other feedback collected, this record shall also include the start and end time(s) of the outreach and a list of the specific plans, documents, or drawings that were shared. A copy of this record shall be submitted to the Planning Authority prior to final review. Any other individual or entity also may submit comments on the neighborhood meeting to the Planning Authority.

~~14.5.6~~13.5.6 Review costs

A. Applicants shall pay a fee to cover the review costs and administrative costs incurred by the City. The fee shall be based upon the actual hours of review time and prevailing hourly rate for reimbursement of City costs, and shall be invoiced periodically by the City.

B. No land use permits or applications of any kind shall be processed, reviewed or issued, and no building permits of any kind shall be issued, for any project whose permit fee is governed by this article unless all charges due under this article have been paid and the developer is otherwise in compliance with the City Code of Ordinances.

~~14.5.7~~13.5.7 Notice of public meeting

A. For all applications that are subject to Planning Board review, the applicant shall be responsible for posting a notice of public meeting sign on the property where the development is to occur. The dimensions, construction, and content of the sign shall be in accordance with standards established by the Planning Authority.

B. The sign shall be posted at least ten days prior to the public workshop ~~or hearing~~date, in the case that a workshop is required, and ten days prior to the public hearing date, and shall be removed from the site no more than three days following the ~~date of the meeting.~~ workshop or hearing.

C. Once the required notice of public meeting signage is posted, the applicant shall submit a completed certification of posting form to the Planning Authority.

D. In the event that a required notice of public meeting sign is ~~knocked over~~obstructed, removed, or made illegible, it shall be the responsibility of the applicant to promptly reset or replace the sign, though failure to do so shall not invalidate the review.

~~14.5.8~~13.5.8 Planning Board workshop

~~Applicants for major site plan and master development plan review may request a workshop with the~~Where applicable, Planning Board~~. The workshop will~~ workshops shall be scheduled on a date that follows the neighborhood ~~meeting~~outreach and initial staff review. ~~The workshop~~Workshops shall be informational and

shall not result in any formal approval or disapproval of the project. ~~-~~At ~~the~~a workshop, the Planning Board shall discuss the plans and submittals, consider the staff review with respect to the review standards of this article, hear public comments and questions, and provide direction to the applicant regarding issues to be addressed.

~~14.5.9~~13.5.9 Revised plans and submittals

~~All~~Where staff or Planning Board review has found that plans and submittals fail to comply with the review standards of this article, applicants shall provide revised plans and submittals to the Planning Authority.~~-~~ The Planning Authority shall determine whether the revised plans and submittals meet the submittal requirements of the City of Portland *Technical Manual*.

~~14.5.10~~13.5.10 ~~-~~Final staff review and recommendation

When determined to be complete, the revised plans and submittals shall be reviewed by the Planning Authority and other City departments as appropriate against the review standards of this article. Written comments from reviewers shall be provided to the applicant. ~~-~~In the case of a major site ~~plan or master development~~ plan review, comments shall include a staff recommendation to either approve, approve with conditions, or deny the revised site plan and submittals. ~~-~~In the case of a minor site plan application, following staff review, the Planning Authority shall approve, approve with conditions, or deny the revised site plan application based on the review standards of this article.

~~14.5.11~~13.5.11 Planning Board public hearing

Applicants for major site plan ~~or master development plan~~ review must appear before the Planning Board for a public hearing.~~-~~ The hearing shall be scheduled on a date that meets all public noticing requirements contained in Article 2. At the hearing, the Planning Board shall approve, approve with conditions, or deny an application, based upon the review standards of this article.

~~14.5.12~~13.5.12 Lapse in application

A site ~~plan or master development~~ plan application must be diligently pursued from the date of submission. Notwithstanding the submission of a complete application, any applicant shall provide additional information, studies, or reports from qualified professionals when determined by the Planning Board or the Planning Authority to be reasonably necessary to make any of the determinations required by this article. ~~-~~Failure to submit required information within 120 days of the date upon which the written request was made shall cause the application to expire and be deemed null and void.

~~14.6~~13.5 SITE PLAN REVIEW STANDARDS

The reviewing authority shall not approve a site plan application unless the development proposal meets applicable standards of the City of Portland *Technical Manual* ~~and~~, the City of Portland *Design Manual*, and the ~~criteria~~standards below.

~~14.6.1~~13.6.1 Transportation standards

A. Impact on surrounding street systems.~~-~~ The provisions for vehicular loading and unloading, parking, and vehicular and pedestrian circulation on the site and onto adjacent public streets and ways and the incremental volume of vehicular, bicycle, pedestrian, and transit traffic will not:

1. Create or aggravate any significant hazard to safety on the surrounding street network.
2. Substantially increase congestion on any street ~~which is already at a level of service below Level "D"~~ without mitigation proportionate to the level of impact.

B. Access and circulation

1. *In general*
   - **a.** All development subject to this article shall provide safe and reasonable access and internal circulation for all users of the site and shall comply with the transportation systems and street design standards of the *Technical Manual*.
   - **b.** Shared circulation, parking, and transportation infrastructure shall be provided to the extent practicable, with utilization of joint curb cuts, walkways, service alleys, bus pull-out areas, and related infrastructure shared with abutting lots and roadways. Easements for access for abutting properties and shared internal access points at property lines shall be provided where possible to facilitate present or future sharing of access and infrastructure.
   - **~~b.~~c.** Continuous internal walkways shall be provided between existing or planned public sidewalks adjacent to the site, transit stops and street crossings, and building entrances on the site.
   - **d.** Where the site abuts or includes an existing or planned publicly accessible trail, a connection to or integration of such trail shall be provided to the extent practicable, including rights of public access.
   - **~~c.~~e.** Points of access and egress shall be located to avoid conflicts with turning movements and traffic flows.
   - ~~**d.** The site must have stacking capacity for vehicles waiting to use these service features without impeding on-site vehicular circulation or creating hazards to vehicular circulation on adjoining streets.~~
   - ~~**2.** *Loading and servicing.* All developments served by delivery or other service vehicles shall provide access that permits safe turning and backing for all vehicles that would service the development. Loading and servicing access shall not impede vehicle circulation, bicycle or pedestrian movements, or parking.~~
2. ~~3.~~ *Curb and sidewalks*
   - **a.** All development shall provide curb and sidewalks along all frontages, installed to specifications as described in the transportation systems and street design standards of the *Technical Manual*.
   - **b.** Where sidewalks already exist but are in substandard condition, they shall be repaired or replaced in conformance with Chapter 25 of the City of Portland Code of Ordinances and the transportation systems and street design standards of the *Technical Manual*
   - **c.** An applicant may request a waiver from sidewalk installation

requirements if they meet two or more applicable waiver criteria as listed below:

i. There is no reasonable expectation for pedestrian usage coming from, going to, and traversing the site.

ii. There is no sidewalk in existence or expected within 1000 feet and the construction of sidewalks does not contribute to the development of pedestrian-oriented infrastructure.

iii. A safe alternative walking route is reasonably available, for example, by way of a sidewalk on the other side of the street that is lightly traveled.

iv. The reconstruction of the street is specifically identified and approved in the first or second year of the current Capital Improvement Program (CIP) or has been funded through an earlier CIP or through other sources.

v. The street has been constructed or reconstructed without sidewalks within the last 24 months.

vi. Strict adherence to the sidewalk requirement would result in the loss of significant site features related to landscaping or topography that are deemed to be of a greater public value.

d. An applicant may request a waiver from curb installation requirements if they meet two or more applicable waiver criteria as listed below:

i. The cost to construct the curbing, including any applicable street opening fees, is in excess of 5% of the overall project cost.

ii. The reconstruction of the street is specifically identified and approved in the first or second year of the current CIP or has been funded through an earlier CIP or through other sources.

iii. The street has been rehabilitated without curbing in the last 60 months and the proposed use and design of the site does not necessitate the installation of curbing.

iv. Strict adherence to the curb requirement would result in the loss of significant site features related to landscaping or topography that are deemed to be of a greater public value.

v. Runoff from the development site or within the street does not require curbing for stormwater management.

C. Public transit access

1. All residential development consisting of 20 or more dwelling units and all commercial and institutional developments of at least 20,000 square feet gross floor area shall provide a transit shelter adjacent to or within the public right-of-way along its frontage, or at a nearby high-volume transit stop without a transit shelter, when the following criteria are met:

a. The development is proposed along an existing public transit route on a principal or minor arterial roadway, as shown in the Federal Street Classification Map.

b. The nearest existing transit shelter on the route is more than ¼ mile from the site, measured along rights-of-way.

2. Transit facilities shall be connected to the public sidewalk system.

~~3.~~ All or some of this standard may be waived if the review authority determines ~~one or more of the following:~~

~~a. That some or all of the required improvements cannot reasonably be made due to site constraints and/or insufficient right of way width.~~

~~b.~~**3.** ~~That~~that the development is not anticipated to generate public transit usage due to particular characteristics of the development or proposed use.

D. Parking

1. *Vehicular parking*

a. ~~All developments~~ Developments shall ~~provide off-street parking in accordance~~comply with the parking ~~requirements~~standards of ~~this Land Use Code.~~ Article 18.

~~**b.**~~ Where ~~a parking study is required,~~provided, parking spaces and aisles shall not be located in front and corner side yards, unless the ~~City encourages Transportation Demand Management (TDM) strategies to be employed.~~

~~**c.**~~**b.** ~~Developments proposing to exceed minimum parking requirements by 10% or more must~~applicant can demonstrate ~~through a parking study~~ that site constraints preclude the ~~amount~~location of parking ~~is appropriate for the proposed use of~~elsewhere on the site.

~~**d.**~~**c.** ~~Parking~~Where provided, parking spaces and aisles shall meet applicable dimensional standards as detailed in the transportation systems and street design standards of the *Technical Manual*.

2. *Bicycle parking*

a. All development shall provide secure bicycle parking in accordance with the parking requirements of ~~this Land Use Code~~Article 18 and the transportation systems and street design standards of the *Technical Manual*.

b. ~~Waiver:~~ The review authority may reduce the required number of bicycle parking spaces if it is determined, based on evidence submitted by the applicant, that the proposed development is expected to generate reduced demand for bicycle parking due to particular site characteristics or proposed uses.

3. *Snow storage*

a. All developments shall include areas for snow storage or provide an acceptable snow removal plan.

b. Snow storage areas may not encroach on ~~areas designed to meet minimum parking requirements or on~~adjacent properties, public ways, and pedestrian walkways, and shall not be located where they would adversely impact the functionality of

stormwater management systems. Landscaping in designated snow storage areas shall be such that it can withstand the snow pile.

4. *Electric Vehicle (EV) charging.* All development shall meet applicable EV standards as provided in Section 1 of the *Technical Manual.*

~~**a.** All development shall adhere to applicable EV standards as provided in Section 1 of the *Technical Manual.*~~

E. Transportation Demand Management (TDM)

1. The following types of development shall design and implement a Transportation Demand Management (TDM) plan:

~~**a.** All major site plan triggering development in the B-7 zone.~~

~~**b.**~~**a.** All commercial, institutional, or mixed-use developments of 50,000 square feet or more in total floor area.

~~**c.**~~**b.** All commercial or institutional uses designed to accommodate 100 or more employees or, for educational institutions, 100 or more students.

2. The TDM Plan shall comply with the standards for transportation ~~systems~~studies and ~~street design standards of~~plans as contained in the *Technical Manual*.

~~14.6.2~~13.6.2 Environmental quality standards

A. Preservation of significant natural features

~~**1.**~~ All development shall preserve and protect significant natural features by incorporating ~~them into site design. Significant natural features shall be defined as:~~

~~a. Populations~~the principles of ~~trees and plants listed on the Official List of Endangered and Threatened Plants~~Low-Impact Development (LID) in ~~Maine, published by~~accordance with the ~~Maine Natural Areas Program.~~

~~b.~~**1.** ~~Habitat for species appearing on~~ LID standards of the ~~official state or federal list of endangered or threatened animal species~~*Technical Manual*.

~~c. High and moderate value waterfowl and wading bird habitat including nesting and feeding areas, as defined by the Department of Inland Fisheries and Wildlife.~~

~~d. Aquifers on islands in Casco Bay, as identified in the City of Portland Island Groundwater Management Study and/or by the Maine Geological Survey.~~

~~e. Waterbodies including wetlands, watercourses, significant vernal pools and floodplains.~~

~~**2.** Where areas set aside for preservation are part of a larger existing habitat block extending beyond the boundaries of the site, the contiguity of these features shall be preserved where possible.~~

~~**3.**~~**2.** ~~Waiver:~~ Where complete preservation of significant natural features substantially compromises development of the site as otherwise permitted by zoning, the review authority may reduce the requirement ~~to accommodate development~~in accordance with the LID standards of the *Technical Manual* provided that the applicant implements preservation measures to the extent practicable and demonstrates

compliance with applicable state and federal regulations ~~and implements preservation measures to the extent practicable~~.

~~B. Landscape preservation~~

~~1. Site development shall be designed to incorporate, limit disturbance to, and limit removal of existing trees.~~

~~2.~~**3.** The site plan shall include adequate measures to protect ~~vegetation~~significant natural features to be preserved from construction impacts, in accordance with the ~~landscaping and landscape preservation~~LID standards of the *Technical Manual*.

~~3. All development subject to zoning setbacks shall preserve a minimum of 30% of existing trees 10 inches DBH or greater within the required setback area unless trees are non-native invasive species, as identified in the landscaping and landscape preservation standards of the *Technical Manual*, or are deemed unsalvageable by the Portland City Arborist or their designee.~~

~~4. Waiver: Where the applicant can demonstrate that preservation of existing vegetation would compromise development of the site, the review authority may permit the substitution of landscaping in other areas of the site as described in Table 14-D and/or a financial contribution to the City of Portland Tree Fund for an amount proportionate to the cost of trees removed. Replacement trees shall be of a species identified on the City of Portland Recommended Tree List as described in the landscaping and landscape preservation standards of the *Technical Manual*.~~

~~TABLE 14-D: TREE REPLACEMENT REQUIREMENTS~~

~~Size of Tree Removed~~	~~Replacement Requirement~~
~~10 – 16" DBH~~	~~1 tree~~
~~> 16" DBH~~	~~2 trees~~

~~5. Where the planting of replacement trees on the site is not feasible, the applicant shall contribute an amount proportionate to the cost of required replacement trees to the City of Portland Tree Fund, as described in the Landscaping and landscape preservation standards of the *Technical Manual*.~~

~~C.~~**B. Site landscaping and buffers**

1. ~~*Landscaping.*~~ *On-site landscaping.*

a. All development subject to ~~required zoning setbacks~~this article shall ~~include~~provide a minimum of one shade tree consisting of species identified on the City of Portland Recommended Tree list or six plantings ~~per 30 linear feet of all frontages as measured along the property line. A planting shall be~~, defined as one shrub, one ornamental grass, and/or three perennials~~.~~ ~~Required plantings may be installed anywhere on the site, including a green roof, if proposed, and may be planted~~, per 5,000 square feet of lot area in ~~any arrangement.~~ accordance with the landscaping standards of the *Technical Manual.*

~~1.~~**b.** Existing vegetation to be preserved on the site may be counted towards this requirement as described in the landscaping and landscape

preservation standards of the *Technical Manual*.

c. Where site constraints prevent the planting of required shade trees or plantings at the development site, the reviewing authority may approve an alternative as described in the landscaping standards of the *Technical Manual*.

2. *Buffers and screening*

a. Loading and servicing areas, trash and recycling areas, storage areas, and roof- and ground-mounted utility structures, except for renewable energy systems, shall be screened from view from public sidewalks, streets and adjacent properties by dense evergreen and deciduous landscaping, fencing, architectural screening products, masonry walls, building walls, or a combination thereof.

b. Where immediately visible from the right-of-way, surface parking areas shall be screened with dense evergreen and deciduous landscaping, fencing, or masonry wall in accordance with the landscaping standards of the *Technical Manual*.

~~b.~~c. For nonresidential development abutting a residential zone, an evergreen, densely landscaped buffer of not less than 10 feet ~~wide~~in depth and six feet tall is required along the side abutting the residential zone. ~~Where site constraints prevent such a buffer from being established~~In cases where architectural fencing is used, the ~~width~~depth of the landscaped buffer may be reduced ~~but shall include architectural~~, so long as the fencing ~~of not less than~~is at least six feet ~~tall~~in height and a mix of evergreen and deciduous trees spaced no further than 20 feet apart is planted abutting the residential zone.

~~c.~~d. All residential development shall provide and/or preserve evergreen vegetated buffers where necessary to buffer the development from detrimental impacts of existing surrounding development.

3. *Parking and vehicle display lot landscaping*

a. Developments with more than five parking spaces shall include at least ~~two trees (or~~ one tree ~~and three shrubs) per five parking spaces~~ for every 750 square feet of uncovered asphalt parking area (including drive aisles), planted in landscaped islands to screen, shade, and break up parking. Trees and shrubs in parking lots may be in informal groups, straight rows, or concentrated in clusters as described in the landscaping ~~and landscape preservation~~ standards of the *Technical Manual*.

b. Landscaped islands shall be distributed so that uninterrupted pavement does not exceed forty parking spaces.

c. Where site constraints prevent implementation of all or a portion of required parking lot landscaping, as determined by the review authority,

the ~~requirements may be all or partially waived and the applicant shall contribute an amount proportionate to the cost of required parking lot trees to the City of Portland Tree Fund~~reviewing authority may approve an alternative as described in the landscaping standards of the *Technical Manual*.

~~4.~~ *Non-vehicular hardscape.* All uncovered paving for non-vehicular use, including pathways and patios, must either have a minimum Solar Reflective Index (SRI) of 33 initially and 28 once aged three years or include one tree for every 750 SF of asphalt paving..

~~4.~~5. *Street trees*

a. All development shall include one street ~~trees in numbers and locations~~tree per 25-35 linear feet of frontage along a city right-of-way or private roadway as specified in the ~~Landscaping and landscape preservation~~landscaping standards of the *Technical Manual*. ~~Street trees are intended to benefit public spaces by providing green and natural elements that contribute to the streetscape and the urban forest ecosystem, provide health benefits, and increase the tree canopy to maximize shade and reduce energy use. Street trees shall be of a species identified on the City of Portland Recommended Tree List, unless otherwise approved by the City Arborist or his/her designee.~~ The provision of measures to enhance tree survival (such as raised planters, irrigation, and structural soils as recommended by the City Arborist) shall be required.

b. Where the applicant can demonstrate that site constraints prevent the planting of required street trees in the city right-of-way, the review authority may permit ~~the following to be counted towards the street tree requirement,~~an alternative subject to the landscaping standards ~~set out in~~of the *Technical Manual*~~:~~.

~~i. The preservation of existing healthy trees that are six inches or more DBH on the site within twenty feet of the property line, and visible from the right-of-way.~~

~~ii. The planting of street trees on the site within 20 feet of the property line where visible from the right-of-way.~~

~~iii. The installation of other planted features in the right-of-way or within 10 feet of the right-of-way and visible from the right-of-way, which are documented to the satisfaction of the City Arborist and Planning Authority to meet the objectives of the street tree requirement.~~

~~iv. The planting of new street trees on public land or public facilities in the neighborhood where a reasonable chance of good health and longevity is documented.~~

~~v. Where other alternatives are not feasible, a contribution for each required street tree made to the~~

~~City of Portland's Tree Fund. The contribution would primarily be for new trees in the neighborhood of the development, but would include an element of maintenance.~~

~~vi.~~**c.** Where the proposed development includes the removal of an existing street tree determined by the City Arborist to be a heritage or feature mature tree, the applicant shall be required to contribute to the Tree Fund at the designated rate in the *Technical Manual* so that the total replacement cost is significantly higher than planting a new street tree/contributing for a new street tree.

~~D.~~**C. Water quality, stormwater management, and erosion control**

1. All development shall be designed to minimize total area of impervious surface on the site and both the volume and rate of runoff from the lot. Provisions for stormwater management shall demonstrate the following:

a. Any stormwater draining onto or across the lot in its pre-improvement state will not be impeded or re-directed so as to create ponding on, or flooding of, adjacent lots.

b. Any increase in volume or rate of stormwater draining from the lot onto an adjacent lot or City property following the improvement can be handled on the adjacent lot or City property without creating ponding, flooding or other drainage problems and that the owner of the lot being improved has the legal right to increase the flow of stormwater onto the adjacent lot or City property.

c. Any increase in volume or rate of stormwater draining from the lot into the City's ~~separated~~ storm sewer system can be accommodated in the system without creating downstream problems or exceeding the capacity of the storm sewer system.

2. All development shall comply with the ~~Stormwater~~stormwater management standards of the *Technical Manual*.

3. Development shall not pose a risk of groundwater contamination either during or post-construction, as described in the stormwater management and water supply standards of the *Technical Manual*.

4. Applicants shall demonstrate that subsurface and/or any adjacent slope conditions are suitable to support the development, and where determined necessary, shall prepare a geotechnical study to demonstrate that the development as designed will not adversely impact the development site or any abutting property. Soil surveys and/or geotechnical studies shall be prepared in accordance with the requirements of the *Technical Manual*.

~~14.6.3~~13.6.3 Public infrastructure and community safety standards

A. Consistency with City master plans

1. All developments shall be designed so as to be consistent with City Council-approved master plans and facilities plans and with off-premises infrastructure.

2. The site plan shall include suitable easements, rights, and improvements to connect or continue off-premises public infrastructure as may be required by the review authority.

B. Public safety and fire prevention

1. All development shall incorporate the following public safety principles for Crime Prevention through Environmental Design (CPTED) into site design to enhance the security of public and private spaces and to reduce the potential for crime:
   a. Natural surveillance that promotes visibility of public spaces and areas.
   b. Access control that promotes authorized and/or appropriate access to the site.
   c. Territorial reinforcement that promotes a sense of ownership and responsibility through environmental design.
2. All developments shall be designed to provide adequate emergency vehicle access to the site and comply with the Public Safety standards of the *Technical Manual*.

C. Public utilities

1. The development shall not overburden sanitary sewers and storm drains, water lines or supply, or other public infrastructure and utilities. -Development shall provide adequate utility infrastructure on-site and in connection to surrounding locations and facilities.
2. Electrical service shall be underground unless otherwise specified for industrial uses, or if it is determined to be unfeasible due to extreme cost, the need to retrofit properties not owned by the applicant, or complexity of revising existing overhead facilities.
3. All sanitary sewer lines, storm drains, water lines, and other utilities proposed as part of the development shall be designed to conform with the sanitary sewer and storm drain and water supply standards of the *Technical Manual*.
4. All development within 200 feet of a public sanitary collection and treatment system shall connect sanitary sewer lines into the nearest available public sewer. -If a public sanitary collection and treatment system is not available, a private wastewater system may be used according to the requirements of Chapter 24 of the City Code and the sanitary sewer and storm drain standards of the *Technical Manual*.
5. All residential development of 20 units or more, commercial development, and industrial development shall provide for the temporary storage and timely removal of all trash and recyclable materials including, at a minimum, paper, corrugated cardboard, plastics, and metals. -Storage containers for recyclable materials shall be separated from trash containers.- All exterior storage of trash and recyclables shall be screened from view from public sidewalks, streets, and adjacent properties.

~~14.6.4~~13.6.4 Site design standards

A. Massing, ventilation, wind, and ~~wind Impact~~heat impact

1. The bulk, location, or height of proposed buildings and structures shall not result in

health or safety problems from a reduction in ventilation to abutting structures or changes to the existing wind climate that would result in unsafe wind conditions for users of the site and/or adjacent public spaces.

~~2. The bulk, location, or height of proposed buildings and structure shall minimize, to the extent feasible, any substantial diminution in the value or utility to neighboring structures under different ownership and not subject to a legal servitude in favor of the site being developed.~~

~~3.~~2. Development shall locate all HVAC venting mechanisms to direct exhaust away from public spaces and residential properties directly adjacent to the site.

3. In proposed buildings or additions with an aggregate roof area greater than 2,000 square feet, measured horizontally, and, for residential projects, greater than nine residential units, a minimum of 75% of the roof area must meet the following "cool roof" Solar Reflective Index (SRI) standards:

   a. Roofs with a slope less than 2:12: SRI of 82+ (initial)/64+ (3-year aged)

   b. Roofs with a slope greater than 2:12: SRI of 25+ (initial)/25+ (3-year aged)

   Roof areas covered by shade structures with an SRI of 39+, including photovoltaic panels that shade the roof, area considered exempt from roof area calculations for the purposes of this standard.

B. Shadow. -All development ~~outside the B-3, B-5, B-6 and B-7 zones~~over 65 feet in height shall be designed to avoid and/or mitigate the adverse impacts of shadows cast by new structures or building additions from falling on publicly accessible open space in accordance with the shadow standards of the *Technical Manual*.

C. Snow and ice loading.- All development shall be designed to prevent significant amounts of accumulated snow and ice from loading or falling onto adjacent properties or public ways.

D. View corridors. -The massing, location, and height of development shall not substantially obstruct public view corridors identified in the ~~*Downtown Vision View Corridor Protection Plan.*~~ City of Portland *Design Manual.*

E. Historic resources

~~1.~~ When ~~developments affect designated landmarks or lie within designated historic districts or historic landscape districts, such~~ a development ~~shall be required to obtain a Certificate of Appropriateness under Article 17.~~

~~2.~~1. ~~When any part of~~affects a ~~proposed development is within 100 feet of any~~ designated landmark~~,~~ or lies within a designated historic district~~, except the India Street Historic District,~~ or historic landscape district, such development shall be ~~generally compatible with the major character-defining elements of the landmark or portion of the district in the immediate vicinity of the proposed development. Character-defining elements of landmarks and historic districts are identified in the historic resources inventory and respective historic district designation reports. For the purposes of this provision, "compatible" design shall be defined as design which respects the~~

~~established building patterns and visual characteristics that exist in a given setting and, at the same time, is a distinct product of its own time. To aid the review authority in its deliberations, Historic Preservation staff shall provide a written analysis of the proposed development's immediate context, identifying the major character-defining elements and any established building patterns that characterize the context.~~required to obtain a Historic Preservation approval under Article 16.

~~3.~~2. All development shall document and protect state or local archaeological resources known to exist or discovered on the site.

a. Protection ~~shall~~may include leaving archaeological resources untouched beneath a new development through adaptation of foundation design or architectural layout.

b. Where the applicant can demonstrate that complete protection is not feasible, the applicant shall excavate and document archeological resources. ~~-~~Such measures shall be conducted in consultation with the City's historic preservation program and Maine Historic Preservation Commission. ~~-~~For resources of state significance, excavation and documentation shall be conducted by a qualified professional, in coordination with Maine Historic Preservation Commission. ~~-~~Local archeological resources may or may not be recognized by the Maine Historic Preservation Commission as significant and shall include the following:

i. Original seawall structure located landward of Commercial Street.

ii. Inactive historic family cemetery plots.

iii. Historic railroad beds including but not limited to the Portland-Lewiston interurban railroad.

iv. Original structure and/or landforms associated with the Cumberland and Oxford Canal.

v. Buried portions of colonial and post-colonial period structures or built features located on the Portland Peninsula predating the Great Fire of 1866.

vi. Pre-colonial occupation sites identified by shell middens or other evidence.

vii. Sites listed or eligible for listing on the National Register of Historic Places.

c. In order to preserve archeological resources, the review authority may waive standards listed in the City of Portland *Technical Manual* where necessary if it is determined that such a waiver would not jeopardize the health, safety, or welfare of the development's occupants, the public, or the natural environment.

F. Exterior lighting

1. *Site lighting*

a. All exterior site lighting shall be full cutoff with no light emitted above the horizontal plane or spilled onto

adjacent properties ~~and streets.~~ . Illumination levels shall be adequate but not excessive for the safety, comfort, and convenience of occupants and users of the site, and shall conform to the lighting standards of the *Technical Manual*.

b. Where light from a proposed development may adversely impact adjacent residential properties, exterior lighting shall employ ~~house~~building-side shielding.

2. *Architectural and specialty lighting.*

a. Architectural and specialty lighting of such features as architectural details, monuments, public art, or other site features shall be designed to illuminate specific details or attributes only and shall meet the lighting standards of the *Technical Manual*.

b. Up-lighting by any method is prohibited except for public buildings and parklands; clock towers and steeples; landscape features; designated historic landmarks; flags of state, federal, or national jurisdictions; and public art. ~~-~~Such light fixtures, brackets, conduits, and all other components shall be designed by a lighting professional and shall be scaled and placed to minimize their visibility and installed in accordance with the lighting standards of the *Technical Manual*.

3. *Street lighting.* All development shall provide municipal street lighting adequate for the safety and comfort of pedestrians, bicyclists, and motorists and, where applicable, conforming to specific lighting district requirements as specified in the street lighting standards of the *Technical Manual*.

G. Noise and vibration. ~~-~~All heating, ventilation and air conditioning equipment (HVAC), air handling units (AHU), emergency generators, and similar equipment shall meet applicable state and federal emissions requirements and shall be located to the interior of the site, away from abutting ~~residential~~ properties.

H. Signage and wayfinding

~~1. The size, scale, proportions, design, materials, placement, and source and intensity of illumination of all permanent building or freestanding signs shall be designed to complement the subject building and its immediate context, as follows:~~

~~a. Signage shall not conceal architectural features such as window sills, lintels or cornices from view.~~

~~b. Signs shall be designed and sized to fit the scale and proportions of the building and the feature or area of the building to which it is affixed.~~

~~c. Freestanding signs shall not adversely affect visibility at intersections or access drives.~~

~~d. Sign lighting shall be downwardly directed, internally illuminated and/or shielded to avoid glare and light spillover towards the sky.~~

~~e. Signs shall not be affixed to rooftop mechanicals, mechanical penthouses or other rooftop appurtenances unless those appurtenances have~~

~~been screened and integrated into the architecture of the development.~~

1. On-site directional traffic signage may be provided to enable users to safely and easily navigate into, around and out of the site. ~~Directional signage~~
2. Signage shall not adversely affect visibility at intersections on or off the site.

I. Design standards

1. Development of certain types and/or proposed in certain zones, as specified ~~below, are subject to~~in the City of Portland *Design Manual*, shall meet the design standards of the ~~City of Portland~~ *Design Manual* in order to ensure that building and site design contribute to and enhance the goals and policies for specific zones within the ~~City.~~ city. The City of Portland ~~design standards are listed in the City of Portland~~ *Design Manual*~~, which~~ is incorporated by reference as part of ~~the City of Portland~~this Land Use Code. ~~If the development is located in a historic district or associated with a historic landmark, City of Portland Historic Preservation standards shall supersede:~~

~~a. Development in the B-3, B-5, B-5b, and B-7 zones and in the B-6 and EWPZ zones shall be designed to support the development of dense, mixed-use neighborhoods with attractive, safe, and convenient street-level pedestrian environments. New development along the Eastern Waterfront should avoid large monolithic massing along all street frontages and should promote permeability through and within the development at a scale compatible with the existing street networks of the Eastern Waterfront. Where new structures are larger than buildings characteristically found in Portland's waterfront, horizontal and vertical variation should be used to break large expanses of building into components that are in scale with the context to which they most closely relate.~~

~~b. Development in the R-P Residential Professional Zone, where there is a discernable architectural style or character to existing structures in the immediate vicinity in which the development is proposed, shall not be incongruous to that established style or character.~~

~~c. Development in the B-1/B-1b, B-2, and B-2b zones shall provide an established street wall with entrances and public portions of the building oriented to and directly accessible from the public sidewalk and shall be designed and scaled to be compatible with surrounding residential and commercial development.~~

~~d. Development in the University of Southern Maine (USM) Overlay Zone shall be designed to support a cohesive campus environment that integrates with and respects the residential character of surrounding neighborhoods.~~

~~e. Residential developments, as listed below, shall integrate with and respect the character of surrounding residential development in terms of architectural form, landscaping and~~

open space, façade materials, roof pitch, massing, and height.

i. Planned Residential Unit Developments (PRUDS) in the R-3, R-5, and R-5a residential zones.

ii. Multiple family and multiplex developments in the R-5 zone.

iii. Small residential lot development of single-family homes in the R-5 zone.

iv. All residential development in the R-6 zone.

v. Residential development of the following types: manufactured housing parks, two-family and multiple family housing not already specified above, special needs independent dwelling units, lodging houses, bed and breakfasts, and emergency shelters.

13.7 MASTER DEVELOPMENT PLAN REVIEW STANDARDS

The Planning Board shall not approve a master development plan unless the development proposal meets the review standards below.

14.7.1 In general

A. Integration with the surrounding context. A master development plan shall be designed to integrate with the surrounding context with respect to land use, architecture, open space and pedestrian networks, vehicular access and circulation, off-site public facilities and all other infrastructure.

B. Consistency with City plans. A master development plan shall be consistent with the objectives of this ordinance, consistent with the City's Comprehensive Plan, and consistent with City Council-approved master plans and facility plans for off-premise infrastructure.

14.7.2 Natural features and open space

A. Preservation of natural features. A master development plan shall locate buildings and improvements in a manner that considers the existing topography, provides usable open space, preserves significant natural features as defined in Subsection 14.6.2, and preserves existing trees to the maximum extent possible.

B. Provisions for open space. A master plan shall include provisions for the ownership and maintenance of usable open space as appropriate

14.7.3 Historic Preservation

C. A master development plan shall be developed so as to conform with standards for designated landmarks or for properties within designated historic districts or historic landscape districts as found in Article 17.

D. When proposed adjacent to or within 100 feet of a designated landmark, historic district, or historic landscape, the master development plan shall be developed so as to be generally compatible with the major character-defining elements of the landmark or portion of the district in the immediate vicinity of the proposed development.

14.7.4 Infrastructure

A. Adequacy of infrastructure capacity. A master development plan shall be designed with sizing of street and other infrastructure

~~systems to accommodate the overall service demand of the plan.~~

~~B. Continuation of street grid. A master development plan shall be designed to create a street grid pattern that reflects average city block sizes of the surrounding neighborhood.~~

~~14.7.5 Design~~

~~A. Creation of a cohesive identity. A master development plan shall be designed to create a cohesive identity through building scale, massing, and articulation; use of quality exterior materials and architectural detailing at pedestrian scale; consistency of design and materials for streetscape and pedestrian amenities; framing of outdoor open space and linkages; a clear conveyance of the function and significance of various buildings, entrances, and features; and to generally comply with design and development standards of the zone in which it is located.~~

2. If the development is located in a historic district or associated with a historic landmark, the standards of Article 16 shall supersede.

~~14.8~~13.6 WAIVERS

~~14.8.1~~13.7.1 Waiver requests

An applicant for site plan review may request a waiver with respect to the submittal requirements or review standards of this article. ~~-~~If a waiver is requested, the applicant shall document the rationale for the waiver request within the application.

~~14.8.2~~13.7.2 Waiver criteria

Except for where waiver criteria are provided for individual review standards, the review authority, if it finds that extraordinary conditions exist or that undue hardship may result from strict compliance with the submittal requirements or review standards of this article, may vary these regulations so that substantial justice may be done and the public interest secured, provided that such variation will not have the effect of nullifying the intent of this article.

~~14.9~~13.7 PHASING

~~13.8.1 Site plan~~

A major site plan may be divided into ~~up to three~~two or more phases.~~-~~ Each phase must be at least 20% of the total development and in addition, show the entire tract or parcel. ~~-~~Each phase of such project shall be independent of subsequent phases and shall conform to all standards of this article in the event that subsequent phases do not go forward.

~~13.8.2 Master development plan~~

~~An applicant proposing a master development plan is seeking approval for an overall concept of development that may subsequently be brought for site plan approval in two or more phases and in a phase sequence that extends beyond the timeframes allowed for site plan approvals. Site plans for each phase of a master development plan shall generally conform with the master development plan. For areas proposed as future development phases, the proposed interim conditions shall be managed and maintained to ensure stable, safe, and attractive site conditions. One or more phases of the master development plan may be reviewed as a site plan concurrently with the review and approval of the master development plan.~~

~~14.10~~13.8 CONDITIONS OF APPROVAL

Notwithstanding the review standards of this article, the review authority may impose any condition upon its approval of any site plan ~~or master development plan~~ to minimize or abate any adverse impact of the proposed development on the value or utility of other private property, or public property or facilities, to the extent feasible; to bring the development into compliance with the review standards of this article; or to minimize any other adverse environmental effects of the proposed development.

~~14.11~~13.9 POST-APPROVAL PROCEDURES

~~13.10.1 Advanced site work~~

~~No alterations shall be made to a site with a pending or approved site plan until:~~

~~A. The performance guarantee has been posted and final site plans have been submitted to the Planning Authority.~~

~~B. Written permission has been received from the Planning Authority. Such permission shall be granted only after submission of a written request describing the proposed scope of work to be conducted on the site and a determination by the Planning Authority that the request is reasonable, time is imperative, and the work will not compromise any aspect of the ensuing review process. All such work shall be done in compliance with information provided with the site plan application including, but not limited to, an erosion control plan. Such written permission shall not be required if the only work proposed is the digging of test pits.~~

~~14.11.2~~13.10.1 Final plans

Following final site plan approval and prior to issuance of any building permit, the developer shall submit final plans meeting all the conditions of the site plan approval, including without limitation all streets, sewers, drainage structures, and landscaping. Thereafter, limited and minor departures from the approved site plan shall be approved by the Public Works Authority and/or Planning Authority as field changes pursuant to Section ~~14.14.~~ 13.13. Amendments or revisions to the approved site plan shall be reviewed by the Planning Authority pursuant to Section ~~14.14~~13.12.

~~14.11.3~~13.10.2 Performance and defect guarantees

The following performance and defect guarantee requirements shall apply:

A. Performance guarantee required. Following approval of site plan applications and prior to the issuance of a building permit, the developer shall post with the City a performance guarantee in the form and amount specified herein, specifying the completion of the required site plan improvements within two years from the origination date of such guarantee. In no case shall the term of such guarantee be for a period of less than one year, nor shall any performance guarantee expire between October 30 and April 15 of the following year.

B. Inspection fees. At the same time that the developer posts a performance guarantee, the developer shall also pay to the City an inspection fee as determined by the City Council. If a performance guarantee is extended beyond its original expiration date, then an additional inspection fee in an amount to be determined by the City shall be required.

C. ~~**Minor residential development.** All minor residential development, which for the purposes of this section shall be defined as single- or two-family development and any associated site improvements,~~**Single- and two-family development.** All single- and two-family development is exempt from performance guarantee requirements except when those projects complete construction in the winter, and site work is incomplete due to weather conditions. A performance guarantee will then be required that is sufficient to complete the remaining site work as approved on the site plan. The performance guarantee must be reviewed and approved by the Planning Authority prior to the release of a certificate of occupancy. All ~~minor residential~~single- and two-family development is subject to inspection fees, as specified herein.

D. **Performance guarantee amount**

1. The performance guarantee shall be equal in value to 100% of the estimated cost of the required site improvements as shown on the approved site plans, as a condition of planning approval, as required in the City of Portland Code of Ordinances, and/or as required by the City of Portland *Technical Manual*.

2. The performance guarantee amount shall be estimated by the applicant or representative using the cost estimate spreadsheet provided by the City and shall be submitted for review and approval to the Planning Authority. Costs to be included in the estimate, and which shall be covered by the performance guarantee~~,~~ include ~~but are not limited to~~items such as: street and sidewalk improvements including street lights, monuments, curbing, ramps and detectible warning panels, and striping; earth work and grading; utilities infrastructure and connections including sewer, stormwater, and water service; exterior site lighting; erosion control measures as shown on the approved erosion and sedimentation control plan; open space and recreation amenities; and final site stabilization and landscaping.

3. The Planning Authority may waive all or any portion of this requirement if it determines that the ~~developer~~property owner has a proven record of satisfactory performance and sufficient financial capability or when the overall cost of the project fails to justify the administration of a performance guarantee.

E. **Phased projects.** If a project is reviewed and approved as a phased project, the corresponding performance guarantee may also be phased. A separate performance guarantee shall be posted for each phase. Each phase of such project shall be independent of subsequent phases and shall conform to all standards of this article in the event that subsequent phases do not go forward.

F. **Advanced site work**

1. No public utility, water district, sanitary district or any utility company of any kind shall install services to any lot in a subdivision which has not received Planning Board approval.

2. On a case-by-case basis, permission for advanced site work may be granted by the ~~Director of~~ Planning ~~and Urban Development.~~Authority under Section

13.2.2(B). Such permission is solely within the discretion of the ~~Director of~~ Planning ~~and Urban Development and shall be granted only after submission of a written request setting forth the work proposed to be done on the site. Such written permission shall not be required when the only work proposed is the digging of test pits~~Authority.

G. Acceptable forms of performance guarantee. The performance guarantee, in the amount approved by the Planning Authority, shall be a letter of credit, an escrow account with a responsible financial institution, or the deposit to the City of Portland Finance Department and shall be in conformance with the templates and forms made available by the City. If the performance guarantee is a deposit to the City, the City shall hold such funds in a noninterest bearing account until criteria for performance guarantee release have been satisfied. The performance guarantee shall be in the name of the City and shall be approved by the finance director as to financial sufficiency and the corporation counsel as to proper form and legal sufficiency.

H. Performance guarantee reductions.

1. Up to three times during the construction of a project, upon request of the developer, a performance guarantee may be reduced by the value equal to the estimated cost of the completed improvements. In no case shall any performance guarantee be reduced by any line item on the cost estimate spreadsheet where improvements remain to be completed. Requests shall be submitted on the cost estimate spreadsheet for review and approval by the Planning Authority.
2. In no case shall any performance guarantee be reduced to an amount equal to or less than the required defect guarantee until all criteria set forth for converting to the defect guarantee have been met, as approved by the Planning Authority.

I. Extension of the performance guarantee. If the Planning Authority and/or the Public Works Authority has reasonable doubt concerning the stability or proper construction of the required site improvements, the developer shall be required to reconstruct or otherwise address the issues to the City's satisfaction. If the performance guarantee is scheduled to expire before the extent or necessity for such further work can be determined, the developer shall be required to extend the performance guarantee covering such improvements, or secure a new guarantee, for a period and amount deemed necessary by the Planning Authority and/or the Public Works Authority.

J. Performance guarantee release/conversion to defect guarantee.

1. No performance guarantee shall be released until all fees generated by the project are paid to the City, including but not limited to engineering, inspection, and administrative fees. The guarantor shall not be released from the guarantee except and until authorized in writing by the Planning Authority.
2. For roadway extension projects, no performance guarantee shall be released until the Department of Public Works has performed a final inspection of the

roadway and determined satisfactory completion of the required improvements. Additionally, no performance guarantee shall be released until the City is in receipt of a petition for street acceptance, deemed complete and satisfactory by Corporation Counsel and/or the Department of Public Works. The petition for street acceptance must include a warranty deed (with metes and bounds description) to the property within each street of the subdivision or roadway extension and any other improvements intended for City maintenance.

3. Upon the satisfactory completion of the required site improvements and compliance with all conditions of approval including the submission of as-built drawings as applicable, the Planning Authority will authorize in writing, conversion to the defect guarantee. The defect guarantee shall be 10% of the original performance guarantee amount and shall remain in place for a period of one year. The defect guarantee shall ensure the workmanship and the durability of all materials used in the construction of the required site improvements. The Planning Authority may authorize the defect guarantee to be released at any time within the one-year period, provided all required site improvements have been constructed and in-place for one year or more and the workmanship and the durability of all materials has been inspected and confirmed to be satisfactory.

K. **Acceptable forms of defect guarantee.** The defect guarantee, 10% of the original performance guarantee amount approved by the Planning Department, shall be a letter of credit, an escrow account with a responsible financial institution, or the deposit to the City of Portland finance department and shall be in conformance with the templates and forms made available by the City. If the defect guarantee is a deposit to the City, the City shall hold such funds in a noninterest bearing account until the criteria for performance guarantee release have been satisfied. The performance guarantee shall be in the name of the City and shall be approved by the finance director as to financial sufficiency and the corporation counsel as to proper form and legal sufficiency.

L. ~~Abandoned site.~~ **Use of the performance guarantee.** In the event that a development site is abandoned or the site improvements do not meet City standards as approved in the site plan, the performance guarantee may be utilized to stabilize, secure, complete construction, and/or restore the site as may be necessary, including, but not limited to, revegetation of areas, grading, and fencing.

~~14.11.4~~13.10.3 Inspection fee

At the same time that the developer posts a performance guarantee, the developer shall also pay to the City a site plan improvement inspection fee equal to two percent of the estimated costs of required site improvements for which a performance guarantee is to be posted. At the conclusion of the project, and before a temporary or permanent certificate of occupancy is issued, the developer shall pay to the City the balance of any

inspection fees actually incurred by the City in its review of the project.

~~14.11.5~~13.10.4 As-built plans

Upon completion of a development (excluding ~~minor residential~~single- and ~~low-impact site~~ two-family development and minor site work as ~~specified in Section 16 of~~determined by the ~~*Technical Manual*~~Planning Authority), the applicant shall submit the as-built plans as specified in the *Technical Manual*.

~~14.11.6~~13.10.5 Certificates of occupancy

No certificate of occupancy shall be issued to any portion of development where, in the opinion of the Planning Authority, the site conditions or work required to complete the development will endanger the health or safety of persons visiting or inhabiting the completed portion. ~~-~~Certificates of occupancy may be granted as follows:

A. Temporary certificates of occupancy

~~6.~~1. Notwithstanding any other provision of the Land Use Code, a certificate of occupancy may be issued for a development or portion of a development which has otherwise been completed in accordance with final site plan approval and all applicable provisions of this Land Use Code where the applicant submits a written request to the Planning Authority stating those improvements which remain to be completed, the reasons why such improvements have not been completed, and the cost and time to complete the remaining work. In no event shall any temporary or permanent certificate of occupancy be issued where:

a. Conditions exist which would justify denial of a certificate of occupancy under Chapter 6 of the City of Portland Code of Ordinances.

b. Required improvements to the City right-of-way remain to be completed by the developer.

c. ~~All access~~Access roads ~~and any other roads and~~, driveways, and pedestrian access required for the building or building(s) for which the certificate(s) are requested have not been improved to a passable condition.

d. A remaining balance for fees incurred by the City exists.

e. The developer otherwise is in violation of the City Code of Ordinances.

~~7.~~2. Where a temporary certificate of occupancy is sought for a portion of any development prior to the completion of the entire development, the following standards shall be met, in addition to all applicable requirements set forth above, prior to the issuance of any certificate of occupancy:

a. Those parking areas required for the portion of the development for which a certificate of occupancy is sought shall be available for use. Alternative arrangements must be made on-site for parking for any periods during which such parking areas will not be available for use.

b. All foundation plantings and other landscaping required for the portion of a development for which a certificate of occupancy is sought shall be installed prior to the issuance

of a certificate of occupancy. This requirement may only be waived where, in the opinion of the Public Works Authority, landscaping improvements cannot practically be completed due to seasonal weather conditions.

c. A performance guarantee shall be in place and in an amount sufficient to cover all remaining required improvements and not less than 10% of the initial performance guarantee amount.

B. Final certificate of occupancy. All improvements which are not completed prior to the issuance of any temporary certificate of occupancy must be completed prior to the completion date specified in the performance guarantee or in the temporary certificate of occupancy, whichever occurs first, in order for a final certificate of occupancy to be issued by the City. Where any person accepts a temporary certificate of occupancy and does not complete the improvements as specified in the certificate, the City is authorized to enter upon such property itself or through its agents or contractors to complete such improvements with no liability therefore and may recover the costs thereof through the mechanic's lien procedure for the improvement of real property to the extent that the performance guarantee may be inadequate.

~~14.12~~13.10 EXPIRATION OF APPROVALS

~~14.12.1~~13.11.1 Site plan

Site plans approved under this article shall expire ~~12 months~~three years from the date of approval unless development has been undertaken in accordance with the approved site plan and site work or building construction is ongoing. ~~-~~Any lapse in construction for a period in excess of 12 months shall result in an expiration of the site plan. Approved amendments to a site plan shall have no effect on the expiration date, which is based upon the original date of approval.

~~Master development~~

~~14.12.2~~13.11.2 Phased site plan

~~Master development plans approved under this article shall expire six years from the date of approval if no~~ The applicant has three years to start site work or building construction ~~has commenced.~~

~~13.13 EXTENSION OF APPROVALS~~

~~13.11.3 In general~~

undertaken in accordance with the approved phased site plan and seven years to complete the project. Approved amendments shall have no effect on the expiration date, which is based upon the original date of approval. A phased site plan may be extended by the Planning Authority up to two years from date of expiration. Extension requests must be made in writing by the applicant prior to the expiration of the approval. ~~An extension may not be granted if changes to the City's zoning, subdivision, or site plan ordinance, the *Technical Manual* or the *Design Manual* would render the development nonconforming in any respect or significantly impact the approved site plan or master development plan as determined by the Planning Authority.~~

~~14.13.2~~13.11.3 In case of appeal

Where ~~the~~a site plan approval or any related land use approval granted to the same applicant by any agency of the City with respect to the same development is appealed to any court by an opponent of the development, the applicant shall be granted extensions, beyond the expiration of said approval, where the applicant has exercised due diligence with respect to defending such appeal~~, which extensions~~. Extensions shall not last beyond one year from entry of final judgment.

~~13.11.5 Site plan~~

~~Site plan approvals may be extended by the Planning Authority for up to three years from the date of approval.~~

~~13.11.6 Master development plan~~

~~Master development plan approvals may be extended by the Planning Authority up to two times, for up to two years from the date of expiration of the original master development plan approval.~~

~~14.14~~13.11 AMENDMENTS TO APPROVED PLANS

~~14.14.1~~13.12.1 Field changes

Changes associated with unforeseen difficulties that arise during the course of construction and involving such technical detail as utility location and substitution of equivalent plantings shall be approved by the Public Works Authority and/or the Planning Authority. ~~-~~Field changes shall not involve substantial alteration of the approved plan or conditions imposed by the review authority.

~~14.14.2~~13.12.2 Minor amendments

A. The Planning Authority is authorized to approve minor amendments to site plans ~~and master development plans.~~. An applicant may request a minor amendment to an approved site ~~plan or master development~~ plan by submitting a written statement of the proposed amendments and proposed amended plans to the Planning Authority. ~~Minor amendments:~~

B. Minor amendments:

~~A.~~1. Are generally consistent with the approved plan.

~~B.~~2. Do not substantially impact the layout of buildings and open space.

~~C.~~3. Do not ~~propose new~~significantly alter the program of proposed uses.

~~D. Do not increase building ground coverage, floor area ratio, or residential density.~~

~~E.~~4. Do not substantially change access, circulation, or infrastructure on or adjacent to the site.

~~F. Do not involve new waiver requests.~~

5. Do not otherwise meet thresholds for site plan review as described in Table 13-A.

~~G.~~6. Do not affect any condition or requirement of the Planning Board.

~~14.14.3~~13.12.3 Major amendments

An applicant may request approval by the review authority of a major amendment to an approved site plan ~~or master development plan~~ by submitting an application for the amendment to the Planning Authority.~~-~~ Major amendments include changes that exceed the limited criteria for a minor amendment under Subsection ~~14.14.2. Review procedures shall follow those for major site plan review~~13.12.2.

~~14.15~~13.12 CONSISTENCY WITH APPROVED SITE PLANS

13.13.1 Sites to be developed and maintained as depicted

A. Sites shall be developed and maintained as depicted in the approved final site plan and the written submission of the applicant. Any deviations from an approved site plan, including, but not limited to, changes in topography, vegetation and impervious surfaces as shown on the final site plan or alteration of a parcel which was the subject of site plan approval after May 20, 1974, shall require the prior approval of a revised site plan by the Planning Board or the Planning Authority pursuant to the terms of this article. Any such parcel lawfully altered prior to the enactment date of these revisions shall not be further altered without approval as provided herein. Modification or alteration shall mean and include any deviations from the approved site plan including, but not limited to, topography, vegetation, and impervious surfaces shown on the site plan.

B. All construction or alterations to the site performed under authorization of building permits or certificates of occupancy issued for development within the scope of this Land Use Code shall be in conformance with the approved final site plan or an amendment thereto under Section ~~14.14.~~ 13.12. The Planning Authority shall institute or cause to be instituted any and all actions, legal or equitable, that may be appropriate or necessary for the enforcement of this article.

13.13.2 Work pursuant to Chapter 24 or 25

~~C.~~ Where work is required pursuant to the terms of Chapters 24 or 25 as part of an approval granted under this article, such work shall be accomplished in the sequence established by the Public Works Authority. ~~-~~Where the Public Works Authority determines that work has been completed prior to the receipt of all approvals required by this article or which is out of sequence or is not in compliance with the standards of Chapters 24 and 25 of the City of Portland Code of Ordinances, a stop work order may be issued. ~~-~~Work shall recommence only after such order has been lifted by the Department of Public Works or the Building Authority on the basis of an approved mitigation plan or action by the developer.

13.13.3 After-the-fact review

~~D.~~ Where construction, alteration, or modification to a site is performed without a valid site plan approval, an after-the-fact review shall be performed by the Planning Board or Planning Authority, as applicable.

~~14.16~~13.13 APPEALS

~~14.16.1~~13.14.1 ~~Site~~Minor site plan

~~A.~~ When the Planning Authority has approved, approved with conditions, or disapproved a minor site plan, any person aggrieved may appeal the decision to the Planning Board within 30 calendar days of the date of the written decision of the Planning Authority. Upon the taking of such an appeal, the application shall be reviewed as a new application.

13.14.2 Minor site plan

~~A.~~ When the Planning Board has approved, approved with conditions, or disapproved a major site plan, any person aggrieved or the City may appeal the decision to the Superior Court, pursuant to Rule 80B of the Maine Rules of Civil Procedure and 30-A M.R.S §§ 2691 & 4483. Decisions of the Planning Board are final as of the date the written decision is issued.

~~15~~14 SUBDIVISIONS

14.1 PURPOSE

This article is adopted pursuant to the terms and provisions of 30-A M.R.S. § 3001 and 4403, as amended. The purpose of this article is to provide for the harmonious and economic development of the city; for the orderly subdivision of land and its development; for the orderly development of the general area surrounding such subdivision; for the coordination of streets within the general area; for adequate provisions for drainage, flood control, light, air, and other public purposes; for the adequate and proper installation of streets, drainage, sanitary sewers, water, and other utilities and facilities; for the dedication to the City of land for streets, alleys, or other public purposes or the transfer to the City of easements or other rights or privileges; for the reservation for the City of land to be acquired for public facilities; and to protect public safety.

14.2 APPLICABILITY

14.2.1 Jurisdiction

A. This article shall govern each and every subdivision of land as defined under 30-A M.R.S. § 4401 and 4402 within the limits of the city unless specifically exempted under this article.

B. When application is made ~~for the resubdividing of~~to resubdivide a previously recorded subdivision under the provisions of these regulations, it shall be treated as a new subdivision provided the applicant is the owner of rights in the recorded subdivision.

14.2.2 Enforcement, conveyance, markers, and recording

A. No person may sell, lease, develop or build upon, or convey for consideration, offer or agree to sell, lease, develop or build upon, or convey for consideration any land in a subdivision unless the subdivision has been approved by the Planning Board, and unless a recording plat showing permanent marker locations at all lot corners has been recorded in the Cumberland County Registry of Deeds.

B. No subdivision plan shall be recorded by the Cumberland County Registry of Deeds which has not been approved as required by this article. Approval for the purpose of recording shall appear in writing on the recording plat.

C. No public utility, water district, sanitary district, or any utility company of any kind shall install services to any lot in a subdivision which has not received Planning Board approval.

D. Any person who sells, leases, develops or builds upon, or conveys for consideration any land in a subdivision which has not been approved as required by this article shall be ~~punished by a fine of not more than $500~~required to submit an after-the-fact subdivision application for each such occurrence. The City may institute proceedings to enjoin any violation of this section.

14.3 REVIEW PROCEDURES

14.3.1 Application

To obtain approval of a proposed subdivision the subdivider or applicant shall submit an application to the Planning Authority in such form as prescribed by the Planning Authority. The application shall meet the submission requirements of the City of Portland *Technical Manual,* including the provisions

for a subdivision plat for presentation to the Planning Board and public, all engineering data and plans necessary for the completion of the required improvements, supplemental submission items, a recording plat, and written submittals demonstrating compliance with the review criteria of this article. A payment of a nonrefundable application fee, as established by the City Council to cover administrative costs and costs of a hearing, shall accompany each application.

14.3.2 Receipt of application notice

A. When an application for subdivision is received or generated by the Planning Authority, it shall give a dated receipt to the applicant and shall notify, by mail, the following, where applicable.

1. All property owners within 500 feet of the proposed subdivision~~, except that for subdivisions within industrial zones, the notice range shall be 1,000 feet.~~.
2. The clerk and the reviewing authority of municipalities that abut or include any portion of a proposed subdivision.
3. ~~A public drinking water supplier if the subdivision is within its source water protection area.~~

B. The notice hereunder shall include a brief description of the application, the address or location of the property involved and a telephone number at the City where additional information may be obtained. The cost of noticing shall be charged to the applicant.

14.3.3 Neighborhood ~~meeting~~outreach

An applicant for the subdivision of five or more lots shall conduct ~~a~~ neighborhood ~~meeting~~outreach according to the provisions of Subsection ~~14~~13.5.5.

14.3.4 Notice of public meeting

A. Prior to any Planning Board workshop or hearing on the subdivision application, the applicant shall be responsible for posting a notice of public meeting sign on the property where the subdivision is to occur. The dimensions, construction, and content of the sign shall be in accordance with standards established by the Planning Authority.

B. The sign shall be posted at least ten days prior to the public workshop or hearing date, and shall be removed from the site no more than three days following the date of the meeting.

C. Once the required notice of public meeting signage is posted, the applicant shall submit a completed certification of posting form to the Planning Authority.

D. In the event that a required notice of public meeting sign is ~~knocked over~~obstructed, removed, or made illegible, it shall be the responsibility of the applicant to promptly reset or replace the sign, though failure to do so shall not invalidate the review.

14.3.5 Review costs

A. The subdivider shall pay a fee to cover the ~~engineering~~ review costs and administrative costs to be incurred by the City. The fee shall be based upon the actual hours of review time and prevailing hourly rate for reimbursement of City costs, and shall be invoiced periodically by the City.

B. No land use permits or applications of any kind shall be processed, reviewed, or issued, no signed subdivision plats shall be released or recorded, and no building permits of any kind shall be issued, for any project whose permit fee is governed by this article unless all charges

due have been paid and the developer is otherwise in compliance with the City of Portland Code of Ordinances.

14.3.6 Timing of subdivision review

A. Within 30 days of receiving an application, staff shall notify the applicant in writing either that the application is complete or, if it is determined to be incomplete, the specific additional materials needed to make it a complete application. After the review authority has determined that a complete application has been filed, it shall notify the applicant and begin its full evaluation of the proposed subdivision.

B. A public hearing shall be commenced within 30 days following the receipt of a complete subdivision application by the review authority. The Planning Board shall render its decision on any application submitted to it within 30 days of a public hearing or such other time as may be mutually agreed to by the Planning Board and the applicant.

14.3.7 Subdivision approval

The Planning Board shall approve, approve conditionally, or disapprove such subdivision application at a public hearing. If approved conditionally, the conditions and reasons shall be stated and given in writing to the subdivider and, if necessary, the Planning Board may require the subdivider to submit a revised subdivision plat. If the Planning Board should disapprove the subdivision plat, the reasons for such action shall be stated and given in writing to the subdivider, and the Planning Board may state the conditions under which the proposed subdivision would be approved.

~~14.3.8 Effect of subdivision approval~~

~~Receipt of the approved copy of the subdivision plat of the subdivider is not authorization that the developer may proceed with the construction of any improvements. No construction will proceed until the recording plat, meaning a completed subdivision plat in form for approval and recording, including all waivers and a surveyor's stamp, has been approved by the Planning Board and has been properly recorded as required in Subsections 15.3.9 and 15.3.10.~~

~~14.3.9 Recording plat approval~~

~~Consideration of the recording plat shall not take place until the subdivision plat is approved.~~

~~14.3.10~~14.3.8 Recording

A. Prior to the release of a signed, approved recording plat, all current charges due under this article shall be paid.

B. When the recording plat, meeting the requirements of the City of Portland *Technical Manual,* is approved, the subdivider shall pay the actual cost of recording and reproduction.

C. The recording plat shall be recorded in the office of the Cumberland County Registry of Deeds by the subdivider.

D. The registry book and page numbers shall be transcribed on one mylar copy of the recording plat to be sent to the Public Works Authority. Unless the subdivider ~~shall record his or her~~ records the approved recording plat within three years ~~after~~of the Planning ~~Board has approved~~Board's approval of the subdivision plat, the recording plat approval shall become null and void. The preceding sentence notwithstanding, if the Planning Board's initial approval of a subdivision is based in part upon

the granting of a waiver from any of the applicable subdivision ~~approval~~ standards, no such waiver shall be valid unless that fact ~~shall be~~is expressly noted on the face of the recording plat and ~~shall be noted~~ in a certificate~~, each of which~~. The recording plat and certificate shall conform to the requirements of 30-A M.R.S. § 4406, and ~~such~~both the recording plat ~~or such~~and certificate ~~or both of them are~~shall be recorded in the Cumberland County Registry of Deeds within two years of final subdivision approval.

~~14.3.11~~14.3.9 Sectional recordings

Following subdivision plat approval, the Planning Board may permit the subdivision to be divided into two or more sections for recording purposes subject to any conditions that the Board deems necessary in order to ~~insure~~ensure the orderly development of the plan. ~~The applicant may seek approval of and record~~ A sectional recording plat ~~with the Cumberland County Registry of Deeds only if the section constitutes~~shall constitute at least 20% of the total number of lots contained ~~in~~within the ~~approval plat~~approved subdivision, and, in addition, ~~shows~~shall show the entire tract or parcel~~.~~ being subdivided. For the purposes of this article, tract or parcel shall mean all contiguous land ~~in~~under the same ownership, provided that lands located on opposite sides of a public or private road shall be considered each a separate tract or parcel of land unless such road was established by the owner of land on both sides thereof. In these circumstances, if the first section of the plat has been recorded within three years after Planning Board approval, ~~subdivision plat~~ approval of the remaining sections of the plat shall remain in effect for five years after Planning Board approval.

14.4 REVIEW STANDARDS

~~15~~14.4.1 Standards of review

Before granting approval, the Planning Board shall determine that the proposed subdivision:

A. Will not result in undue water or air pollution. In making this determination, the Planning Board shall at least consider the elevation of land above sea level and its relation to the ~~flood plains,~~floodplains; the nature of soils and subsoils and their ability to adequately support waste disposal~~,~~; the slope of the land and its effect on effluents~~,~~; the availability of streams for disposal of effluents~~,~~; and ~~the~~ conformity ~~to~~with the applicable state and local health and water resources regulations.

B. Has sufficient water available for the reasonably foreseeable needs of the subdivision.

C. Will not cause unreasonable burden on an existing water supply.

D. Will not cause unreasonable soil erosion or reduction in the capacity of the land to hold water so that a dangerous or unhealthy condition may result.

E. Will not cause unreasonable highway or public road congestion, or unsafe conditions with respect to use of ~~the highway~~highways or public roads that are existing or proposed.

F. Will provide for adequate sanitary waste and storm water disposal and will not cause an unreasonable burden on municipal services if they are utilized.

G. Will not cause an unreasonable burden on the ability of the City to dispose of solid waste and sewage if municipal services are to be utilized.

H. Will not have an undue adverse effect on ~~the scenic or~~ significant natural ~~beauty~~resources and other environmentally sensitive resources, as demonstrated by compliance with the Low-Impact Development standards of the ~~area, aesthetics~~City of Portland *Technical Manual*, historic sites~~, significant wildlife habitat identified by the Department of Inland Fisheries and Wildlife or by the City, rare and irreplaceable natural areas~~, or any public rights for physical or visual access to the shoreline. For subdivisions within local historic districts, the Planning Board shall apply the standards of Subsection ~~17~~16.~~8~~7.3(C). The Planning Board may request that the Historic Preservation Board prepare an evaluation of the proposed subdivision based upon the standards of Subsection ~~17~~16.~~8~~7.3(C).

I. Is in conformance with the adopted Comprehensive Plan ~~or its successor~~.

J. The subdivider has adequate financial and technical capacity to meet the standards of this subsection.

K. Whenever situated, in whole or in part, within the watershed of any pond or lake or within 250 feet of any wetland, great pond, or river as defined in Title 38, Chapter 3, Subchapter I, Article 2B, will not adversely affect the quality of such body of water or unreasonably affect the shoreline of such body of water.

L. Will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of groundwater.

M. Is or is not in a flood prone area, based on the Federal Emergency Management Agency's flood boundary and floodway maps and flood insurance rate maps and/or the City of Portland Coastal Flood Resilience Overlay Zone, and information presented by the applicant. If the subdivision, or any part of it, is in such an area, the subdivider shall determine the 100-year flood elevation and flood hazard boundaries within the subdivision~~.~~, and/or the applicable SLR-DFE and SLR-BFE per Section 8.1. The proposed subdivision plan must include a condition of plan approval requiring that ~~principal~~ structures in the subdivision will be constructed in compliance with ~~their lowest floor, including the basement, at least one foot above~~ the ~~100-year flood elevation~~provisions of Section 8.1 and Article 12.

N. Will provide for adequate stormwater management as demonstrated by compliance with the stormwater standards of the City of Portland *Technical Manual*.

O. Will not have lots with a lot depth-to-shore frontage ratio greater than 5 to 1 if any lots in the proposed subdivision have shore frontage on a river, stream, brook, great pond, or coastal wetland as these features are defined in Title 38 § 480-B. For purposes of this measurement, shore frontage shall be the length of a lot bordering on a water body or wetland measured in a straight line between the intersections of the lot lines with the shoreline.

P. For any proposed subdivision that crosses municipal boundaries, will not cause unreasonable traffic congestion or unsafe conditions with respect to the use of existing public ways in an adjoining municipality in which part of the subdivision is located.

14.5 TECHNICAL AND DEVELOPMENT STANDARDS

14.5.1 Technical standards

All subdivisions and associated improvements, excluding subdivisions exempted under Section ~~15~~14.12 of this article, shall, in addition to the criteria listed herein, adhere to all applicable standards of the City of Portland *Technical Manual*, unless formally waived by the Planning Board.

14.5.2 Timing of subdivision improvements

The Department of Public Works shall establish the sequence in which work is to be accomplished. Where it is determined by the Public Works Authority that work has been completed prior to the receipt of all approvals required by this article, or which is out of sequence, or is not in compliance with the standards of this section and of Chapter 25, ~~the Director of Public Works or an inspector from~~ the Public Works Authority may issue a stop work order. Work shall recommence only after the stop work order has been lifted by the ~~Director of Public Works or an inspector from the~~ Public Works Authority. Violation of the stop work order shall be considered an offense.

14.5.3 Subdivision names

Subdivision names for plats shall be subject to approval by the Planning Board and shall not duplicate the name of any plat already recorded.

14.5.4 Streets

A. All streets shall be platted along contour elevations which result in ~~minimum grades~~minimal grade changes and ensure the greatest visibility ~~whenever~~wherever practicable, with consideration given for anticipated use of the land. Street grades in all proposed subdivisions shall be subject to ~~the~~ approval ~~of~~by the Public Works Authority.

B. The proposed street layout shall be coordinated with the street system of the surrounding areas. All streets must provide for the continuation or appropriate projection of streets in surrounding areas and provide means of ingress and egress for surrounding tracts.

C. When connecting streets within residential neighborhoods, new streets shall contribute to a neighborhood street system characterized by a network of interconnected streets~~, which minimizes through traffic in residential neighborhoods.~~. The layout of subdivision lots, streets, and pedestrian ways shall promote multiple paths of travel to get to destinations within and between neighborhoods by foot and bicycle, as well as auto.

~~**D.** The interconnection of new and existing streets is further subject to the following provisions to minimize and mitigate through traffic in residential neighborhoods:~~

~~**1.** Where a determination is made that a proposed street connection will result in substantial increases in traffic volume and speed on the effected public streets, the Planning Board may require appropriate traffic calming solutions as set forth in Chapter 28 of the City of Portland Code of Ordinances. The Public Works Authority may by regulation and amendment to the *Technical Manual* establish standards for determining what is a "substantial increase in traffic volume and speed."~~

~~**2.** In any circumstances where a street connection is allowed, the Planning Board may condition subdivision approval to require the developer to monitor future~~

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~~traffic patterns to determine whether, using existing traffic calming standards, new or additional traffic calming measures should be employed. The extent and design of traffic calming shall be determined by the Public Works Authority to mitigate the post-development impact of connecting new and existing streets.~~

~~3. In cases where post-development monitoring shows that increased traffic volume and speed is such that further traffic calming would be insufficient to mitigate traffic negative impacts of through traffic, the DPW may require that the connection be modified to exclude regular vehicular traffic, while retaining bicycle, pedestrian, and where needed, emergency vehicle connections. The Public Works Authority shall develop typical standards and specifications for bicycle, pedestrian, and emergency vehicle connections and/or turnarounds.~~

~~4. Where a determination is made by the Public Works Authority that a proposed street connection will result in substantial increases in traffic volume and speed on the affected public streets, the Planning Board may disallow a proposed street connection for vehicular purposes in favor of a connection for non-vehicular purposes in situations where a proposed residential street connection meets all of the following criteria:~~

~~a. The new street would result in the connection of two arterials.~~

~~b. The street would be located in a neighborhood where there is no existing public through-street network connecting the same arterials.~~

~~c. There is no likelihood that other public street connections will be developed in the future that would connect the arterials, whether because of topography limitations, existing development patterns, or other similar reason.~~

~~5. In circumstances where vehicular connections are disallowed, the Planning Board shall require that adequate right-of-way is reserved to permit the extension of the street for pedestrian, bicycle, emergency use, and potential vehicle connections as may develop in the future.~~

~~E.~~**D.** Reserve strips or spite strips for unspecified or unacceptable purposes are prohibited.

~~F.~~**E.** Street right-of-way widths shall be as provided in Chapter 25 of the City of Portland Code of Ordinances and the City of Portland *Technical Manual*. ~~However, private streets within PRUDs shall be exempt from the street right-of-way and roadway width requirements established in the City's *Technical Manual*, provided that no such street shall be accepted by the City unless it is first improved to City standards at the expense of those persons requesting the street acceptance. Private streets within a PRUD or a shall meet specifications established by the Public Works Authority.~~ All private streets shall be designed by a professional engineer and shall be built according to accepted engineering standards.

~~G.~~**F.** Proposed subdivisions along existing, or dedicated, or platted streets where rights-of-way are inadequate shall provide additional land to meet the minimum standards.

~~H.~~G. Streets shall not occupy more land than ~~needed~~is necessary to provide access, nor create unnecessary fragmentation of the subdivision into small blocks. ~~Streets will be designed to discourage outside traffic from traversing the development.~~

~~I.~~H. All dead-end streets shall provide for a cul-de-sac or, in the case of a dead-end street which will be extended, a temporary turn around at the end of the street, subject to the approval of the Public Works Authority.

~~J.~~I. Sidewalks shall be constructed on each side of each street in accordance with Chapter 25 of the City of Portland Code of Ordinances. Sidewalks to be used by pedestrians are to be so located as to minimize contacts with normal automotive traffic~~, with preference given to interior walks away from streets in common open space in block interiors~~.

~~K.~~J. Curbs shall be constructed on each side of each street. The curbing shall be constructed as provided in Chapter 25 of the City of Portland Code of Ordinances.

~~L. Street names for all subdivisions shall appear on the subdivision plat and be subject to approval by the Planning Board.~~

14.5.5 Sewers and storm drains

A. All subdivisions shall be provided with adequate storm drain systems within the subdivision separate from any sanitary sewer system required in Chapter 25 of the City of Portland Code of Ordinances. The design of all sewers and storm drains shall be subject to approval by the Public Works Authority.

B. Any natural or manmade areas, systems or facilities designated for stormwater control purposes, and intended for City maintenance shall, except for detention or retention ponds or basins and regularly free flowing watercourses, be structurally enclosed in accordance with the standards of the Public Works Authority, and shall be dedicated with sufficient land for maintenance purposes. Warranty deeds to such areas shall be submitted for acceptance by the City Council at the same time as the acceptance of streets. All such areas as are not intended for City maintenance shall be permanently protected and maintained by private agreement, deed covenant or restriction, as appropriate, in form approved by the Corporation Counsel.

C. The subdivider shall be responsible for the construction of all sewers and storm drains including manholes, catch basins and any other appurtenances as may be deemed necessary by the Public Works Authority. All work shall be completed in accordance with the Department of Public Works specifications.

14.5.6 Blocks

A. A maximum block length of 800 feet, measured from the nearest street lines of intersecting streets, shall be observed except where, in the opinion of the Planning Board, conditions justify a departure from this standard. In general, block size should be the maximum, most consistent with the use and shape of the site and the convenience and safety of the occupants.

B. In blocks exceeding 800 feet in length, measured from the nearest street lines of intersecting streets, the Planning Board ~~may~~ shall require, where feasible, the reservation of a 20 foot wide easement to the City through the block to provide for the crossing of

underground utilities and pedestrian traffic ~~where needed or desirable~~ and may further specify, at its discretion, that ~~a four foot wide paved~~an accessible foot path be included.

C. The length, width and shape of blocks shall be determined on the basis of:

1. Provision of adequate building sites suitable to the special needs of the type of use contemplated.

2. Zoning requirements as to lot sizes, setbacks and dimensions.

3. Needs for convenient access, circulation, control and safety of street traffic.

4. Limitations and opportunities of topography.

~~**D.** Blocks with lots having double frontage on streets shall be avoided.~~

~~**E.**~~**D.** The foregoing dimensions may be adjusted by the Planning Board where type of use or topography requires such modification.

14.5.7 Lots

A. Lots shall conform to the provisions of Article 7 and all other relevant provisions of the City of Portland Code of Ordinances.

B. Where easements for public utilities, storm drains, or sanitary sewers are contemplated, the lot lines shall be located in such a manner as to facilitate construction of such facilities and the maintenance thereof.

C. Lots which are reserved or laid out for business, commercial, or industrial purposes shall have sufficient width and depth to accommodate the off-street parking and loading facilities ~~required for the type of use and development contemplated, as established in Article 19.~~ to be provided.

D. Where feasible, side lot lines shall be at right angles to street lines (or radial to curving street lines).

14.5.8 Public open space

A. In all subdivisions, open space may be provided for parks, ~~recreational~~recreation, and other public ~~areas~~use. Where no public open space or recreational areas exist in close proximity to the subdivision, or where a lack of such areas in the subdivision would require its disapproval under Section ~~15~~14.4, the Planning Board may require provision of land for park or recreational purposes. Such lands may be designated for public or private ownership in accordance with the conditions stated in this subsection, subject to the approval of the Planning Board.

B. If a tract or parcel is intended for public ownership and is so designated on the subdivision plat, the acceptance of such land shall be first recommended by ~~the various~~appropriate City departments and the Planning Board, and sent to the City Council for final determination.

C. If a tract or parcel is designed or intended to be owned and used in common for recreational or other public or semi-public purposes, and such intent is so designated on the subdivision plat, appropriate documents in form approved by the Corporation Counsel shall be submitted to the Planning Board. Such documents shall clearly:

1. Set forth the nature of the permanent organization under which common ownership is to be established, including its purpose, how it shall be governed and administered, the provisions made for

permanent care and maintenance of the common property for its share of the cost of administering and maintaining such common property.

2. Set forth the extent of common interest held by the owner of each individual parcel in the tract held in common with others.

14.5.9 Access to shoreline

A. In all subdivisions having shore frontage ~~on the island of Casco Bay~~, existing legal rights of public access to the shoreline shall be preserved. The proposed street layout and circulation plan shall be suitably integrated with such existing public access in a manner that reasonably promotes the public use of such access. The proposed street layout and circulation plan shall also be designed to preserve any legal rights to any significant water views and scenic vistas from such rights-of-way.

B. In all subdivisions having any lots within the Shoreland Overlay Zone, legal rights of private access to waters shall, to the extent reasonably feasible, be established for the benefit of all lots within the subdivision not otherwise having such access.

14.5.10 Additional requirements for nonresidential subdivisions

All nonresidential subdivisions, meaning subdivisions not intended for human habitation, such as a commercial or industrial subdivision, must meet the following additional requirements, except as waived by the Planning Board ~~due to the commercial or industrial nature of the development:~~:

A. Proposed industrial parcels shall be suitable in area and dimensions to the commercial or industrial development anticipated.

B. Street rights-of-way and pavement shall be adequate to accommodate the type, weight, and volume of traffic anticipated to be generated.

C. The design and installation of public utilities, including water, sewers, and storm water drainage, shall be adequate to accommodate the anticipated usage.

D. Streets carrying truck traffic shall not normally be extended to the boundaries of adjacent existing or potential residential areas.

14.6 WAIVERS

14.6.1 Request for waivers

A waiver of plat requirements or technical standards shall be applied for in writing by the subdivider. The decision of the Planning Board on such request shall be final.

14.6.2 Waiver standards

A. Except for the requirements set forth in Subsection ~~15~~14.5.4 pertaining to the provision and construction of curbs and sidewalks, the Planning Board, if it finds that extraordinary conditions exist or that undue hardship may result from strict compliance with these regulations, may vary the regulations so that substantial justice may be done and the public interest secured, provided that such variation will not have the effect of nullifying the intent and purpose of the Comprehensive Plan and the regulations of this article.

B. Where the Planning Board or Planning Authority finds that, for each of the requirements listed in (1) and (2) below, two or

more of the conditions exist with respect to compliance with the requirements set forth in Subsection ~~15~~14.5.4 pertaining to the provision and construction of curbs and/or sidewalks, it may waive, in whole or in part, the regulations so that substantial justice may be done and the public interest secured.

1. *Sidewalks*

- **a.** There is no reasonable expectation for pedestrian usage coming from, going to and traversing the site.
- **b.** There is no sidewalk in existence or expected within ~~1000~~1,000 feet and the construction of sidewalks does not contribute to the development of a pedestrian oriented infrastructure.
- **c.** A safe alternative-walking route is reasonably and safely available, for example, by way of a sidewalk on the other side of the street that is lightly traveled.
- **d.** The reconstruction of the street is specifically identified and approved in the first or second year of the current Capital Improvement Program or has been funded through an earlier CIP or through other sources.
- **e.** The street has been constructed or reconstructed without sidewalks within the last 24 months.
- **f.** Strict adherence to the sidewalk requirement would result in the loss of significant site features related to landscaping or topography that are deemed to be of a greater public value.

2. *Curbing*

- **a.** The cost to construct the curbing, including any applicable street opening fees, is in excess of 5% of the overall project cost.
- **b.** The reconstruction of the street is specifically identified and approved in the first or second year of the current Capital Improvement Program or has been funded through an earlier CIP or through other sources.
- **c.** The street has been rehabilitated without curbing in the last 60 months.
- **d.** Strict adherence to the curb requirement would result in the loss of significant site features related to landscaping or topography that are deemed to be of a greater public value.
- **e.** Runoff from the development site or within the street does not require curbing for stormwater management.

C. In no event shall the waiver have the effect of creating potentially hazardous vehicle and pedestrian conflict or nullifying the intent and purpose and policies of the Comprehensive Plan relating to transportation and pedestrian infrastructure and the regulations of this article.

~~**D.** At its discretion, the Planning Authority may refer any petition for a waiver from the curb and sidewalk requirement to the Planning Board for decision.~~

~~**14.6.3 Modifications for Planned Unit Developments**~~

~~The standards and requirements of this article may be modified by the Planning Board in the case~~

~~of a plan and program for a planned unit development which in the judgment of the Planning Board provides adequate public spaces and improvements for the circulation, recreation, light, air, and service needs of the tract when fully developed and populated, and which also provides such covenants or other legal provisions as will assure conformity to and achievement of the Comprehensive Plan.~~

~~14.6.4~~14.6.3 Modifications approved by Public Works

If at any time before or during the construction of the required improvements the subdivider demonstrates to the satisfaction of the project engineer and the Public Works Authority that unforeseen conditions make it necessary or preferable to modify the design of the required improvements, the Public Works Authority may authorize modifications provided that the modifications do not amount to a waiver or substantial alteration of the function of any improvements required by the Planning Board.

~~14.6.5~~14.6.4 Conditions

In granting waivers and modifications, the Planning Board ~~and City Council~~ may require such conditions as will, in their judgment, secure substantially the objectives of the standards or requirement so waived or modified.

14.7 GUARANTEES AND ASSOCIATED FEES

14.7.1 Performance guarantee required

Following subdivision approval and prior to the release of the signed recording plat, the subdivider shall post with the City a performance guarantee in the form and amount specified herein, specifying the completion of the required subdivision improvements within two years from the origination date of such guarantee. In no case shall the term of such guarantee be for a period of less than one year, nor shall any performance guarantee expire between October 30 and April 15 of the following year.

14.7.2 Inspection fees

At the same time that the developer posts a performance guarantee, the developer shall also pay to the City an inspection fee as determined by the City Council. If a performance guarantee is extended beyond its original expiration date, then an additional inspection fee in an amount to be determined by the City shall be required.

14.7.3 Establishing the performance guarantee amount

A. The performance guarantee shall be equal in value to 100% of the estimated cost of the required subdivision improvements as shown on the approved subdivision plat, as a condition of Planning Board approval, as required in the City of Portland Code of Ordinances, and/or as required by the City of Portland *Technical Manual*.

B. The performance guarantee amount shall be estimated by the applicant or representative on a form provided by the City and shall be submitted for review and approval to the Planning Authority. Costs to be included in the estimate, and which shall be covered by the performance guarantee~~,~~ include ~~but are not limited to:~~items such as street and sidewalk improvements including street lights, monuments, curbing, ramps, detectible warning panels, and striping; earth work and grading; utilities infrastructure and connections

including sewer, stormwater, and water service; exterior site lighting; erosion control measures as shown on the approved erosion and sedimentation control plan; open space and recreation amenities; and final site stabilization and landscaping.

C. The Planning Authority may waive all or any portion of this requirement if it determines that the subdivider has a proven record of satisfactory performance and sufficient financial capability.

14.7.4 Phased projects

If a project is reviewed and approved as a phased project, the corresponding performance guarantee may also be phased. A separate performance guarantee shall be posted for each phase. Each phase of such project shall be independent of subsequent phases and shall conform to all standards of this article in the event that subsequent phases do not go forward.

14.7.5 Advanced site work

On a case-by-case basis, permission for advanced site work may be granted by the Planning Authority. Such permission is solely within the discretion of the ~~Director of~~ Planning ~~and Urban Development and shall be granted only after submission of a written request setting forth the work proposed to be done on the site. Such written permission shall not be required when the only work proposed is the digging of test pits~~Authority.

14.7.6 Alterations to pending subdivisions

Alterations may be made to a site with a pending subdivision application if:

A. At minimum, a performance guarantee for the proposed site alterations has been posted and final plans have been submitted to the Planning Authority.

B. Written permission has been received from the Planning Authority ~~or his/her designee~~ that such site alterations may proceed pending subdivision approval. Such permission is solely within the discretion of the Planning Authority and shall be granted only after submission of a written request setting forth the work proposed to be done on the site. All such work shall be done in compliance with information provided with the subdivision application. An erosion control plan shall also be submitted when deemed necessary by the Planning Authority. Such written permission shall not be required when the only work proposed is the digging of test pits.

14.7.7 Acceptable forms for the performance guarantee

The performance guarantee, in the amount approved by the Planning Authority, shall be a letter of credit, an escrow account with a responsible financial institution, or the deposit to the City of Portland Finance Department and shall be in conformance with the templates and forms made available by the City. If the performance guarantee is a deposit to the City, the City shall hold such funds in a noninterest-bearing account until criteria for performance guarantee release have been satisfied. The performance guarantee shall be in the name of the City and shall be approved by the Finance Director as to financial sufficiency and the Corporation Counsel as to proper form and legal sufficiency.

14.7.8 Reductions of the performance guarantee

A. Up to three times during the construction of a project, upon request of the subdivider, a

performance guarantee may be reduced by the value equal to the estimated cost of the completed improvements. In no case shall any performance guarantee be reduced by any line item on the cost estimate where improvements remain to be completed. Requests shall be submitted on a form provided by the City for review and approval by the Planning Authority.

B. In no case shall any performance guarantee be reduced to an amount equal to or less than the required defect guarantee until all criteria set forth for converting to the defect guarantee have been met, as approved by the Planning Authority.

14.7.9 Extension of the performance guarantee

If the Planning Authority and/or the Public Works Authority has reasonable doubt concerning the stability or proper construction of the required site improvements, the developer shall be required to reconstruct or otherwise address the issues to the City's satisfaction. If the performance guarantee is scheduled to expire before the extent or necessity for such further work can be determined, the developer shall be required to extend the performance guarantee covering such improvements, or secure a new guarantee, for a period and amount deemed necessary by the Planning Authority and/or the Public Works Authority.

14.7.10 Release of the performance guarantee

A. No performance guarantee shall be released until all fees generated by the project are paid to the City, including but not limited to engineering, inspection, and administrative fees. The guarantor shall not be released from the guarantee except and until authorized in writing from the Planning Authority.

B. For subdivisions, no performance guarantee shall be released until the Public Works Authority has performed a final inspection of the roadway and determined satisfactory completion of the required improvements. Additionally, no performance guarantee shall be released until the City is in receipt of a petition for street acceptance, deemed complete and satisfactory by Corporation Counsel and/or the Public Works Authority. The petition for street acceptance must include a warranty deed (with metes and bounds description) to the property within each street of the subdivision or roadway extension and any other improvements intended for City maintenance.

C. Upon the satisfactory completion of the required site improvements and satisfactory compliance with all conditions of approval including the submission of as-built drawings as applicable, the Planning Authority shall authorize, in writing, conversion to the defect guarantee. The defect guarantee shall be 10% of the original performance guarantee amount and shall remain in place for a period of one year. The defect guarantee shall ensure the workmanship and the durability of all materials used in the construction of the required site improvements. The Planning Authority may authorize the defect guarantee to be released at any time within the one-year period, provided all required site improvements have been constructed and in-place for one year or more and the workmanship and the durability of all materials has been inspected and confirmed to be satisfactory.

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14.7.11 Improvements required prior to release of guarantee

Prior to the release of the performance guarantee, the subdivider shall have completed the following improvements:

A. All streets shall be graded in conformity with the requirements set out in Section ~~15~~14.5 and in accordance with Chapter 25 of the City of Portland Code of Ordinances.

B. On all streets, side streets, and alleys, a suitable hard surfaced permanent pavement shall be installed meeting the requirements set forth in Chapter 25 of the City of Portland Code of Ordinances.

C. Water, gas, sanitary sewer mains, and storm drains shall be constructed prior to the installation of paving with all mains being extended from all lots having sufficient stub outs to avoid subsequent breaking of pavement.

D. Sidewalks and curbs shall be constructed as required in Section ~~15~~14.5.

E. Adequate storm drains shall be constructed subject to the provisions of Section ~~15~~14.5 and in accordance with the Public Works Authority specifications.

F. A total of two trees per lot~~, which~~ shall be street trees,~~ shall be~~ planted near the street line in full public view on private property, as directed by the City Arborist. Existing healthy trees may be credited toward this requirement, subject to the approval of the City Arborist.

G. Permanent markers shall be set as prescribed by the Public Works Authority.

H. All utility lines shall be placed underground unless otherwise approved by the Planning Board.

I. Street lighting shall be installed in accordance with the standards of the Public Works Authority.

J. A public water supply shall be installed subject to the approval of the Portland Water District.

K. Erosion control measures shall be taken both during and after construction in accordance with the standards of the Public Works Authority.

14.7.12 Acceptable forms for the defect guarantee

The defect guarantee, 10% of the original performance guarantee amount approved by the Planning Authority, shall be a letter of credit, an escrow account with a responsible financial institution, or the deposit to the City of Portland finance department and shall be in conformance with the templates and forms made available by the City. If the defect guarantee is a deposit to the City, the City shall hold such funds in a noninterest-bearing account until criteria for performance guarantee release have been satisfied. The performance guarantee shall be in the name of the City and shall be approved by the Finance Director as to financial sufficiency and the Corporation Counsel as to proper form and legal sufficiency.

~~14.7.13 Abandoned site~~

14.7.13 Use of the performance guarantee

In the event that a development site is abandoned or the site improvements do not meet City standards as approved in the subdivision plat, the performance guarantee may be utilized to stabilize, secure, complete construction, and/or restore the site as may be necessary, including, but not limited to, revegetation of areas, grading, and fencing.

14.8 CONSTRUCTION RECORDS AND INSPECTION

14.8.1 Inspection of construction

The ~~project engineer and~~ City ~~Engineer~~ shall have the right to enter and inspect the construction site during all phases of the project to ensure compliance with this article.

14.8.2 Required construction records

After approval of the subdivision plat and prior to the construction of any of the subdivision's public improvements, the subdivider shall supply the City Engineer with a complete set of engineering drawings showing all streets, sanitary sewers, and surface water drains, and all appurtenant work within the subdivision.

14.9 TRANSFER OF OWNERSHIP

The purchasing party or other succeeding owner of a subdivision for which a recording plat has received prior approval, but which has not yet been accepted by the City, shall assume full responsibility for completion of the subdivision's improvements until the subdivision street or streets are accepted by the City. The purchaser or other succeeding owner of an unaccepted subdivision shall be required to comply with all the provisions of this article as if he were the original subdivider, and shall become responsible for completing such improvements in the same manner as the original subdivider.

14.10 PLAT AMENDMENTS

The Planning Authority may approve alterations to an approved recording plat when all of the following conditions are met. Otherwise, a new subdivision plat must be submitted to the Planning Board:

A. The rearrangement of lot lines does not increase the number of lots within a block or other subdivision unit or area.

B. The alteration will not affect any street, alley, utility easement or drainage easement.

C. The alteration meets all of the minimum requirements of this Land Use Code and other applicable state and local codes.

D. The alteration is approved by the Public Works Authority and the Fire Department.

Such approved alterations shall be properly recorded in the registry within 30 days thereof or they shall be null and void. Recording of approved alterations also shall be in accordance with the requirements of 30-A M.R.S. § 4406.

14.11 VACATION OF PLATS

Any such plat recorded, or any portion thereof, may be vacated with the consent of the City Council as follows:

A. At any time before the sale of any lot therein, by written instrument, signed by the City and the owners of such subdivision, declaring the same to be vacated and describing therein the part or portion to be so vacated.

B. At any time after the sale of any lot therein and by written instrument, signed by the City and all owners of record of lots shown on the plat, declaring the same to be vacated and describing therein the part or portion to be so vacated.

C. Any instrument so executed vacating all or a portion of any plat shall be duly filed and recorded in the Cumberland County Registry of Deeds. The execution and recording of the instrument described in (B) above shall vest fee simple title to the centerline of the street, alley or easement for public passage so vacated in

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the owners of abutting properties. Title to property located within the vacated streets, alleys, or easements for public passage shall pass to abutting property owners free and clear of any rights of the public or other owners of lots shown in the plan, but subject to the rights of the owners of any public utility installations which have been previously erected therein.

14.12 EXEMPTIONS

14.12.1 Subdivisions prior to 1979

This article does not apply to subdivisions approved prior to June 6, 1979, nor to subdivisions in existence prior to June 6, 1979, nor to subdivisions which have been legally recorded in the Registry of Deeds prior to June 6, 1979.

14.12.2 Division by demise, condemnation, order, or gift

A division accomplished by ~~devise~~demise; condemnation; order of court; gift to a person related to the donor by blood, marriage, or adoption, unless the intent of such gift is to avoid the objectives of this article; or by transfer of any interest in land to the owner abutting thereon shall not be considered to create a lot or lots for purposes of this article.

14.13 APPEALS

An appeal from any final decision of the Planning Board regarding subdivision approval may be taken by the applicant or ~~his or her~~their authorized agent to Superior Court in accordance with Rule 80B of the Maine Rules of Civil Procedure.

~~16~~15 IMPACT FEES

15.1 PURPOSE

The purpose of this article is to ensure that new development in the City of Portland bears a proportional or reasonably-related share of the cost of new, expanded, or replacement infrastructure necessary to service that development through the payment of impact fees dedicated to funding improvements made necessary by development, or the construction of improvements as provided for herein. This ordinance is enacted pursuant to the authority of 30-A M.R.S. § 4354 and 30-A M.R.S. § 3001.

15.2 APPLICABILITY

The following shall be subject to impact fees, with the exception of municipal buildings, which shall be considered exempt:

A. Any new building or addition to existing buildings which results in net new residential dwelling units, nonresidential building square footage, or water/wastewater meters, and

B. Any change of use which results in a net increase in impact fee per Subsection ~~16~~15.3.6.

15.3 CALCULATION OF IMPACT FEE

15.3.1 In general

Impact fees shall be calculated based on the impact fee schedule in effect at the time of submittal of a complete application for a building permit.

15.3.2 Determination of use

The determination of the applicable land use category in the impact fee schedule shall be made by the Department of Permitting and Inspections with reference to the City of Portland's most recent *Impact Fee Study*. If the proposed development is of a type not listed in the impact fee schedule, then the impact fees applicable to the most nearly comparable type of land use listed in the impact fee schedule shall be used.

15.3.3 Mixed use development

In the event that there is more than one use within a building, impact fees shall be calculated separately for each use.

15.3.4 Redevelopment

In calculating the impact fee for a new building that involves the full or partial demolition of a building housing an existing, legally established use or uses, such new building shall be credited with an amount equal to the fee that would have been charged to the use or uses which occupied the structure at the time of demolition permit. If the impact fee calculation for the post-development condition is greater than the credit, the applicant shall pay the difference. If the impact fee calculation for the post-development condition is less than the credit, then the applicant shall not be required to pay an impact fee. The City shall not grant credits for demolitions for which a permit was issued more than 10 years prior to the complete application for a building permit.

15.3.5 Building additions

In calculating the impact fee for building additions, each developed property shall be credited with an amount equal to the fee that would have been charged to the existing use at the time of the addition of floor area. If the impact fee calculation for the post-development condition is greater than

the credit, the applicant shall pay the difference. If the impact fee calculation for the post-development condition is less than the credit, then the applicant shall not be required to pay an impact fee.

15.3.6 Changes of use

In calculating the impact fee for changes of use, each developed property shall be credited with an amount equal to the fee for the use in the highest fee category that has existed on the developed property within the previous 10 years. If the impact fee calculation for the proposed use is greater than the credit, the applicant shall pay the difference. If the impact fee calculation for the proposed use is less than the credit, then the applicant shall not be required to pay an impact fee.

15.4 ANNUAL ADJUSTMENT OF IMPACT FEE

To account for inflation, there shall be an automatic annual increase in the impact fee schedule reflected in this ordinance every January 1 based on the change in the construction cost index as published by *Engineering News Record*. The fee adjustment shall be calculated by dividing the index amount published on January 1 of the current year by the index amount published on January 1, 2018 and multiplying the resulting ratio by each fee amount. Annual adjustments shall be made available for public reference.

TABLE 15-A: PARKS & RECREATION AND TRANSPORTATION IMPACT FEE SCHEDULE[1]

Land Use Type	Unit of Measure	Parks/Recreation Impact Fee	Transportation Impact Fee
Single-family/Two-family	per unit	$1,126	$2,159
Three-/Four-/Multi-family	per unit	$752	$1,023
Retail/Service	per 1,000 SF GFA	$534	$8,248
Office	per 1,000 SF GFA	$677	$2,800
Industrial	per 1,000 SF GFA	$363	$1,130
Institutional	per 1,000 SF GFA	$645	$3,082
Hotel/Motel	per room	$875	$2,404

[1] Land use types included impact fee schedule correspond to those in the City's most recent *Impact Fee Study*.

TABLE 15-B: WASTEWATER IMPACT FEE SCHEDULE

Meter Size	Capacity Ratio	Impact Fee
5/8 inch	1.00	$1,886
¾ inch	1.50	$2,829
1 inch	2.50	$4,715
1 ½ inches	5.00	$9,430
2 inches	8.00	$15,088
3 inches	16.00	$30,176
6 inches	50.00	$94,300
8 inches	80.00	$150,880

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15.5 MODIFICATION OF IMPACT FEES

15.5.1 Equivalent improvements

A. A required impact fee may be modified, in whole or in part, by ~~formal vote of the Planning Board in cases when an applicant is otherwise before the Planning Board, or by~~ the Planning Authority ~~in all other cases,~~ if the ~~reviewing~~Planning Authority finds that:

1. The developer or property owner who would otherwise be responsible for the payment of the impact fee voluntarily agrees to make infrastructure improvements for which the impact fee would be collected or an equivalent improvement approved by the reviewing authority, or

2. The developer or property owner is required, as part of a development approval by the City or a state or federal agency, to make or to pay for infrastructure improvements for which the impact fee would be collected or an equivalent improvement.

B. Credit amounts shall be determined based on plans, details, and cost estimates for the proposed infrastructure improvements for which the credit is requested. Such plans, details, and cost estimates shall be prepared by a licensed professional engineer and submitted at the time of site plan, subdivision, or building permit application. The applicant shall pay for any third-party review of plans, details, or cost estimates. On-site or immediately adjacent improvements providing direct service to a site as required under subdivision or site plan regulations shall not be considered eligible under this subsection.

15.5.2 Substantially-reduced demand

The Planning ~~Board~~ Authority may ~~by formal vote~~ modify the payment of a required impact fee, in whole or in part, if it finds that documentation is provided to demonstrate that a proposed use will impose no or substantially-reduced demands on capital facilities for which impact fees have been adopted. Such documentation shall be prepared by a licensed professional engineer or other qualified professional and include a written analysis of the demand for capital facilities generated by the proposed use based on industry standards and the most recent *Impact Fee Study*. Documentation shall be submitted at the time of site plan, subdivision, or building permit application. The applicant shall pay for any third-party review of plans, details, or cost estimates.

15.6 REDUCTION IN FEES FOR AFFORDABLE HOUSING

Any residential development including low-income or workforce housing units and qualifying as an eligible project under Subsection ~~18~~17.2.2 shall receive a reduction of fees in accordance with Subsection ~~18~~17.2.2.

15.7 COLLECTION OF IMPACT FEE

The City of Portland shall not issue any certificate of occupancy required under the Land Use Code until the applicant has paid any impact fees required by this ordinance.

15.8 SEGREGATION OF IMPACT FEES FROM GENERAL REVENUES

Impact fees collected pursuant to this ordinance shall be maintained in separate, non-lapsing impact fee accounts for each of the facilities for which impact fees are assessed, and shall be segregated from the City's general revenues. These accounts

shall be dedicated for funding of the improvements for which the fee is collected, as determined through the City's most recent *Impact Fee Study*. Funds from these accounts shall be distributed to City departments solely for the purpose of capital projects identified in the City of Portland's most recent *Impact Fee Study*.

15.9 USE OF IMPACT FEES

Impact fees collected by the City pursuant to this ordinance may be used only for financing facility improvements which the City Council, through the City of Portland's most recent *Impact Fee Study*, has determined are made necessary by new development. The City Council has determined that fees imposed by schedules in this ordinance are reasonably related to the demands created by new development. Impact fees collected pursuant to this ordinance shall be used exclusively for capital improvements, and the City of Portland shall expend funds collected from impact fees solely for the purposes for which they were collected.

15.10 REFUND OF UNUSED IMPACT FEES

Impact fees collected pursuant to this ordinance shall be used by the City according to the schedules for the completion of specific capital improvements as specified in the City of Portland's most recent *Impact Fee Study*, but in no event later than ten years after the date upon which the impact fee was collected. Any impact fees which are not so used and any impact fees collected which exceed the City's actual costs of implementing the infrastructure improvements for which such fees were collected shall be refunded. Refunds shall be paid to the owner of record of the property for which the impact fee was collected, determined as of the date the refund is made.

15.11 REVIEW AND REVISION

The impact fees established in this ordinance are based upon the best estimates of the costs of the construction of the facilities for which the fees are collected as determined through the City's most recent *Impact Fee Study*. The Council may, by amendments to this ordinance, change the amounts of the impact fees from time to time as warranted by new information or changed circumstances.

15.12 ADMINISTRATIVE RULES AND REGULATIONS

The Planning Board is hereby authorized to develop rules and regulations governing the administration of impact fees collected pursuant to this ordinance.

~~15.13 EFFECTIVE DATE~~

~~The provisions of this article shall apply to all building permit applications submitted following December 19, 2018, with the exception that any development for whom site plan approval has been granted as of December 19, 2018 shall be considered exempt. Master development plan approval prior to the effective date shall not confer exempt status.~~

~~16~~17 HISTORIC PRESERVATION

16.1 PURPOSE

The purpose of this article is to promote the educational, cultural, economic, and general welfare of the City of Portland by:

A. Creating a mechanism to survey, identify, historically designate, and protect buildings, structures, objects, sites, and areas of ~~preserve and enhance distinctive areas, sites, structures, and objects that have~~ historic, cultural, architectural, and archaeological significance consistent with the National Register of Historic Places and the Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation;~~.~~

B. Establishing standards for review of alterations and new construction affecting historic designations consistent with the Secretary of the Interiors Standards for the Treatment of Historic Properties;

C. Encouraging compatible rehabilitation and new construction affecting historic designations, preventing the unnecessary loss of the community's significant character without stifling change and development;

~~B.~~D. Providing a resource of information and expertise to help those interested in historic designation, and rehabilitation or new construction affecting historic designations; and ~~in a district or restoring a landmark.~~

~~C. Applying review standards in a reasonable and flexible manner to prevent the unnecessary loss of the community's historical features and to ensure compatible new construction and rehabilitation in historic districts while not stifling change and development or forcing modern recreations of historic styles.~~

~~D.~~E. Fostering civic pride in the city's history ~~and development patterns~~ as represented in the city's historic designations. ~~such distinctive areas, sites, structures, and objects.~~

~~E. Protecting and enhancing neighborhood character.~~

~~F. Stabilizing and improving the values of designated properties and areas.~~

~~G. Protecting and enhancing the attractiveness of the city to its home buyers, home owners, residents, tourists, visitors, businesses and shoppers.~~

~~H. Fostering and encouraging preservation, restoration, and rehabilitation that respects the historic, cultural, architectural, and archaeological significance of distinctive areas, sites, structures, and objects.~~

~~16.2 DEFINITIONS~~

~~**Alteration.** Any act or process requiring a building permit and any other act or process not requiring a building permit but specifically listed in this article as a reviewable action, including without limitation the repair, reconstruction, demolition, or relocation of any structure or object, or any part of a structure or object.~~

~~**Certificate of Appropriateness.** A certificate issued by the Planning Authority evidencing approval of specific plans for alteration of a structure, site, or designated historic landscape or new construction on a site in accordance with this article.~~

~~**Certificate of Economic Hardship.** A certificate issued by the Planning Authority evidencing a hardship variance approved by the Zoning Board of Appeals in accordance with Article 2.~~

Certificate of Non-Applicability. A certificate issued by the Planning Authority evidencing a determination that specific plans for alteration of a structure, site, or designated historic landscape or new construction on a site do not require approval under this Article.

Contributing. A classification applied to a site, structure, or object within a historic district signifying that it contributes generally to the qualities that give the historic district cultural, historic, architectural, or archaeological significance as embodied in the criteria for designating a historic district.

Demolition. Any act or process that partially or totally destroys a structure or object.

District. A historic district or historic landscape district.

Historic district. A geographically definable area possessing a significant concentration, linkage, or continuity of sites, buildings, structures, or objects united historically or by past events or aesthetically by plan or physical development. A district may also comprise individual elements separated geographically but linked by association or history.

Historic landscape district. A geographically definable area possessing a significant concentration, linkage, or continuity of landscape components which are united by human use and past events or aesthetically by design, plan or physical development.

Historic Resources Design Manual. A manual including guidelines for meeting historic preservation ordinance review standards and other information.

Landmark. Any property, site, structure, or object of particular historic, architectural, or archaeological significance to Portland, the State of Maine and/or the United States relating to its cultural, social, economic, political, or architectural heritage, or which is associated with historic persons, important events or themes in local, state, or national history.

New construction. The adding to a structure by an addition, the erection or placement of any new structure on a lot or property, or the comprehensive redesign/renovation of an existing structure.

Noncontributing. A classification applied to a site, structure, object, or portion thereof, within a historic district signifying that: 1) it does not contribute generally to the qualities that give the historic district cultural, historic, architectural, or archaeological significance as embodied in the criteria for designating a historic district; 2) was built within 50 years of the date of district designation unless otherwise designated in the historic resources inventory; or 3) where the location, design, setting, materials, workmanship, and association have been so altered or have so deteriorated that the overall integrity of the site, structure, or object has been irretrievably lost. A portion of an otherwise contributing or landmark structure may be determined by the Historic Preservation Board to be non-contributing if it meets one or more of the above conditions.

Object. Anything constructed, fabricated, or created, the use of which does not require permanent or semi-permanent location on or in the ground.

Ordinary maintenance. Acts of maintenance or repair which do not include a change in the design, material, or outer appearance of a structure, including without limitation repainting, replacement of materials or windows of the same scale, texture and color, and landscaping other than within an historic landscape district.

Preservation. The act or process of applying measures necessary to sustain the existing form, integrity, and materials of an historic property. Work, including preliminary measures to protect and stabilize the property, generally focuses upon the ongoing maintenance and repair of historic materials and features rather than the extensive replacement and new construction.

Rehabilitation. The act or process of returning a property to a state of utility through repair or alteration which makes possible an efficient contemporary use while preserving those portions or features of the property which are significant to its historical, architectural, and cultural value.

Relocation. Any removal or relocation of a structure on its site or to another site.

Restoration. The act or process of accurately depicting the form, features, and character of the property as it appeared at a particular period of time by means of the removal of features from other period in its history and reconstruction of missing features from the restoration period.

Site. The location of a significant event, an archaeological site, a landscape or traditional cultural property, or a building or structure, whether standing, ruined or vanished, where the location itself maintains historical or archaeological value regardless of the value of any existing structure.

16.3 ADMINISTRATIVE PROCEDURES

16.2.1 Costs

A. Any project may be subject to fees as established by the City Council to cover administrative costs and the costs of Historic Preservation Board review. Applicants shall also pay a fee to cover the professional and administrative costs for analysis associated with project review, including but not limited to planning, legal, or other services. The fee shall be based on the hours of review and processing time and prevailing hourly rate for reimbursement of City costs. The City shall periodically invoice the applicant for such costs incurred by the City, which invoice shall be paid promptly by the applicant.

B.A. Every applicant shall bear the entire expense of giving notice by mail and publication in accordance with this article.

C.A. No Certificate of Appropriateness, building, demolition, or other permit shall issue until all current charges due under this article have been paid. The balance of any remaining review and administrative costs invoiced or incurred after a permit has been issued shall be paid in full by the developer prior the

~~issuance of any temporary or permanent certificate of occupancy.~~

~~16.2.216.2.1 Notice of public meeting~~

~~A. For all Certificate of Appropriateness applications that are subject to Historic Preservation Board review, the applicant shall be responsible for posting a notice of public meeting sign on the property where the development is to occur. The dimensions, construction, and content of the sign shall be in accordance with standards established by the Planning Authority.~~

~~B.~~A. ~~The sign shall be posted at least 10 days prior to the public workshop or hearing date, and shall be removed from the site no more than three days following the date of the meeting.~~

~~C.~~A. ~~Once the required notice of public meeting signage is posted, the applicant shall submit a completed certification of posting form to the Planning Authority.~~

~~D.~~A. ~~In the event that a required notice of public meeting sign is knocked over or made illegible, it shall be the responsibility of the applicant to promptly reset or replace the sign, though failure to do so shall not invalidate the review.~~

~~16.2.3 Notices and public comment~~

~~A. Except as provided in Subsection 17.7.5, notice of proceedings upon any application for a Certificate of Appropriateness shall be given only when the proposed activity otherwise constitutes major site plan. Notice of such proceedings also shall be furnished to any persons interested in historic preservation who have registered with the Planning Authority, and to the Historic Preservation Board and/or the Planning Board when the proceeding is pending before a different body. The failure to give any notice required by this article shall not affect the validity of any action taken.~~

~~B. The Historic Preservation Board, the Planning Board, the Board of Appeals, and the City Council shall each invite public comment at a public meeting in accordance with their respective rules, prior to any final action being taken under this article.~~

~~C.~~F. ~~The Planning Authority shall advise the Historic Preservation Board and the Planning Board of any demolition permit application received by the Planning Authority as to structures or objects that have been classified as noncontributing within nominated or designated districts, but there shall be no Historic Preservation Board review of such permit applications.~~

~~16.4~~16.2 ~~CATEGORIES AND CRITERIA FOR~~ HISTORIC DESIGNATIONS

16.2.1 Categories of historic designations

A. **Landmark.** A discrete ~~site, structure, or object~~building, structure, object, or site and any associated area found to have particular or individual significance or prominence. Landmarks may be in or outside of historic districts or historic landscape districts.

B. **Historic district.** A geographically defined area possessing a significant concentration, linkage, or continuity of buildings, structures, sites, or objects united by past events, culturally, or aesthetically by design, plan, or physical development. The defined area may comprise individual elements separated geographically but linked by association or history.

C. Historic landscape district. A geographically defined area possessing a significant concentration, linkage, or continuity of natural or man-made landscape components including buildings, structures, sites, or objects which are united by past events, culturally, or aesthetically by design, plan or physical development. The defined area shall be owned in its entirety by a unit of federal, state, or local government, or any combination of such ownership at the time of nomination.

16.2.2 ~~Minimum c~~Criteria for historic designation

A. ~~The Historic Preservation Board shall limit its consideration to the following criteria in making a determination on a proposed nomination of an~~Any ~~area, site, structure, or object~~ building, structure, object, site, or area nominated for historic designation ~~by ordinance as a landmark or district~~must be found to demonstrate significance under at least one of the following:

1. *Significant aspect of heritage.* ~~Its v~~Value as a significant example of the cultural, historic, architectural, archaeological, or related aspect of the heritage of the City of Portland, State of Maine, New England region, or ~~the~~ United States.
2. *Significant events or activities.* ~~Its l~~Location as a site of a significant historic~~, or~~ prehistoric, or cultural event or activity. ~~which may have taken place within or which involved the use of any existing structure on the property.~~
3. *Significant persons.* ~~Its i~~dentification with a person or persons who significantly contributed to the cultural, historic, architectural, archaeological, or related aspect of the ~~development~~ heritage of the City of Portland, State of Maine, New England region, or ~~the~~ United States.
4. *Significant design or construction~~architecture~~.* ~~Its e~~Exemplification Embody the distinctive characteristics of a significant ~~architectural~~ type, style, ~~or~~ design, period, or method of construction. ~~distinguished by innovation, rarity, uniqueness, or overall quality of design, detail, materials, or craftsmanship.~~
5. *Significant designer.* ~~Its i~~dentification as a significant example of the work of an architect, designer, engineer, or builder whose individual work is significant in the history or development of the City of Portland, ~~the~~ State of Maine, ~~the~~ New England region, or ~~the~~ United States.
6. *Significant theme.* ~~Its r~~Representation of a significant cultural, historic, architectural, archaeological, or related theme expressed through distinctive areas, sites, structures, or objects that may or may not be contiguous.

~~B. In the case of a nominated historic district, the Historic Preservation Board shall also determine whether there is an interrelationship of resources within it which creates an identifiable entity, even if composed of a wide variety of resources. A district must convey a visual sense of the overall historic environment or be a grouping of historically or functionally related properties. A historic district can comprise both individually distinctive historic resources and historic resources that may lack individual distinction but~~

~~which contribute to the significance and visual character of the district as a whole.~~

~~C. In the case of a nominated historic landscape district, the Historic Preservation Board shall also consider its significance as a geological, natural, or designed landscape associated with the development, heritage, or culture of the City of Portland, State of Maine, New England region, or the United States.~~

~~D.~~A. ~~The Planning Board and City Council shall apply the criteria of (A), (B), and (C) above as well as historic preservation goals included in the Comprehensive Plan, but shall also consider the effect of such designation on other aspects of the Comprehensive Plan of the City.~~

~~16.2.3 Integrity of landmarks and historic districts~~

B. Any nominated building, structure, object, site or area ~~area, site, structure, or object~~ must also be found to retain ~~area, structure, or object that meets the criteria in Section 17.4.1 must also have~~ sufficient integrity of location, design, ~~condition,~~ setting, materials, ~~and~~ workmanship, feeling, and association to ~~make it worthy of preservation or restoration~~convey its significance with respect to the applicable criteria for historic designation as defined in Subsection 16.2.2(A).

C. The Planning Board and City Council shall apply the criteria for historic designation of Subsections 16.2.2(A)~~,~~ and (B)~~, and (C)~~ above, ~~as well as~~ the historic preservation goals included in the Comprehensive Plan, ~~but shall also~~ and may consider the effect of such historic designation on other aspects of the Comprehensive Plan of the City.

~~B.~~D. The Historic Preservation Board, Planning Board, and City Council may refer to the National Register of Historic Places Bulletins in interpreting and applying the criteria for historic designation under Subsections 16.2.2(A) and (B).

~~16.2.4 Designation of historic landscape districts~~

~~An historic landscape district may be nominated and considered for designation only if the entire area of the district is owned by a unit of federal, state, or local government, or any combination of such ownership.~~

16.2.3 Classifications within historic designations

A. The buildings, structures, objects, and sites within a historic designation may be classified as contributing or noncontributing.

B. A contributing classification shall only be applied to a building, structure, object, or site which:

1. Was built at least 50 years prior to the date of district designation, or was built within a period of significance specified in the nomination for historic designation;
2. ~~Are~~Is found to have a relationship with or physically embody the qualities that give the historic designation cultural, historic, architectural, or archaeological significance as embodied in the criteria for historic designation from Subsection 16.2.2(A) specified in the- nomination for historic designation; and
3. Retains sufficient integrity to communicate that significance as defined in Subsection 16.2.2(B).

C. Where a landmark overlaps with a historic district or historic landscape district, the contributing buildings, structures, objects, and sites of the landmark shall be classified as contributing to the historic district or historic landscape district.

D. If a building, structure, object, or site does not meet Subsection 16.2.3(B) or (C) it shall be classified as noncontributing.

~~16.5~~16.3 NOMINATION, CONSIDERATION, AND HISTORIC DESIGNATION

16.3.1 Procedure

The provisions of this section shall govern the nomination, consideration, and designation of landmarks, historic districts, and historic landscape districts.

16.3.2 ~~Initiation of n~~Nomination of a historic designation

A. Nomination of a historic designation ~~n area, site, structure, or object for consideration of designation as a landmark, historic district, or historic landscape district~~ shall be submitted to the Planning Authority in writing. Nominations shall include the following information ~~by the following~~:

1. A statement of how the proposed historic designation meets the criteria for historic designation under Subsections 16.2.2(A), (B), and (C).
2. A map showing the location and proposed boundaries of the historic designation.
3. A draft list of the constituent buildings, structures, objects, and sites, indicating their degree of cultural, historic, architectural, or archaeological significance and their classification as contributing~~,~~ or noncontributing~~, or landmark~~ within the proposed historic designation.

B. Nominations may be submitted by:

1. Any two members of the Historic Preservation Board on their own initiative~~;~~ ~~by written notice to the Planning Authority, or~~
2. ~~7.~~The Planning Authority~~;~~ ~~or~~
3. ~~8.~~In the case of a landmark, ~~By written petition of any~~one or more owners of the affected property~~;~~ ~~in the case of a landmark,~~ or
4. ~~9.~~In the case of a historic district or historic landscape district, ~~By written petition of~~ one or more owners of an affected property ~~in the case of a district~~, provided a minimum of two members of the Historic Preservation Board ~~must~~ submit written sponsorship of the nomination to the Planning Authority. ~~petition.~~

~~C. In the case of a nomination initiated or sponsored by the Historic Preservation Board, such nomination may be made verbally at a Historic Preservation Board meeting or via signed, written statement to the Planning Authority. A nomination shall be completed and filed with the Planning Authority with all required signatures for the nomination to be pending.~~

C. Upon nomination, the Planning Authority shall notify the owner(s) ~~or owners~~ of the subject property or properties. ~~nomination and shall transmit the nomination to the Historic Preservation Board for its preliminary consideration at a scheduled meeting, which in no event shall be held later than 60 days following nomination.~~

D. A nomination shall be diligently pursued from the date of submission. Nominators shall provide additional information as requested by the Planning Authority or Historic Preservation Board when determined to be reasonably necessary to make any determination required by this article. Failure of nominators to provide a response to the request for additional information within 120 days of the date upon which the written request was made shall cause the nomination to expire.

~~D.~~E. Withdrawal of nominations shall only be at the consent of all parties who submitted the nomination. Consent to withdraw a nomination shall be submitted in writing to the Planning Authority.

~~E.~~A. ~~If documentation and analysis that is necessary for the consideration of a given designation has not been provided at the time of nomination, such documentation shall be completed prior to further consideration by the Historic Preservation Board of the nominated landmark, district, or historic landscape.~~

~~F.~~A. ~~At any time after a complete nomination is filed for an historic district, the owner of a structure who seeks a permit for demolition may apply to the Historic Preservation Board for a determination that the structure to be demolished is noncontributing and eligible for a demolition permit. The determination of the Historic Preservation Board that the structure is eligible for a permit shall be conclusive.~~

16.3.3 ~~Notification of nomination and public hearing~~Historic Preservation Board review and recommendation

~~A.~~ A public hearing on the nomination shall be held by the Historic Preservation Board following one or more ~~preliminary~~ workshops ~~of the Historic Preservation Board,~~.

A. ~~The hearing shall be~~ conducted in accordance with procedures adopted by the Historic Preservation Board. ~~In the case of additional workshops, these shall be agreed to by the Historic Preservation Board and the nominators.~~

B. The Historic Preservation Board shall consider all testimony or evidence relating to the nomination ~~designation criteria in Subsection 17.416.2.2~~ from any person who makes written submissions or appears at a ~~the~~ workshop or public hearing. The owner of a nominated ~~landmark or of~~ property ~~within a nominated district~~ shall be allowed reasonable opportunity to present testimony or evidence concerning the applicability of the ~~designation~~ criteria for historic designation in Subsection ~~17.4~~16.2.2.

C. If the Historic Preservation Board finds that documentation and analysis ~~that is~~ necessary for the consideration of the nomination~~a given designation~~ has not been provided ~~at the time~~ s part of the nomination, such documentation shall be provided~~completed~~ prior to further consideration by the Historic Preservation Board ~~of the nominated landmark, district, or historic landscape.~~

~~16.3.4 Recommendation by Historic Preservation Board~~

D. ~~Within 45 days f~~Following the close of the public hearing, the Historic Preservation Board

shall make a recommendation to the City Council in the case of a landmark, or to the Planning Board in the case of a historic district or historic landscape district, ~~upon the evidence~~ as to whether the nominated buildings, structures, objects, sites, or areas ~~area, site, structure, or object nominated landmark or district~~ meet~~s~~ the criteria for historic designation in Subsection ~~17.4~~16.2.2. Such recommendation shall be ~~approved by at least four members of the Historic Preservation Board and shall be~~ accompanied by:

~~10.~~ a. A report ~~to the City Council and/or Planning Board~~ containing ~~the following information:~~

1. findings by the Historic Preservation Board as to whether the criteria for historic designation in Subsection 16.2.2 have been met, as well as any recommended changes to the scope of the nominated historic designation.

~~Explanation of the significance or lack of significance of the nominated landmark or district as it relates to the criteria for designation.~~

~~Explanation of the integrity or lack of integrity of a nominated landmark or historic district.~~

~~Proposed design guidelines for review of alteration or construction may be recommended. The specific design guidelines may provide explanation by text and/or schematic examples of visual compatibility for purposes of complying with Section 17.8.~~

~~Relationship of the nominated landmark or district to the ongoing effort by the Historic Preservation Board to identify and nominate areas, sites, structures, and objects that meet the criteria for designation.~~

~~A map showing the location of the nominated landmark and/or the boundaries of the nominated district.~~

~~A list, including the address, of every site, structure, and object in each nominated historic district indicating their degree of cultural, historic, architectural, or archaeological significance by classification as a landmark, contributing, or noncontributing.~~

~~Where a motion either in favor of a recommendation or in opposition to a recommendation results in a vote of fewer than four members, the item shall automatically be tabled to the next regularly scheduled meeting.~~

~~**Notification of Historic Preservation Board recommendation**~~

~~The recommendation of the Historic Preservation Board, including a copy of the report, shall be transmitted to the City Council in the case of a landmark and to the Planning Board in the case of a district. Notice of the recommendation shall be sent by mail to the owner of a nominated landmark and to all owners within a nominated district within 14 days following adoption of the recommendation and report.~~

~~If the recommendation of the Historic Preservation Board is that the property or district not be designated, the nomination process shall terminate and no new nomination shall be submitted for the identical property or area for a period of one year from the date of termination, except upon a showing of substantial and material newly discovered information.~~

~~16.3.5~~16.3.4 ~~Determination by~~ Planning Board review and recommendation

A. The Planning Board shall hold a public hearing to review the nomination of a historic district or historic landscape district and the recommendation ~~, upon receipt of a recommendation and a report~~ from the Historic Preservation Board. ~~concerning nomination of a historic district or historic landscape district, may hold one or more workshops pursuant to the provisions of Article 2.~~ The Board may hold one or more workshops prior to the public hearing. ~~After review of the Historic Preservation Board recommendation and report, the Planning Board shall hold a public hearing.~~

~~A.~~B. All meetings, hearings, and deliberations of the Planning Board to consider the nomination, and recommendation and report of the Historic Preservation Board shall be held in conformity with Article 2.

C. The Planning Board may request that the chair of the Historic Preservation Board, or a member designated by the chair, ~~to~~ appear at a~~ny~~ meeting~~, hearing or deliberation~~ to explain ~~any~~ the recommendation or report.

~~B. A public hearing shall be scheduled within 30 days of the Planning Board's final workshop. At the conclusion of~~Following the close of the public hearing, the Planning Board shall make a recommendation to the City Council upon the evidence as to ~~its final determination including written findings as to~~ whether the nominat~~ed district~~ion meets the criteria for historic designation in Subsection ~~17.4~~16.2.2. Such recommendation ~~A copy of the determination of the Planning Board shall be sent by regular mail to all owners within a nominated district within 14 days following the determination.~~

~~C. Planning Board recommendation to City Council~~

D. ~~The recommendation of the Planning Board regarding a nominated district shall be filed with the City Clerk within 14 days. It~~ shall be accompanied by:

1. ~~a copy of t~~The report ~~and recommendation~~ of the Historic Preservation Board.
2. A report containing ~~f~~findings by the Planning Board as to whether the criteria for historic designation in Subsection 16.2.2 have been met, as well as any recommended changes to the scope of the nomination.

~~1. , including any specific proposed design guidelines applicable to the nominated landmark or district. The recommendation of the Planning Board may include proposed changes in other City ordinances, policies, infrastructure, or recommendations with respect to the Comprehensive Plan of the City relating to the proposed designation.~~

~~16.3.6~~16.3.5 ~~Action by~~ City Council consideration

~~D. Within 60 days after the filing of a Planning Board recommendation, or~~Following the receipt of a Historic Preservation Board recommendation and report in the case of a landmark nomination, or Planning Board recommendation and report in the case of a historic district or historic landscape district nomination~~, on the nomination with the City Clerk pursuant to Section 17.5.6,~~ the City

Council shall approve ~~designate the landmark or district~~ or reject the historic designation. ~~Any designation may include specific design guidelines for the designated landmark or district.~~

~~—~~The designating order shall include a map of the location and boundaries of the historic designation, and ~~.~~

E. ~~D~~Designation of a district shall be accompanied by a list ~~, including the address,~~ of ~~every site~~s, ~~structure~~s, ~~and objects~~ buildings, structures, objects, and sites within the historic designation~~district. Every S~~sites, ~~structure~~s, ~~or objects shall be assigned a~~ including their location or address and classification as~~of landmark,~~ contributing~~,~~ or noncontributing~~,~~ ~~indicating their degree of cultural, historic, architectural, or archaeological significance~~ under Subsection 16.2.3.

~~E. This list may be amended thereafter by the City Council upon recommendation from the Historic Preservation Board and Planning Board under the same procedures as set forth above. Where there are no express findings by the City Council in the designation ordinance, there shall be a presumption that the City Council found that all requirements of Section 17.4 were met.~~

~~F. Notice of the proposed action of the City Council shall be provided by mail to the nominator and the owner of the nominated landmark and/or of all properties adjacent thereto prior to City Council action.~~

~~G.~~F. Notice of City Council action ~~to the same persons~~ shall be sent to all owners of property ~~or~~ within the boundaries of a historic designation within ~~14~~30 days following the City Council action. ~~A copy of each designation and any design guidelines shall be sent to the Planning Board, the Historic Preservation Board, and the Planning Authority.~~

~~H.~~G. A ~~complete schedule~~record of the historic designation, maps of the historic designation boundary, and copies of all nominations and reports~~all landmarks and districts, including design guidelines and a listing of landmark and contributing structures,~~ shall be maintained by the Planning Authority and ~~shall~~ be made available to the public online ~~or for public inspection and copying~~and during ordinary business hours.

16.3.6 Designation

A. Upon designation, all buildings, structures, objects, and sites within the boundary of the historic designation shall be subject to the provision of this article.

~~A.~~B. Demolition, including any act or process that totally destroys any contributing building, structure, object, or site shall be prohibited, with the exception of:

1. ~~This article shall not apply to a~~Any building, structure, ~~or~~ object, or site which has been ordered demolished by the municipal officers or a court, in accordance with 17 M.R.S. §~~-~~ 2851 et seq., its equivalent, as it may be amended from time to time, or ~~to~~
2. A~~a~~any building, structure, ~~or~~ object, or site which has been partially destroyed and is determined by the Planning Authority to represent an immediate hazard to the public health or safety, which hazard cannot be abated by reasonable measures specified by the Planning Authority, including without limitation securing apertures and/or erecting fencing.

3. Any building, structure, ~~or~~ object, site, or portion thereof which was approved for demolition under a certificate of economic hardship under Section 16.7.

16.3.7 Amendment or rescission of designation

A. Amendment shall be defined as a change to the historic designation boundary or reclassification of a building, structure, object, or site as contributing or non-contributing in its entirety.

B. Rescission shall be defined as the complete removal of a historic designation.

C. Amendment or rescission of any historic designation shall be upon the request of a person or persons authorized to nominate the property or properties affected as set forth in Subsection 16.3.2, or upon request of the City Council. Such requests shall be submitted in writing to the Planning Authority.

~~A.~~D. Amendment or rescission ~~, and~~ shall follow the procedure set forth in Section ~~17.5~~16.3 for designation. ~~The City Council may rescind or amend a designation only after all of these procedures have been followed.~~ The standards for rescission or amendment applied by the Historic Preservation Board, Planning Board, and City Council shall be limited to those provided in Subsection 16.2.2 ~~s 17.4.1~~(A) and (B). ~~and Subsection 17.4.2.~~ Amendments may include reclassification of a portion of a contributing property to noncontributing status, refinement or correction of design guidelines, maps, and other parts of any designation.

16.3.8 Presumption of contributing classification

A. Where the historic designation does not specify the classification of a building, structure, object, or site, there shall be a presumption that the building, structure, ~~or~~ object, or site is contributing, unless:

~~1.~~ Documentation can be provided to the Planning Authority that ~~a~~ the building, structure, object, or site was constructed within 50 years of or after the date of historic designation, or after the stated period of significance; ~~, or~~

1. The Historic Preservation Board holds a public hearing and finds that the building, structure, object, or site has no significance relating to the criteria for historic designation under Subsection 16.2.2(A) referenced in the nomination for the historic designation, or reports of the Historic Preservation Board, Planning Board or City Council; or

2. The Historic Preservation Board holds a public hearing and finds that the building, structure, ~~or~~ object, or site has been lawfully substantially altered within 50 years of or after the date of historic designation, or after the stated period of significance, such that it lacks ~~.~~integrity as defined under Subsection 16.2.2(B).

~~16.3.8 Time limits~~

~~If any time limit in the nomination and designation process as provided in Sections 17.4 or 17.5 is not met, the validity of any designation and the interim protection provided by Section 17.6 shall not be affected, provided the Historic Preservation Board, Planning Board or City Council announce the delay and the basis for such in a public meeting, as well as the date to which the matter will be rescheduled.~~

~~16.6~~16.4 INTERIM PROTECTION FOR ~~NOMINATIONS~~NOMINATED HISTORIC DESIGNATIONS

16.4.1 ~~Nominated landmarks and districts~~Minimum ~~m~~Maintenance

From the time of submission of a complete nomination as set forth under Subsection 16.3.2 until the City Council ~~Historic Preservation Board~~ acts upon such nomination, ~~or~~ the nomination is withdrawn, or the nomination expires, all buildings, structures, objects, or sites ~~area~~ nominated but not yet designated ~~as a landmark or district~~ shall be subject to ~~all of~~ the provisions of Sections 1~~7~~6.8~~9~~ ~~and 17.10~~ governing ~~demolition and minimum~~ maintenance, to the same extent as if designated. ~~Upon final action of the Historic Preservation Board recommending designation, the site, structure, object, or area nominated shall be subject to all of the protections of this article until a final decision on designation by the City Council becomes effective. If the City Council rejects designation or fails to designate a property, that property shall no longer be subject to the provisions of Sections 17.9 and 17.10 of this article.~~

~~A. Alteration or new construction commenced pursuant to a building permit issued prior to nomination shall not require a Certificate of Appropriateness, unless such permit has expired, been canceled or revoked. No project for which any application is pending and which has received substantive review by the Planning Board prior to nomination shall be affected by nomination. Substantive review, as used in this paragraph, shall include workshop review of any completed application under Article 14 and Article 15 of the Land Use Code.~~

16.4.2 Protection from demolition

From the time of submission of a complete nomination as set forth under Subsection 16.3.2 until the City Council acts upon such nomination, ~~or~~ the nomination is withdrawn, or the nomination expires, all demolition permit applications for any building, structure, object, or site nominated but not yet designated shall be denied unless:

A. The Historic Preservation Board has held a public hearing at the request of the owner of a building, structure, object, or site and has found that the building, structure, object, or site in question would be recommended to be classified as noncontributing to the nominated historic designation and shall be eligible for a demolition permit. The determination of the Historic Preservation Board that the building, structure, object, or site is eligible for a permit shall be conclusive; or

B. ~~t~~The owner has received a certificate of economic hardship under Section 16.7.~~8.~~ ~~At any time after a complete nomination is filed for an historic district, the owner of a structure who seeks a permit for demolition may apply to the Historic Preservation Board for a determination that the structure to be demolished is noncontributing and eligible for a demolition permit. The determination of the Historic Preservation Board that the structure is eligible for a permit shall be conclusive.~~

~~16.7 PROTECTIONS FOR PROPERTIES LISTED ON THE NATIONAL REGISTER OF HISTORIC PLACES~~

~~Upon receipt of notice from the National Park Service or the Maine Historic Preservation Commission to the City that a property or area has been listed on the National Register of Historic~~

~~Places or has been determined to be eligible for listing on the National Register, the City shall deny any demolition permit application for any structure or object within the listed property or area unless:~~
~~The owner has received a certificate of economic hardship under Section 16.8, or~~
~~The Historic Preservation Board has held a public hearing at the request of the owner and found that the structure or object in question does not have sufficient integrity for historic designation using Subsection 16.2.2 as the standard for review, or~~
~~Documentation is provided from the Maine Historic Preservation Commission that the structure or object in question has been removed from the National Register of Historic Places, no longer retains sufficient integrity to remain listed on the National Register of Historic Places, or an existing determination of eligibility is no longer valid, or~~
~~1. The City Council has held a public hearing at the request of the owner and determined that demolition of the structure or object is consistent with the goals of the Comprehensive Plan. after the adoption of this article, a nomination shall be deemed submitted to the Historic Preservation Board for designation of such property or area as a landmark, historic district, or historic landscape district under this article, and the procedures of Section 17.6 shall be applicable thereto.~~
~~2. Properties eligible for listing on national register or for local designation~~
~~3. A Certificate of Economic Hardship shall be obtained prior to demolition of any structure which has not been designated in accordance with this article but which has been determined by the Maine Historic Preservation Commission as eligible for listing in the National Register of Historic Places under the criteria established by 16 U.S.C. Section 470(a) or its successor statute and/or regulations made thereunder or which has been determined to be eligible for local listing under the criteria for designation of this article. The determination of eligibility for listing shall be made by the Planning Authority, which may refer such a determination to the Historic Preservation Board, and by the Board of Appeals if an appeal is taken. Upon determination of eligibility, the structure so determined shall also be subject to the provisions of Section 17.10 until a final decision by the City Council on designation becomes effective. If the City Council rejects designation or fails to designate a structure which has been determined to be eligible under the terms of this section, that structure shall no longer be subject to the provisions of Sections 17.9 and 17.10 of this article.~~

~~16.8~~16.5 REVIEW PROCESS FOR HISTORIC PRESERVATION APPROVAL ~~CERTIFICATES OF APPROPRIATENESS AND NON-APPLICABILITY~~

16.5.1 ~~Certificate of Appropriateness~~Applicability

~~Except as provided in Subsections 17.7.2 and 17.7.3,~~ ~~a~~A historic preservation approval ~~certificate of appropriateness~~ shall be required prior to undertaking any new construction, additions, exterior alterations, site alterations, signage, or the relocation of buildings, structures, or objects affecting any property within the boundaries of a historic designation as identified in Table 16-A. Historic preservation approval shall also be a condition precedent to the issuance of any permit authorizing any such work as noted above. Notwithstanding the above, the following activities shall be considered exempt:~~before the following actions affecting any landmark, contributing or noncontributing structures, objects, sites, or property in a district may be undertaken and shall

be a condition precedent to the issuance of any permit authorizing such work:

A. Any exterior alteration or new construction requiring a building permit from the City of Portland, including, but not limited to the following:
   a. Removal and replacement of architectural detailing including, but not limited to, porch spindles and columns, railings, window moldings, and cornices.
   b. Moving of structures or objects on the same site or to another site.
   c. Construction of rooftop additions or decks.
   d. Alteration of accessory structures such as garages.
   e. Porch replacement or new construction of porches.
   f. Installation of exterior access stairs.
   g. Window or door replacement requiring enlargement of openings.
   h. Installation of antennas and satellite receiving dishes.
   i. Installation of solar collectors.

11. Any exterior alteration that does not require a building permit but which involves any one of the following activities:
   a. Installation or replacement of either roofing or gutters where the roofing or gutters are a significant and integral feature of the structure including, but not limited to, mansard roofs, cupola roofs, ornamental slate roof features, and built in gutter systems and the installation or replacement of siding.
   b. Window and door replacement whether or not it requires enlargement of openings.
   c. Masonry work including, without limitation, tuckpointing, sandblasting, chemical cleaning.
   d. Site features other than vegetation including, without limitation, fencing, walls, paving, and grading. However, required review for alterations to cemeteries designated under this article shall not include review of alterations to headstones made for the purpose of recognition of additional decedents or installation of grave markers and/or tombs.
   e. Streetscape and pedestrian improvements within historic districts, including but not limited to installation of pedestrian lighting, alteration to road or intersection alignment, installation of public signage (other than public safety related signage.
   f. Landscaping within an historic landscape district.
   g. Exterior lighting where proposed in conjunction with commercial and institutional signage or awnings or architectural lighting.
   h. Exterior utilities including mechanical, HVAC, plumbing, and electrical, where placed on elevations readily visible from a public way.

12. Installation or alteration of any exterior sign.
13. Any relocation of a landmark or contributing structure within a district.

B. There shall be a rebuttable presumption that all structures within a district shall be contributing unless the designation report and Historic Resources Inventory expressly identifies otherwise. Where the Planning Authority or the owner

~~believes that the identification is erroneous, the Historic Preservation Board shall determine whether the structure is noncontributing.~~

~~16.5.2 Exceptions to requirement of Certificate of Appropriateness~~

~~A Certificate of Appropriateness is not required:~~

~~A. Where a Certificate of Non-Applicability has been issued within the previous 12 months.~~

A. ~~Where the w~~Work consist~~ings~~ solely of ordinary maintenance, being acts of upkeep or repair which do not include a change in the design, material, or outer appearance of a building, structure, object, or site such as repainting of previously painted surfaces or in-kind replacement of materials or plantings. ~~and/or restoration, provided that there is no substitution of materials or alteration of architectural details.~~

B. W~~here the w~~ork consist~~s~~ing solely of emergency repair of a temporary nature.

C. Work approved under a valid~~here a~~ certificate of economic hardship. ~~has been issued and remains valid.~~

D. ~~In the case of either alteration of a structure (other than a landmark) or of new construction within a district, a Certificate of Appropriateness shall not be required~~Work where the Planning Authority determines that the proposed exterior changes ~~to a structure~~ are not readily visible at pedestrian heights from any public way or public open space. ~~Where a Certificate of Appropriateness is required for such changes, it shall be limited to those portions of the structure or structures so visible.~~

~~D.~~E. Installation of new public artworks approved or acquired through the City of Portland Public Art Program.

~~E.~~F. Changes in plantings or vegetation outside of historic landscape districts and minor changes in plantings or vegetation within historic landscape districts.

~~F.~~G. Alterations to existing grave markers or tombs made for the purpose of recognizing additional decedents or installation of grave markers or tombs recognizing new interments within an existing cemetery.

H. Roof-mounted solar energy systems where the system:

1. Is consistent with all other city requirements,
2. Is installed reversibly with no damage to any historic roofing materials,
3. Is not installed on street-facing roof planes on landmarks or contributing buildings or structures, and
4. Any associated electrical equipment is not installed on street-facing facades.

I. Ground-mounted heat pumps and HVAC equipment where:

1. Exterior units are installed at least 30' from public rights-of-way or behind the street-facing facades of the associated building or structure, whichever is a greater distance, and

~~1.~~2. Any associated line hides, conduit, vents, and other equipment or penetrations are not installed on street-facing facades.

J. Installation of temporary buildings, structures, or objects for a period of less than eight consecutive months, unless such installation otherwise meets a threshold for review established in Table 16-A.

K. Demolition of non-contributing buildings, structures, objects, or sites.

L. Relocation of non-contributing buildings, structures, or objects to a property ~~site~~ outside any historic designation boundary.

M. Interior work of any kind.

~~16.5.3~~16.5.2 ~~Alterations or new construction within historic landscape districts~~Review classifications

A. Applications shall be subject to administrative or Historic Preservation Board review according to the classifications in Table 16-A.

B. The Planning Authority may, due to the scope or anticipated impacts of a project, reclassify an administrative review to a Historic Preservation Board review.

C. At any point in the review process, an applicant may request that the Planning Authority reclassify the application from administrative to Historic Preservation Board review.

TABLE 16-A: HISTORIC PRESERVATION REVIEW CLASSIFICATIONS

		Administrative Review	Board Review
New construction and additions		≤ 500 SF	> 500 SF
Dormer additions[1]		Affecting ≤ 40% of roof area (in SF)	Affecting > 40% of roof area (in SF)
Alterations to contributing buildings, structures, or objects[2]	Minor alterations	All	--
	Major alterations	≤ 25% of any façade, or where work is based on clear documentation of the historic appearance	> 25% of any facade
Alterations to noncontributing, buildings, structures, or objects[2]	Minor alterations	All	--
	Major alterations	≤ 40% of any facade	> 40% of any facade
Site alterations[3]		All	--
Signage		All	--
Relocation of buildings, structures, or objects[4]		≤ 500 SF	> 500 SF

[1] Dormer additions include any increase in ~~building~~ volume which does not interrupt the ridges, eaves, or rakes of an existing building or structure.
[2] Minor alterations include small or routine changes such as required by building code or modern convenience which result in minimal change in exterior appearance of an existing building, structure, or object. Major alterations include changes to existing or introduction of new details or features which affect the scale, form, proportion of openings, ratio of solid to void, rhythm or placement of entrances, color or texture of materials, or relationship to the street of an existing building, structure, or object.
[3] Site alterations include the construction of permanent features such as fences and retaining walls, regrading, hardscaping, and the installation of exterior utilities.
[4] Relocations include the moving of a building, structure, or object on its site or to another site ~~within any historic designation boundary~~.

~~A certificate of appropriateness shall be obtained before any site alteration or new construction within a historic landscape district may be undertaken, except where a certificate of non-applicability has been issued or where construction or alteration is pursuant to a master plan approved by a prior certificate of appropriateness within five~~

~~years of commencement and where the master plan is sufficiently detailed to guide the specific work~~

16.5.3 Historic Preservation pre-application meeting

Applicants are encouraged to schedule a h~~H~~istoric p~~P~~reservation pre-application meeting with the Planning Authority prior to applying for historic preservation review. The purpose of this meeting is to familiarize the applicant with the City of Portland Historic Preservation submittal requirements, applicable review ~~criteria and~~ standards, and to confirm the level of review required. A pre-application meeting does not confer pending proceeding status under Title 1 MRSA 302. No decisions relative to the application shall be made at the pre-application meeting, nor shall any advice or information provided by the Planning Authority be construed as a decision.

16.5.4 Applications ~~for Certificate of Appropriateness~~

Application for historic preservation review ~~a certificate of appropriateness~~ shall be made on a form prepared by the City and ~~shall be~~ submitted to the Planning Authority along with the applicable fee. Upon receipt of an application and fee, the Planning Authority shall determine whether the application is complete and the level of review required per Table 16-A. ~~The Planning Authority shall determine whether the scope, nature, or scale of the proposed project requires review by the Historic Preservation Board or whether it is a minor or routine project that is appropriately reviewed at the administrative level.~~

~~If the Planning Authority determines that the project should be reviewed by the Historic Preservation Board, the item shall be scheduled for the next available Historic Preservation Board meeting, provided that the notice requirements of this article can be met prior to that meeting. The Planning Authority shall transmit a copy of the complete application to the Historic Preservation Board at least four days prior to their next scheduled meeting. The Planning Authority shall not issue or act upon the application until the Historic Preservation Board has completed its review and approval process. An application for a Certificate of Appropriateness shall be treated as an application for a Certificate of Economic Hardship under Section 17.9 whenever the Historic Preservation Board or the Planning Board, as applicable, determines that the proposed alteration includes any demolition which would:~~

~~Have the effect of causing the structure to no longer meet the criteria for designation of Section 17.4, or~~

~~Materially impair the significance and integrity of the structure.~~

~~Where a determination under (B) above is made by the Historic Preservation Board, the Planning Board shall review that decision as a preliminary matter, whether the Historic Preservation Board has taken final action with respect to the application or not. Upon any final determination that an application for a Certificate of Appropriateness is required to be treated as an application for a Certificate of Economic Hardship, no further action shall be taken with respect to the application until that certificate is applied for and is granted.~~

~~Where the applicant has done work or caused work to be done on a structure or a property for which a Certificate of Appropriateness is sought and such work is either not done in compliance with an approval received under this article or was~~

performed without the approvals required under this article, no application for such structure or property shall be considered by the Planning Authority or by the Historic Preservation Board until the work done without approval is brought into compliance with the requirements of this article. The Historic Preservation Board may waive this requirement if the Historic Preservation Board determines that the work does not alter the essential character of the structure or district and one or more of the following standards are also met.

The work was needed to bring a building into conformance with any building or safety code.

The applicant can demonstrate a good faith belief that necessary approvals had been received for the work at issue prior to the commencement of the work.

The applicant can demonstrate a good faith belief that the work done was not subject to review under this article.

Review of any application by the Planning Authority or by the Historic Preservation Board shall not constitute waiver of any future claims by the City concerning violations and shall not stop the City from prosecuting any violation.

16.5.5 Costs

Anyll projects mayshall be subject to fees as established by the City Council to cover the administrative costs and the costs of Historic Preservation Board review. Applicants shallare also required to pay a fees to cover the professional and administrative costs for analysis associated with project review, including but not limited to planning, legal, or other services as needed. The fee shall be based on the hours of review and processing time and prevailing hourly rate for reimbursement of City costs. The City shall periodically invoice the applicant for such costs incurred by the City, which invoice shall be paid promptly by the applicant. Every applicant shall bear the entire expense of giving notice by mail and publication in accordance with this article.

16.5.516.5.6 Lapse in application

Once a completedAn application for historic preservation review has been submitted, it shall be diligently pursued from the date of submission. Applicants shall provide additional information as requested by the Planning Authority or Historic Preservation Board when determined to be reasonably necessary to make any determination required by this article. Failure of an applicant to provide a response to the request for additional information within 120 days of the date upon which the written request was made shall cause the application to expire and be deemed null and void. attend two or more Historic Preservation Board meetings at which an application is scheduled for review shall cause the application to expire and to be deemed null and void, unless the Planning Authority determines that good cause is shown for the failure to attend. Where good cause is shown for a failure to attend, the Historic Preservation Board shall table an application to a date mutually agreed upon in writing.

In determining the existence of the circumstances specified in this article, the Historic Preservation Board, Planning Board, or Board of Appeals may require such additional documentation or evidence as they may respectively determine to be necessary, including plans, drawings, and elevations, and notwithstanding any time limit for action or decision specified in this article, it may continue a proceeding for such additional time as it reasonably takes an applicant or any other party to comply with

~~the request for additional relevant documentation or evidence and may draw a negative inference with regard to the content of any material evidence not produced upon reasonable request.~~

~~Prior to issuance of any Certificate of Appropriateness, any applicant shall demonstrate sufficient right, title, or interest in the property, technical capacity, and financial capacity to complete any change proposed to be undertaken under the Certificate of Appropriateness, upon reasonable request of the Planning Authority.~~ ~~If the Planning Authority determines that the applicant has failed or refused to demonstrate an ability to complete the proposed activity, it shall refer the issuance to the Planning Board which shall make a final determination as to whether the applicant has demonstrated a sufficient capability to complete the proposed activity. Notwithstanding any other provision of this article, the Historic Preservation Board or Planning Board may include reasonable conditions, including the provision of adequate financial security, to ensure that actions taken under a Certificate of Appropriateness will be successfully prosecuted to completion, as approved, in a timely manner.~~

16.5.7 Administrative rReview ~~process for Certificate of Appropriateness~~

~~The process for review of an application for a Certificate of Appropriateness shall be as follows, except to the extent specifically provided elsewhere in this Section 17.7:~~

~~**For administrative-level reviews.**~~ An application for historic preservation review ~~a certificate of appropriateness for installation or alteration of any exterior sign; minor or routine alterations; and temporary alterations, construction, or improvements~~subject to administrative review shall be reviewed by the Planning Authority for compliance with the standards of Section ~~17.8~~16.6~~7~~. The Planning Authority may request revised plans and submittals necessary to determine compliance. The Planning Authority shall approve the application, approve the application with conditions, or deny the application. ~~and the *Historic Resources Design Manual*. Where staff determines that such an application meets these requirements, the Certificate of Appropriateness shall be issued by staff without presentation to the Historic Preservation Board for approval. Staff shall provide the Historic Preservation Board with written notice of staff approvals on a quarterly basis.~~

~~If staff approves an application with conditions, the applicant may request review by the Historic Preservation Board. The application shall then be subject to review by the Historic Preservation Board pursuant to Subsection 17.7.5(B).~~

~~Staff may elect to forward to the board an application found by staff to meet review standards but for which board confirmation is sought. The application shall be placed upon the next consent agenda of the Historic Preservation Board. Any member of the Historic Preservation Board may remove an application from the consent agenda for the purpose of giving it a public hearing.~~

~~If the Planning Authority determines that the application does not meet the requirements of Section 17.8 and the *Historic Resources Design Manual*, the application shall be scheduled for review by the Historic Preservation Board pursuant to Subsection 17.7.5(B), unless the applicant withdraws the application.~~

~~For purposes of this subsection only, temporary is defined as either a one-time occurrence that does not exceed 30 days or as an annual occurrence that~~

~~does not exceed one 30-day period each year. Minor or routine alterations are defined as incidental changes or additions to a building, site features, or exterior utilities which require building permits but will neither result in substantial changes to any significant historic features nor obscure such features. In no event shall any change be deemed minor when, in the opinion of the Planning Authority, such change shall alter the historic character of the building or site.~~

16.5.8 Historic Preservation Board review

A. ~~For Historic Preservation Board-level reviews.~~ An application for historic preservation review subject to Historic Preservation Board review shall be reviewed by the Historic Preservation Board for compliance with the standards of Section 16.6~~7~~. The Planning Authority may request revised plans and submittals necessary to determine compliance with the standards of Section 16.6~~7~~ prior to ~~The Planning Authority shall review the application and prepare a report for the Historic Preservation Board's consideration which addresses the proposed project's compliance with the review standards in Section 17.8. The Planning Authority may~~ schedule~~e~~ing a Historic Preservation Board ~~one or more preliminary~~ workshop~~s on the application prior to a~~ or public hearing.

B. The Planning Authority shall schedule the project for review at a workshop or public hearing on a date that meets public noticing requirements and prepare a report for the Historic Preservation Board's consideration which addresses the proposed project's compliance with the standards of Section 16.6.

C. In the case of applications being reviewed at a workshop or workshops prior to the public hearing, they shall be informational and not result in any formal approval or disapproval of the project. At a workshop, the Historic Preservation Board shall review the plans and submittals, consider the staff review with respect to the standards of Section 16.6, hear public comments and questions, and provide direction to the applicant regarding issues to be addressed to bring the application into compliance with the standards of Section 16.6.

~~A.~~ At a hearing, the Historic Preservation Board shall approve, approve with conditions, or deny the application based on the standards of Section 16.6~~7~~. Should the Historic Preservation Board deny an application,

~~B. Following any preliminary workshop(s) and upon determination by the Historic Preservation Board that the application is complete, the application shall be scheduled for a public hearing at the next available meeting of the Historic Preservation Board which allows for adequate notice.~~

~~C. Following a public hearing, the Historic Preservation Board shall make a decision on the application.~~

D. ~~The Historic Preservation Board~~ it shall enter findings of fact concerning the relationship between the application and ~~the applicable~~ standards of Section ~~17.8~~ 16.6 within 60 days of the close of the public hearing. ~~immediately following a denial or conditional approval of any Certificate of Appropriateness.~~ Written notice of the determination of ~~staff or~~ the Historic Preservation Board on the application, including a copy of the findings of fact, shall be sent by regular mail to the applicant.

16.5.9 Review process involving major site plans

~~Review process involving major site plans.~~ ~~The process for review of an application for alteration or new construction that is also a major site plan as defined in Article 14 shall be as follows:~~

Site plan review by the Planning Board and historic preservation review by the Planning Authority or Historic Preservation Board shall, to the extent feasible, proceed concurrently. Any proposed major site plan required to obtain historic preservation approval ~~a certificate of appropriateness~~ under this article shall be exempt from the design standards included in Article 13~~4~~, and shall comply with the ~~applicable design~~ standards of Section 16.6. ~~7listed within Article 17.~~

~~Upon receipt of the application for a Certificate of Appropriateness, the Planning Authority shall review the application and schedule a workshop for preliminary review by the Historic Preservation Board. The Planning Authority shall prepare an analysis of the application based upon the standards in Section 17.8 for consideration at the workshop. Additional workshops may be scheduled by the Historic Preservation Board with the consent of the applicant.~~

~~Following preliminary workshop(s) and upon determination by the Historic Preservation Board that the application is complete, the Historic Preservation Board shall conduct a public hearing and make a final decision on the application.~~

~~If the Historic Preservation Board finds that the application meets the applicable standards of Section 17.8, it shall issue a Certificate of Appropriateness, with or without conditions. If the action by the Historic Preservation Board is a denial or conditional approval, the Historic Preservation Board shall make findings of fact concerning the relationship between the application and the applicable standards of Section 17.8.~~

~~Written notice of the determination of the Historic Preservation Board on the application, including a copy of the findings of fact, if any, shall be sent by regular mail to the applicant within 14 days following its determination.~~

16.5.10 Notice of public meeting

A. For all ~~C~~certificate of A~~a~~ppropriateness applications for historic preservation review that are subject to Historic Preservation Board review, the applicant shall be responsible for posting a notice of public meeting sign on the property where the development is to occur. The dimensions, construction, and content of the sign shall be in accordance with standards established by the Planning Authority.

B. The sign shall be posted at least 10 days prior to the public workshop or hearing date, and shall be removed from the ~~site~~property no more than three days following the date of the meeting.

C. Once the required notice of public meeting signage is posted, the applicant shall submit a completed certification of posting form to the Planning Authority.

D. In the event that a required notice of public meeting sign is knocked over or made illegible, it shall be the responsibility of the applicant to promptly reset or replace the sign, though failure to do so shall not invalidate the review.

16.5.11 Conditions of approval

The Planning Authority or Historic Preservation Board may impose conditions upon its approval of any application for historic preservation review to

bring the application into compliance with the standards of Section 16.6.

16.5.12 ~~Issuance of~~ Historic preservation approval ~~certificate of appropriateness~~

A. The Planning Authority shall ~~issue the certificate of appropriateness within 14 days following~~ approve~~al~~ or approve~~al~~ with conditions by the Planning Authority or ~~proposed affirmative decision by~~ the Historic Preservation Board ~~becoming final~~.

~~B.~~ No historic preservation approval ~~Cc~~~~ertificate of Aa~~~~ppropriateness~~, building, demolition, or other permit shall be issued until all current charges due under this article have been paid. The balance of any remaining review and administrative costs invoiced or incurred after a permit has been issued shall be paid in full by the applicant ~~developer~~ prior the issuance of any temporary or permanent certificate of occupancy.

B. Prior to ~~issuance of any~~ historic preservation approval ~~Certificate of Appropriateness, any~~the applicant shall demonstrate sufficient right, title, or interest in the property, technical capacity, and financial capacity to complete any change proposed to be undertaken under the historic preservation approval~~Certificate of Appropriateness~~, upon reasonable request of the Planning Authority.

16.5.13 Expiration of approvals

A. Unless work authorized by a historic preservation approval ~~certificate of appropriateness shall be~~is commenced or a building permit for the same is issued within three years~~six months~~ of the initial date of ~~issuance of the~~ historic preservation approval, ~~certificate of appropriateness, the certificate of appropriateness~~ the approval shall expire and shall become null and void. ~~The Planning Authority may approve additional extensions of this six-month period, not to exceed a total of two years, provided that a written request for extension is received prior to the expiration date of the Certificate of Appropriateness.~~

B. When the approved work also requires a site plan approval under Article 13, the expiration of the historic preservation approval shall be concurrent with the expiration of the site plan approval, even if longer than three years.

~~A.~~C. In the event of litigation arising out of the granting of a ~~certificate of appropriateness~~ historic preservation approval, the approval ~~certificate~~ shall remain valid until one year after the entry of final judgment in the litigation or until the end of the three~~wo~~-year period, whichever is later.

~~C. An approval shall expire and become null and void upon the expiration of the authorization for the work, or for the development, under the applicable provisions of Chapter 6 of this Code of Ordinances or Articles 14 or 15.~~

~~16.5.13 Certificate of Non-Applicability~~

~~A. The Planning Authority shall issue a Certificate of Non-Applicability as to property subject to this article when requested to do so when:~~

~~1. The Planning Authority determines that none of the proposed work requires a Certificate of Appropriateness.~~

~~2. The Planning Authority determines that all of the proposed work is ordinary maintenance, restoration, or a combination thereof.~~

~~3. In the case of the alteration of a structure other than a landmark or of new construction within a district, where the Planning Authority determines that the proposed exterior changes to a structure are not readily visible at pedestrian heights from any public way. Where a Certificate of Appropriateness is required for such changes, a Certificate of Non-Applicability shall be issued upon request for those portions of the structure or structures not visible at such heights, provided, however, this paragraph shall not apply to alteration of a landmark or to any demolition.~~

~~4. After any appeal where the Historic Preservation Board, Planning Board or any court determines that paragraphs (1), (2) or (3) of this subsection are applicable.~~

~~B. The Planning Authority shall act upon any application for a Certificate of Non-Applicability within 14 days of receiving a complete written description of all work to be undertaken.~~

16.5.14 Amendments ~~to approved certificates of appropriateness~~

A. An applicant may apply for an amendment to a historic preservation approval by submitting an amendment application that includes a written statement of the proposed amendment, proposed amended plans, and related submittals to the Planning Authority.~~If at any time before or during work approved under the procedures set forth in this Section 17.7 the applicant requests minor amendments to approved work,~~

B. T~~t~~he Planning Authority is authorized to~~may~~ approve ~~such~~ minor amendments under the procedures set forth in Subsection ~~17.7.5~~16.5~~6~~.7, provided that the proposed~~such~~ amendments:

1. Are generally consistent with the approved plans,~~.~~
2. Meet all the standards for review of Section 16.6,
3. Do not modify the work such that Historic Preservation Board review would otherwise be required per Table 16-A, and~~.~~
~~1.~~4. Do not affect~~ will not result in a waiver or substantial alteration of the approval or~~ any condition or requirement of the Historic Preservation Board~~attached to the approval~~. ~~The applicant shall supply a written statement of the proposed amendment and amended plans or drawings to the Planning Authority. The decision of the Planning Authority as to whether an amendment may be reviewed under this subsection shall be final.~~

C. Major amendments include changes that exceed the limited criteria for a minor amendment under Subsection 16.5~~6~~.14(B). Review procedures shall follow those for a Historic Preservation Board review, set forth in Subsection 16.5.8.

~~16.5.15 Review process for demolition of landmarks or contributing structures within a district~~

~~A. Any applicant seeking demolition of a landmark or contributing structure must apply for a Certificate of Economic Hardship to the Board of Appeals in accordance with Section 17.9 of this article. Said application must be approved by the Board of Appeals before a demolition permit can be issued.~~

~~B. Any applicant seeking demolition of a noncontributing building as defined in this article may apply directly for a demolition permit without receiving approval from the Historic Preservation Board or a Certificate of Economic Hardship from the Board of Appeals.~~

~~C. Any applicant seeking demolition of a portion of a contributing or landmark structure may request that the Historic Preservation Board make a determination as to whether such portion of the structure is noncontributing based on the definition of that classification contained in this article. If the board determines the portion to be noncontributing, the applicant may apply directly for a demolition permit.~~

~~16.9~~16.6 STANDARDS FOR REVIEW OF APPLICATIONS FOR HISTORIC PRESERVATION REVIEW~~CERTIFICATE OF APPROPRIATENESS~~

16.6.1 Applicability

The following standards shall be applied in reviewing applications for historic preservation approval. When work falls under a set of standards, those standards shall apply to the project. Multiple sets of standards may apply to a single application depending on the proposed scope of work.

~~16.6.1~~16.6.2 Historic Resources Design Manual

A. The ~~Historic Preservation Board may provide further guidance on how to meet the~~ standards of this article are supplemented by~~in~~ the *Historic Resources Design Manual*.~~, which shall supplement this article.~~ The *Historic Resources Design Manual* ~~may include but need not be limited to maps and descriptions of landmarks and districts, a listing of properties which have been determined to be eligible for listing on the national register or for local designation, a glossary of terms and architectural styles,~~ may include~~s~~ descriptions, guidelines, and illustrations of how the standards of this article will be interpreted~~, and all designation ordinances, reports, and design guidelines~~. All provisions of the *Historic Resources Design Manual* shall be consistent with the standards of this article ~~and any designation ordinance adopted hereunder~~.

~~B.~~ Amendments to the *Historic Resources Design Manual* shall be adopted by the Historic Preservation Board following a public hearing. ~~forwarded to the City Council as a communication and shall become effective 45 days from the date on which said amendments are sent to the City Council, unless the City Council takes official action disapproving the amendments, in whole or in part, prior to the expiration of the 45 day period.~~

~~C.~~B. The *Historic Resources Design Manual* shall be maintained by the Planning Authority.

~~16.6.2~~16.6.3 Standards for review of alteration to contributing properties

In considering an application ~~for a Certificate of Appropriateness~~ involving alterations to contributing buildings, structures, site, or objects, the ~~Historic Preservation Board and the Planning Board~~reviewing authority shall approve ~~a~~ the application only upon finding that it meets the following standards ~~shall apply the following general standards, as further described in the *Historic*~~

~~*Resources Design Manual,* and any design guidelines accompanying the specific designation~~:

A. Compatible use. ~~In the case of a change of use of~~ When the use of a property ~~from its originally intended purpose~~ is being changed, e~~E~~very reasonable effort shall be made to ~~provide a compatible use for a property which requires~~ minimize the~~al~~ alteration of~~to~~ the character-defining features of the building, structure, object, or site. ~~and its environment as they relate to the original use or to use a property for its originally intended purpose.~~

B. Retain historic features. The distinguishing original qualities or character of ~~a~~ the building, structure, object, or site ~~and its environment~~ shall be retained and preserved. ~~not be destroyed.~~ The removal or alteration of any historic material or distinctive architectural features should be avoided when possible.

C. Historical accuracy. ~~All sites,~~The building, structure~~s~~, ~~and~~ object~~s~~, or site shall be recognized as a product~~s~~ of ~~their~~ its own time, place, and use. Alterations that have no historical basis or create a false sense of historical development, such as adding conjectural features or elements from other properties, shall not be undertaken. ~~discouraged.~~

D. Acquired significance. Changes which may have taken place in the course of time are evidence of the history and development of ~~a~~ the building, structure, object, or site. ~~and its environment.~~ Changes that have acquired significance in their own right shall be retained and preserved. ~~not be destroyed.~~

E. ~~Sensitive treatment~~Distinctive Features. Distinctive features, finishes, and construction techniques or examples of skilled craftsmanship which characterize ~~a~~ the building, structure, object, or site shall be retained and preserved. ~~treated with sensitivity.~~

F. Repair rather than replace. Deteriorated historic features shall be repaired rather than replaced wherever feasible. Where the severity of deterioration requires replacement of a distinctive feature, the new feature should match the feature being replaced in composition, design, texture, and other visual qualities and, where possible, materials. Repair or replacement of missing historic features should be based on accurate duplications of features, substantiated by documentary, physical, or pictorial evidence. ~~rather than on conjectural designs or the availability of different architectural elements from other structures or objects.~~

G. Surface cleaning. The surface cleaning of the building, structure~~s~~, ~~and~~ or object~~s~~, if appropriate, shall be undertaken with the gentlest means possible. Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be undertaken.

H. Archaeological resources. Every reasonable effort shall be made to protect and preserve significant archaeological resources affected by or adjacent to any project. If resources must be disturbed, mitigation measures shall be undertaken.

I. ~~Contemporary design and differentiation.~~ Differentiation and contemporary design. Alterations and additions shall not destroy the character-defining features of the building, structure, object, or site. New work shall be differentiated from the old and shall be compatible with the size, scale, color, material,

and character of the building, structure, object, or site. Contemporary design for alterations and additions ~~to existing properties~~ shall not be discouraged when such alterations and additions do not destroy significant ~~cultural, historical, architectural, or archaeological~~ materials or features that characterize the building, structure, object, or site. ~~property. The new work shall be differentiated from the old and shall be compatible with the size, scale, color, material, and character of the property, neighborhood or environment.~~

J. **Reversibility.** Wherever possible, new additions or alterations to the building, structure~~s~~, ~~and~~ object~~s~~, or site shall be undertaken in such a manner that, if such additions or alterations were to be removed in the future, the essential form and integrity of the ~~historic property~~ building, structure, object, or site would be unimpaired.

~~16.6.3~~16.6.4 Standards for review of additions and new construction

In considering an application ~~for a Certificate of Appropriateness~~ involving additions or new construction, the reviewing authority shall approve ~~a certificate of appropriateness~~the application only upon finding that it ~~the application~~ meets the following standards:~~Historic Preservation Board and the Planning Board shall apply the following general standards as may be applicable to the context of the proposed construction. The intent and application of the following standards are further described in the *Historic Resources Design Manual* and shall guide the board in its review~~.

A. Scale and form

1. *Height.* The ~~proposed~~ height of the addition or new construction shall be visually compatible with the contributing buildings, structures, objects, and sites of the historic designation ~~surrounding structures~~ when viewed from any street or public open space. ~~and in compliance with any design guidelines.~~
2. *Width.* The width of the addition or new construction ~~a building~~ shall be visually compatible with the contributing buildings, structures, objects, and sites of the historic designation ~~surrounding structures~~ when viewed from any street or public open space. ~~and in compliance with any design guidelines.~~
3. *Proportion of principal facades.* The relationship of the width to the height of the principal ~~elevations~~ facades shall be visually compatible with the contributing buildings, structures, objects, and sites of the historic designation when viewed from any street or public open space. ~~structures, public ways, and open spaces to which it is visually related.~~
4. *Roof shape~~s~~.* The roof shape of the addition or new construction ~~a structure~~ shall be visually compatible with the contributing buildings, structures, objects, and sites of the historic designation when viewed from any street or public open space. ~~the structures to which it is visually related.~~
5. *Scale ~~of a structure~~.* The size and mass of the addition or new construction ~~structures~~ in relation to open spaces, windows, door~~s openings~~, porches, and balconies shall be visually compatible with the contributing buildings, structures, objects, and sites of the historic

designation when viewed from any street or public open space. ~~structures, public ways, and places to which they are visually related.~~

~~*Applicability of the underlying zoning.* The review standards above shall not supersede the dimensional requirements of the underlying zoning. *to Congress Street Historic District.* In the Congress Street Historic District, for new construction within the B-3 zone, the Historic Preservation Board shall not impose conditions more restrictive than the dimensional requirements of the B-3 zone.~~

~~*Applicability to India Street Historic District.* For new construction within the India Street Historic District, the Historic Preservation Board shall not impose conditions more restrictive than the dimensional requirements of the IS-FBC zone, except for in the case of a building addition which proposes to change the height of a contributing historic structure.~~

~~*Applicability to the Portland Company Historic District.* For new construction within the Portland Company Historic District, the height requirements of the B-6 Building Height Overlay & Building Envelopes map shall be controlling and the Historic Preservation Board shall not impose conditions more restrictive than the building height requirements of the B-6 zone.~~

B. Composition of principal facades

1. *Proportion of openings*. The relationship of the width to height of windows and doors shall be visually compatible with the contributing buildings, structures, objects, and sites of the historic designation. ~~structures, public ways, and places to which the building is visually related.~~

2. *Rhythm of solids to voids ~~in facades~~*. The relationship of solids to voids in the principal facades ~~of a structure~~ shall be visually compatible with the contributing buildings, structures, objects, and sites of the historic designation. ~~structures, public ways, and places to which it is visually related.~~

3. *Rhythm of entrances, porches, and other projections or recesses*. The relationship of entrances, porches, and other projections or recesses to sidewalks shall be visually compatible with the contributing buildings, structures, objects, and sites of the historic designation. ~~the structures, public ways, and places to which they are visually related.~~

4. *Relationship of materials.* The relationship of the color and texture of materials (other than paint color) of the principal facades shall be visually compatible with the predominant materials used on the contributing buildings, structures, objects, and sites of the historic designation. ~~in the structures to which they are visually related.~~

5. ~~*Signs.* Any new sign, and any change in the appearance of an existing sign located on a landmark, within a historic district, or within an historic landscape district, which is readily visible from any street or open space shall not be incongruous to the historic character of the landmark or district and shall comply with the criteria and guidelines specified in the *Historic Resources Design Manual.*~~

C. Relationship to street

1. *Walls of continuity.* Facades and site ~~structures~~features, such as masonry walls, fences, and landscape masses, shall, when it is a characteristic of the ~~area~~context, form cohesive walls of enclosure along the ~~a~~ street to ensure visual compatibility with the contributing buildings, structures, objects, and sites of the historic designation. ~~structures, public ways, and places to which such elements are visually related.~~

2. *Rhythm ~~of~~ and spacing ~~and structures on~~ along streets.* The relationship of the addition or new construction ~~a structure or object~~ to the open space between it and ~~adjoining~~ adjacent buildings, structures, ~~or~~ objects, or sites shall be visually compatible with the contributing buildings, structures, objects, and sites of the historic designation. ~~structures, objects, public ways, and places to which it is visually related.~~

3. *Directional expression of principal facades. ~~elevation.~~* ~~A structure~~The addition or new construction shall be visually compatible with the ~~structures, public ways, and places to which it is visually related in its~~ directional character of the contributing buildings, structures, objects, and sites of the historic designation, whether this be vertical character, horizontal character, or nondirectional character.

4. *Streetscape~~,~~ and pedestrian improvements.* Streetscape and pedestrian improvements and any change in the appearance thereof located adjacent to any addition or new construction ~~or on a landmark, within a historic district, or within a historic landscape district which is readily visible from any street or open space~~ shall not be incongruous with the contributing buildings, structures, objects, and sites of the historic designation. ~~to the historic character of the landmark or district and shall comply with the criteria and guidelines specified in the *Historic Resources Design Manual.*~~

~~D. Other standards~~

~~1. *Compatible use.* In the case of a change of use of a property from its originally intended purpose, eEvery reasonable effort shall be made to provide a compatible use for a property which requires minimalize the alteration toof the character defining features of the structure, object, or site and its environment or to use a property for its originally intended purpose as they relate to the original use.*Distinguishing original character.* The distinguishing original qualities or character of a structure, object, or site and its environment shall not be destroyed. The alteration of any historic material or distinctive architectural features should be avoided when possible.~~

~~2. *Archeological resources.* Every reasonable effort shall be made to protect and preserve significant archaeological resources affected by or adjacent to any project. If resources must be disturbed, mitigation measures shall be undertaken.~~

~~3. *Contemporary design.* Contemporary design for additions to existing properties shall not be discouraged when such alterations and additions do not destroy~~

~~significant cultural, historical, architectural, or archaeological materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the size, scale, material, and character of the property, neighborhood and environment.~~Contemporary design for additions to existing properties shall not be discouraged when such alterations and additions do not destroy significant cultural, historical, architectural, or archaeological materials that characterize the property.

~~4. *Additions.* Wherever possible, new additions to structures and objects shall be undertaken in such a manner that, if such additions were to be removed in the future, the essential form and integrity of the structure would be unimpaired.~~

~~16.6.4~~16.6.5 Standards for review of alterations and additions to ~~or redesign of~~ noncontributing ~~structures~~properties

~~A.~~ In considering an application for ~~a certificate of appropriateness involving~~ alteration~~(s)~~ or additions to a noncontributing building, structure, object, or site, the ~~standards for review of alterations set forth in Subsection 17.8.2 shall apply as applicable. The~~ intent of the review shall be ~~to ensure no further erosion of any existing architectural character of the subject structure determined to be significant by the Planning Authority or Historic Preservation Board and, where practicable,~~ to guide projects toward a more compatible relationship with the surrounding context using .

~~B.~~A. ~~In considering an application for a Certificate of Appropriateness involving comprehensive redesign of a noncontributing structure,~~ the standards for review of additions and new construction set forth in Subsection ~~17.8.3~~16.6.47 ~~shall apply.~~

~~16.6.5~~16.6.6 Standards for review of relocation

In ~~acting upon~~considering an application ~~for a Certificate of Appropriateness~~ involving relocation of a building, structure, or object, the reviewing authority shall approve the application only upon finding that it meets the following standards~~the Historic Preservation Board and the Planning Board shall apply the following general standards and any design guidelines in the ordinance designating the landmark or district~~:

A. Whether the historic or urban design character and aesthetic interest of the building, structure, or object contribute to its present setting.
B. If located within a district, whether there are definite plans for the area to be vacated and what the effect of those plans is on the character of the surrounding area. In such cases, consideration of additional design guidelines for construction to be imposed as a condition of approval is appropriate.
C. Whether the relocation of the building, structure, or object can be accomplished without significant damage to its physical integrity.
D. Whether the proposed relocation area is compatible with the cultural, historical or architectural character of the building, structure, or object.

~~16.6.6~~16.6.7 Standards for review of signage

In considering an application ~~for a Certificate of Appropriateness~~ involving the installation or modification of sign(s) the reviewing authority shall approve the application only upon finding that it meets the following standards:~~, including awning(s) which incorporate signage,~~

A. ~~s~~Signs shall be compatible with the subject building, structure, object, and sites. ~~and its surrounding context as detailed in the signage design guidelines included in the *Historic Resources Design Manual*.~~

B. Signs shall be installed in such a manner as to minimize damage to contributing buildings, structures, objects, and sites.

~~A.~~C. If there is a conflict between this standard and the requirements of Article 19, the stricter standard shall apply.

~~16.10~~16.7 CERTIFICATE OF ECONOMIC HARDSHIP

16.7.1 Applicability

A. Any applicant who has received a denial under this article or is seeking demolition of a ~~landmark or a~~ contributing building, structure, object, or site ~~within a district~~ may apply ~~make application~~ for a certificate of economic hardship from the Board of Appeals.

B. The application shall be submitted to the Planning Authority, together with the applicable fee. In the case of a denial, the application shall be submitted within 60 days of the denial.

~~C. The Planning Authority shall transmit a copy of the application to the Board of Appeals, with copies to the Planning Board and the Historic Preservation Board, within 14 days following receipt of a properly completed application.~~

16.7.2 Standard to be applied

A. The Board of Appeals shall approve an application for a certificate of economic hardship only upon a determination that the denial of ~~approval of~~ the proposed activity or ~~of~~ the proposed demolition will result in the loss of all reasonable use of the building, structure, object, or site. ~~as required by Subsections 17.9.5 and 17.9.7.~~

B. Where the condition of the building, structure, object, or site is claimed to prevent any reasonable use, the applicant shall establish that such condition is not the result of the acts of neglect of the owner or their predecessors in title under Section 16.8~~9~~.

~~D. In applying this standard, the Board of Appeals shall consider among other things any evidence presented concerning the following:~~

~~1. Any opinions from a licensed engineer or architect with experience in renovation, restoration, or rehabilitation as to the structural soundness of the structure and its suitability for continued use, renovation, restoration, or rehabilitation.~~

~~2. Any estimates of the cost of the proposed alteration, construction, demolition, or removal and an estimate of any additional cost that would be incurred to comply with the recommendations of the Planning Board for changes necessary for it to be approved.~~

~~3. Any estimates of the market value of the property in its current condition; after completion of the proposed alteration, construction, demolition, or removal; after any expenditures necessary to comply with the recommendations of the Planning~~

~~Board for changes necessary for it to approve a Certificate of Appropriateness; and in the case of a proposed demolition, after renovation of the existing structure for continued use.~~

~~4. In the case of a proposed demolition, any estimates from architects, developers, real estate consultants, appraisers, or other real estate professionals experienced in rehabilitation as to the economic feasibility of restoration, renovation, or rehabilitation of any existing structures or objects.~~

16.7.3 Information to be supplied by applicant

A. The applicant shall submit by affidavit the following information, which shall constitute an application ~~for an application to be considered to be complete~~:

1. The assessed value of the property and/or the building, structure, object, or site ~~in the case of a demolition~~ for the two most recent assessments.
2. Real property taxes paid for the previous two years.
3. The amount paid for the property by the owner, the date of purchase, and the party from whom purchased, including a description of the relationship, if any, between the owner and the person from whom the property was purchased.

~~4. The current balance of any mortgages or any other financing secured by the property and the annual debt service, if any, for the previous two years.~~

~~5.~~4. All appraisals obtained within the previous two years ~~by the owner or applicant in connection with purchase, offerings for sale, financing, or ownership of the property, or state that none were obtained~~.

~~6.~~5. All listings of the property for sale or rent, price asked and offers received ~~, if any,~~ within the previous four years ~~, or state that none were obtained.~~

~~7.~~6. All studies commissioned by the owner as to profitable renovation, rehabilitation, or utilization of any buildings, structures, ~~or~~ objects, or site on the property for alternative use ~~, or a statement that none were obtained~~.

~~8.~~7. For income-producing property, itemized income and expense statements from the property for the previous two years.

8. Professional assessment from a licensed engineer or architect with experience in rehabilitation of historic buildings, structures, objects, and sites as to the structural soundness of the building, structure, object, or site and its suitability for continued use, or rehabilitation.

9. Estimate of the cost of the ~~proposed~~ alteration, construction, demolition, or removal proposed by the applicant.

10. ~~and an e~~Estimate of ~~any additional~~ cost that would be incurred to address findings of fact provided by the reviewing authority in issuing a denial of the application for historic preservation review. ~~comply with the recommendations of the Planning Board for changes necessary for it to approve a certificate of appropriateness.~~

~~9.~~11. A statement of the minimum extent of work necessary to allow reasonable use of the building, structure, object, or site.

~~10. Form of ownership or operation of the property, whether sole proprietorship, for~~

~~profit or not for profit corporation, limited partnership, joint venture, or other.~~

B. In the event that the information required to be submitted by the applicant is not reasonably available or attainable, the applicant shall file with the affidavit a statement of the information that cannot be obtained and shall describe the reasons why such information is unavailable.

C. The Planning Authority may request that third-party reviewers with applicable expertise to review materials provided by the applicant and prepare a report on their analysis of the application materials. In these cases, the cost of the third-party review shall be charged to the applicant.

~~C.~~D. ~~Notwithstanding the submission of the above information, t~~The ~~Historic Preservation~~ Board of Appeals may require additional evidence or supporting materials to inform their decision on the application~~as provided in Subsection 17.7.4(G)~~.

16.7.4 ~~Public hearing~~Review

~~A.~~ The Board of Appeals shall hold a workshop or public hearing on the application within 30 days following receipt of ~~the~~a complete~~d~~ application ~~form~~. ~~Where the application requests the demolition of a landmark or a contributing structure within a district, the public hearing shall not be held less than 90 days following receipt of the completed application, unless the applicant makes a clear showing that the delay will result in undue hardship of a unique or exceptional character which could not reasonably be or have been avoided. Upon such a showing, the Planning Authority may waive all or any part of the 90-day period and schedule the hearing before the board. Undue hardship shall not include mere inconvenience or incidental financial loss. No such waiver shall be granted without the Planning Authority giving best practical notice to all persons entitled to notice of the hearing.~~

~~B.~~A. ~~Where the application requests the demolition of a landmark or a contributing structure within a district, the Planning Authority shall promptly notify any persons interested in historic preservation, who have registered in writing with him or her, give notice by mail to all owners of property within 500 feet of the structure, and shall require that the applicant immediately place a notice, to be supplied by the building official, in a prominent place on the structure and to maintain it there at all times during the pendency of the demolition application. The notice shall state that the structure has been proposed to be demolished by its owner and provide contact information for further information. The failure to give any notice required hereunder shall not affect the validity of any action taken by the Planning Authority or the Board of Appeals.~~

~~C.~~B. The Planning Authority ~~Board~~ may provide a report or any other information, documentation or evidence or request the Historic Preservation Board to assist the Board of Appeals in considering the extent of variance necessary~~, an appropriate incentive plan,~~ or reasonable condition to be imposed.

~~D.~~ The Board of Appeals may continue a proceeding for such additional time as it reasonably takes an applicant, any other interested person, the Historic Preservation Board, or the Planning Board to comply with a request for additional information or evidence.

The applicant shall be afforded the right to present rebuttal evidence.

~~E. Determination by the Board of Appeals~~

~~F.~~C. The determination by the Board of Appeals shall be made within 3045 days following close of the public hearing ~~and submission of all information, documentation, or evidence requested by the board~~. The determination shall be accompanied by findings of fact.

~~D. The Board of Appeals shall not grant approval of an application involving demolition unless the board determines, upon clear and convincing evidence, that one or more of the following circumstances apply:~~

~~1. The structure is not subject to this article.~~

~~2. Denial of a demolition permit would result in a hardship to the property owner so great that it would effectively deprive the owner of all reasonable use of the structure. The extent of any demolition permitted shall be limited to the amount necessary to allow reasonable use of the structure. Where the condition of the structure is claimed to prevent any reasonable use, the applicant shall establish that such condition is not the result of the acts or neglect of the owner or his predecessors in title occurring in whole or in part after August 1, 1988.~~

~~16.7.5 Disapproval by Board of Appeals~~

~~If the determination of the Board of Appeals is to disapprove the application for a Certificate of Economic Hardship, the applicant shall be notified within five business days. The notice shall include a copy of the findings of fact and report.~~

~~16.7.6~~16.7.5 ~~Determination of no reasonable use~~Issuance

A. If the determination of the Board of Appeals is that ~~the~~a denial of the historic preservation review application ~~certificate of appropriateness~~ or the prohibition on demolition under Ssubsection 16.3.6(B) has resulted in the ~~denial~~ loss of all reasonable use of the building, structure, object, or site~~or the entire property in the case of new construction,~~ then the certificate of economic hardship shall be issued by the Planning Authority within ~~9~~3o days following the determination ~~unless during that time the City Council approves an incentive plan pursuant to Subsection 17.9.8~~.

B. Certificates of economic hardship shall:

1. Limit the scope of work to the minimum extent necessary to allow reasonable use of the building, structure, object, or site; and
2. Not allow for the beginning of any demolition work until the necessary approvals and permits have been attained to allow for the rehabilitation, alteration, or replacement of the building, structure, object, or site.

~~E.~~C. Certificates of economic hardship shall be valid for a period of three years from the date of the determination by the Board of Appeals.

~~F. A copy of the determination of the Board of Appeals, together with the findings of fact, shall be mailed to the applicant and filed with the City Clerk, the Planning Board, and the Historic Preservation Board within 14 days following the determination of economic hardship.~~

~~G.~~D. Certificates of e~~E~~conomic h~~H~~ardship shall not be transferable from the applicant to another subsequent owner of the same property.

~~Incentive plan~~

~~H.~~E. ~~The purpose of an incentive plan is to provide a mechanism to allow a reasonable use without the demolition of the complete structure or important architectural elements. The Planning Board, in cooperation with the Historic Preservation Board and the owner, may prepare a report and recommend to the Board of Appeals an incentive plan to assure reasonable use of the structure. This incentive plan may include, but is not limited to, loans or grants from the City of Portland or other public or private sources; acquisition by purchase or eminent domain; building and safety code modifications to reduce cost of maintenance, restoration, rehabilitation, or renovation; changes in applicable zoning regulations, including a transfer of development rights; or relaxation of the provisions of this article sufficient to allow reasonable use of the structure.~~

~~City Council consideration of incentive plan~~

~~I. Upon receipt of a report from the Board of Appeals recommending an incentive plan to assure reasonable use of the property, the City Council shall give prompt consideration to the determination of economic hardship and the report of the board, including the recommended incentive plan. The City Council shall approve or disapprove the incentive plan determined by the Board of Appeals to allow reasonable use of the structure within 90 days following the determination by the Board of Appeals.~~

~~J. A copy of the ordinance enacted by the City Council, together with the incentive plan, if any, shall be mailed to the applicant and transmitted to the Board of Appeals, the Planning Board, and the Historic Preservation Board within five business days following the enactment of the ordinance.~~

~~Issuance of Certificate of Economic Hardship~~

~~K.~~F. ~~Upon receipt by the Board of Appeals of a copy of City Council action disapproving an incentive plan, or upon failure of the City Council to act to either approve or disapprove an incentive plan within the time specified, the Board of Appeals shall approve a Certificate of Economic Hardship to the applicant within 30 days. The certificate may be subject to conditions including design guidelines for subsequent new construction not inconsistent with the standards set forth in this article and the *Historic Resources Design Manual*. The Certificate of Economic Hardship shall be valid for a period of 120 days from approval by the Board of Appeals, except as provided in Subsection 17.9.7 where an incentive plan has been proposed. Certificates of Economic Hardship shall not be transferable from the applicant to another subsequent owner of the same property.~~

~~L. Upon presentation by the applicant of a valid Certificate of Economic Hardship to the Planning Authority, the Certificate of Appropriateness shall be issued to the applicant within 14 days.~~

~~16.11~~16.8 MAINTENANCCE

16.8.1 ~~Preservation~~ Maintenance of protected structures

A. All ~~landmarks, and all~~ contributing buildings, structures, objects, and sites ~~located in an historic district,~~ shall be preserved against decay and deterioration by being kept free from the following structural defects by the owner and any other person or persons who may have legal custody and control thereof:

1. Deteriorated or inadequate foundation which jeopardizes its structural integrity.
2. Defective or deteriorated floor supports or any structural members of insufficient size to carry imposed loads with safety which jeopardize its structural integrity.
3. Members of walls, partitions, or other vertical supports that split, lean, list, or buckle due to defective material or deterioration which jeopardize its structural integrity.
4. Structural members of ceilings and roofs, or other horizontal structural members, which sag, split, or buckle due to defective materials or deterioration or are of insufficient size to carry imposed loads with safety which jeopardize its structural integrity.
5. Fireplaces or chimneys which list, bulge, or settle due to defective material or deterioration or are of insufficient size or strength to carry imposed loads with safety which jeopardize its structural integrity.
6. Lack of weather protection which jeopardizes the structural integrity of the walls, roofs, or foundation.

B. The owner or such other person shall repair such building, ~~object, or~~ structure, ~~or~~ object, or site within a specified period of receipt of a written order by the Planning Authority to correct defects or repairs to any building, structure, ~~or~~ object, or site as provided by Subsection 16.8.1(A) above, so that such building, structure, ~~or~~ object, or site shall be preserved and protected from further deterioration in accordance with the purposes of this article.

C. Any such order shall be in writing, shall state the actions to be taken with reasonable particularity and shall specify dates for compliance, which may be extended by the Planning Authority for reasonable periods to allow the owner to secure financing, labor or materials.

~~16.12~~16.9 PENALTIES

16.9.1 Fines for violation

Failure to perform any act required by this article or performance of any act prohibited by this article or of any conditions or any approvals ~~certificate~~ issued hereunder shall constitute a violation and be subject to a fine as provided in 30 A M.R.S. §4452. Each day on which there is failure to perform a required act or on which a violation exists shall constitute a separate violation for purposes of this section.

16.9.2 Withholding of future approvals

Where the applicant has done work or caused work to be done not ~~on a structure or a property for which a Certificate of Appropriateness is sought and such work is either not done~~ in compliance with an approval received under this article or ~~was performed~~ without the approvals required under this article, no new application for a historic

preservation review ~~a certificate of appropriateness such structure or property~~ shall be considered ~~by the Planning Authority or by the Historic Preservation Board~~for the ~~site or~~ building, structure, object, or site associated with the violation until the work done without approval is brought into compliance with the requirements of this article. ~~The Historic Preservation Board may waive this requirement if the Historic Preservation Board determines that the work does not alter the essential character of the structure or district and one or more of the following standards are also met:~~

~~The work was needed to bring a building into conformance with any building or safety code.~~

~~The applicant can demonstrate a good faith belief that necessary approvals had been received for the work at issue prior to the commencement of the work.~~

~~The applicant can demonstrate a good faith belief that the work done was not subject to review under this article.~~

16.9.3 Additional penalties for willful violation or gross negligence

A. In addition to the penalties authorized by Subsections ~~17.11.1~~16.9~~10~~.1 and 16.9~~10~~.2, a violation which is intentional, or occurs through gross negligence, shall be subject to the following provisions:

1. No permit shall be issued under Chapter 6 of this Code of Ordinances for any alteration or new construction affecting such property for a period of five years following the last date of the violation, other than permits necessary to correct the violation. However, upon presentation of evidence satisfactory to the Planning Authority that the violation has been corrected, any remaining portion of the five-year prohibition on issuance of a permit may be waived.
2. For a period of 25 years, any alteration or new construction on the property shall be subject to this article, whether or not any remaining building, structure, ~~or~~ object, or site on the property continues to have the cultural, historical, architectural, or archaeological character and integrity that caused it to be nominated or designated as a landmark or part of a district.
3. As a condition for any new land use approval, the owner may be required to rebuild, ~~reconstruct, restore,~~ or replicate the building, structure, ~~or~~ object, or site on the property.

B. ~~Paragraphs (A)(1) and (2)~~ Subsection 16.9.3(A) above shall not apply to violations which are limited to noncontributing buildings, structures, objects, or sites.

~~**16.9.4 Other remedies**~~

~~Notwithstanding the provisions of Subsections 17.11.1 and 17.11.2, the City may institute appropriate proceedings in law and equity to prevent or remedy any violation of this article.~~

~~**16.9.5 Liberal construction of article**~~

~~This article shall be liberally applied and construed to effectuate the purpose of preservation set forth in Section 17.1.~~

~~**16.9.6 Exception for dangerous buildings**~~

~~This article shall not apply to any structure which has been ordered demolished by the municipal officers or a court, in accordance with 17 M.R.S. §~~

~~2851 et seq., its equivalent, as it may be amended from time to time, or to any structure which has been partially destroyed and is determined by the Planning Authority to represent an immediate hazard to the public health or safety, which hazard cannot be abated by reasonable measures specified by the Planning Authority, including without limitation securing apertures and/or erecting fencing.~~

~~16.13~~16.10 APPEALS

The applicant, or any person who has participated in opposition to the application and demonstrates a particularized harm caused by the approval of any application associated with this article, may appeal that decision in accordance with Article 2.

~~18~~17 HOUSING

~~18.1~~17.1 HOUSING PRESERVATION AND REPLACEMENT

~~18.1.1~~17.1.1 Purpose

The purpose of the housing preservation and replacement ordinance is:

A. To promote and facilitate an adequate supply of housing, particularly affordable housing for all economic groups.

B. To limit the net loss of housing units in the city.

C. To preserve housing in zones where housing is permitted in the city for all residents in order to promote the health, safety, and welfare of its citizens.

~~18.1.2~~17.1.2 Applicability

A. Except as otherwise provided in this section, the housing preservation and replacement ordinance shall apply to the loss of three or more dwelling units in a five-year period, provided that such dwelling units were a legally registered residential use as of July 1, 2002. For the purposes of this section, dwelling units shall be as defined in Article 3, but also include rooming units that people rent in or sleep in within lodging houses, dormitories, shelters, and sheltered care group homes.

B. Except as otherwise provided in this section, the housing preservation and replacement ordinance shall also apply to proposals that result in the loss of fewer than three dwelling units which were legally registered residential use as of July 1, 2002 for the purposes of creating surface parking.

C. For the purposes of this section, loss of dwelling units shall mean the elimination or conversion to nonresidential use of a dwelling unit and dwelling units that remain vacant for three years or more or are lost due to demolition unless the vacancy or demolition results from accidents outside of the owner's control, fire, natural disasters, or acts of war.

D. Determination of number of the dwelling units within a structure or structures and the number of units lost will be based on the records of the Building Authority indicating the legal, registered use of the property since July 1, 2002 through the time of application. The actual use of the property for purposes of applicability of this section may be rebutted by the owner by proof of documentary evidence including but not limited to photographs, letters, and sworn affidavits. The Planning Authority may conduct its own investigation of the actual use and shall determine the applicability of this section based on the totality of the evidence.

~~18.1.3~~17.1.3 Exemptions

This section does not apply to:

A. Consolidation, elimination, or reconfiguration of one or more dwelling units within an existing structure, as long as all the resulting units remain as dwelling units after such consolidation, elimination, or reconfiguration, except as provided by (E) below. Conversion of a dwelling unit to a hotel or motel room shall not qualify for the exemption provided by the paragraph.

~~**B.** Proposals that result in a number of units equal to or greater than the number of units lost as determined by the Planning Authority.~~

~~**C.**~~**B.** Legally nonconforming dwelling units existing in zones which no longer permit residential uses.

~~D.~~C. Property which has been ordered demolished by the City, pursuant to 17 M.R.S. § 2851, et seq., as amended, except where it is determined by the Building Authority that the deterioration was caused by neglect or lack of maintenance.

~~E.~~D. Paragraph (A) above notwithstanding, the conversion to a nonresidential use of any dwelling units located on the ground floor of a building within a mixed-use zone.

~~18.1.4~~17.1.4 Planning Authority approval required

Notwithstanding any other provision of this section, a proposal to demolish or to convert three or more dwelling units to a nonresidential use in a zone where such use is otherwise permitted must first obtain approval from the Planning Authority. In addition to any other requirements of the Land Use Code, the applicant must submit a statement certifying the number of dwelling units to be demolished or converted to nonresidential use, as well as a description of the characteristics of each of those units.

~~18.1.5~~17.1.5 Tenant notification requirements

Prior to elimination as a result of demolition or conversion to nonresidential use, the owner shall:

A. Provide the Planning Authority a list containing the name of each tenant currently residing in the dwelling units to be demolished or converted to nonresidential use, as well as verification of compliance with tenant notice requirements of this subsection.

B. Deliver to each tenant who occupies such a dwelling unit a written notice to vacate the unit. The notice shall either be sent by certified mail, return receipt requested, or served in-hand. The notice will grant the tenant not less than 90 days from the date of receipt of the notice to vacate the unit.

C. File proof of service of the notice with the Planning Authority.

~~18.1.6~~17.1.6 Housing replacement requirements

A. The Planning Authority shall require, as a condition of approval, that an owner shall replace any dwelling units that are demolished or converted to nonresidential use.

B. This requirement may be satisfied in any one of the following ways, which may be used in combination:

1. *Construction of units.* The construction of housing units within a new structure or a new addition either on site or off-site.

2. *Residential conversion.* The conversion of a nonresidential building to residential use.

~~18.1.7~~17.1.7 Replacement unit requirement

In addition to the foregoing, all replacement units built pursuant to Subsection ~~18~~17.1.6.B above shall:

A. Be located within the same United States census block group as the parcel from which the dwelling units are being removed or within 1,500 feet of the dwelling units being removed.

B. Not previously have been on the market as of the date of application.

C. Be situated within a development which has not been a candidate for site plan approval as of the date of the application.

D. Be comparable in size to the units replaced. For the purpose of this section, "comparable in size" means that the aggregate size of the replacement units will be no less than 80% of

the size of the aggregate of the original units to be replaced and a similar bedroom mix.

~~18.1.8~~17.1.8 Contribution to the Housing Trust Fund

A. The applicant may meet the requirements of this housing replacement ordinance by depositing $50,000 for each dwelling unit into the City's Housing Trust Fund.

B. Beginning on January 1, 2004 and annually thereafter, the amount of the contribution shall be adjusted by multiplying this amount originally deposited for each unit by a fraction, the denominator of which shall be the "Consumer Price Index for Urban Wage Earners and Clerical Workers ("CPI-W")," U.S. City Average, "All Items Index," as published by the United States Bureau of Labor Statistics ("the index") for January 1, 2003 year, and the numerator of which shall be the index for the same month in each subsequent year. In the event that the index is not then in existence, the parties shall use such equivalent price index as is published by any successor governmental agency then in existence, or, if none, then by such nongovernmental agency as may then be publishing an equivalent price index, in lieu of and adjusted to the index. If the index shall cease to use 1982-84 equals 100 as the basis of calculation, or if a substantial change is made in the terms or number of items contained in the index, the base index shall be adjusted to conform to such change, using such computation thereof, if available, as shall be employed by the United States Department of Labor in computing same. Notwithstanding anything herein to the contrary, contributions made after January 1, 2004 shall not be less than the amount originally required to be deposited for each rooming or dwelling unit.

~~18.1.9~~17.1.9 Performance guarantee

Owners or affiliates must post a performance guarantee in the form of a letter of credit, or other security acceptable to the City attorney, in the amount equivalent to the amount the applicant would have been required to contribute to the City's Housing Trust Fund if the applicant had chosen that option pursuant to Subsection ~~18~~17.1.8. Such a performance guarantee shall be valid for no more than three years, after which the full amount due shall be provided to the City's Housing Trust Fund if replacement units satisfying the conditions of this housing replacement ordinance do not have certificates of occupancy.

~~18.1.10~~17.1.10 Partial waiver of replacement requirements

A. Any owner who has applied for site plan review for elimination or conversion to nonresidential use of dwelling units may apply to the Zoning Board of Appeals for a partial waiver from the housing replacement requirements of this section. Such waiver may be a downward adjustment of up to 50% of the owner's housing replacement obligation if the owner establishes to the board's satisfaction that:

1. The proposed development is consistent with the Comprehensive Plan.
2. The proposed development provides significant value and benefit to the immediate and surrounding neighborhood, including, but not limited to, community enhancement, social benefits or job creation.

3. The applicant demonstrates with objective evidence that the imposition of the requirements of this section would impose such an economic burden upon the project relative to its scope that it renders the project impossible to develop.
4. The requested relief does not constitute a grant of a special privilege inconsistent with the limitations upon similar properties.

B. The Zoning Board of Appeals must make positive findings on each of the four criteria above in order for any such adjustment to be valid. An applicant aggrieved of a decision of the Zoning Board of Appeals may appeal a decision under this subsection pursuant to the provisions of Article 2.

~~18.1.11~~17.1.11 Effect of other City ordinances

A. Nothing in this section shall permit the demolition or conversion to nonresidential use of dwelling units in residential property protected by Article ~~17~~16, except as permitted by that ordinance.

B. A conditional zone may not be used to circumvent the application of this section. The terms of this section shall apply to any conditional zone which involves dwelling units affected by this section. Notwithstanding the foregoing, nothing herein shall be deemed to prevent the City and the applicant from agreeing to terms which exceed those imposed by this section by means of a conditional zone.

~~18.1.12~~17.1.12 Appeals

Any applicant aggrieved by a decision of the Planning Authority under this section may appeal to the Zoning Board of Appeals within 30 days of that decision.

~~18.2~~17.2 AFFORDABLE HOUSING

~~18.2.1~~17.2.1 Purpose

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~~ Therefore, the purpose of this section ~~therefore~~ is to offer incentives to developers to include units of affordable ~~and workforce~~ housing within development projects~~, thereby mitigating the impact of market rate housing construction, or~~ and to require the ~~demonstrated increase in~~ inclusion of affordable housing ~~needs resulting from the creation of new lower-income jobs, 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~~units in development projects in certain contexts. In so doing, this section will assist the city in meeting ~~the City's~~its comprehensive goals for affordable housing, in preventing 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.

17.2.2 Affordable housing incentives

A. Eligible projects. Under this subsection, eligible projects shall include any development project:

1. That is permissible under the provisions of this Land Use Code in the zone in which it is proposed.
2. That creates new dwelling units, among which is at least one low-income or workforce housing unit for rent or sale,

through new construction, substantial alteration of existing structures, adaptive reuse or conversion of a nonresidential 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.

~~17.2.2~~ Reduction of fees

~~A.~~ ~~.~~ Notwithstanding any other provision of this Land Use Code or Chapter 6 to the contrary, development fees ~~shall be reduced by the City for an eligible project in the manner described in Table 18-A.~~

~~B.~~ ~~Development fees shall include:~~

~~1.~~ ~~Site~~, including site plan review and inspection fees~~.~~

~~2.~~ ~~Subdivision~~, subdivision review and inspection fees~~.~~

~~3.~~ ~~Impact~~, impact fees, administrative fees~~.~~

~~4.~~ ~~Administrative fees.~~

~~5.~~ ~~Construction~~, and construction and permit fees as described in Chapter 6 of the City of Portland Code of Ordinances~~.~~

TABLE 17-A: AFFORDABLE HOUSING FEE REDUCTIONS

% of New Units That are Low-Income or Workforce	Development Fee Discount	Cost of Work (Building Permit) Fees
10% up to but not including 15%	10% reduction	$9.90 per $1,000
15% up to but not including 20%	15% reduction	$9.35 per $1,000
20% up to but not including 25%	20% reduction	$8.80 per $1,000
25% or more	25% reduction	$8.25 per $1,000

B. , shall be reduced by the City for an eligible project in the manner described in Table 17-A. Development fees do not include any fees charged for review conducted by any party other than the City~~.~~.

~~C.~~ ~~Eligible project shall mean a development project:~~

~~TABLE 18-A: AFFORDABLE HOUSING FEE REDUCTIONS~~

~~% of New Units That are Low-Income or Workforce~~	~~Development Fee Discount~~	~~Cost of Work (Building Permit) Fees~~
~~5% up to but not including 10%~~	~~5% reduction~~	~~$10.50 per $1,000~~
~~10% up to but not including 15%~~	~~10% reduction~~	~~$9.90 per $1,000~~
~~15% up to but not including 20%~~	~~15% reduction~~	~~$9.35 per $1,000~~
~~20% up to but not including 25%~~	~~20% reduction~~	~~$8.80 per $1,000~~
~~25% or more~~	~~25% reduction~~	~~$8.25 per $1,000~~

~~1.~~ ~~That is permissible under the provisions of this Land Use Code in the zone in which it is proposed.~~

~~2.~~ ~~That will be a single-family or multi-family dwelling, or subdivision consisting of a group of dwellings, and will not be located in an R-1 or R-2 zone.~~

~~3.1.~~ ~~That creates new dwelling units, among which is at least one low income or workforce housing unit for rent or sale, through new construction, substantial rehabilitation of existing structures, adaptive reuse or conversion of a nonresidential 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.~~

~~4. Projects shall not be considered "eligible projects" solely because they are subject to Subsection 18.2.3.~~

~~D.~~ **Expedited review.** The Planning Authority shall perform its review of an eligible project in as expedited a manner as is practical, without impairing the scope or thoroughness of the review. The Planning Authority may adopt administrative procedures to prioritize review of eligible projects and facilitate this expedited review.

TABLE 17-B: BONUSES FOR ELIGIBLE PROJECTS

% Low-income or Workforce Units	Density Permitted[1]
10-19%	1.1 x base
20-29%	1.25 x base
30-49%	1.3 x base
50-74%	2.5 x base
>75%	2.5 x base

[1] "Base" is the number of units allowed under the zoning without this bonus but with any other bonuses applied.

~~E.~~**C.** The Planning Board shall make its best efforts to give priority in scheduling workshops and public hearings related to any plans or applications required for an eligible project that are within the Planning Board's jurisdiction, without impairing the scope or thoroughness of its review. At the conclusion of these public meetings, the Planning Board shall promptly issue a decision on all such plans and applications before it for consideration.

D. Density bonuses. Notwithstanding any other provision of this Land Use Code to the contrary, in order to encourage low-income and workforce units in areas prioritized for growth, eligible projects as defined under Subsection 17.2.2 may avail themselves of the following options:

1. *Density bonuses.* The maximum number of units that would otherwise be allowed under this Land Use Code shall be increased for an eligible project in the manner described in Table 17-B, applicable where residential is allowed as a permitted or conditional use in mainland zones.
2. *Height bonuses.* In mixed use zones, the TOD zones, and the RN-6, for eligible projects in which over 75% of units are low-income or workforce units, maximum heights as permitted under Article 7 shall be increased by 10 feet.
3. *Unit size.* In order to be eligible for this subsection, the low-income and workforce housing units must meet Subsections 17.2.3(C)(2), (3), and (4).
4. *Term of affordability.* Affordable units under this subsection shall be deed-restricted to remain affordable for 30 years or the longest term permitted under federal, state, and local laws, whichever is longer. Such deed restrictions shall be recorded in the Cumberland County Registry of Deeds.

~~18.2.3~~17.2.3 Ensuring workforce housing

~~F.~~**A. Purpose.** Based on the City's Comprehensive Plan and the City's 2015 housing study, 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 subsection 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.

~~G.~~B. **Applicability.** This subsection shall apply to ~~development projects~~site plan applications that create ten or more ~~net~~ new dwelling units for rent or for sale through new construction, substantial ~~rehabilitation~~alteration of existing structures, adaptive reuse or conversion of a nonresidential use to residential use, or any combination of these elements~~, with the exception that projects using public financing requiring affordability restrictions, as defined by tax increment financing, U.S. Department of Housing and Urban Development funds such as HOME or CDBG, other federal, state, or local housing program, or the Low-income Housing Tax Credit program, shall be considered exempt.~~. This subsection shall not apply to projects that otherwise meet or exceed the standards of 17.2.3(C).

~~H.~~C. **Standards.** Development projects subject to this subsection shall ~~be subject~~meet to the following requirements:

~~1. Notwithstanding any language to the contrary in this Land Use Code, 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 subsection, unless they are within the India Street Form-Based Code Zone, in which case the review will be conducted administratively or by the Planning Board in accordance with the thresholds of site plan review for the district.~~

~~2.~~1. At least 25% of the units in the project shall meet the definition of workforce housing unit for sale or for rent as defined in Article 3. The project shall have the option of paying a partial fee-in-lieu as per (~~6~~5) below or providing an additional unit on-site for any fractional value.

~~3.~~2. 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~~.

~~4.~~3. Workforce units must be integrated with the rest of the development, must use a common entrance~~,~~ in the case of mixed market rate and workforce buildings, must

TABLE 17-C: MINIMUM TERM OF AFFORDABILITY FOR REQUIRED WORKFORCE UNITS

% of Workforce Units Provided	Minimum Term of Affordability
25%	30 years
50%	20 years
100%	10 years

provide no ~~indications~~indication from ~~common~~the exterior or from areas inside the respective buildings that these units are workforce housing units~~.~~, and must demonstrate general parity in unit design, finishes, and amenities between market and workforce units in the development. Applications shall include a narrative that addresses parity of workforce and market rate units, a description of workforce and market rate unit attributes and amenities, phasing if applicable, and integration into the respective building and site design.

~~5.~~4. Workforce units need not be the same size as other units in the development but the

~~TABLE 18-B: MINIMUM TERM OF AFFORDABILITY FOR REQUIRED WORKFORCE UNITS~~

~~% of Workforce Units Provided~~	~~Minimum Term of Affordability~~
~~25%~~	~~30 years~~
~~50%~~	~~20 years~~
~~100%~~	~~10 years~~

cumulative number of bedrooms in such units~~, either on- or off-site,~~ shall be no less than ~~10 percent~~25% of the total number of bedrooms in the development. ~~For the purposes of calculating the number of bedrooms in a development, every 400 square feet in each market-rate unit will count as a bedroom if the Planning Authority determines this method is appropriate in lieu of counting actual bedrooms.~~

~~6.~~5. As an alternative to providing workforce 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. The fee for affordable units not provided shall be $150,000 per unit, adjusted annually in the same way as the fee under Subsection ~~18~~17.1.8.

~~7.~~6. Workforce housing units for sale, if converted to workforce housing units for rent, shall become subject to the income limits and other requirements of such units.

~~8. If at least 33% of the units in a development are workforce units, the development is eligible for subsidy through an Affordable Housing TIF, subject to City Council approval.~~

~~9.~~7. The term of affordability for the required 25% workforce units provided shall be defined as shown in Table ~~18-B~~17-C.

~~I. Implementing regulations. Regulations to further specify the details of this subsection shall be developed, including, but not limited to:~~

8. ~~Specific methodology~~Projects shall be subject to an affordable housing agreement with the City of Portland, unless a project is otherwise subject to such an agreement requiring an equal or greater percentage of affordable units at an equal or lower income target level than required by this section.

D. **Density and height bonuses.** Projects that are subject to this subsection shall be eligible for density and height bonuses under Subsection 17.2.2(D).

~~1.~~E. **Implementation guidance.** The Housing & Economic Development Department shall provide guidance on income verification~~.~~ methods, affordable housing agreements, and subsequent monitoring requirements.

~~2. Situations where less than permanent affordability might be considered.~~

~~3. Guidelines for meeting the requirement that off-site units be "in the same neighborhood."~~

~~E.~~F. **Reporting to City Council.** In conjunction with the annual report on the Housing Trust Fund, the Planning Authority shall annually report on developments subject to this subsection, the number of units produced, the amount of fee-in-lieu collected, and the overall effectiveness of this subsection in achieving its stated purpose.

17.2.4 Density and dimensional bonuses and reductions

Notwithstanding any other provision of this Land Use Code to the contrary, in order to encourage low income and workforce units in designated growth areas, eligible projects as defined under Subsection 18.2.2 may avail themselves of the following options:

A. Density and dimensional bonuses. The maximum number of units that would otherwise be allowed under this Land Use Code shall be increased for an eligible project in the manner described in Table 18-C, applicable where multi-family is allowed as a permitted or conditional use, with the exception of the I-B zone. Other dimensional bonuses related to height and setbacks shall only be applicable in in the B-1/B-1b, B-2/B-2b/B-2c, B-3/B-3b/B-3c, B-5, R-7, and R-P zones.

TABLE 18-C: BONUSES FOR ELIGIBLE PROJECTS

% Low-income or Workforce Units	Density Permitted[1]	Additional Height Permitted[2]	Setback Reductions[3]
10-19%	1.1 x base	N/A	N/A
20-29%	1.2 x base	10 ft.	N/A
30-49%	1.3 x base	10 ft.	5 ft.
50-74%	2.5 x base	15 ft.	5 ft.
> 75%	2.5 x base	25 ft.	10 ft.

[1] "Base" is the number of units allowed under the zoning without this bonus but with any other bonuses applied. In R-P zones, multifamily is permitted with a "base" no less than 1 unit per 1,500 SF of land area.

[2] The maximum additional height permitted in the B-1/B-1b zones and the R-P zone shall be 15 feet. In addition, the maximum structure height is 50 feet within 750 feet of the Portland Observatory.

[3] Setback reductions are absolute reductions in front, side, and/or rear setback requirements. The maximum setback reductions in the B-1/B-1b and R-P zones shall be 5 ft.

B. Planned Residential Unit Developments (PRUDs). In the R-3, R-5, and R-5a zones, any PRUD in which more than 50% of the units are low income or workforce units for rent or for sale may utilize the following dimensional bonuses and changes:

1. The maximum number of units that would otherwise be allowed under this land use code shall be increased by 2.5.
2. Maximum number of units and maximum length of buildings do not apply but may be set through site plan review.
3. Minimum building setbacks may be reduced to 10 feet.
4. The PRUD may cross public rights of way provided that the right of way does not count towards minimum lot size nor towards any open space requirements.
5. Minimum recreation open space area is reduced to 200 square feet per dwelling unit of common area designated for recreational purposes by the residents. Minimum contiguous size and setbacks do not apply and shall be set through site plan review.
6. The Planning Board's *Design Manual*, design standards, and guidelines with respect to PRUDs shall apply in full to PRUDs utilizing this subsection.

C. Unit size. In order to be eligible for this subsection, the low income and workforce housing units must meet Subsections 18.2.3(C)(3), (4), and (5).

D.1. Term of affordability. Affordable units under this section shall be deed-restricted to remain affordable for 30 years or the longest term permitted under federal, state, and local laws, whichever is longer. Such deed restrictions shall be recorded in the Cumberland County Registry of Deeds.

~~E. Required public process.~~ ~~The developer of the project must also commit to a good faith effort to communicate openly with affected properties as their process moves forward. At a minimum, no less than 30 days prior to application for site plan review, any project that wishes to take advantage of this subsection must hold a public meeting noticed to all properties within 500 feet of their site and post a sign on the property in question describing the proposed project, intent to submit an application to the City in 30 days (cite anticipated submission date), and contact information for the developer and the Planning Authority. The Planning Board may adopt regulations regarding the content and processes for noticing as part of the *Technical Manual*.~~

~~F. Projects under 18.2.3.~~ ~~Projects that are subject to Subsection 18.2.3 that choose to provide the required workforce housing units on site are eligible for a 25% increase in total permitted units. If an eligible project as defined under Subsection 18.2.2 is also subject to Subsection 18.2.3, the applicant shall have the option of utilizing either this bonus or any bonuses they are eligible for under Subsections 18.2.4(A) and (B) but not both.~~

~~18.2.5~~17.2.4 Inclusionary zoning for hotel projects

A. Purpose. This subsection is based on City analysis, most specifically the analysis documented in the Greater Portland Council of Government study *Proposed Hotel Linkage Fee: Supportable Range* dated August 29, 2018, that finds that new hospitality developments create a need for new affordable housing. This need is the result of the fact that hospitality developments necessarily create a number of jobs that do not pay employees at a rate sufficient to allow those employees to afford market-rate housing in the City of Portland.

B. Hotel projects. For the purposes of this subsection, hotel projects shall include any hotel as defined in Article 3 consisting of 10 or more guest rooms for rent~~.~~ to transient guests or to extended stay guests of up to six months. Any expansion of an existing hotel by 10 or more rooms within any five-year period will also be considered a hotel project.

~~C. Hotel projects conditional uses.~~ ~~Notwithstanding anything to the contrary in this Land Use Code, all hotel projects are conditional uses subject to Planning Board review on the condition that they comply with the requirements of this Subsection 18.2.5.~~

~~D.~~C. **Low-income housing minimum.** All hotel projects shall provide one unit of low-income housing for rent in the City of Portland for every 28 rooms in the hotel project, which shall meet the standards outlined in Subsections ~~18~~17.2.3(C)(2), (3), ~~(4),~~ and (5~~4~~) and in the implementing regulations governing low-income units. Such units shall contain two bedrooms and be a minimum of 900 SF in floor area. This amount shall be rounded up to the nearest increment of 28 rooms. These units shall be deed restricted for the longest period permitted by law, shall not be used for short-term rentals of less than 30 days, and must be provided with distinct entrances from the street to delineate them from the hotel itself.

~~E.~~D. **Fee-in-lieu alternative.** As an alternative to providing low-income housing units under Subsection ~~18~~17.2.5(D) above, a hotel project

may pay a fee-in-lieu of $3,806 per hotel guest room. This amount shall be paid into the City's Housing Trust Fund and used for the purposes set forth in the ordinance and regulations applicable to that trust.

~~F.~~E. **Annual adjustments.** The amounts in Subsection ~~18~~17.2.5(E) above shall be adjusted annually in the same way as the fee under Section ~~18~~17.1.8.

F. ~~**Regulations.** The Planning Board may promulgate implementing regulations based on this subsection.~~ **Implementation guidance.** The Housing & Economic Development Department shall provide guidance on income verification methods, affordable housing agreements, and subsequent monitoring requirements.

~~18.3~~17.3 JILL C. DUSON HOUSING TRUST FUND

~~18.3.1~~17.3.1 Purpose

The purpose of enacting this section is:

A. To establish a City of Portland Housing Trust Fund for the promotion, retention, and creation of an adequate supply of housing, particularly affordable housing, for all economic groups and to limit the net loss of housing units in the city.

B. To serve as a vehicle for addressing very low, low, and ~~median~~moderate income housing needs through a combination of funds as set out in this article.

~~18.3.2~~17.3.2 Establishment of the Jill C. Duson Housing Trust Fund

The City Council shall establish a special revenue account under the name "City of Portland Jill C. Duson Housing Trust Fund" (Housing Trust Fund). Deposits into the fund shall include:

A. Contributions from the City's housing replacement ordinance under Subsection ~~18~~17.1.8.

B. In-lieu fees under Subsections ~~18~~17.2.3 and ~~18~~17.2.5.

C. Funds appropriated to be deposited into the fund by vote of the City Council.

D. Voluntary contributions of money or other liquid assets to the fund.

E. Any federal, state, or private grant or loan funds provided to the fund.

F. Interest from fund deposits and investments.

G. Repayments of loans made from the fund.

~~18.3.3~~17.3.3 Management of the trust fund

The City Manager, or ~~his or her~~their designee, shall serve as the manager of the Housing Trust Fund. The responsibilities of the manager, subject to the orders of the City Council, shall include:

A. Maintaining the financial and other records of the Housing Trust Fund.

B. Disbursing and collecting Housing Trust Fund monies in accordance with the Housing Trust Fund annual plan.

C. Monitoring the use of monies distributed to successful applicants for Housing Trust Fund support to assure on-going compliance with the purposes of the fund and the conditions under which these monies were granted or loaned.

~~18.3.4~~17.3.4 Housing Trust Fund annual plan

A. Each fiscal year, the City Council shall adopt a Housing Trust Fund annual plan. The City Manager shall submit to the City Council a recommended Housing Trust Fund annual plan, utilizing the revenues of the Housing Trust Fund as well as any other funds the manager

may propose as appropriate. The housing committee of the City Council or such other committee as the council shall designate shall conduct public hearings on the recommended plan and refer the matter to the council for action.

B. The Housing Trust Fund annual plan shall include:

1. A description of all programs to be funded in part or in full by the Housing Trust Fund.

2. A description of how funds from the Housing Trust Fund will be distributed among very low-income, low-income and moderate-income households.

3. The amount of funds budgeted for programs funded in part or in full from the Housing Trust Fund.

C. Priority for the expenditure of funds collected pursuant to Section ~~18~~17.1 shall be given to the creation of new housing stock, through either new construction or conversion of nonresidential buildings to residential use.

~~18.3.5~~17.3.5 Distribution and use of the Housing Trust Fund's assets

A. All distribution of principal, interest, or other assets of the Housing Trust Fund shall be made in furtherance of the public purposes set out in Section ~~18~~17.1.

B. During each year, the Housing Trust Fund shall disburse as grants or loans so much of the Housing Trust Fund's assets as the City Council in its discretion has approved in the Housing Trust Fund annual plan.

C. Funds shall not be used for City administrative expenses.

D. Funds shall not be used for property operating expenses or supporting services.

E. No grants or loans shall be awarded by the Housing Trust Fund to corporations, partnerships, or individuals who are delinquent at the time of application in the payment of property taxes or other fees to the City of Portland, who have been convicted of arson, who have been convicted of discrimination in the sale or lease of housing under the fair housing laws of the State of Maine, or who have pending violations of current City electrical, plumbing, building, or housing codes or zoning ordinances.

~~18.3.6~~17.3.6 Term of affordability

A. Whenever funds from the Housing Trust Fund are used for the acquisition, construction, or substantial rehabilitation of an affordable rental or cooperative unit, the City of Portland shall impose enforceable requirements on the owner of the housing unit that the unit remain affordable for the remaining life of the housing unit, assuming good faith efforts by the owner to maintain the housing unit and rehabilitate it as necessary. The remaining life of the housing unit shall be presumed to be a minimum of 30 years.

B. Whenever funds from the Housing Trust Fund are used for the acquisition, construction, or substantial rehabilitation of ownership housing, the City of Portland shall impose enforceable resale restrictions on the owner to keep the housing unit affordable for the longest feasible time, while maintaining and equitable balance between the interests of the owner and the interests of the City of Portland.

C. The affordability restriction requirements described in this subsection shall run with the land and the City of Portland shall develop

appropriate procedures and documentation to enforce these requirements and shall record such documentation in the Cumberland County Registry of Deeds.

~~18.4~~17.4 CONDOMINIUM CONVERSION

~~18.4.1~~17.4.1 Purpose

The purpose of this section is to regulate the conversion of rental housing to condominiums, to minimize the potential adverse impacts of such conversion on tenants, to ensure that such converted housing is safe and decent, and to maintain a reasonable balance of housing alternatives within the city for persons of all incomes.

~~18.4.2~~17.4.2 Applicability

This section shall apply to the conversion of any rental unit to a condominium unit. For the purposes of this section, developer shall mean any person or other legal entity, but not including an established lending institution unless it is an active participant in a common promotional scheme, who, whether acting as principal or agent, records a declaration of condominium that includes real estate, any portion of which was previously a rental unit.

~~18.4.3~~17.4.3 Protection of tenants

A. Notice of intent to convert. A developer shall give to each tenant, meaning any occupant in lawful possession of a rental unit, whether by lease, sublease, or otherwise, written notice of intent to convert at least one 120 days before the tenant is required by the developer to vacate. If a tenant has been in possession of any unit within the same building for more than four consecutive years, the notice period shall be increased by 30 additional days for each additional year, or fraction thereof, to a maximum of 240 additional days. The notice shall set forth specifically the rights of tenants under (A), (B), and (C) of this subsection and Subsection ~~18~~17.4.4, and shall contain the following statement:

If you do not buy your apartment, the developer of this project is required by law to assist you in finding another place to live and in determining your eligibility for relocation payments. If you have questions about your rights under the law, or complaints about the way you have been treated by the developer, you may contact the Department of Permitting & Inspections, City of Portland, 389 Congress Street, Portland, Maine 04101.

B. If the notice specifies a date by which the tenant is required to vacate, the notice may also serve as a notice of termination under the applicable law of forcible entry and detainer, if it meets the requirements thereof. The notice shall be hand delivered to the tenant or mailed, by certified mail, return receipt requested, postage prepaid, to the tenant at the address of the unit or such other address as the tenant may provide. The notice shall be effective when actually received. No tenant may be required by a developer to vacate without having been given notice as required herein, except for the reasons specified in the applicable law of forcible entry and detainer, and in accordance with the procedures thereof. The terms of a tenancy, including rent, may not be altered during the notice period, except as expressly provided in a preexisting written lease. If, within 120 days after a tenant is required by a

developer to vacate, the developer records a declaration of condominium without having given notice as required herein, the developer shall be presumed to have converted in violation of this article.

C. **Option to purchase.** For a 60-day period following the giving of notice as required in Subsection ~~18~~17.4.3(A), the developer shall grant to the tenant an exclusive and irrevocable option to purchase the unit of which the tenant is then possessed, which option may not be assigned. If the tenant does not purchase or contract to purchase the unit during the 60-day period, the developer may not convey or offer to convey the unit to any other person during the following 180 days at a price or on terms more favorable than the price or terms previously offered to the tenant, unless the more favorable price or terms are first offered exclusively and irrevocably to the tenant for an additional 60-day period. This subsection shall not apply to any rental unit that, when converted, will be restricted exclusively to nonresidential use. If, within two years after a developer records a declaration of condominium, the use of any such unit is changed such that but for the preceding sentence, this subsection would have applied, the developer shall be presumed to have converted in violation of this article.

~~18.4.4~~17.4.4 Relocation payments

If the tenant does not purchase the unit, the developer shall, before the tenant is required by the developer to vacate, make a cash payment to the tenant in an amount equal to the amount of rent paid by the tenant for the immediately preceding two months, provided that this requirement shall not apply to any tenant whose gross income exceeds 80% of the median income of the Portland SMSA, adjusted for family size, as determined by the U.S. Department of Housing and Urban Development at the time notice is given as required in Subsection ~~18~~17.4.3. Additionally, the developer shall, upon demand, provide assistance to the tenant in the form of referrals to other reasonable accommodations and in determining the tenant's eligibility for relocation payments as provided herein.

~~18.4.5~~17.4.5 Conversion permit

Before conveying or offering to convey a converted unit, the developer shall obtain a conversion permit from the Building Authority. The permit shall issue only upon receipt of a completed application therefore in a form to be devised for that purpose, payment of a fee of $25,000 per converted unit, to be adjusted annually in the same way as the fee under Chapter 14, Section ~~18~~17.1.8 of this code, at least $1,000 of which shall be appropriated to the Housing Safety Office for the administration and enforcement of the Rent Stabilization Ordinance, Chapter 6, Articles XII and XIII of this code, and the remainder of which shall be paid into the Jill C. Duson Housing Trust Fund, and a finding, upon inspection, that each unit, together with any common areas and facilities appurtenant thereto, is in full compliance with all applicable provisions of Chapter 6, Articles II, III, and V and Chapter 10, Article II of the City of Portland Code of Ordinances, and the Life Safety Code as adopted by the state. The developer shall post a copy of the permit in a conspicuous place in each unit and shall make copies available to prospective purchasers upon request.

~~18.4.6~~17.4.6 Variation by agreement

No provision of or right conferred by this Section ~~18~~17.4 may be waived by a tenant, by agreement or otherwise, and any such waiver shall be void. Any attempt to require, encourage, or induce a tenant to waive any provision hereof, or right conferred hereby, shall be a violation of this article. Nothing herein shall be construed to void any term of a lease which offers greater rights than those conferred hereby.

~~18.5~~17.5 RELOCATION OF DISPLACED TENANTS

~~18.5.1~~17.5.1 Purpose

The purpose of this section is to encourage the retention of a diverse housing supply throughout the downtown and in areas readily accessible to the downtown, to ensure that persons displaced as the result of redevelopment of residential units to nonresidential uses within the B-3 Downtown Business zone are treated fairly and consistently, and to ensure that persons so displaced will be relocated at the reasonable expense of the developer to comparable housing at a location providing comparable access to services and amenities.

~~18.5.2~~17.5.2 Notice and eligibility for relocation assistance

When a proposed development will result in the displacement of residents of an existing structure, the developer of the property shall give all tenants written notice as set forth below and shall provide relocation assistance as set forth below for any tenant whose gross income is 80% or less of the median income of the Portland SMSA, adjusted for family size, as determined by the U.S. Department of Housing and Urban Development at the time the developer gives the tenant written notice of intent to cause removal of the residential unit. Such written notice shall be given to the tenant at least 120 days before the tenant shall be required to vacate the premises and shall contain the following statement:

> *The developer of this project is required by law to assist you in finding another place to live and in determining your eligibility for relocation payments. If you have questions about your rights under the law, or complaints about the way you have been treated by the developer, you may contact the Department of Planning and Urban Development, City of Portland, 389 Congress Street, Portland, Maine 04101.*

~~18.5.3~~17.5.3 Relocation assistance for all tenants

The developer shall provide, upon demand, assistance to all tenants who will be displaced by the development in the form of referrals to other reasonable accommodations and in determining the tenants' eligibility for relocation payments as provided herein. The developer shall make relocation payments to eligible tenants in accordance with the schedule adopted by the City Council in Subsection ~~18~~17.5.4.

~~18.5.4~~17.5.4 Schedule of relocation payments for eligible tenants

The developer shall, before the tenant is required by the developer to vacate, make a cash payment to the tenant in an amount equal to the amount of rent paid by the tenant for the immediately preceding two months.

~~19~~18 OFF-STREET PARKING & LOADING

18.1 OFF-STREET PARKING

18.1.1 General

Off-street parking, either by means of structured or surface spaces, in addition to being a permitted principal use in certain zones, shall be considered as an accessory use when ~~required or~~ provided to serve principal uses. The provisions of this article shall apply to parking as an accessory use.

~~**18.1.2 Uses requiring off-street parking**~~

18.1.2 ~~Except as provided in Table 19-B and as provided elsewhere in this article, minimum off-street parking requirements shall be as provided in Table 19-A. For any use not listed in Table 19~~**No vehicle parking spaces required**

Off-street vehicle parking is not required. However, a Transportation Demand Management Plan is required for certain development actions and uses, per Section 13.6.1.

18.1.3 Vehicle parking maximums

A. Table 18-A establishes the maximum number of off-street parking spaces that may be provided for each designated use. In some cases, uses that are considered part of a larger generic use category may be listed with specific parking maximums. These specific uses are listed only for the purposes of this article, and do not indicate whether such uses are permitted or conditional within any zone.

B. In the TOD zones, the maximum total number of off-street parking spaces permitted shall be reduced by 25%.

C. Certain uses listed within Table 18-A are not subject to parking maximums, and are indicated as such where applicable.

~~A.~~D. For any use not listed in Table 18-A, the parking provisions for the most similar use, as determined by the Building Authority or the Planning Authority, shall apply.

A. Exemptions.

1. The waterfront zones in Article 10 shall not be subject to parking maximums.

2. In any zone, spaces reserved any required accessible parking spaces in compliance with the standards of the Americans with Disabilities Act (ADA) shall not be included in the calculation of parking maximums.

B. Permission to exceed parking maximums.

1. A parking maximum may be exceeded by up to 25% if one or more of the following conditions are met:

a. 10% of the total parking spaces provided are available for public use 24 hours a day, seven days a week.

b. 20% of the total number of spaces are provided as shared spaces, available for public use from 8:00 a.m. to 6:00 p.m., Monday through Friday.

c. 20% of the total number of spaces are provided as shared spaces, available for public use from 6:00 p.m. to 8:00 a.m., seven days a week.

2. When public use spaces are provided in order to exceed a parking maximum, the following shall apply:

a. When located within a parking structure, public use spaces shall be located within the first two floors of the structure.

b. Signs shall be provided indicating the availability and location of public use spaces.

c. Shared spaces not available to the public 24 hours a day, seven days a week shall be clearly marked, indicating the hours of availability for public use.

3. A parking maximum may be exceeded without the provision of public use spaces if the reviewing authority findings that a parking study provided by the applicant demonstrates that the number of spaces is necessary for the proposed use of the site.

~~18.1.3~~18.1.4 Rules of calculation

A. Basis of calculation. The maximum number of parking spaces allowed is calculated based upon the principal use or uses of the lot. When two or more principal uses are located on the same lot, the maximum number of spaces is the sum of the separate standards for each use.

~~A.~~**B. Floor area.** Unless otherwise stated, ~~all~~ square footage ~~based~~ for off-street parking standards shall be computed based on ~~the basis of~~ gross floor area ~~used or intended to be used for service to customers, patrons, clients, or patients. It need not include floors or parts of floors used principally for non-public purposes, such as bulk storage, cellar, or food preparation areas. These provisions notwithstanding, the "floor area" used as the basis for computing off-street parking requirements shall never be less than 80% of the total gross floor area.~~.

~~B.~~**C. Fractions.** Any fraction ~~greater than or equal to 0.5 will be rounded up to the nearest whole number. Any fraction less than 0.5 will~~ shall be rounded down to the nearest whole number.

~~C. Multiple uses. When two or more principal uses or separate establishments are located within the same lot, off-street parking shall be provided for each principal use or separate establishment according to Table 19-A, unless joint use is approved under Subsection 19.1.5.~~

D. Accessory uses. Off-street parking shall not be calculated separately for accessory uses.

~~**TABLE 19-A: OFF-STREET PARKING MINIMUMS**~~

	~~Vehicular~~	~~Bicycle~~
~~**Single-, two-, or multi-family units**~~	~~1 space/ dwelling unit~~	~~2 spaces/5 units~~
~~**Lodging house**~~	~~1 space/5 rooming units[3]~~	
~~**Special needs independent dwelling unit**~~	~~1 space/4 dwelling units, plus 1 space/staff member normally present at any one time~~	
~~**Sheltered care group home**~~	~~1 space/2 employees~~	
~~**Congregate care facilities**~~	~~1 space/3 dwelling units~~	
~~**Emergency shelters**~~	~~1 space/2 employees~~	~~2 spaces/10 vehicle parking spaces for the first 100 vehicle spaces required, plus 1 space/20~~
~~**Long-term, extended care, and intermediate care facilities**~~	~~1 space/5 beds, plus 1 space/employee normally present during weekday morning shift~~	

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Governmental uses	1 space/400 SF of floor area	vehicle parking spaces thereafter[4]
Hospitals and clinics	1 space/500 SF of floor area	
Places of assembly	1 space/150 SF of floor area used for assembly purposes[2]	
Preschool facilities	1 space/staff member normally present at any one time	
Schools	For students up to 15 years: 1 space/room used for instruction purposes	
	For students 16 years and older: 1 space/10 seats used for instruction purposes or, if no fixed seats, 1 space/100 SF used for instruction purposes	
Bed and breakfasts	1 space/2 guest rooms for first 4 guest rooms, plus 1 space/additional room thereafter[3]	
General offices	1 space/400 SF of floor area	
Hostels	1 space/8 beds or, if within ¼ mi. of a transit stop, 1 space/12 beds	
Hotels	1 space/4 guest rooms	
Retail	1 space/200 SF of first floor area in excess of 2,000 SF, plus 1 space/700 SF for each floor above	
Restaurants and bars	1 space/150 SF of floor area	
Theaters, performance halls, funeral homes	1 space/5 seats or, if no fixed seats, 1 space/100 SF of assembly space	
Industrial uses	1 space/1,000 SF of floor area in excess of 3,000 SF not including area catering to retail	

[1] Except in the R-5 zone, where the requirement shall be 1 space/2 rooming units.
[2] Except for neighborhood centers which primarily serve clientele from the surrounding neighborhood, where the parking requirement shall be 1/1,000 SF of floor area
[3] Except in the I-B zone, where no off-street parking shall be required for beds and breakfasts.
[4] Development with under 10 required vehicular parking spaces shall provide at least two bicycle parking spaces.

TABLE 19-B: CATEGORICAL EXCEPTIONS TO OFF-STREET PARKING MINIMUMS

Categorical Vehicular Exceptions	
Major site plans	The Planning Board shall establish the off-street parking requirement based on a parking study.
Affordable housing	2 spaces are required for every 3 units, except that the Planning Board may establish a less parking requirement regardless of the size of the structure.
Multi-family housing	The Planning Board may establish a parking requirement that is less than the normally required number of spaces upon a finding of unique conditions that result in a lesser parking demand, such as housing for persons who cannot drive, housing that participates in a Transportation Demand Management program, or housing which includes permanent restrictions on automobile usage, and which is permanently restricted from utilizing resident on-street parking stickers.
Historic structures	No off-street parking in excess of that existing on or servicing the lot as of March 15, 1999 shall be required.[1]
Accessory Dwelling Units	No off-street parking shall be required.

Transit proximate development and uses	No off-street parking shall be required within ¼ mile of fixed route transit service. New uses or changes of use of more than 10,000 SF taking advantage of this exception shall be required to provide a Transportation Demand Management Plan if they use this provision in lieu of parking requirements.
Residential uses	No off-street parking shall be required for the first four dwelling units, not counting accessory dwelling units, except as otherwise specified herein.

Zone-Based Vehicular Exceptions

Residential	Nonresidential
IR-1/I-B	Off-street parking requirements for nonresidential uses shall be reduced by 75%.
IR-3	No off-street parking required.
R-OS	Off-street parking shall be adequate to serve projected employee and visitor needs.
B-2/B-2b/B-2c	For changes of use of 10,000 SF or less, no off-street parking shall be required for nonresidential uses.[2]
IS-FBC	No off-street parking required for first three dwelling units.For changes of use of 10,000 SF or less, no off-street parking shall be required for nonresidential uses.[2]
B-3	No off-street parking required for changes of use.
B-5	No off-street parking required.
B-6	Off-street parking requirement shall be determined based on a parking study.
B-7	Off-street parking requirement shall be determined based on a parking study.
Waterfront Zones	Off-street parking requirements shall be reduced by 50%. No off-street parking required in the WCZ.

[1] Exception applies for uses within any contributing structure in a local or national register historic district or locally-designated or national register landmark building under Article 17. However, parking may not be decreased from that existing on or servicing the lot on March 15, 1999 except to the extent necessary to meet the requirements of the Americans with Disabilities Act.

[2] If the number of existing parking spaces serving the site is less than the requirements of this article, that number of parking spaces may not be reduced lower than the required amount prior to the change of use except to the extent necessary to meet the requirements of the Americans with Disability Act, to the extent it is a requirement or a condition of site plan review, or to the extent the change of use requires less parking than the previous use and the total number of parking spaces serving the site exceeds the parking requirements of this article for all uses on the site including the change of use. A newly constructed building, a building addition, or a change of the use of a building exceeding 10,000 SF of floor area, shall provide parking as required by this article.

TABLE 18-A: OFF-STREET PARKING MAXIMUMS AND MINIMUM BICYCLE PARKING REQUIREMENTS

	Maximum vehicle spaces	Minimum bicycle spaces
Adult business establishments	1 per 300 SF of floor area	Over 5,000 SF of floor area: 1 per 1,500 SF of floor area
Agriculture	No maximum	--
Airports	No maximum	--
Animal-related services	1 per 300 SF of floor area	Over 5,000 SF of floor area: 1 per 1,500 SF of floor area
Auto, boat, and related dealerships	1 per 300 SF of indoor sales and display area + 6 per service bay	--
Auto service stations	1 per 250 SF of retail floor area + 4 per service bay	--
Bars	1 per 100 SF of indoor floor area + 1 per 300 SF of outdoor seating area	Over 5,000 SF of floor area: 1 per 1,500 SF of floor area
Bed and breakfasts	2 spaces + 1 per guest room	2 spaces
Boathouses and storehouses for fishing equipment	1 per 200 SF of floor area	--
Campgrounds	1.5 per campsite	--
Cemetery	1 per 100 SF of floor area (office and/or chapel/parlor)	--
Child care centers + small child care facilities	1 per 300 SF of floor area	Over 5,000 SF of floor area: 1 per 1,500 SF of floor area
Clinics	No maximum	Over 5,000 SF of floor area: 1 per 1,500 SF of floor area
Communication studios	1 per 300 SF of floor area	Over 10,000 SF of floor area: 1 per 2,500 SF of floor area
Construction and engineering services	1 per 300 SF of floor area	Over 5,000 SF of floor area: 1 per 1,500 SF of floor area
Cultural facilities	1 per 300 SF of floor area	1 per 2,000 SF of floor area
Dairies	1 per 300 SF of floor area	--
Dwelling, residential	2 spaces per dwelling unit	*Multi-family:* 1 per 2 dwelling units *Other:* none
Elementary, middle, and secondary schools	*Elementary/middle school:* 6 per classroom + 4 per office *High school:* 10 per classroom + 4 per office	1 per 2 classrooms
Emergency shelters	1 per 200 SF of office floor area	--

TABLE 18-A: OFF-STREET PARKING MAXIMUMS AND MINIMUM BICYCLE PARKING REQUIREMENTS

	Maximum vehicle spaces	Minimum bicycle spaces
Exhibition, meeting, and convention halls	1 per 20 persons at maximum capacity	1 per 100 persons at maximum capacity
Food and seafood processing, packing, and distribution	1 per 500 SF of floor area	--
Funeral homes	1 per 100 SF of floor area	Over 5,000 SF of floor area: 1 per 1,500 SF of floor area
General offices	1 per 200 SF of floor area	Over 5,000 SF of floor area: 1 per 1,500 SF of floor area
General services	1 per 300 SF of floor area	Over 5,000 SF of floor area: 1 per 1,500 SF of floor area
Governmental uses	No maximum	--
Greenhouse/nursery (retail)	1 per 250 SF of indoor office/retail sales floor area + 1 per 10,000 SF of growing/stock area (indoor + outdoor)	--
Group home	1 per rooming unit	1 per 4 rooming units
High-impact industrial uses	1 per 500 SF of floor area up to 40,000 SF, then 1 per 2,500 SF of additional floor area (excludes any outdoor storage area)	--
Hospitals	No maximum	1 per 100 beds
Hostels	1 per 4 beds	--
Hotels	1.5 per guest room	--
Impound lots	1 per 200 SF of office floor area	--
Intermodal transportation facilities	*Passenger facilities:* 1 per 500 SF of floor area *Freight facilities:* 1 per 200 SF of office floor area	Over 10,000 SF of floor area: 1 per 2,500 SF of floor area
Laboratory and research facilities	1 per 300 SF of floor area	Over 10,000 SF of floor area: 1 per 2,500 SF of floor area
Lodging house	1 per rooming unit	1 per 4 rooming units
Low impact industrial	1 per 200 SF of floor area	Over 5,000 SF of floor area: 1 per 1,500 SF of floor area
Lumber yards	1 per 200 SF of floor area	--
Marijuana cultivation facilities	1 per 500 SF of floor area up to 40,000 SF, then 1 per 2,500 SF of additional floor area (excludes any outdoor storage area)	Over 10,000 SF of floor area: 1 per 2,500 SF of floor area

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TABLE 18-A: OFF-STREET PARKING MAXIMUMS AND MINIMUM BICYCLE PARKING REQUIREMENTS

	Maximum vehicle spaces	Minimum bicycle spaces
Marijuana manufacturing facilities	1 per 500 SF of floor area up to 40,000 SF, then 1 per 2,500 SF of additional floor area (excludes any outdoor storage area)	Over 10,000 SF of floor area: 1 per 2,500 SF of floor area
Marijuana retail store	1 per 300 SF of floor area	Over 5,000 SF of floor area: 1 per 1,500 SF of floor area
Marijuana testing facilities	1 per 300 SF of floor area	Over 10,000 SF of floor area: 1 per 2,500 SF of floor area
Marinas	1 per 2 slips	--
Market gardens	1 per 250 SF of indoor office/retail sales floor area + 1 per 5,000 SF of growing area (indoor + outdoor)	--
Neighborhood nonresidential reuse	1 per 300 SF of floor area	Over 5,000 SF of floor area: 1 per 1,500 SF of floor area
Off-street parking	No maximum	--
Parks and open spaces	No maximum	Over 5,000 SF: 1 per 1,000 SF
Places of assembly	1 per 150 SF of floor area used for assembly purposes	Over 5,000 SF of floor area: 1 per 1,500 SF of floor area
Post-secondary schools	4 per classroom + 4 per office + 1 per 2 students of maximum enrollment	1 per 10 students of maximum enrollment
Printing and publishing	1 per 500 SF of floor area up to 40,000 SF, then 1 per 2,500 SF of additional floor area	--
Recreation and amusement centers	1 per 300 SF of floor area	Over 10,000 SF of floor area: 1 per 2,500 SF of floor area
Recycling facilities	1 per 500 SF of floor area up to 40,000 SF, then 1 per 2,500 SF of additional floor area (excludes any outdoor storage area)	--
Registered marijuana dispensary	1 per 300 SF of floor area	Over 5,000 SF of floor area: 1 per 1,500 SF of floor area
Residential care facilities (large)	1.5 per dwelling unit or room	1 per 5 dwelling units or rooms
Residential care facilities (small)	2 per dwelling unit or room	1 per 4 dwelling units or rooms

TABLE 18-A: OFF-STREET PARKING MAXIMUMS AND MINIMUM BICYCLE PARKING REQUIREMENTS

	Maximum vehicle spaces	Minimum bicycle spaces
Restaurants	1 per 100 SF of indoor floor area + 1 per 300 SF of outdoor seating area	Over 5,000 SF of floor area: 1 per 1,500 SF of floor area
Retail	1 per 300 SF of floor area	Over 5,000 SF of floor area: 1 per 1,500 SF of floor area
Self-storage facilities	1 per 25 storage units	--
Small-scale marijuana caregiver	*Residential dwelling:* No maximum *Commercial space:* 1 per 300 SF of floor area	--
Social service centers	1 per 300 SF of floor area	Over 5,000 SF of floor area: 1 per 1,500 SF of floor area
Solar energy system	1 per 200 SF of office floor area	--
Solid waste disposal facilities	1 per 500 SF of floor area up to 40,000 SF, then 1 per 2,500 SF of additional floor area (excludes any outdoor storage area)	--
Specialty food service	1 per 300 SF of floor area	Over 5,000 SF of floor area: 1 per 1,500 SF of floor area
Sports complexes	No maximum	Over 5,000 SF of floor indoor floor area: 1 per 1,500 SF of indoor floor area + 1 per 2,500 SF of outdoor area
Stadiums	1 per 15 seats	1 per 100 seats
Studios for artists and craftspeople	1 per 300 SF of floor area	Over 5,000 SF of floor area: 1 per 1,500 SF of floor area
Telecommunication towers (ground-mounted)	1 per tower	--
Theaters and performance halls	1 per 300 SF of floor area	Over 10,000 SF of floor area: 1 per 2,500 SF of floor area
Utility substations	1 per 200 SF of office floor area	--
Veterinary services	1 per 300 SF of floor area	Over 5,000 SF of floor area: 1 per 1,500 SF of floor area
Warehousing and distribution	1 per 200 SF of office floor area + 1 per 25,000 SF of warehouse floor area	Over 10,000 SF of floor area: 1 per 2,500 SF of floor area
Wharves, piers, docks, and landing ramps	No maximum	--
Wind energy system	1 per 200 SF of office floor area + 1 per turbine	--

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E. New construction. In the case of new construction, the minimum off-street parking requirements in Table 19-A shall be met.

F. Changes of use. In the case of changes of use, the only additional off-street parking required shall equal the difference between the parking required for the new use and the parking required for the existing use.

G. Building additions or alterations. In the case of additions or alterations which increase the number of units or square footage of a given use, the only additional off-street parking required shall equal the difference between the parking required for the use in the post-development condition and the parking required for the use in the pre-development condition.

18.1.4 Shared use vehicles

The required parking for multi-family residential buildings may be partially met through provision of shared-use vehicles, which are vehicles available for use on a fee basis to the residents of the building. One shared use vehicle shall be deemed to satisfy eight required car spaces, but in no case shall more than 50% of the parking requirement be satisfied by a shared vehicle use.

18.1.5 Joint use

The joint use of a parking facility by two or more principal uses may be permitted where it is clearly demonstrated that the parking facility will substantially meet the intent of the off-street parking requirements by reason of variation in the probable time of maximum use by patrons or employees among such establishments.

18.1.6 Off-site parking

Required off-street parking shall be located on the same lot with the principal use, except as follows:

A. For uses in residential zones. Off-street parking may be located off-site upon an applicant demonstrating the following:

1. Off-street parking cannot reasonably be provided on the same lot with the principal use.
2. Off-site parking is proposed to be located no more than 300 feet from the principal use, measured along lines of public access.
3. The premises to be used for off-site parking are held, either under the same ownership or by lease, by the applicant. Evidence of such control, either by deed or lease, shall be provided.
4. The premises to be used for off-site parking have adequate parking supply to meet any parking required for existing uses on those premises.
5. The premises to be used for off-street parking are located in the same or less restrictive zone as that of the building or use served.

B. For uses in nonresidential zones. Off-street parking may be located off-site at a distance of no more than 100 feet from the principal use, measured along lines of public access. Off-street parking may be located further than 100 feet from the principal use provided the applicant demonstrates the following:

1. Off-site parking is proposed to be located no more than 1,500 feet from the principal use, measured along lines of public access.
2. The premises to be used for off-site parking are held, either under the same ownership or by lease, by the applicant.

~~Evidence of such control shall be provided by showing, at a minimum, a signed letter of intent, purchase and sale agreement, or option for sale or lease at the time of approval, and an executed deed or lease prior to issuance of any certificate of occupancy for review and approval by Corporation Counsel. Off-site parking leases shall be for a term of not less than five years with an option to renew.~~

~~3. The premises to be used for off-site parking have adequate parking supply to meet any parking required for existing uses on those premises.~~

~~18.1.7 Fee-in-lieu of parking~~

~~A. **Applicability.** Any development subject to site plan review shall either provide the required parking on- or off-site or pay a fee-in-lieu of parking of not less than $5,000 per space not provided. Fees shall be deposited into the Sustainable Transportation Fund, as established in Section 19.3 of this article. The fee shall be paid on or before the date upon which a certificate of occupancy is issued. Payment shall be secured by a bond at the time the amount of the fee is set.~~

~~B. **Annual adjustment.** The value of the fee shall be adjusted annually according to the *Engineering News Record* construction index as published on January 1st of the current calendar year. The fee adjustment shall be calculated by dividing the index amount published on January 1st of the current year by the index amount published on January 1, 2010 ($8,660), multiplied by the minimum fee amount of $5,000. The base fee, the adjustment index, or the calculation method may be otherwise amended by action of the City Council from time to time.~~

~~18.1.8 Location of vehicular parking~~

~~A. In general~~

~~4. Tandem vehicular parking shall be permitted for residential uses, and for developments where managed parking is part of an approved site plan.~~

~~Parking shall be prohibited in the front yard, which shall mean the open space between the street line and building, except for~~

18.1.5 Use of parking facilities

A. **In general.** The sale, repair, or dismantling or servicing of any vehicles, equipment, materials, or supplies is prohibited, unless customarily incidental or accessory to a conforming principal use.

B. **Commercial vehicles**

1. **Residential zones**

a. No commercial vehicle may be parked outdoors on a lot in a residential zone, with the following exceptions:

i. Vehicles engaged in loading, unloading, or current work being performed on the premises.

ii. Commercial vehicles that are standard size passenger motor vehicles including but not limited to vans, sport utility vehicles (SUVs), standard passenger size livery vehicles, and pick-up trucks, may be stored or parked outdoors overnight in a permitted parking area. Such permitted commercial vehicles may include the logo of the

commercial business painted on or applied to the vehicle.

b. All other commercial vehicles including but not limited to semi-truck tractor units, with or without attached trailers, commercial trailers, flatbed trucks, box vans and box trucks, buses, tow trucks, construction vehicles, livery vehicles that exceed standard passenger vehicle size such as limousines, or other large commercial vehicles are not permitted to be stored or parked outdoors overnight.

2. All other zones

a. Commercial vehicles with the logo of the commercial business painted on or applied to the vehicle that are being operated and stored in the normal course of business, such as signs located on delivery trucks, promotional vehicles, moving vans, and rental trucks, are permitted to be parked on the lot in areas related to their use as vehicles, provided that the primary purpose of such vehicles is not the display of signs. All such vehicles must be maintained in operable condition.

b. No more than one commercial vehicle shall be parked outdoors on a lot in the B-1 zone.

c. No more than six commercial vehicles shall be parked outdoors on a lot in the B-2/B-2b zones.

18.1.6 Location of off-street vehicular parking spaces

A. Residential zones

1. *Residential uses*

a. Vehicular parking spaces shall be located to the side or rear of the principal structure, and shall not be located between the front building line and the front lot line, with the exception of parking within driveways on lots containing single- ~~or two~~family, two-family, three-family, or four-family dwellings. ~~"Driveway," as used in this paragraph, shall not include any turnaround area.~~

b. ~~Where~~ Parking spaces may be located within a required interior side or rear setback. When more than six parking spaces are provided in an ~~existing front yard exceeds a maximum front~~ interior side or rear setback, a ~~maximum of 10% of~~fence not less than six feet in height shall be provided and maintained along the ~~total parking area provided on the site may be located~~ applicable lot line between such spaces and the adjoining lot.

2. *Nonresidential uses*

~~b.~~a. Vehicular parking spaces shall be located to the side or rear of the principal structure ~~and the street.~~, and shall not be located between the front building line and the front lot line.

~~**B. In residential zones**~~

~~**5.** Where off-street parking for six or fewer vehicles is required or provided, parking located within five feet of any lot line shall~~

be located 50 feet or greater from any street line, except for in the R-6 zone, and parking in allAll parking spaces provided for nonresidential uses in residential zones shall maintain the minimum front setback from any street line, except on a corner lot where parking shall maintain the side setback on a side street.

6. Where off-street parking for more than six vehicles is required or provided:

a.b. Parking for nonresidential uses shall be located a minimum of 25 feet or greater from any residential structure on an adjoining lot.

b. Where vehicles are to be or may be parked within a required setback:

c. Parking spaces may be located within a required interior side or rear setback. When spaces are located within a required interior side or rear setback, a fence not less than six feet in height shall be provided and maintained along the applicable lot line between such spaces and the adjoining lot.

c.d. Where parking for a nonresidential use is located within 10 feet of any street, a continuous, permanently -anchored curb guard, at least five feet from the lot line, shall be provided between such off-street parking and thatthe lot line involved, the top of which shall be at least 20 inches in height so that bumpers of vehicles cannot project beyond its face..

i. Where such off-street parking abuts a lot in residential use or an unoccupied lot located in a residential zone, a fence, not less than 48 inches in height, shall be provided and maintained between such off-street parking and that part of the lot line involved.

C. In mixed-use zones

B. Mixed use, transit-oriented, and office zones

1. Vehicular parking spaces shall not be located between the front building line and the front lot line. This does not apply to parking within driveways on lots containing three-family or four-family dwellings.

1. Where off-street parking for more than six vehicles is required orto be provided:

7.2. Where vehicles are to be or may be parked within 10 feet of any street line, a continuous, permanently -anchored curb guard, at least five feet from the lot line, shall be provided and maintained between such off-street parking and that part of the street line involved so that vehicle bumpers cannot project beyond its face toward the streetlot line involved., the top of which shall be at least 20 inches in height

a. Where such off-streetmore than six parking abutsspaces are provided, and such spaces abut a lot in a residential zone or in residential use, a fence, not less than 48 inchessix feet in height, shall be provided and maintained along the applicable lot line between such off-street parkingspaces and that part of the lot line involved.

2. In the B-7 zone, off-street surface parking shall be located 35 feet or greater from any street, except in the case of:

3. ~~A lot where 80% of~~ the ~~frontage has a building within 10 feet of that frontage.~~adjoining lot.
   - ~~a. A lot where all or a portion of the 35-foot setback area had a gravel surface not exceeding 15,000 square feet as of 9/29/15 and the principal use served is in a building meeting the minimum height requirements of the Bayside Height Overlay or of 25,000 square feet or greater. In these cases, the total number of spaces within the 35-foot setback and elsewhere on site shall not exceed parking requirements. Parking within the 35 foot setback shall provide stormwater quality treatment.~~
   - ~~b. The 35 foot setback requirement shall not apply to a driveway located perpendicular to the site.~~

C. ~~Off-street~~**Open space and industrial zones**

1. Where off-street parking is to be provided within 10 feet of any street, a continuous, permanently anchored curb guard, at least five feet from the lot line, shall be provided between such off-street parking and the lot line involved, the top of which shall be at least 20 inches in height.
2. Where more than six parking spaces are provided, and such spaces abut a lot in a residential zone, a fence not less than six feet in height shall be provided and maintained along the applicable lot line between such spaces and the adjoining lot.

~~18.1.9~~18.1.7 Existing parking ~~restricted~~facilities

~~Off-street parking shall not include:~~

~~A. More than one commercial motor vehicle in any residential zone, the R-P zone, or the B-1/B-1b zones.~~

~~B. More than six commercial motor vehicles in the B-2/B-2b/B-2c zone.~~

~~C. Loading, sales, dead storage, repair, or servicing of any kind, except when customarily incidental or accessory to a conforming principal use when located in an industrial zone.~~

~~D. Notwithstanding Section 19.1.9(A), any truck body, commercial trailer, or similar commercial vehicles in any residential zone or the R-P zone.~~

A. As of the effective date of this Code, existing parking facilities that do not meet the requirements of Section 18.1, but were in conformance with the requirements of this Code at the time of their establishment, shall not be considered nonconforming with regard to the requirements of this Section.

B. Parking facilities existing as of the effective date of this Code that do not meet the requirements of Section 18.1 shall be brought into conformance when the following occurs:
   1. A new principal building is constructed on the site. This includes construction of a second or more principal buildings on a site with an existing building.
   2. An existing building is increased in building footprint by 50% or more.

18.2 OFF-STREET LOADING

18.2.1 Uses requiring off-street loading

A. Off-street loading is not required in the B-6 or in the waterfront~~, B-7 or WCZ zones.~~ zones. In all other zones, the minimum off-street loading

~~TABLE 19-C: OFF-STREET LOADING REQUIREMENTS~~

~~Use and Size (Gross Floor Area)~~		~~Minimum Number of Bays or Berths~~
~~General offices and hotels (> 100,000 SF)~~		~~1~~
~~Retail and industrial~~	~~5,000 - 40,000 SF~~	~~1~~
	~~40,000 - 100,000 SF~~	~~2~~
	~~100,000 - 160,000 SF~~	~~3~~
	~~160,000 - 240,000 SF~~	~~4~~
	~~240,000 - 320,000 SF~~	~~5~~
	~~320,000 - 400,000 SF~~	~~6~~
	~~Each 90,000 over 460,000 SF~~	~~1 additional~~
~~Hospitals and intermediate, long-term, and extended care facilities~~		~~2 off-street loading areas shall be provided whereby one service area for ambulance and other emergency vehicles shall be separate from one service area accommodating supply vehicles, and whereby both off-street loading areas shall be separate from parking and entrance locations.~~

TABLE 18-~~C~~B: OFF-STREET LOADING REQUIREMENTS

Use and Size (Gross Floor Area)		Minimum Number of Bays or Berths
General offices and hotels (> 100,000 SF)		1
Retail	20,000 - 100,000 SF	1
	100,001 – 200,000 SF	2
	> 200,000 SF	3
Industrial	10,000 - 40,000 SF	1
	40,001 - 100,000 SF	2
	> 100,000 SF	3

bays or loading berths shall be as ~~provided~~established in Table ~~19~~18-C. These minimum requirements shall be

B. met and maintained in the case of new construction, alterations, and change of use.

C. In the case of multi-tenant buildings or mixed-use developments, required loading bays or berths are calculated on the basis of each individual tenant (for example, if only one retail tenant of a multi-tenant building is over 5,000 square feet, only one loading bay or berth is required; if all tenants are under 5,000 square feet, no loading is required.

18.2.2 Design of off-street loading

A. All off-street loading must be located on the same lot as the use served.

B. With the exception of the I-L/I-Lb, I-M/I-Mb, I-H, and A-B zones, no off-street loading is permitted in a front or corner side yard. Where possible, off-street loading should be located opposite any abutting residential zone lot line.

C. Each loading bay or berth shall ~~have~~be a minimum ~~dimensions~~ of ~~50~~ten feet ~~by~~in width and 25 feet in length, exclusive of aisle and maneuvering space, and must maintain a minimum vertical clearance of 14 feet ~~and~~.

~~A.~~D. Bays or berths may be located either within a building or outside and adjoining an opening in the building, except that in the case of hospitals and ~~intermediate, long-term, and extended~~residential care facilities, the off-street loading area provided for ambulance and other emergency vehicles shall be exempt from the minimum dimensional requirement but shall be of sufficient width and depth to permit expeditious access and egress from the loading area.

~~Every part of such loading bay shall be located completely off the street. In case trucks, trailers, or other motor vehicles larger than the dimensions of the minimum loading bay habitually serve the building in question, additional space shall be provided so that such vehicle shall park or stand completely off the street.~~

18.2.3 Requirements for additional bays, alterations, or modifications

Any ~~additional~~ loading bays ~~which are~~ provided in ~~excess of~~addition to the ~~requirements of~~minimum required by this article, or any loading bays otherwise established shall meet the requirements of Subsection ~~19~~18.2.2, and no alterations or modifications shall be made in an existing building or structure whereby loading openings or platforms are constructed or established unless the provisions of Subsection ~~19~~18.2.2 are met.

~~18.2.4 Nonconformity as to off-street loading~~

~~A building which is nonconforming as to the requirements for off-street loading shall not be enlarged or added to, unless off-street loading is provided sufficient to satisfy the requirements of Article 19 for both the addition or enlargement and the original building or structure.~~

~~18.3 SUSTAINABLE TRANSPORTATION FUND~~

~~18.3.1 Establishment~~

~~By act of the Portland City Council, the Sustainable Transportation Fund is hereby established.~~

~~18.3.2 Purpose~~

~~The purpose of the Sustainable Transportation Fund is to implement those provisions of the *Peninsula Transit Study Report and Action Plan*, as adopted by the Portland City Council on August 3, 2009, which recommended creation of a Sustainable Transportation Fund. The *Peninsula Transit Study Report and Action Plan* established a goal to reduce the number and impact of single-occupancy vehicle trips to and from the Portland Peninsula. Achieving this goal requires transportation choice for residents, businesses, and visitors. This ordinance establishes a funding source for broadening transportation choice and facilitating development with lower traffic impacts and reduced parking requirements. The mechanism and protocol for collecting fees and spending funds are consistent with state requirements for utilizing transportation related impact fees.~~

~~18.3.3 Deposits and expenditures~~

~~**A. Deposits.** The City shall establish a Sustainable Transportation Fund to be set up as a separate~~

account within the City. Deposits into the fund shall include:

4. 100% of the revenue generated by the fee in lieu of parking program, as established in Subsection 19.1.7 of this article.
5. Funds appropriated for deposit into the fund by vote of the City Council.
6. Voluntary contributions of money or other liquid assets to the fund.
7. Any federal, state or private grant or loan funds provided to the fund.

B. **Accounting of deposits**. Funds from the fee in lieu of parking program, as established in Subsection 19.1.7, shall be individually collected and accounted for by project and the geographic fee in lieu of parking subdistrict in which it is located.

C. **Funds to be used within 10 years of deposit.** Funds collected under the fee in lieu of parking ordinance shall be spent on eligible infrastructure and/or capital improvements or expenses within 10 years of the date of collection. Any funds which are not so utilized and which exceed the City's actual costs of implementing the infrastructure improvement or improvements for which such fees were collected shall be refunded. Refunds shall be paid to the owner of records of the property for which the funds were collected, determined as of the date the refund is made.

D. **Use of funds by subdistrict.** Funds collected under the fee in lieu of parking ordinance shall be spent on permitted expenditures of the fund within the same geographic fee in lieu of parking sub-district as the contributing project. However, for projects located within 250 feet of an abutting subdistrict, contributed fees can be used for eligible infrastructure projects in either abutting subdistrict.

E. **Permitted expenditures of the fund.** The Sustainable Transportation Fund may only be expended on the activities as described below:

8. Funds collected as fees in lieu of parking shall be expended toward capital transportation improvements. Such capital improvements shall include but are not limited to the following:
   a. Parking infrastructure:
      i. Shared use, publicly accessible parking facilities.
      ii. Publicly accessible bicycle racks and bicycle parking shelters.
   b. Transit capital improvements and expenses:
      i. Bus shelters, bus turnouts, transit signage and other transit amenities.
      ii. Buses and transit vehicles.
      iii. Transit and transportation information systems.
      iv. Fixed guide way and/or rail transit systems.
   c. Pedestrian and bicycle infrastructure:
      v. Multi-use trails and non-vehicular transportation corridors.
      vi. Pedestrian infrastructure and amenities located on publicly accessible rights-of-way including but not limited to crosswalks, signalization, landscaping, street furniture, wayfinding signage, traffic calming, and lighting.
      vii. New public sidewalks and new bicycle lanes along publicly accessible rights-of-way or

~~corridors where such facilities are not previously provided.~~

~~**d.** Other such improvements intended to enhance transportation choice and promote transit and non-automotive transport.~~

~~**9.** Funds collected or appropriated by means other than from a fee in lieu of parking may be used for any of the capital transportation improvements listed above, and for any of the following uses:~~

~~**a.** Transportation Demand Management program administration.~~

~~**b.** On- or off-peninsula transit and/or non-automotive transportation capital or operating expenses.~~

~~**c.** Transit and/or non-automotive transportation promotion and education material.~~

~~**d.** Other such programs or improvements intended to enhance transportation choice and promote transit and non-automotive transport for the City of Portland.~~

~~**F. Annual Sustainable Transportation Plan and appropriations schedule.** Annually, the City Manager shall submit to the City Council a recommended sustainable transportation plan and appropriations schedule, utilizing the revenues of the Sustainable Transportation Fund. The Transportation Committee of the City Council or such other committee as the council shall designate shall recommend and refer the plan and appropriations schedule to the City Council for action.~~

18.2.4 Existing structures

Structures existing as of the effective date of this Code that do not meet the requirements of Section 18.2 are not required to install loading spaces, and shall not be considered nonconforming with regard to the requirements of this Section. Such structures may expand their footprint or gross floor area, so long as the expansion is on the same lot, no additional lot area is added, and any existing off-street loading on the site is maintained. If the existing principal building is demolished, this exemption is no longer valid. In addition, if the lot area is expanded (e.g., an adjoining lot is purchased or leased), this exemption is no longer valid.

~~20~~19 SIGNS

19.1 PURPOSE

This article has been adopted to ensure that all signs installed in the city are compatible with the unique character and environment of the community through a comprehensive system of reasonable, effective, consistent, content-neutral, and nondiscriminatory sign standards and requirements. More specifically, this article is intended to:

A. Ensure that all signs are compatible with the unique character and environment of the City of Portland, and that they support the desired urban design and development patterns of the various zones, overlay zones, and historic areas within the city.

B. Balance public and private objectives by allowing adequate avenues for both commercial and non-commercial messages.

C. Improve pedestrian and traffic safety by promoting the free flow of traffic and the protection of pedestrians and motorists from injury and property damage caused by, or which may be fully or partially attributable to, cluttered, distracting, and/or illegible signage.

D. Prevent property damage, personal injury, and litter caused by signs that are improperly constructed or poorly maintained.

E. Protect property values, the local economy, and quality of life by preserving and enhancing the appearance of the streetscape.

F. Provide consistent sign design standards that enable the fair and consistent enforcement of these sign regulations.

~~19.2. DEFINITIONS~~

~~**Sign.** A structure, device, figure, display, message placard, or other contrivance, or any part thereof, situated outdoors or indoors, which is designed, constructed, intended, or used to advertise, provide information in the nature of advertising, provide historical, cultural, archeological, ideological, political, religious, or social information, or direct or attract attention to an object, person, institution, business, product, service, message, event, or location by any means, including words, letters, figures, designs, symbols, fixtures, colors, or illumination.~~

~~**Sign, animated.** Flashing, blinking, reflecting, revolving, or other similar sign with visibly moving or rotating parts or visible mechanical movement of any kind.~~

~~**Sign, awning.** Any sign that is part of or attached to an awning, canopy, or other fabric, plastic, or structural protective cover over a door, entrance, window, storefront, or outdoor service area.~~

~~**Sign, A-Frame.** A pedestrian-oriented self-supporting sign that is not permanently affixed to a structure or the ground.~~

~~**Sign, bandit.** Any advertising sign that is placed on public property or on private property without the consent of the property owner or as authorized in this article.~~

~~**Sign, blade.** A permanent, pedestrian-scaled sign mounted either to the wall of building by means of a bracket or attached to the underside of a lintel, arch, or other overhead structure above a porch or~~

walkway and which is typically hung perpendicular to the wall of the building.

Sign, building identification. A sign consisting of letters or numbers applied to a building wall, engraved into the building material, or consisting of a sculptural relief which contains the name of the building or describes its function, but which does not advertise any individual tenant of the building or any products or services offered.

Sign, building-mounted. Sign attached to, connected to, erected against the wall, parapet, or fascia of a building or structure.

Sign, bus shelter. As specified in 23 M.R.S.A. §1908-A, any outdoor sign visible to the traveling public from public right-of-way that is affixed to a publicly-owned bus shelter operated by a transit agency.

Sign, cabinet. A permanent building-mounted or freestanding sign with its text and/or logo symbols and artwork on a translucent face panel that is mounted within a metal frame or cabinet either that contains the lighting fixtures which illuminate the sign face from behind.

Sign, canopy. A sign that is printed, painted, or affixed to a canopy, typically used to accent building entries.

Sign, center identification. A sign identifying the name of a building, office park, or shopping center only.

Sign, changeable copy. A sign that is designed so that characters, letters, numbers, or illustrations can be manually or mechanically changed or rearranged without altering the face or surface of the sign. For the purposes of this article, a sign whose message changes more than eight times per day is considered an animated sign and not a changeable copy sign.

Sign, directional. A sign erected to inform the viewer of the approximate route, direction, or location of a facility or use.

Sign, direct illumination. Illumination resulting from light emitted directly from a light bulb or light fixture, and not light diffused through translucent signs or reflected from other surfaces such as the ground or building face.

Sign, directory. A permanent sign which provides information in a list, roster, or directory format.

Sign, Electronic Message. A sign or portion of a sign that utilizes computer-generated messages or some other electronic means of changing its characters, letters, numbers, illustrations, display, color, and/or light intensity, including animated graphics and video, by electronic or automatic means. An Electronic Message Sign is not a Single- or Two-Color LED Sign.

Sign, externally-illuminated. A sign whose illumination is reflected from its source by the sign surface to the viewer's eye, the source of light not being visible to the viewer.

Sign, feather banner. A temporary sign that is taller than it is wide and made of a flexible material (typically cloth, nylon, or vinyl) and mounted to a pole to fly freely.

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Sign, freestanding. A permanent sign that is erected or mounted on its own self-supporting permanent structure or base detached from any supporting elements of a building.

Sign, fuel pump topper. A temporary sign affixed to the top of an operable fuel dispensing pump used to advertise goods offered for sale on the same parcel on which the fuel pump is located.

Sign, incidental. A sign which provides incidental information, including security, credit card acceptance, business hours, open/closed, directions to services and facilities, or menus.

Sign, individual letter. A cut-out or etched letter or logo which is individually mounted on a building wall or freestanding sign.

Sign, internally illuminated. Any sign in which the source of light is entirely enclosed within the sign and not directly visible.

Sign, landmark. A permanent sign indicating individual historic landmarks, local historic districts, or otherwise determined by the City to have attained a high degree of community, cultural, aesthetic, or historic significance.

Sign, logo. A stylized group of letters, words, numbers, or symbols used to represent and distinguish a business, product, or organization.

Sign, marquee. A permanent sign structure placed over the entrance to a building and typically used for a theater or other entertainment use.

Sign, monument. A permanent freestanding sign with a solid base that is at least 60% the width of the sign face.

Sign, off-premise. Any sign that directs attention to a business, commodity, service, entertainment, product, structure, use, or property different from a structure or use existing on the property where the sign is located, and/or any sign on which space is rented, donated, or sold by the owner of said sign or property for the purpose of conveying a message.

Sign, permanent. A sign constructed of durable materials and intended to exist for the duration of time that the use or occupant is located on the premises.

Sign, pole. An elevated permanent sign typically supported by one or two poles, posts, or columns that do not meet the base width requirements for a monument sign.

Sign, projecting. A permanent sign that is attached to and extends perpendicular from a building from the wall.

Sign, service island canopy. A permanent sign mounted on or under a service island canopy, including on a fascia.

Sign, single-color or two-color LED. A permanent or temporary sign or portion of a sign composed of single-color or two-color LEDs that displays static or changeable sign messages using characters, letters, and numbers only. Examples of these signs include, but are not limited to, "open" or "closed" signs, time

~~and temperature" signs, or signs indicating the number of available spaces in a parking garage.~~

~~**Sign, temporary.** A sign constructed of paper, cloth, or similar expendable material, which is intended for a definite and limited period of display and which is designed to be moved easily and is not permanently affixed to a structure, sign area, or window.~~

~~**Sign, wall.** A permanent sign affixed to or erected against the wall or fascia of a building or structure, with the exposed face of the sign parallel to the plane of wall or fascia to which it is affixed or erected.~~

~~**Sign, wall banner.** A temporary sign constructed of cloth, bunting, plastic, paper, or similar non-rigid material, and securely attached to the wall or support structure for which it is advertising. Flags are not considered temporary wall banners.~~

~~**Sign, window.** A permanent or temporary sign posted, painted, placed, or affixed in or on a window, or otherwise exposed to public view through a window.~~

~~**Sign, Yard, Type I.** A small temporary sign typically constructed of corrugated plastic and supported on a wire frame used, for example, for advertising by local businesses or by election campaigns.~~

~~**Sign, Yard, Type II.** A temporary sign mounted on a single post installed securely in the ground with a small sign hanging from a cross-bar mounted parallel to the ground.~~

~~**Sign, Yard, Type III.** A temporary large sign mounted on two posts installed securely in the ground.~~

~~**Sign copy.** Any graphic, word, numeral, symbol, insignia, text, sample, model, device, or combination thereof that is primarily intended to advertise, identify, or notify.~~

~~**Sign face.** The exterior surface of a sign, exclusive of structural supports, on which is placed the sign copy.~~

~~**Sign substructure.** The supports, uprights, bracing and/or framework of a sign.~~

~~19.9~~19.2 APPLICABILITY

19.2.1 Applicability

This article applies to all permanent and temporary signs within the city unless specifically exempted.

A. The provisions of this article shall be applied in a content-neutral manner. Non-communicative aspects of all signs, not related to the content of the sign, must comply with the provisions of this article. "Non-communicative aspects" include the time, place, manner, location, size, height, illumination, spacing, and orientation of signs.

B. Nothing in this article shall be construed to prohibit a person from holding a sign while picketing or protesting on public property.

19.2.2 Substitutions and interpretations

This article is not intended to, and does not, restrict speech on the basis of its content, viewpoint, or message. No part of this article shall be construed to favor commercial speech over non-commercial speech. A non-commercial message may be

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substituted for any commercial or non-commercial message displayed on a sign without the need for any approval or permit from the City, provided that the sign is otherwise permissible under this article. To the extent any provision of this subsection is ambiguous, the term will be interpreted not to regulate on the basis of the content of the message.

19.2.3 Exemptions

The following signs are not regulated under this article and are not subject to the permitting requirements of Section ~~20.4~~19.3:

A. Numerals and letters identifying an address from the street to facilitate emergency response compliant with City requirements.

B. Building identification signs not exceeding two square feet in area for residential buildings and four square feet in area for nonresidential and mixed-use buildings.

C. Any sign, posting, notice, or similar signs placed, installed, or required by law by a city, county, or a federal or state governmental agency in carrying out its responsibility to protect the public health, safety, and welfare, including the following:

1. Emergency and warning signs necessary to warn of dangerous and hazardous conditions and that serve to aid public safety or civil defense.
2. Numerals and letters identifying an address from the street to facilitate emergency response and compliant with City requirements.
3. Traffic signs and signs at bus stops and in bus shelters.
4. Signs required to be displayed by any applicable federal, state, or local law, regulation, or ordinance.
5. Signs directing the public to points of interest.
6. Signs showing the location of public facilities.
7. Signs subject to the provisions of 23 M.R.S. § 1913-A.

D. Historic plaques and commemorative signs erected and maintained by non-profit organizations, building cornerstones, and date-constructed stones not exceeding four square feet in area.

E. Non-illuminated incidental signs which provide information including, but not limited to, credit card acceptance, business hours, open/closed, no soliciting, directions to services and facilities, or menus, provided these signs do not exceed an aggregate of two square feet in sign area in the Residential Sign District and six square feet in sign area in all other sign districts.

F. Landmark signs.

G. Signs posted on a community bulletin board, not to exceed 11 inches by 17 inches.

H. Signs not readable from the public right-of-way, such as:

Signs or displays located entirely inside of a building and not visible from the building's exterior.

1. Signs intended to be readable from within a parking area but not readable beyond the boundaries of the lot or parcel upon which they are located or from any public right-of-way.
2. Signs located within City recreation facilities.
3. Signs that are an integral part of an allowed vending machine or similar facility located outside of a business.

I. Temporary signs placed within the public right-of-way, subject to the provisions of 23 M.R.S.~~A.~~ §1913-A.

J. Works of art that do not include sign copy or where sign copy is limited to no more than 10% of the total area of the artwork and the dimensional standards listed in Tables 19-G and 19-P.

~~19.92~~19.3 REVIEW PROCEDURES

19.3.1 Review Authority

Table ~~20~~19-A establishes the final review authority for sign-related applications.

19.3.2 Applications and fees

A. Filing of applications. An application for a permanent or temporary sign permit must be submitted to the Building Authority on an application form or in accordance with the application specifications published by the Building Authority. Each application must be accompanied by the applicable fee, which shall be established by the City Council.

B. Review and approval

1. Following receipt of a complete application, the Building Authority shall review all sign permit applications and supporting documentation for compliance with the standards of this article.
2. The Building Authority shall either:
   - **a.** Issue the sign permit if the sign that is the subject of the application conforms to the requirements of this article, and also provided that any other required permits as determined by the Building Authority have been obtained, or
   - **b.** Deny the sign permit if the sign that is the subject of the application fails to conform to the requirements of this article. If the sign permit application is denied, the reason shall be stated in writing.

~~TABLE 20-A: REVIEW AUTHORITY~~

~~Application Type~~	~~Building Authority~~	~~Planning Authority – Historic Preservation~~
~~Sign permit~~	~~●~~	~~-~~
~~Signs in historic districts~~	~~●~~	~~●~~

~~19.3.1~~19.3.3 Permanent sign permits

A. Sign permit required. A sign permit is required to erect, install, construct, move, alter, replace, suspend, display, or maintain (i.e., removal of the sign so that structural elements supporting the sign may be maintained) any permanent sign, unless otherwise specified in this article. Each sign and change of copy (i.e., changing of the face or letters on a sign) requires a separate sign permit except as allowed in Subsection ~~20.7~~19.6.4. Exceptions to the requirement for a sign permit include the exemptions listed in Subsection ~~20.3~~19.2.3, as well as building-mounted directional signs, building-mounted directory signs, and window signs. Refer to Section ~~20.8~~19.7 for permanent sign standards that apply even when no sign permit is required. Any sign not authorized pursuant to this article is not allowed.

B. Assignment of permanent sign permits. A current and valid permanent sign permit issued under this article shall be freely assignable to a successor as owner of the property or operator of the premises. The assignment shall not require approval by the Building Authority.

C. **Expiration.** A permanent sign permit will expire and become null and void if the work authorized in compliance with the permit is not commenced within 180 days from the date of issuance of the permit, or if work is suspended or abandoned for a period of 180 days or more at any time after the work has commenced.

~~19.3.19 Temporary sign permits~~

~~D. Sign permit required. A temporary sign permit is required to display a temporary wall banner sign and an A-frame sign placed in the public right-of-way. All other temporary sign types do not require a sign permit.~~

~~E. Duration of temporary sign permit. A temporary sign permit for a wall banner is valid for 60 days from the date of issuance. There are no time limitations for A-frame signs installed in public right-of-way.~~

~~19.3.20~~19.3.4 Signs in historic districts

A. **Applicability.** The standards established in this subsection shall be applied within historic districts in addition to the standards otherwise established in this article.

B. **Review.** In addition to being subject to the other provisions of this article, all permanent signs proposed in historic districts must be reviewed for approval by the Planning Authority in accordance with the sign standards included in Subsection ~~17~~16.~~8~~7.6 as detailed in the *Historic Resources Design Manual*. If there is a conflict between the standards included in Article ~~17~~16 and the requirements of this article, the stricter shall apply.

~~19.3.21~~19.3.5 Appeals

Appeals of sign permit decisions are within the jurisdiction of the Zoning Board of Appeals.

~~19.93~~19.4 SIGN DISTRICTS ESTABLISHED

Table ~~20~~19-B combines the zones established in Article 5 into sign districts based on similarity of use, building form, and character. For sign standards specific to overlay zones, see Article 8. If no sign standards exist within the overlay zone, the standards of the underlying zone shall apply.

~~19.94~~19.5 GENERAL RESTRICTIONS FOR ALL SIGNS

19.5.1 Location restrictions

Except where specifically authorized in this article, signs may not be placed in the following locations:

A. **Public right-of-way.** Within, on, or projecting over public property, City rights-of-way, or waterways, except signs specifically authorized in this article.

B. **Obstructing traffic signals.** Any location that obstructs the view of any authorized traffic sign, signal, or other traffic control device.

C. **Obstructing intersection visibility.** At the intersections of streets or streets and driveways where the visual lines of sight for drivers of motor vehicles are obstructed. Signs

TABLE 19-A: REVIEW AUTHORITY

Application Type	Building Authority	Planning Authority – Historic Preservation
Sign permit	●	-
Signs in historic districts	●	●

shall observe corner clearance requirements as listed in Subsection 7.~~45~~.1.

D. Ingress and egress. Areas allowing for ingress to or egress from any door, window, vent, exit way, or fire lane required by Chapter 6 of the City of Portland Code of Ordinances or Fire Department regulations currently in effect.

E. Landscape elements or utilities. Tacked, painted, burned, cut, pasted, or otherwise affixed to trees, rocks, light and utility poles, posts, fences, ladders, benches, or similar supports that are visible from a public way.

F. Off-premises. Off the premises of the business to which the commercial advertising sign refers, except as provided in ~~Section 20.9~~Table 19-X.

G. Roof-mounted. Mounted on the roof of a building or structure.

TABLE ~~20~~19-B: SIGN DISTRICTS ESTABLISHED

Sign District	Zones	Description
Residential Sign District	~~R~~RN-1 Residential Neighborhood Zone ~~R~~RN-2 Residential Neighborhood Zone ~~R~~RN-3 Residential Neighborhood Zone ~~R~~RN-4 Residential Neighborhood Zone ~~R~~RN-5~~/R-5a~~ Residential Neighborhood Zone ~~R~~RN-6~~/R-6a~~ Residential Neighborhood Zone IR-1 Island Residential Zone IR-2 Island Residential Zone ~~IR-3 Island Residential Zone~~	These zones comprise the vast majority of residential land in Portland. Signage is limited in these zones, as a variety of sign types could detract from the desired residential character.
Small Mixed-Use Sign District	~~R-P Residence-Professional Zone~~ B-1~~/B-1b~~ Neighborhood Business Zone B-~~2b & B-2c~~2 Community Business Zone IS-FBC UA, UN, and UT Zones I-B Island Business Zone O-~~P~~ Office ~~Park~~ Zone	These zones allow a variety of sign types to achieve a diverse, mixed-use character appropriate for neighborhood residential, office, service, and retail uses.
Large Mixed-Use Sign District	B-2 Community Business Zone B-4 Commercial Corridor Zone EWPZ Eastern Waterfront Port Zone	These zones comprise the major commercial centers in Portland and allow a variety of sign types to achieve a diverse character appropriate for major office, service, and retail uses.
Downtown Sign District	B-3~~/B-3b/B-3c~~ Downtown Business Zone B-5~~/B-5b~~ Urban Commercial ~~Mixed-Use~~ Zone B-6 Eastern Waterfront ~~Mixed~~ Zone ~~B-7 Mixed Development Zone~~ WCZ Waterfront Central Zone	The downtown core zones allow a variety of sign types to achieve a diverse, mixed-use character appropriate for office, service, retail and mixed-uses in the downtown.
Industrial and Transportation Sign District	A-B Airport Business Zone I-L~~/I-Lb~~ Low-Impact Industrial Zone I-~~H/I-Hb~~M Moderate-Impact Industrial Zone I-~~M/I-Ma/I-Mb~~H High-Impact Industrial Zone	These zones allow a number of sign types to achieve a character appropriate for industrial manufacturing, warehousing, and transportation uses.

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TABLE ~~20~~19-B: SIGN DISTRICTS ESTABLISHED

	WPDZ ~~Water~~Waterfront Port Development Zone	
Open Space Sign District	~~R-~~OS-R Recreation and Open Space Zone ~~RPZ Resource Protection~~OS-P Open Space Preservation Zone	These zones prohibit most sign types, allowing only those necessary to provide information for primarily open space and recreation uses.

H. Storage containers and receptacles. On fuel tanks, storage containers, and/or solid waste receptacles or their enclosures, except for a manufacturer's or installer's identification, appropriate warning signs and placards, and information required by law.

19.5.2 Prohibited signs

Except as otherwise provided in this article, the following signs are prohibited:

A. Billboards.

B. Signs that could be confused with any authorized traffic signal or device or that interfere with, obstruct, confuse, or mislead traffic.

C. Bandit signs.

D. Signs or other devices that are inflatable or affected by the movement of the air or other atmospheric or mechanical means, including inflatable balloons, spinners, strings of flags and pennants, feather banners, fixed aerial displays, streamers, tubes, and inflated characters used as signs, whether attached to a sign or to vehicles, structures, poles, trees and other vegetation, or similar support structures, except as allowed in Section ~~20.9~~19.8.

E. Any sign which advertises a business no longer in existence or a product or service no longer being sold, except for landmark signs.

F. Any temporary sign, other than those signs allowed pursuant to Section ~~20.9~~19.8.

G. Any other signs not specifically allowed by the provisions of this article.

19.5.3 Display restrictions

Except as otherwise provided in this article, the following display features are prohibited:

A. Animated features which rotate, move, or give the appearance of moving by mechanical, wind, or other means. Barber poles no more than three feet in height and 10 inches in diameter and clocks are excepted from this restriction.

B. Sound, odor, or any particulate matter including bubbles, smoke, fog, confetti, or ashes.

C. Lighting devices with intermittent, flashing, rotating, blinking, or strobe light illumination, animation, motion picture, or laser or motion picture projection, or any lighting effect creating the illusion of motion, as well as laser or hologram lights.

D. Search lights or laser light displays when used as attention-attracting devices.

E. Strings of lights used in connection with commercial premises, except when used for temporary lighting for decoration, and lights arranged in the shape of a product, arrow, or any commercial message.

~~19.95~~19.6 GENERAL REQUIREMENTS FOR ALL SIGNS

19.6.1 Sign measurement

Sign area and height shall be measured as described in Tables ~~20~~19-C and ~~20~~19-D.

19.6.2 Computation of the number of signs

When determining the number of signs, a single sign shall be considered either enclosed within a single frame or composed of modular parts with identical frame elements designed to be joined together to form a single composite sign.

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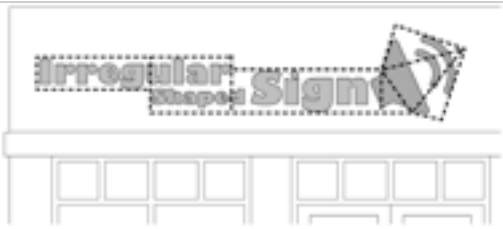
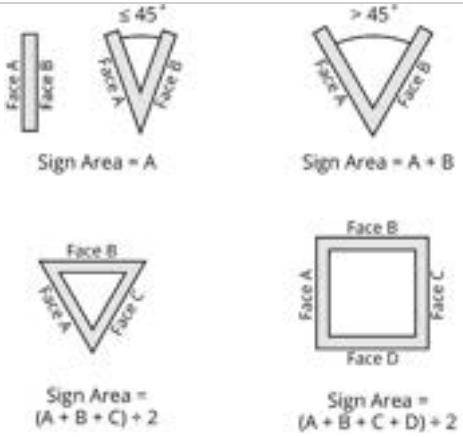
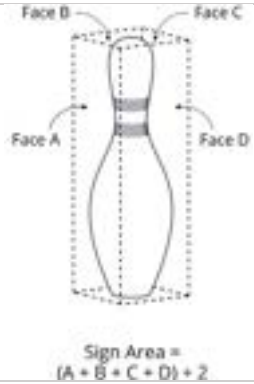
TABLE ~~2019~~-C: SIGN AREA MEASUREMENT

Signs on background panel	Sign copy mounted, affixed, or painted on a background panel or surface distinctively painted, textured, or constructed as a background for the sign copy, is measured as that area contained within the sum of the smallest rectangle(s) that will enclose both the sign copy and the background.	
Signs as individual letters	Sign copy mounted as individual letters or graphics against a building surface that has not been painted, textured, or otherwise altered to provide a distinctive background for the sign copy, is measured as a sum of the smallest rectangle(s) that will enclose each word and each graphic in the sign.	
Signs on illuminated surface	Sign copy mounted, affixed, or painted on an illuminated surface or illuminated element of a building or structure, is measured as the entire illuminated surface or illuminated element, which contains sign copy. Such elements may include lit canopy fascia signs, and/or interior lit awnings.	

TABLE ~~2019~~-C (CONT.): SIGN AREA MEASUREMENT

Irregular-shaped signs	Sign area for irregular shaped signs is determined by dividing the sign into squares, rectangles, triangles, circles, arcs, or other shapes the area of which is easily calculated.	
Multi-face signs	For two-face signs, if the interior angle between the two sign faces is 45 degrees or less and the sign faces are less than 42 inches apart, the sign area is determined by the measurement of one sign face only. If the angle between the two sign faces is greater than 45 degrees, the sign area is the sum of the areas of the two sign faces. For three- or four-face signs, the sign area is 50 percent of the sum of the areas of all sign faces.	
Spherical, free-form, or sculptural signs	Spherical, free-form, or sculptural signs are measured as 50% of the sum of the areas of the four vertical sides of the smallest four-sided polyhedron that will encompass the sign structure. Signs with greater than four polyhedron faces are prohibited.	

Note: Numerals and letters used to identify an address are not included in the determination of sign area.

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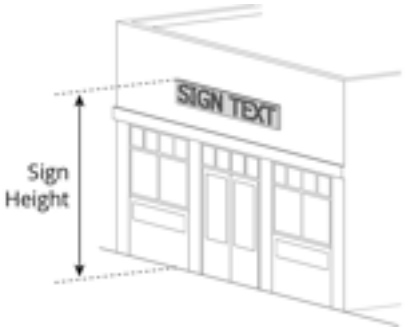
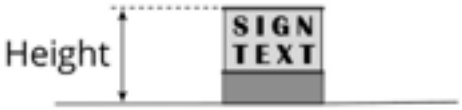
TABLE ~~20~~19-D: SIGN HEIGHT MEASUREMENT

Building-mounted signs	The height of signs mounted on a building is the vertical distance measured from the base of the wall on which the sign is located to the top of the sign or sign structure.	
Freestanding signs	Sign height is measured as the vertical distance from the finished grade at the base of a sign to the top of the sign exclusive of any filling, berming, mounding, or landscaping solely for the purpose of locating the sign and excluding decorative embellishments as permitted in Section ~~20.8~~19.7.	

19.6.3 Sign illumination

A. Sign illumination by sign district

1. Table ~~20~~19-E identifies the type of illumination permitted (●) or not permitted ( ) by sign district. All allowed permanent signs may also be non-illuminated. All permanent signs for single-family residences or duplexes and all temporary signs must be non-illuminated.
2. The illumination level of a sign must be reduced if the Building Authority determines the light output to be excessive. The Building Authority shall use the following criteria to determine if the illumination is excessive:
   - **a.** The amount of illumination is substantially greater than the illumination level of other nearby signs.
   - **b.** The sign's illumination interferes with the visibility of other signs or with the perception of objects or buildings in the vicinity of the sign.
   - **c.** It directs glare toward streets or motorists.
   - **d.** It adversely impacts nearby residents or neighborhoods.
   - **e.** The illumination reduces the night time readability of the sign.

B. Internal illumination. To minimize glare, internally-illuminated signs must either be constructed with an opaque background and translucent text and symbols, or with a colored background. Backgrounds must not be white, off-white, light gray, cream, or yellow.

TABLE ~~20~~19-E: SIGN ILLUMINATION BY SIGN DISTRICT

Sign District Name	Type of Illumination						
	External	Direct	Internal (Cabinet or Halo Sign)	Internal (Individual Letters /Logo)	Neon	Single or Two-Color LED	Electronic Message Signs
Residential Sign District	-- [1]			-- [1]			-- [1]
Small Mixed-Use Sign District	●	● [2]	● [3]	●	●	●	
Large Mixed-Use Sign District	●	●	●	●	●	●	●
Downtown Sign District	●	●	●	●	●	●	
Industrial and Transportation Sign District	●	●	●	●	●	●	● [4]
Open Space Sign District	●						

[1] Allowed for institutional uses only.
[2] Only allowed in B-1~~/~~, B-~~1b, B-2b/B-2c~~2, IS-FBC, and I-B zones.
[3] Only allowed in B-~~2b, B2-c,~~2 and OP zones.
[4] Only allowed in I-L, I-~~Lb, I-~~M, ~~I-Ma, I-Mb, I-H,~~ and I-~~Hb~~H zones.

C. External illumination

1. Externally-illuminated signs must be illuminated only with steady, stationary, fully-shielded light sources directed solely onto the sign without causing glare.
2. The light source for externally-illuminated signs must be arranged and shielded to substantially confine all direct light rays to the sign face and away from streets and adjacent properties as illustrated in Figure ~~20~~19-A.

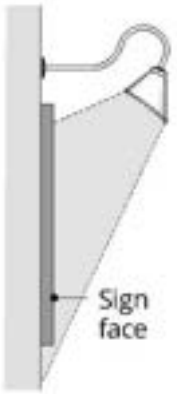


FIGURE 20-A: EXTERNAL ILLUMINATION

D. Direct illumination. All direct illumination must be turned off daily at the close of business or 10 p.m., whichever occurs last.

E. Neon. Exposed neon sign lighting must be turned off daily at the close of business or 10 p.m., whichever occurs last.

F. Single-color or two-color LED signs.

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1. Single or two-color LED signs are exempt from the sign area limitations for window signs and building-mounted signs.
2. Single or two-color LED signs must be turned off daily at the close of business or 10 p.m., whichever occurs last.

G. Electronic Message Signs

1. One electronic message sign is allowed per lot.
2. Electronic message signs must not flash, blink, flutter, include intermittent or chasing lights, or display video messages (i.e., any illumination or message that is in motion or appears to be in motion). Electronic message signs may display changing messages provided that each message is displayed for no less than 30 seconds.
3. Electronic message signs must be equipped with photocell technology to control and vary the intensity of light output depending on the amount of ambient light that is present to prevent overly bright luminance at night. Automatic controls must limit night luminance to a maximum of 100 nits when the display is set to show maximum brightness in 100 percent full white mode.
4. The applicant shall provide a written certification from the sign manufacturer that the night time luminance has been factory pre-set not to exceed 100 nits as described in (3) above, and that this setting is protected from end-user modification by password-protected software or other method as deemed appropriate by the Building Authority.
5. Electronic message signs must be turned off daily at the close of business or 10 p.m., whichever occurs first.

19.6.4 Changeable sign copy

Changeable sign copy must comply with the following standards:

A. Maximum area. The maximum area of changeable sign copy shall be limited to 50% of the total sign area, except for marquee signs. This does not apply to any signs required by law.

B. Sign design. The changeable sign copy must be an integral part of a permanent building-mounted or freestanding sign.

C. Illumination. Changeable sign copy may be non-illuminated or internally-illuminated.

19.6.5 Structure and installation

A. Authority. The construction of signs shall be enforced and administered by the Building Authority. All signs and advertising structures must be designed to comply with the provisions of this article and applicable provisions of Chapter 6 of the City of Portland Code of Ordinances and constructed to withstand wind loads, dead loads, and lateral forces.

B. Electrical features. Where electrical service is provided to freestanding signs or landscape wall signs, all such electrical service must be placed be underground and concealed. Electrical service to building-mounted signs, including conduit, housings, and wire, must be concealed or, when necessary, painted to match the surface of the structure upon which they are mounted. An electrical permit shall be issued prior to installation of any new signs requiring electrical service.

C. Raceway cabinets. Raceway cabinets, as illustrated in Figure ~~20~~19-B, shall only be used in building-mounted signs when access to the wall behind the sign is not feasible, shall not extend in width and height beyond the area of the sign, and shall match the color of the building to which it is attached. Where a raceway cabinet provides a contrast background to sign copy, the colored area is counted in the total allowable sign area allowed for the site or business. A raceway cabinet is not a cabinet sign.

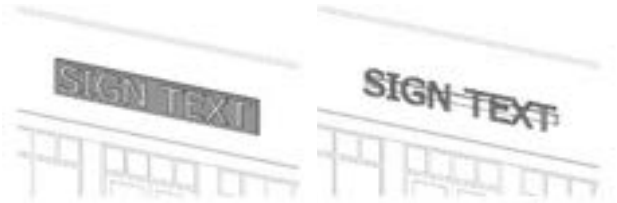

FIGURE 20-B: RACEWAY CABINET EXAMPLES

D. Materials. All permanent signs allowed by this article must be constructed of durable materials capable of withstanding continuous exposure to the elements and must be permanently attached to the ground, a building, or another structure by direct attachment to a rigid wall, frame, or structure.

19.6.6 Sign maintenance

All signs must be maintained by any property owner, lessor, lessee, manager, agent, or other person having lawful possession or control over a building, structure, or parcel of land, in a condition or state of equivalent quality to which was approved or required by the City. All signs together with their supports and appurtenances must be maintained in good structural condition, in compliance with applicable provisions of Chapter 6 of the City of Portland Code of Ordinances, and in conformance with this article. Maintenance of a sign includes periodic cleaning, replacement of flickering, burned out, or broken light bulbs or fixtures, repair or replacement of any faded, peeled, cracked, or otherwise damaged or broken parts of a sign, and any other activity necessary to restore the sign so that it continues to comply with the requirements and contents of the sign permit issued for its installation and provisions of this article.

~~19.9~~19.7 STANDARDS FOR PERMANENT SIGNS

19.7.1 Permitted sign types by sign district

Table ~~20~~19-F establishes which sign types are permitted (●) or not permitted ( ) in each sign district. Any combination of allowed sign types may be used within a given sign district unless specifically prohibited.

19.7.2 Permanent building-mounted sign standards

The maximum total area for all building-mounted signs is established in Table ~~20~~19-G. The area of all building-mounted signs is included in the maximum total sign area, except when specifically exempted. All permanent building-mounted signs shall comply with the corresponding sign type standards provided in Tables ~~20~~19-H to ~~20~~19-Q.

19.7.3 Permanent freestanding sign standards

All permanent freestanding signs shall comply with the standards of Table ~~20~~19-R and the corresponding sign type standards established in Tables ~~20~~19-S to ~~20~~19-V. Unless specifically indicated, standards applicable within a sign district apply to single- and multi-tenant buildings. There is no setback requirement for permanent freestanding signs, provided that the

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sign is entirely located on the property where the sign is permitted, and the sign is located in compliance with Table ~~20~~19-F.

TABLE ~~2019~~-F: ALLOWED SIGN TYPES BY SIGN DISTRICT

	Sign Type	Residential Sign District [1]	Small Mixed-Use Sign District	Large Mixed-Use Sign District	Downtown Sign District	Industrial Sign District	Open Space Sign District
Building-Mounted	Awning Sign		●~~[2]~~	●	●	●	●
	Canopy Sign		●~~[2]~~	●	●	●	
	Blade Sign		●	●	●		
	Directional Sign		●~~[2]~~	●	●	●	●
	Directory Sign	●[2~~3~~]	●	●	●	●	
	Marquee Sign			●	●		
	Projecting Sign		●~~[2]~~	●	●	●	
	Service Island Canopy Sign			●	●	●	
	Wall Sign	●	●	●	●	●	●
	Window Sign		●	●	●	●	●
Freestanding	Freestanding Directional Sign	●	●	●	●[3~~4~~]	●	●
	Freestanding Directory Sign	●[2~~3~~]	●	●	●[3~~4~~]	●	●
	Monument Sign		●	●	●[4~~5~~]	●	●
	Pole Sign		●	●	●[4~~5~~]	●	●

[1] For institutional uses in residential zones, all permanent sign types are allowed except for the following: awning sign, blade sign, canopy sign, marquee sign, pole sign, projecting sign, service island canopy sign; and window sign.

~~[2] Not allowed in the R-P Zone.~~

[2~~3~~] Not allowed in the ~~R~~RN-1, ~~R-2, R-4~~RN-3, IR-1, and IR-2 zones.

[3~~4~~] Not allowed in the B-3 zone.

[4~~5~~] In the B-3 and B-5 zones, freestanding signs are permitted only if the front façade of the building is set back a distance of at least 20 ft. from either of the front facades of abutting buildings. In the case of a multi-tenant building, the individual tenants' frontage must be set back a distance of at least 20 ft. from other tenant's frontages.

TABLE ~~20~~19-G: DIMENSIONAL STANDARDS FOR BUILDING-MOUNTED SIGNS BY SIGN DISTRICT

Sign District			Total Area for All Signs (per tenant or façade)	Number of Signs (max.)
Residential	Single-family lots		2 SF max.	1 per lot (either freestanding or building-mounted)
	~~PRUDs,~~ Multi-family lots		10 SF max.	1 per street frontage
	Institutional use in all residential zones		1.5 SF per linear foot of building façade where the sign is placed 150 SF max.	1 per street frontage, plus 2 additional
Small Mixed-Use	Single-tenant building		I-B zone: 1 SF per linear foot of building façade where the sign is placed; Max. 40 SF All other zones: 1.5 SF per linear foot of building façade where sign is placed; Max. 100 SF per facade	1 per street frontage, plus 1 additional
	Multi-tenant building		1.5 SF per linear foot of building façade where the sign is placed 150 SF max. per tenant	1 per tenant[5,6], plus 1 additional for the building.
Large Mixed-Use	Single-tenant building		2 SF per linear foot of building façade where the sign is placed 200 SF max. per façade [1]	1 per street frontage, plus 2 additional
	Multi-tenant building		1.5 SF per linear foot of tenant façade where the sign is placed 150 SF max. per tenant	1 per tenant[6], plus 1 additional for the building.
Downtown	Single-tenant building		2 SF per linear foot of building façade where the sign is placed	1 per street frontage, plus 2 additional
	Multi-tenant building	Ground floor tenants	2 SF per linear foot of tenant frontage where the sign is placed	1 per tenant[5, 6]
		Building ID and upper floor tenants	5% of building wall area ~~where sign is placed~~ max. for all upper floor tenant signs place on a facade.	1 per tenant, plus 2 additional for the building
Industrial & Trans.	Single-tenant building		2 SF per linear foot of building façade where sign is placed 250 SF max.	1 per street frontage, plus 2 additional
	Multi-tenant building		2 SF per linear foot of tenant frontage where the sign is placed 200 SF max.	1 per tenant, plus 2 additional for the building
Open Space	Commercial signs/facility signs[2, 3]		1 SF per linear foot of building façade where the sign is placed 20 SF max.[4]	1 per use (either freestanding or building-mounted)
	Sign placement		The total sign area for signs on single-tenant or multi-tenant buildings may be placed on any building elevation, provided that at least 1 sign must be placed ~~above or associated with the building entry or tenant's building entry, in the case of a multi-tenant building.~~on the tenant facade.	

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TABLE ~~2019~~19-G: DIMENSIONAL STANDARDS FOR BUILDING-MOUNTED SIGNS BY SIGN DISTRICT

Sign District	Total Area for All Signs (per tenant or façade)	Number of Signs (max.)

[1] Where a building features two principal entry facades facing parallel streets, each entry façade shall be eligible for the full amount of signage relative to its frontage, notwithstanding the total area.
[2] Standards do not apply to municipal stadiums with more than 6,000 seats. The standards for the Small Mixed-Use Sign District shall apply instead.
[3] Building signs shall be visually related to the building on which they are located in terms of materials, color, scale, etc., as determined by the Building Authority.
[4] Product trademarks limited to 5 ~~percent~~% of total sign area.
[5] On the peninsula, each tenant may have two signs, provided that one sign is a blade sign and one sign is placed parallel to the building façade.
[6] If a tenant faces additional street frontages, one additional sign is allowed per frontage for that tenant.

TABLE ~~2019~~19-H: STANDARDS FOR AWNING SIGNS

Standard	Requirements
Sign area (max.)	1 SF per linear foot of awning width
Mounting height	~~7~~8 ft. min. from the bottom of the awning to the nearest grade or sidewalk 25 ft. max.
Sign placement	Must be placed above the doors and windows of the ground floor of a building. Awnings shall not project above, below, or beyond the edges of the face of the building wall or architectural element. ~~Sign width shall not be greater than 60% of the width of the awning face or valance on which it is displayed (if an awning is placed on multiple storefronts, each business is permitted signage no greater than 60% of the width of the storefront).~~ May project into public right-of-way with permit approval.
Valance height (max.)	6 in.
Horizontal distance from back of curb (min.)	2 ft.
Illumination	Illumination allowed under the awning.

TABLE ~~20~~19-H: STANDARDS FOR AWNING SIGNS

Standard	Requirements

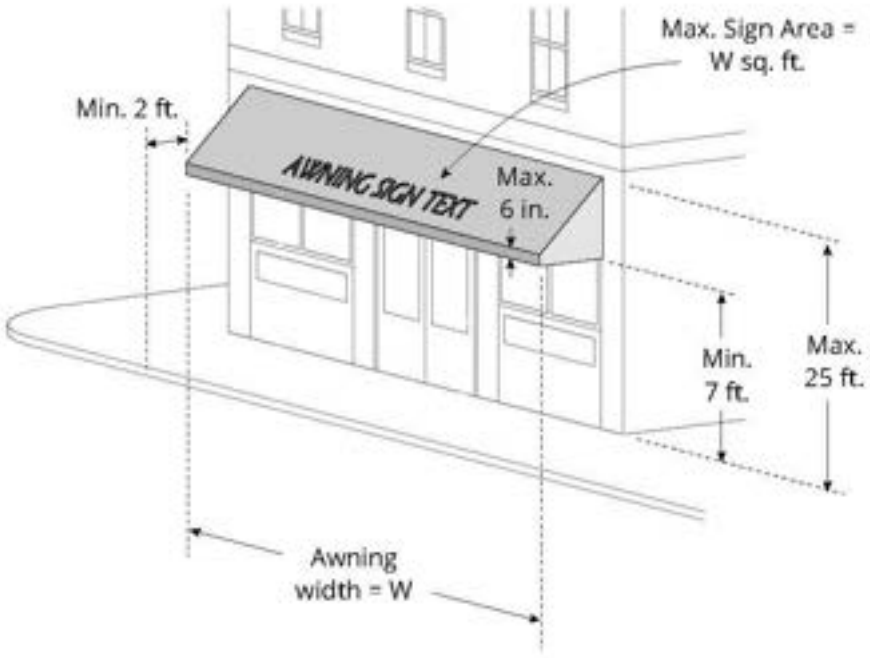

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TABLE ~~20~~19-I: STANDARDS FOR CANOPY SIGNS

Standard	Requirements
Sign area (max.)	1 SF per linear foot of canopy width
Mounting height	8 ft. min. from the bottom of the sign to the nearest grade or sidewalk 20 ft. max.
Sign placement	Must be placed above the doors and windows of the ground floor of a building. ~~Sign width shall not be greater than 60% of the width of the canopy on which it is displayed (if a canopy is placed on multiple store fronts, each business is permitted signage no greater than 60% of the store width or tenant space).~~ May project into public right-of-way with permit approval.
Horizontal distance from back of curb (min.)	2 ft.
Illumination	Direct illumination or internal illumination

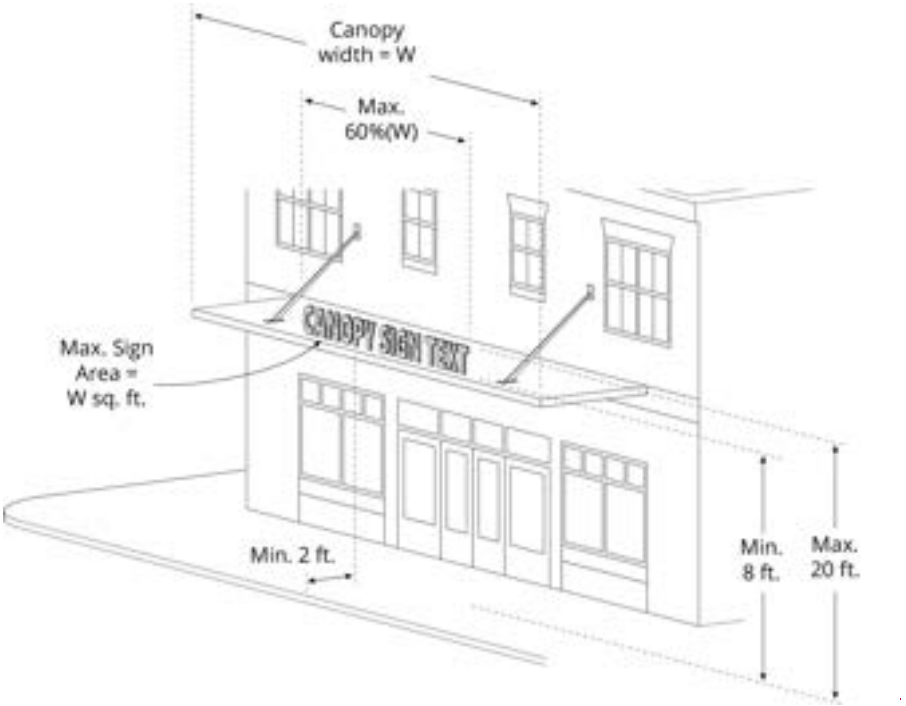

TABLE ~~20~~19-J: STANDARDS FOR BLADE SIGNS

Standard	Requirements
Sign area (max.)	~~12~~16 SF
Mounting height	8 ft. min. from the bottom of the sign to the nearest grade or sidewalk Must be mounted perpendicular to the building face or corner of the building.
Sign placement	If mounted below the underside of a walkway or overhead structure, must not extend beyond the edge of the structure on which it is located. May project into public right-of-way with permit approval.
Illumination	External illumination

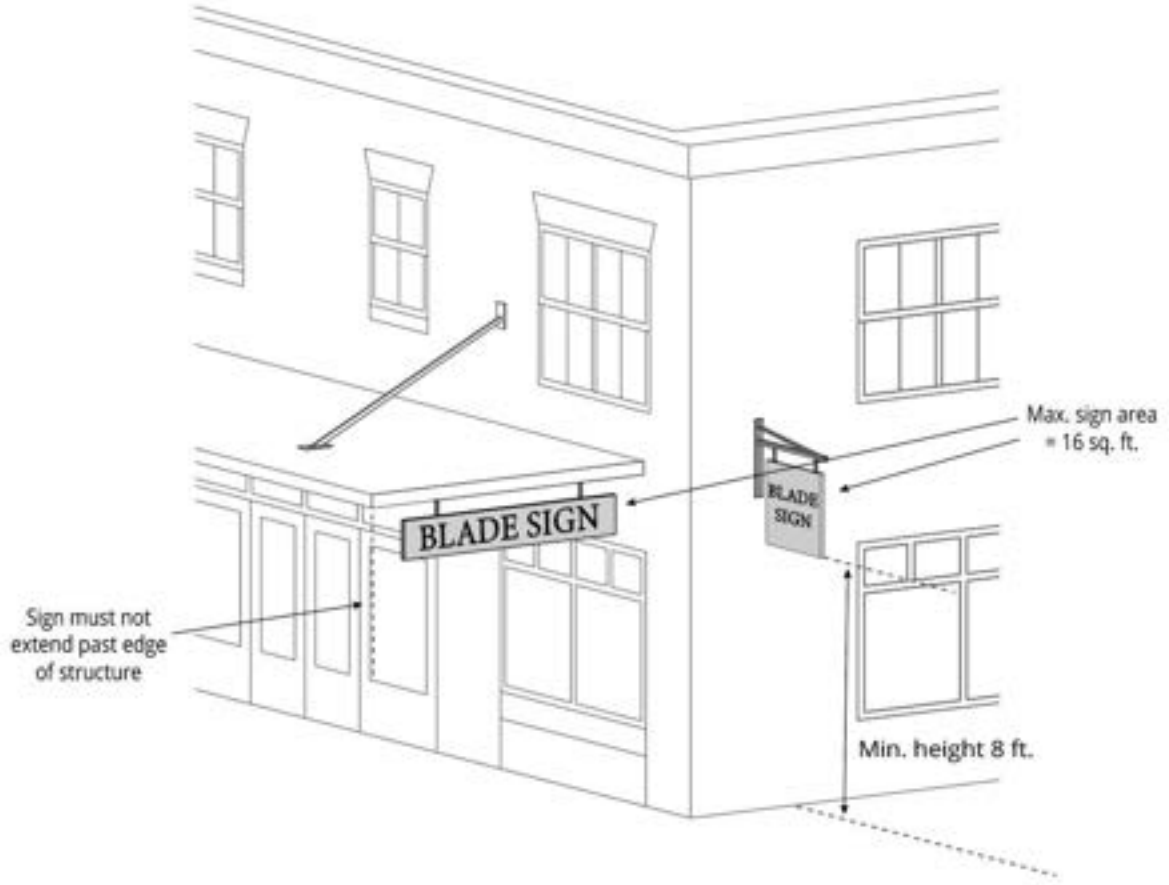

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TABLE ~~20~~19-K: STANDARDS FOR DIRECTIONAL SIGNS (BUILDING-MOUNTED)

Standard	Requirements
Sign area (max.)	3 SF per sign face (excluded from the total allowed sign area for all building-mounted signs)
Mounting height	6 ft. max. from nearest grade
Number of signs (max.)	1 ~~at each driveway~~per facade, drive-through lane, or alley, not to exceed 3 signs per lot (excluded from the total number of allowed signs for all building-mounted signs)
Illumination	Internal illumination

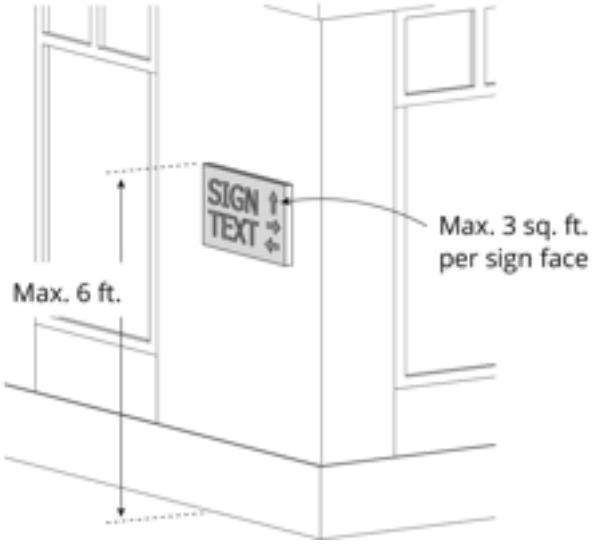

TABLE ~~20~~19-L: STANDARDS FOR DIRECTORY SIGNS (BUILDING-MOUNTED)

Standard	Requirements
Sign area (max.)	1 SF per occupant of tenant space and 16 SF total max. (excluded from the total allowed sign area for all building-mounted signs)
Mounting height	8 ft. max. from nearest grade
Number of signs (max.)	1 per primary building entrance (excluded from the total number of allowed signs for all building-mounted signs)
Illumination	External illumination or internal illumination

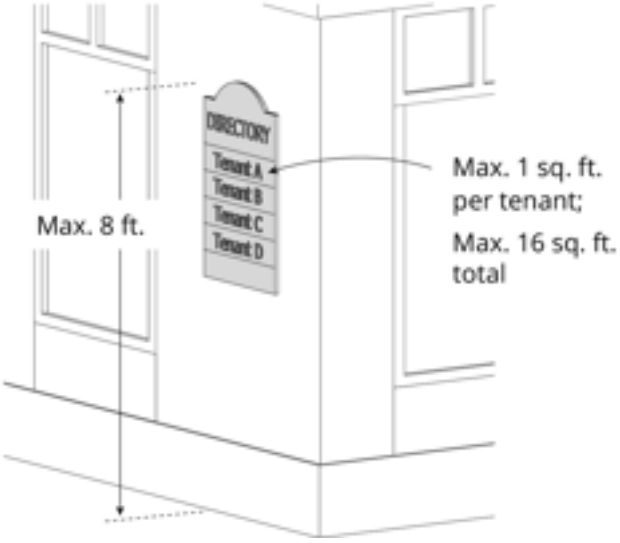

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TABLE ~~2019~~19-M: STANDARDS FOR MARQUEE SIGNS

Standard	Requirements
Sign area (max.)	1 SF to 1 linear foot of marquee width
Mounting height	12 ft. min. from the bottom of the marquee to the nearest grade or sidewalk
Number of signs (max.)	1 per business
Sign placement	May project into public right-of-way with permit approval.
Horizontal distance from back of curb (min.)	2 ft.
Illumination	Direct illumination or internal illumination

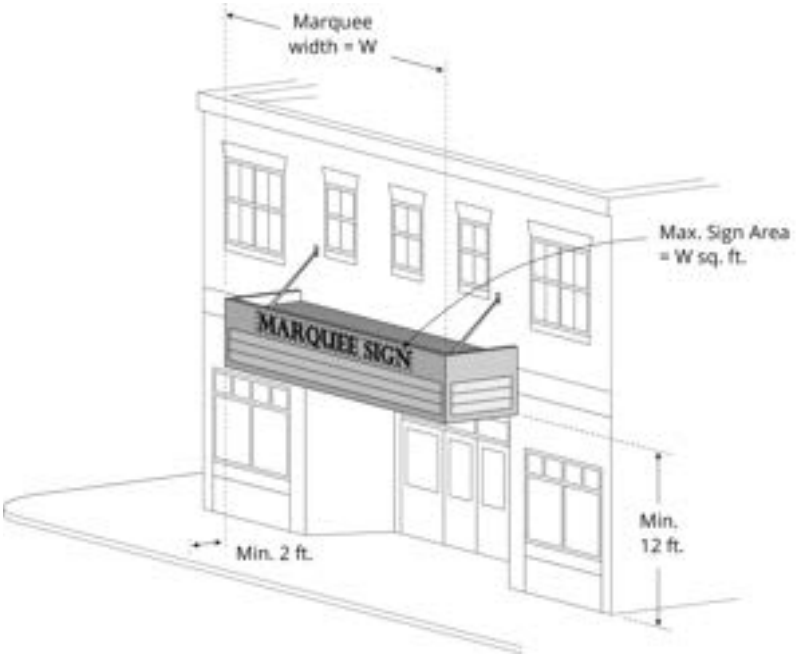

TABLE ~~20~~19-N: STANDARDS FOR PROJECTING SIGNS

Standard	Requirements
Sign area (max.)	~~24 SF~~ As provided in Table 19-G.
Mounting height	8 ft. min. from the bottom of the sign to the nearest grade or sidewalk.
Sign placement	Only on the wall of a building. May project into public right-of-way with permit approval.
Number of signs (max.)	1 per business
Projection (max.)	4 ft. from the building wall to the outer edge of the sign
Illumination	External illumination, direct illumination, neon, or internal illumination of individual letters or graphics only.

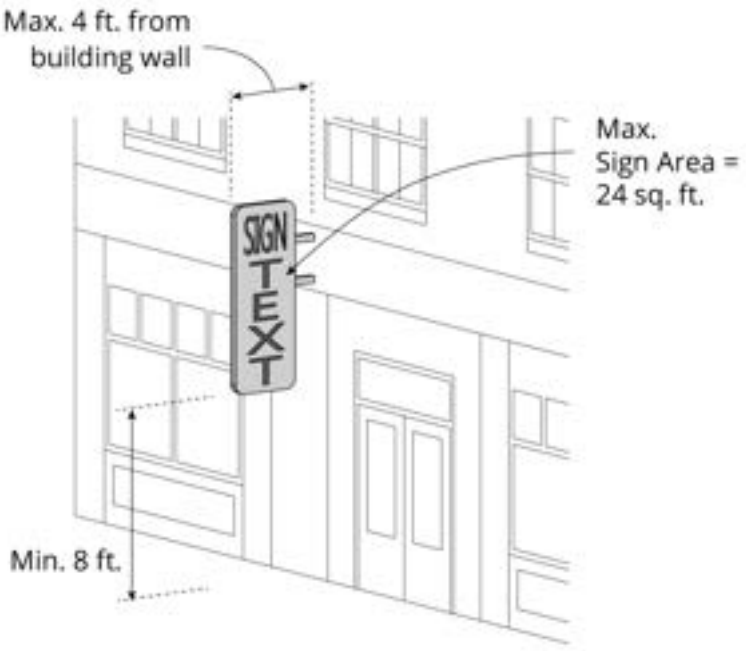

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TABLE ~~20~~19-O: STANDARDS FOR SERVICE ISLAND CANOPY SIGNS

Standard	Requirements
Sign area (max.)	20 SF per sign
Number of signs (max.)	1 per canopy façade, not to exceed 2 signs total
Illumination	Internal illumination

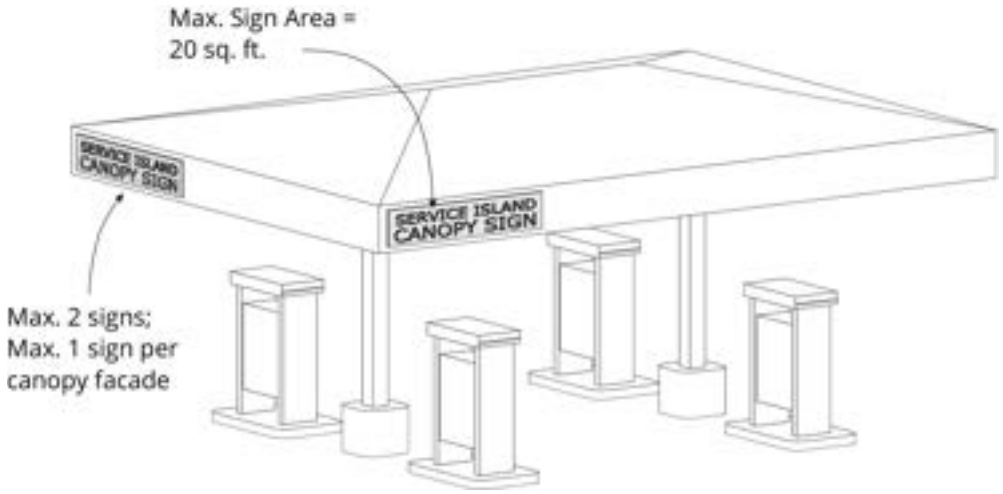

TABLE ~~20~~19-P: STANDARDS FOR WALL SIGNS

Standard	Requirements
Sign area (max.)	As provided in Table ~~20~~19-G
Number of signs (max.)	As provided in Table ~~20~~19-G
Illumination	External illumination, direct illumination, internal illumination, or neon
Special provisions	Painted wall signs are allowed on any exterior building wall of an individual tenant space or building. The allowable area for painted wall signs shall be increased by 10% over the normal allowable sign dimensions for the zone. Murals and exterior painting that contain sign copy are allowed without a permit provided the sign copy does not compromise more than 10% percent of the total area of the artwork, complies with any applicable requirements of Article 16, and meets the dimensional standards for a wall sign within the applicable sign district, including the maximum number of signs allowed in Table 19-G.

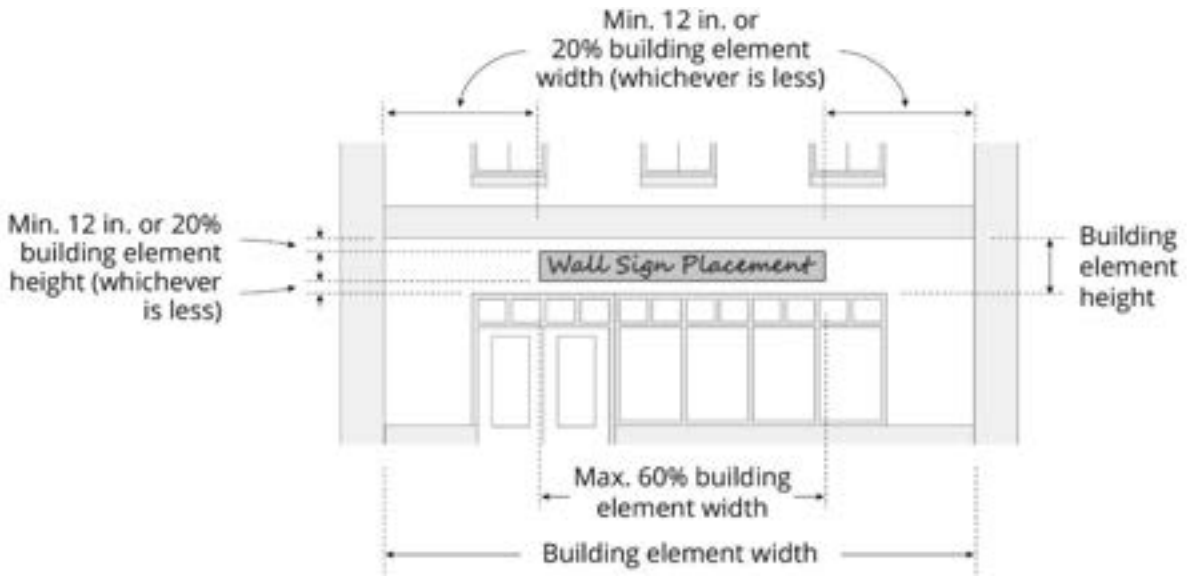

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TABLE ~~20~~19-Q: STANDARDS FOR WINDOW SIGNS

Standard	Requirements
Sign area (max.)	Combined area of temporary and permanent window signs must not exceed 50% of the area of the window on which they are displayed. Painted window signs or perforated vinyl signs are included in this calculation. Excluded from the total allowed sign area for all building-mounted signs.
Sign placement	Must be mounted or displayed on the interior of the window. Allowed on 1st and 2nd story windows only.
Illumination	Neon or single- or two-color LED signs

TABLE ~~20~~19-R: DIMENSIONAL STANDARDS FOR FREESTANDING SIGNS BY SIGN DISTRICT

Sign District			Area (max.)	Height (max.)	Number of Signs
Residential		**Single-family lots**	2 SF	5 ft.	1 per lot (freestanding or building-mounted)
		~~PRUDs,~~ Multi-family lots	15 SF	5 ft.	1 per major vehicular entrance
	Institut-ional	Street frontage ≤ 100 ft.	15 SF	6 ft.	1 per frontage[1, 2]
		Street frontage 100 – 250 ft.	25 SF	8 ft.	1 per frontage[1, 2]
		Street frontage ≥ 250 ft.	50 SF	8 ft.	1 per frontage[1, 2]
Small Mixed-		**Single-tenant building**	32 SF	B-1/B-1b, B-2b/B-2c zones: 16 ft.	1 per lot[1]
	Multi-tenant building	< 1 acre lot	32 SF		
		1 – 2.5 acre lot	100 SF		

TABLE ~~20~~19-R: DIMENSIONAL STANDARDS FOR FREESTANDING SIGNS BY SIGN DISTRICT

		> 2.5 acre lot	140 SF	In all other zones: 8 ft.	
		I-B Zone[3]	20 SF	10 ft.	1 per use
	OP zone	Center identification sign	50 SF	8 ft.	1 per major vehicular entrance
		Tenant sign	15 SF	5 ft.	1 per tenant[2]
Large Mixed-Use	**Single-tenant building**	Street frontage ≤ 200 ft.	65 SF	B-4 zone: 25 ft. In all other zones: 18 ft.	1 per lot[1]
		Street frontage > 200 ft.	100 SF		
	Multi-tenant building	< 1 acre lot	65 SF	B-4 zone: 25 ft. In all other zones: 18 ft.	1 per lot[1]
		1 - 2.5 acre lot	100 SF		
		> 2.5 acre lot	140 SF		
		Downtown	16 SF	6 ft.	1 per frontage[1]
Industrial & Transportation		**Single-tenant building**	35 SF	10 ft.	1 per lot[1]
		Multi-tenant building	~~70~~100 SF	~~15~~18 ft.	1 per lot[1]
	AB zone	**Single-tenant building** Street frontage ≤ 200 ft.	32 SF	16 ft.	1 per lot[1]
		Single-tenant building Street frontage > 200 ft.	65 SF	16 ft.	1 per lot[1]
		Multi-tenant building < 1 acre	32 SF	16 ft.	1 per lot[1]
		Multi-tenant building 1 - 2.5 acres	100 SF		
		Multi-tenant building ≥ 2.5 acres	140 SF		
Open Space[4]		**Park identification signs**[5]	~~20~~30 SF	~~5~~10 ft.	1 per major ~~vehicular~~park entrance
		All other signs[5]	16 SF[6]	8 ft.	1 per use (building-mounted or freestanding)

[1] Lots with multiple street frontages are allowed one freestanding sign for each frontage, provided that the signs are not concurrently visible from the public right-of-way.
[2] Where a lot contains more than one affiliated use or tenant, uses and tenants may be allocated space on a shared sign. Individual uses or tenants are not allowed to have individual freestanding signs.
[3] Only allowed for marine-related uses serving vessel traffic.
[4] Standards do not apply to municipal stadiums with more than 6,000 seats. The standards for the Small Mixed-Use Sign District shall apply instead.
[5] All signs must be integrated into existing landscape features or visually related to the materials, colors, scale, etc. of existing buildings as determined by the Building Authority.
[6] Product trademarks limited to 5% of total sign area.

TABLE ~~20~~19-S: STANDARDS FOR DIRECTIONAL SIGNS (FREESTANDING)[1]

Standard	Requirements
Sign area (max.)	3 SF per sign face (excluded from the total allowed sign area for all freestanding signs)
Height (max.)	6 ft. from nearest grade, except 4 ft. at driveway or drive-through lanes
Number of signs (max.)	1 at each driveway or drive-through lane, not to exceed 3 signs per lot (excluded from the total number of allowed signs for all freestanding signs)
Illumination	Internal illumination

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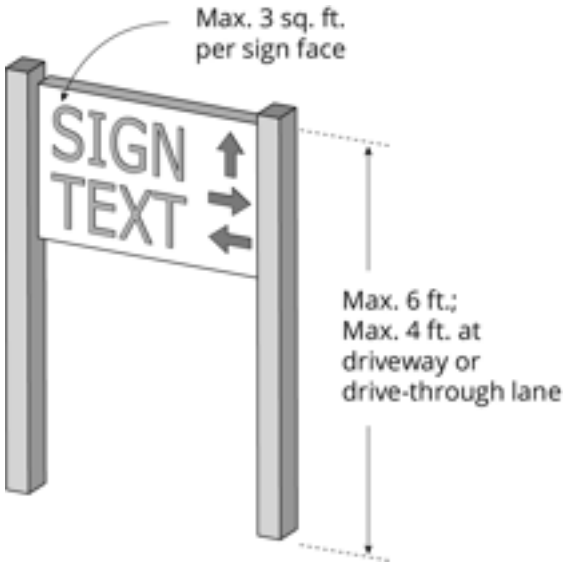
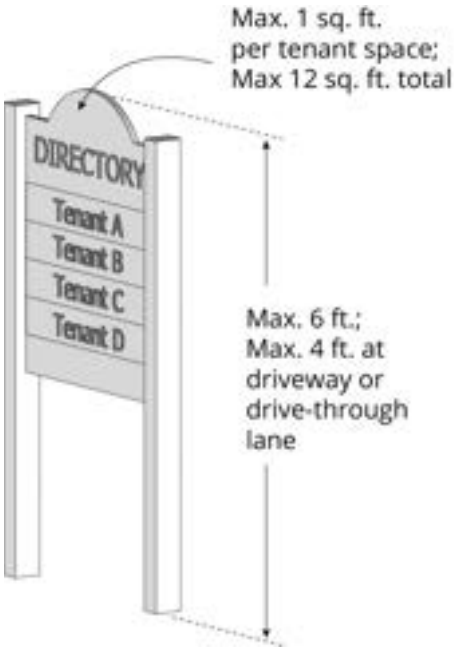


~~Table 20-T: Standards for Directory Signs (Freestanding)~~[1] The maximum sign area and height standards may be further limited by the standards established in Table 19-R.

TABLE 19-T: STANDARDS FOR DIRECTORY SIGNS (FREESTANDING)[1]

Standard	Requirements
Sign area (max.)	12 SF total 1 SF max. per occupant or tenant space (excluded from the total allowed sign area for all freestanding signs)
Height (max.)	6 ft. from nearest grade, except 4 ft. at driveway or drive-through lanes
Number of signs (max.)	1 per building (excluded from the total number of allowed signs for all freestanding signs)
Illumination	External illumination or internal illumination



~~Table 20-U: Standards for Monument Signs~~[1] The maximum sign area and height standards may be further limited by the standards established in Table 19-R.

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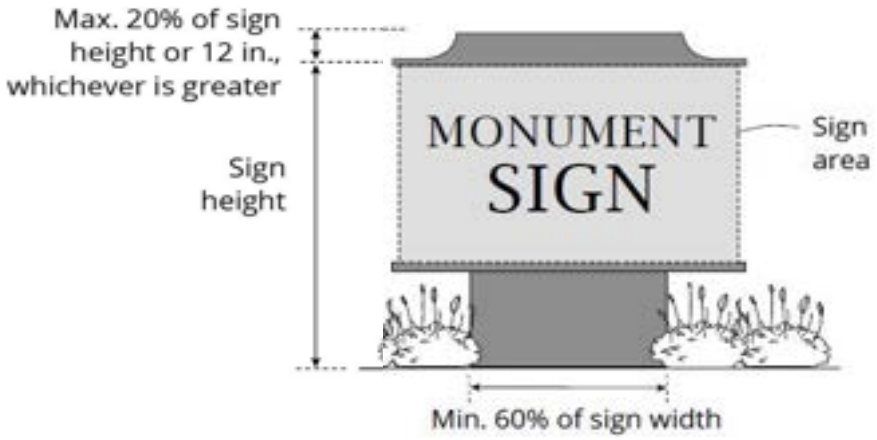
TABLE 19-U: STANDARDS FOR MONUMENT SIGNS[1]

Standard	Sign District					
	Residential Sign District[2]	Small Mixed-Use Sign District	Large Mixed-Use Sign District	Downtown Sign District	Industrial Sign District	Open Space Sign District
Sign area (max.)	50 SF	50 SF	140 SF	50 SF	~~70~~100 SF	20 SF
Height (max.)	8 ft.	8 ft.	18 ft.	6 ft.	~~16~~18 ft.	5 ft.
Base width (~~max~~min.)	The base of a monument sign must be at least 60% of the width of the sign.					
Illumination	Non-illuminated, internal illumination, or external illumination Electronic message signs are allowed as a form of illumination where permitted in Table 19-E.					
Special provisions for sign height	Elements to enhance the design of a sign structure may extend above the sign to a max. of 20% of the sign's allowed height, or 12 inches, whichever is greater.					

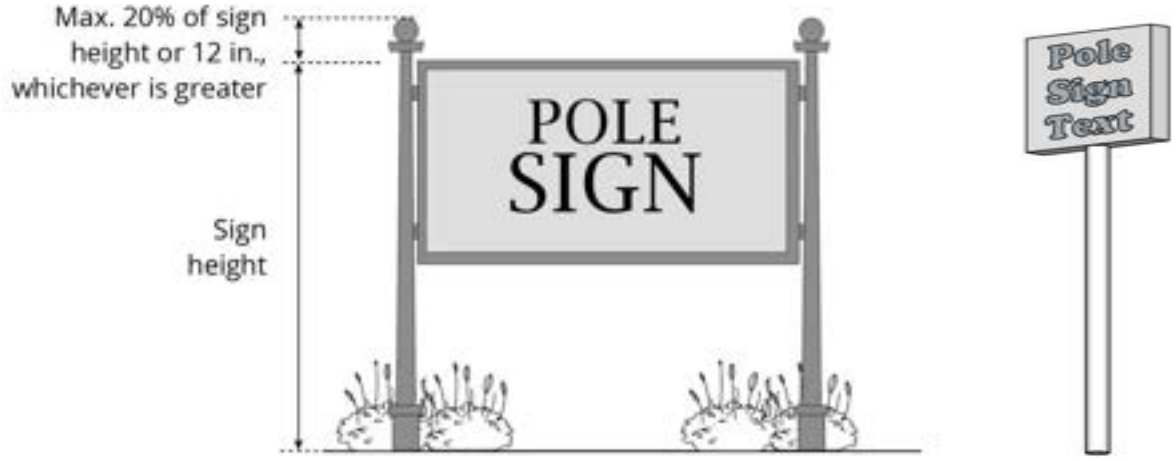


[1] The maximum sign area and sign height standards may be further limited by the standards established in Table ~~20~~19-R. If no value is included in the table ~~below~~above, then a monument sign is not allowed in that sign district

[2] Allowed for institutional uses in residential zones only.

TABLE ~~2019~~-V: STANDARDS FOR POLE SIGNS[1]

Standard		Sign District					
		Residential Sign District	Small Mixed-Use Sign District	Large Mixed-Use Sign District	Downtown Sign District	Industrial Sign District	Open Space Sign District
Sign area (max.)	Signs ≤ 8 ft. High	~~15 SF~~ --	24 SF	24 SF	~~24~~18 SF	24 SF	20 SF
Height (max.)		~~5 ft.~~ --	8 ft.	8 ft.	6 ft.	8 ft.	8 ft.
Sign area (max.)	Signs 8 - 25 ft. high	--	140 SF	140 SF		140 SF	
Height (max.)		--	16 ft.	25 ft.		16 ft.	
Illumination		Non-illuminated or internal illumination Signs ≤ 8 ft. in height may have external illumination Electronic message signs are allowed as a form of illumination where permitted in Table 19-E.					
Sign placement		Signs ≥ 8 ft. in height must have minimum 75 foot separation from other pole signs ≥ 8 ft. on the same side of the street.					
Sign height		Elements to enhance the design of a sign structure ≤ 8 ft. in height may extend above the sign to a max. of 20% of the sign's allowed height, or 12 inches, whichever is greater.					



1 The maximum sign area and sign height standards may be further limited by the standards established in Table ~~2019~~-R.

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~~19.97~~19.8 STANDARDS FOR TEMPORARY SIGNS

19.8.1 In general

Temporary signs are allowed only in compliance with the provisions of this section.

A. Information required for display. All temporary signs are required to display the name and address of the entity placing the sign, and the date the sign was erected.

B. Not included in permanent sign allowances. Temporary signs are not counted toward the maximum total sign area established in Section ~~20.8~~19.7.

C. General time, place, and manner restrictions. Unless specifically exempted by this section, temporary signs must be placed in compliance with Subsection ~~20.6~~19.5.1. Temporary signs must not be placed to create a hazard for pedestrian or vehicular traffic and must allow for a ~~4~~four-foot wide sidewalk to comply with the Americans with Disabilities Act.

D. Any form of illumination, including flashing, blinking, or rotating lights; animation; reflective materials; and attachments such as balloons, ribbons, and loudspeakers are prohibited.

E. Temporary signs must be of sufficient weight and durability to withstand wind gusts, storms, and other exterior elements.

19.8.2 Temporary sign permits

A. Sign permit required. A temporary sign permit is required to display a temporary wall banner sign and an A-frame sign placed in the public right-of-way. All other temporary sign types do not require a sign permit.

B. Duration of temporary sign permit. A temporary sign permit for a wall banner is valid for 60 days from the date of issuance. There are no time limitations for A-frame signs installed in public right-of-way.

~~19.8.2~~19.8.3 Additional standards for temporary signs

All temporary signs shall comply with the standards of Tables ~~20~~19-W and ~~20~~19-X~~.~~

TABLE ~~2019~~-W: TEMPORARY SIGN STANDARDS BY SIGN DISTRICT

	Standard	Requirement
Residential	**Total area of all temporary signs at any one time** (max.)	16 SF per lot.
	Number of signs (max.)	Unlimited except that the total sign area must not exceed 16 SF
	Time limit (max.)	None
Construction	**Total area** (max.)	24 SF per banner Where multiple building-mounted banners are proposed, the total cumulative area of all banners shall not exceed 72 SF per facade.
	Time limit (max.)	Temporary banners may be placed on a construction site until construction is complete.
Other	**Total area of all temporary signs at any one time** (max.)	24 SF per tenant, with a total of max. 72 SF per lot (excludes the area of temporary window signs and permitted wall banner signs) Exception: In the Downtown Sign District and historic districts, max. 12 SF per tenant (excludes the area of temporary window signs and permitted wall banner signs)
	Number of signs (max.)	1 wall banner per tenant in a multi-tenant building. All other temporary sign types unlimited, except that the total sign area of all temporary signs (excludes the area of temporary window signs and permitted wall banner signs) must not exceed the total square footage provided above. Exception: In multi-tenant shopping centers or offices, max. 2 temporary wall banner signs per 150 linear feet of property frontage, not to exceed 24 SF combined.
	Time limit (max.)	60 days per temporary sign permit per Subsection 19.8.2, and up to 180 days per calendar year.

TABLE ~~20~~19-X: STANDARDS FOR TEMPORARY SIGN TYPES

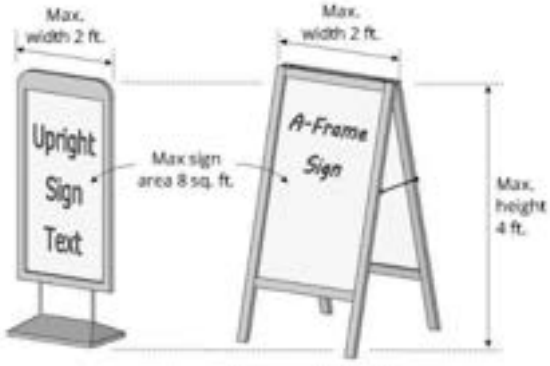
Temporary Sign Type[1]	Standard: Height	Standard: Width (max.)	Standard: Area (max.)	Other Requirements
	Min. 30 in. Max. 4 ft.	2 ft.	8 SF	Prohibited in residential zones~~.~~ except for institutional uses.. Must not be placed in public right-of-way except as permitted by the City. [3] If advertising a business, only permitted during regular business hours.
A-frame or upright sign[2]				
Wall banner			32 SF	Prohibited in residential zones except for institutional uses. Must be mounted on a building wall or on T-posts or stakes installed ≤ 6" from a wall on which the wall banner will be hung. Mounting height (max.)**:** 25 ft. to top of banner.

TABLE ~~20~~19-X (CONT.): STANDARDS FOR TEMPORARY SIGN TYPES

Temporary Sign Type[1]	Standard: Height (max.)	Standard: Width (max.)	Standard: Area (max.)	Other Requirements
Window sign			See End Note[4]	Mounting height (max.): Placed no higher than second story windows. Inside mounting required. Not included in the total sign area for all temporary signs.
Yard sign (Type I)	4 ft.	2 ft.	3 SF	Installation requirements: Installed securely in the ground.
Yard sign (Type II)	6 ft.	2 ft.	4 SF	Installation requirements: Installed securely in the ground.
Yard sign (Type III)	6 ft.	8 ft.	32 SF	Installation requirements: Installed securely in the ground.

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[1] Other temporary sign types may be allowed (e.g. fuel pump topper signs; wrap around waste receptacles) provided the max. area limitation for all temporary signs is not exceeded.
[2] These signs may be used to identify businesses located down a wharf in the EWPZ and WCZ Zones that have no street frontage and where no other options for on-site permanent signage are available.
[3] A min. 4-foot wide pedestrian walkway must be maintained at all times.
[4] The area of temporary and permanent window signs combined (including signs constructed of perforated vinyl or painted on the window) must not exceed 50% of the area of the window on or within which they are displayed.

~~19.98~~19.9 NONCONFORMING SIGNS

19.9.1 Applicability

~~Maintenance.~~ Nonconforming signs may be maintained, expanded upon, and/or reduced only in accordance with the provisions of this section.

~~F. Continuation. All lawfully nonconforming signs may be continued, subject to this section.~~

~~6. Lawfully nonconforming permanent directional signs for existing nonconforming businesses that are established and operational in any residential zone may continue to be used subject to this section.~~

~~7. Lawfully nonconforming permanent signs for nonconforming uses established and operational in any residential zone may continue to be used subject to this section.~~

19.9.2 Removal or replacement of a nonconforming sign

Lawfully nonconforming signs must be made to conform or shall be removed if any of the following occurs, unless the improvements are required to achieve compliance with applicable federal, state, or local regulations, other than the provisions of this article, and the improvements do not require replacement of the nonconforming sign. In no event will the degree of nonconformity of any sign or type of signage on any lot be increased.

A. Major site plan review. Major site plan review is sought for any new structures or building additions on the site, except as provided in (E) below.

B. New building permit for rehabilitation. A building permit is sought for a rehabilitation of a building where the value of the rehabilitation exceeds 50% of the assessed value of the building, or $100,000, whichever is less, provided that where rehabilitation is of a multi-tenant building, only the tenant or tenants whose building or area is being rehabilitated shall be required to come into conformance with this article.

C. New sign permit. An application is filed for a new sign permit in accordance with the following:

1. When an application is filed for a new building-mounted sign, all building-mounted signs on the lot must come into compliance with all requirements of this article for building signs~~.~~ including Table 19-G for building signs.
2. When an application is filed for a new freestanding sign, all freestanding signs on the lot must come into compliance with all requirements of this article for freestanding signs~~.~~ including Table 19-R for freestanding signs.

D. Modification of sign. A sign is modified in any way, except for routine maintenance or repair of sudden and accidental damage, or for a change in the message panel only, unless otherwise required to conform under this subsection. Repair of sudden and accidental damage will not include replacement of the entire sign, which is treated as a modification under this subsection. Letters on nonconforming signs designed for changeable messages may be changed without triggering the terms of this subsection as long as no other change is made to the sign. Replacement of an awning covering with substantially the same material and text is not considered a modification.

E. Signs on multi-tenant properties.

1. In the case of nonconforming freestanding shared signs for multi-tenant properties, signs may be added or modified to reflect a change in individual tenants without triggering the terms of this subsection, provided that the degree of nonconformity is not increased.
2. In the case of building signs on multi-tenant properties, this subsection shall apply only to the individual business tenant that is adding or modifying a sign or seeking major site plan review and shall not trigger the conformance requirement for other tenants' building signs.

F. Abandoned or vacant site. Removal of a nonconforming sign, or replacement of a nonconforming sign with a conforming sign, is required when the use of the sign and/or the property on which the sign is located has been abandoned, ceased operations, become vacant, or been unoccupied for a period of 180 consecutive days or more, as long as the period of non-use is attributable at least in part to the property owner, tenant, or other person or entity in control of the use. For purposes of this ~~section~~subsection, rental payments or lease payments and taxes are not considered as a continued use. In the event this should occur, such conditions will be considered as evidence of abandonment, requiring removal of such sign by the owner of the property, ~~his or her~~their agent, or person having the beneficial use of the property, building, or structure upon which such sign or sign structure is erected

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within 30 days after written notification from the ~~Planning~~Building Authority. If such sign(s) is (are) not removed within the 180-day period, enforcement action will be pursued consistent with Section ~~20.11~~19.10.

~~19.9.3 Permanent directional signs in residential zones~~

~~G. A lawfully existing business located in a residential zone is allowed an off-premise sign in the public right-of-way if it meets the following requirements:~~

~~8. The business is not a home occupation.~~

~~9. The business is not located within 500 feet of a major or minor arterial.~~

~~10. The off-premise sign will be no larger than 12 inches by 48 inches and complies with the requirements established in the *MDOT/MUTCD Standard Sign Manual.*~~

~~H. Such lawfully existing retail business may qualify for one two-sided or two one-sided off-premise signs that must be located within the public right-of-way of a major or minor arterial in a location determined safe by the City Traffic Engineer and upon the payment of an initial fee of $300, with an annual renewal fee of $30.~~

~~I. In the event the sign is damaged or destroyed, the replacement of the sign shall be the sole responsibility of the permittee. The permittee shall be required to obtain a permit for the replacement sign from the Planning Authority, after securing $400,000 insurance and naming the City of Portland as an additional insured.~~

~~19.9.4~~19.9.3 Nonconforming signs in residential zones

A. Lawfully-existing permanent signs for lawfully existing nonconforming uses in any residential zone may continue to be used.

B. If an application is filed for new or replacement building-mounted sign(s) for a lawfully-existing nonconforming use located in a residential zone, the building-mounted sign(s) must either be the same size and number as the lawfully existing building-mounted sign(s), or must comply with the standards established for the Small Mixed-Use Sign District in Table ~~20~~19-G, whichever is less. Sign types shall be limited to blade, directory, wall, and window signs. Illumination shall be limited to external illumination only.

C. If an application is filed for replacement freestanding sign(s) for a lawfully-existing nonconforming use located in a residential zone, the freestanding sign(s) must be the same size and number as the lawfully existing freestanding signs, or must comply with the standards established for the Small Mixed-Use Sign District in Table ~~20~~19-R, whichever is less. No new freestanding signs for a nonconforming use in a residential zone shall be permitted. Illumination shall be limited to external illumination only.

~~19.99~~19.10 ENFORCEMENT

19.10.1 Authority

The requirements of this article shall be enforced by the Building Authority as stated in Article 1. The Building Authority has the authority to order the repair, maintenance, or removal of any sign or sign structure that has become dilapidated or represents a hazard to public health, safety, or welfare.

19.10.2 Violations

A. It shall be unlawful for any person, firm, or corporation to erect, construct, enlarge, alter, repair, display, maintain, or use a sign within the City contrary to, or in violation of, any provision of this article. Any work commenced without a sign permit, or beyond the authorized scope of a sign permit constitutes a violation of this article and is grounds for the Building Authority to issue a correction notice and/or to stop all work on the sign until appropriate permits are obtained.

B. Permits issued for work commenced without a sign permit, or any work beyond the authorized scope of a sign permit shall be assessed double the required permit fees for the sign(s).

C. Failure to perform any act required by this article, failure to obtain any permit required, or the performance of any act prohibited by this article constitutes a violation and is subject to penalties as set forth in 30-A M.R.S. §4452.

D. Each day on which a violation exists will constitute a separate violation for purposes of this section.

FINAL DRAFT FOR PLANNING BOARD REVIEW

~~21~~20 PUBLIC ART PROGRAM

~~21~~20.1 ESTABLISHMENT

It shall henceforth be the policy of the City to provide on an annual basis regular funding for the preservation, restoration, and enhancement of its public art collection. This article and the funding contemplated are in recognition of the fact that only by instituting a steady stream of funding for this effort and standing by that commitment, will the City over time be able to fulfill its role as steward of its public art collection and help nurture and enrich thereby the quality of life in this city.

~~21~~20.2 PURPOSE

The purpose of this article is to promote the educational, cultural, economic, and general welfare of the City of Portland by providing the means to fund the acquisition and care of art works by the City of Portland, which shall be the City's public art collection. The Public Art Program seeks to:

A. Care for and maintain the public art collection of the City of Portland by documenting, preserving, restoring, and repairing the collection.

B. Commission or acquire works of public art, and to seek donations of art work for the City's public art collection.

C. Provide curatorial expertise and project management for the care of Portland's public art collection.

D. Enhance and enrich the lives of the city's residents, visitors, and employees by incorporating the visual arts into public spaces.

E. Contribute to the city's civic pride and sense of identity.

F. Increase access to works of art for residents and visitors to the area.

G. Enhance Portland's growing reputation as a city which celebrates the arts.

H. Celebrate the multi-cultural and diverse character of Portland's communities with place-specific art.

I. Encourage collaboration between artists, landscape architects, urban planners, architects, engineers, and other designers.

~~21~~20.3 ~~DEFINITIONS~~APPLICABILITY

A. ~~Art work.~~ For the purposes of the Public Art Program, art work shall include the following:

1. Sculpture, statues, or monuments in any material or combination of materials.
2. Painting.
3. Graphic arts, printmaking, and drawing.
4. Photography.
5. Crafts in clay, fiber and textiles, wood, metal, plastics, glass, and other materials.
6. Mixed media, any combination of forms or media, including collage.
7. Functional art such as street furniture, as described in the *Guidelines for the Public Art Ordinance*.
8. Environmental art consisting of landforms and artistic landscape composition.

B. The following shall not be considered public art for the purposes of the Public Art Program:

1. Reproductions by mechanical or other means of original works of art, except for limited editions, controlled by the artist, of original prints, cast sculptures, photographs, or other works of art.
2. Decorative, ornamental, or functional elements which are designed by the building architect or consultants engaged by the architect which are a traditional and typical element of architectural design.

3. Those elements generally considered to be conventional components of a landscape architectural design including, but not limited to, plant materials, pools, paths, benches, receptacles, fixtures, and planters except as allowed by (G) and (H) in the list of included art work above.
4. Art objects which are mass produced or of a standard design, such as playground sculpture or fountains, except pieces of historical significance to the city.
5. Directional or other functional elements, such as supergraphics, signage, color coding, and maps, except where sculptural pieces are used to define gateways in the city.
6. Electrical, water, or mechanical service for activation of the work.
7. Exhibitions and educational programs related to the work.
8. Performing arts.
9. Art that displays slogans, logos, mascots, or commercial advertising.

C. The public art collection~~.~~ shall include art objects that are owned by the City of Portland which are permanently installed in public, accessible locations. Permanent public art must be located in a public place with public visibility and impact, and shall have a permanence at least comparable to associated capital projects.

~~**Public art guidelines.** The regulations adopted by the committee and approved by the City Council which establish procedures to carry out the purpose of this article. The guidelines shall include but not be limited to criteria for selection of artists and art works, maintenance of a file of interested artists, procedures for artistic competitions, and requirements for the maintenance of works of art.~~

~~21~~20.4 FUNDING

~~21~~20.4.1 Establishment of Public Art Fund

The City shall establish a special revenue fund designated as the Public Art Fund in the City treasury from which expenditures may be made in accordance with this ordinance. The Public Art Fund shall contain a capital account to fund permanent public improvements in the form of the purchase, acquisition, or commission of new public art, or major restorations, and an operations and maintenance account. Authorized expenditures include, but are not limited to, associated site installation costs, such as lighting and landscaping, and costs associated with the commission, engineering, contract administration, unveiling, and dedication activities. Also authorized are expenditures associated with preservation, conservation, and repair of existing public art. Capital funds may come from any source, including the sale of general obligation bonds. The City's capital improvement program shall contain an annual appropriation for the Public Art Fund calculated in accordance with Subsection ~~21~~20.4.2. Funds for the operation and maintenance account may come from any source except bonds.

~~21~~20.4.2 City-funded projects

A percentage of the City's Capital Improvement Program (CIP) shall be calculated and appropriated annually to the Portland Public Art Fund. The annual appropriation shall be .5% of the total annual CIP. Nothing contained herein shall preclude funding the acquisition of art for municipal property in other ways.

FINAL DRAFT FOR PLANNING BOARD REVIEW

~~21~~20.5 ADMINISTRATION

~~21~~20.5.1 Public Art Committee responsibilities

The City Public Art Program shall be administered by the Public Art Committee whose members shall be appointed by the City Council, and shall have the following responsibilities:

A. Develop an annual art plan for Portland which shall be presented to the City Council for approval.

B. Establish such guidelines as are necessary to carry out the purpose of this article. The guidelines shall include but not be limited to criteria for selection of artists and art work, maintenance of a file of interested artists, review criteria for proposed gifts of art work to the City, procedures for artistic competitions, and requirements for the maintenance of art work. Any and all guidelines or changes to guidelines shall be placed on a City Council agenda as a communication. The guidelines shall take effect 45 days after the date of placement on the council agenda, unless the City Council takes official action disapproving the guidelines, in whole or in part, prior to the expiration of the 45-day period. If a part of a guideline is vetoed, the remainder shall continue in effect. Any guideline adopted, which is not required by the statutes of the state or by this article, may be waived by the chair upon good cause being shown.

C. Recommend to the City Council the expenditure of funds for the acquisition or commissioning of public art, for maintenance of public art, and for administration of this program.

D. Seek private donations of funds and/or works of art for the purposes of expanding the public art collection or the maintenance of the collection.

E. Oversee the maintenance, care, and repair of the public art collection.

F. Review the appropriateness of proposed public art which is intended to fulfill all or part of the contribution required by this article.

G. Review potential gifts of art to the City on City property, and assist in the development process of such gifts, in accordance with the *Guidelines for the Public Art Ordinance.*

H. Recommend appropriate locations and accessibility to the public for permanent art, with suggestion as to the type of art which is appropriate.

I. Solicit advice from arts professionals, the business community, and from local residents on the appropriateness of proposed art.

J. Recommend revisions to policies and guidelines for the improved implementation of this program.

K. Ensure that the use of funds collected under this program will increase the amount of art in the city that is available to the public.

~~21~~20.5.2 Public Art Committee structure

A. The Public Art Committee shall be composed of eleven voting members who are appointed by the City Council. The City Council shall appoint one of its members, the City Manager shall recommend a member, and Creative Portland shall recommend one of its members to serve on the Public Art Committee. The City Council shall appoint the remaining eight members who shall be volunteers and have interest and/or expertise in public art. Such experience may include, but shall not be limited to, education and experience as an architect, a

landscape architect, a professional curator, a professional artist, and/or an art educator. Persons appointed to the Public Art Committee must live or work in Portland and shall be appointed through the City's annual appointment process.

B. Each Public Art Committee member shall serve for a period of three years. The appointments shall be staggered so that three appointments terminate each year.

C. Whenever a vacancy shall occur, the vacancy shall be filled by the City Council.

D. The Public Art Committee shall adopt its own rules for the conduct of its business not inconsistent with the statutes of the state and this article. Any and all rules or changes to rules shall be placed on a City Council agenda as a communication. The rule or rules shall take effect 45 days after the date of placement on the council agenda, unless the City Council takes official action disapproving the rules, in whole or in part, prior to the expiration of the 45-day period.

E. The members of the Public Art Committee shall annually elect one of their members as a chair to preside at all meetings and hearings and to fulfill the customary functions of that office, and another of their members as vice-chair.

22 REGULATION OF EXPLOSIVES

22.1 PURPOSE

The purpose of this article is to protect the public's health, safety, and general welfare by regulating and controlling blasting operations within the city.

22.2 APPLICABILITY

This article shall apply to all blasting operations related to construction and development of real estate within the city. The City of Portland *Technical Manual* is incorporated into this article by reference. Standards listed in the *Technical Manual* shall be additional to the provisions of this article.

22.3 REVIEW PROCESS

22.3.1 Permit Required

No person may conduct blasting operations within the city without first obtaining a permit from the Fire Department, as required by the National Fire Protection Association 1 Fire Prevention Code, as adopted and amended in Chapter 10 of the City of Portland Code of Ordinances. Fees for this permit shall be as established by order of the City Council.

22.3.2 Application Requirements

Prior to the issuance of a permit the following information shall be submitted to the City:

A. A blasting plan shall be submitted by the applicant to the Planning Authority for all projects where more than 300 cubic yards of material shall be removed. The blasting plan shall conform to the provisions of this article and of Section 3 of the City of Portland *Technical Manual*.

B. A blasting submittal shall be submitted to the Planning Authority where between 50 and 300 cubic yards of material shall be removed. The blasting submittal shall conform to the provisions of this article and of Section 3 of the City of Portland *Technical Manual*.

C. A blasting application shall be submitted to the Planning Authority where less than 50 cubic yards of material shall be removed, or where utility trench work in the accepted public right of way, including City or Portland Water District infrastructure is proposed. Small blasts where less than 50 cubic yards of material shall be removed are not required to submit either a blasting plan or blasting submittal. Such projects must conform to the National Fire Protection Association Fire Prevention Code and applicants shall submit a monitoring report upon request. Information provided in the blasting application shall confirm that the proposed small blast conforms to all applicable provisions of this ordinance and of Section 3 of the City of Portland *Technical Manual*.

D. A blasting plan or blasting submittal may be required for any blasting operation at the discretion of the Planning Authority when it determines that conditions at or near the site of the blasting operations warrant the provision of a plan.

22.4 STORAGE AND HANDLING

All explosives shall be stored and handled in accordance with the provisions of this code, the laws of the State of Maine, and the National Fire Protection Association 1 Fire Prevention Code.

22.5 ENFORCEMENT

In the event that there are more than three documented violations of the blasting plan, blasting submittal, or blasting permit, or any other violation of this article, a stop work order may be issued on

all construction or development related to the permitted operation. The permittee shall then be required to submit a revised blasting plan to the Planning Authority for review and approval. Work shall not be allowed to continue until the revised blasting plan is approved.

22.6 PENALTIES

In addition to the possibility of a stop work order in the event of a violation, the permittee shall be subject to the following penalties:

1st offense	$500
2nd offense	$1,000
Subsequent offenses	$1,000

22.7 NOTICE REQUIREMENTS

22.7.1 Basic noticing requirements

At least 10 days prior to the start of any blasting operation, notice shall be published in a newspaper of local publication and shall be mailed by first class mail to all property owners within the distance specified below of the perimeter of the blasting site:

A. **Small blast (trench blast or under 50 cubic yards of rock removed).** All property owners within 250 feet of the perimeter of the blasting site.

B. **Medium blast (removal of 50-300 cubic yards of rock material).** All property owners within 500 feet of the perimeter of the blasting site.

C. **Large blast (removal of over 300 cubic yards of rock material).** All property owners within 600 feet of the perimeter of the blasting site.

22.7.2 Content of notice

Notice shall conform to the model notice contained in Section 3 of the City of Portland *Technical Manual* and shall include a description of the proposed blasting operations, estimated schedule and duration of blasting operations, description of the blasting signals to be used during operations, the complaint protocol and the complete address, telephone numbers and email contact for the blasting contractor, the Planning Authority, and Fire Department where neighbors and property owners may request further information and notification.

22.7.3 Additional noticing requirements

A. For medium blasts where 50-300 cubic yards of rock material is to be removed, and large blasts where over 300 cubic yards of rock material is to be removed, additional notification requirements shall apply during construction, as detailed in Section 3 of the City of Portland *Technical Manual*.

B. If blasting operations are to occur within 250 feet of any structure, additional notification requirements shall apply, as detailed in Section 3 of the City of Portland *Technical Manual*, in order to prevent adverse public health and safety impacts due to blasting-related carbon monoxide migration.

22.8 HOURS OF BLASTING

Blasting shall occur Monday through Friday, between the hours of 9 a.m. and 4 p.m., unless otherwise approved by the Planning Authority. Requests for extension of hours of blasting must be submitted by the applicant in writing.

22.9 WAIVERS

Upon written request by the applicant, the Planning Authority, based on a positive recommendation by the Fire Department, may waive all or a portion of the blasting provisions of Section 3 of the City of Portland *Technical Manual*, provided that all waivers

~~are consistent with the purposes set forth in Section 22.1.~~

~~22.10 SUSPENSION OF BLASTING OPERATIONS~~

~~If it is determined that blasting operations pose any risk to public health, safety, or general welfare, the Planning Authority or the Fire Chief or their designee shall have the authority to suspend the blasting permit at any time until they deem it safe for blasting operations to continue.~~

13 RESOURCE PROTECTION ZONE

13.1 USE

No building shall be erected, altered, enlarged, rebuilt or used, and no premises shall be used, in a Resource Protection Zone except for the following uses:

A. Non-intensive recreational uses not requiring structures, such as fishing and hiking.
B. Motorized and non-motorized vehicular traffic on existing roads, trails, and rails, as appropriate.
C. Bikeways, pedestrian trails, and walkways.
D. Fire prevention activities.
E. Wildlife management activities.
F. Soil and water conservation activities.
G. Surveying and natural resource analysis.
H. Emergency operations as defined in Article 3.
I. Harvesting of wild crops.
J. Nonresidential structures for educational, scientific, or nature interpretation purposes, containing a maximum floor area of not more than 10,000 square feet.
K. Public and private parks and recreational areas, including one or more structures containing a total maximum floor area of not more than 10,000 square feet.
L. Permanent and temporary piers, docks, wharves, bridges and uses projecting into water bodies, as allowed in Subsection 11.4.2.
M. Storehouses for fishermen's gear.
N. Essential services as defined in Article 3 accessory to the uses permitted herein.
O. Signs, as allowed in Article 20.
P. Road construction, in accordance with the provisions of Section 11.4.
Q. Parking facilities for uses permitted under this section.
R. Landfill and other earth-moving activity, as allowed in Subsection 11.4.4.

13.2 DIMENSIONAL REQUIREMENTS

No building or structure shall be erected, altered, enlarged, rebuilt, or used in a Resource Protection Zone which does not comply with the following requirements:

TABLE 13-A: RPZ DIMENSIONAL STANDARDS

Lot area (min.)		20,000 SF
Lot width (min.)		100 ft.
Lot frontage on street or shoreline (min.)		100 ft.
Front setback (min.)		25 ft.
Rear setback (min.)		75 ft.[1]
Side setback (min.)	**Principal**	15 ft.
	Accessory	5 ft.
Side setback on side street (min.)		20 ft.
Shoreline setback (min.)		75 ft.[2]
Structure height (max.)	**Principal**	2 stories or 25 ft.
	Accessory	1 story or 15 ft.
Building area (max.)		10% of lot area[3]

[1] Does not apply to boathouses or storehouses for fishing gear.
[2] Does not apply to permitted piers, docks, wharves, breakwaters, causeways, bridges, boathouses, and storehouses for fishing gear.
[3] For principal building or group of buildings.

13.3 OFF-STREET PARKING

Any off-street parking in a Resource Protection Zone is required as provided in Article 19.

13.4 SHORELAND AND FLOOD PLAIN MANAGEMENT REGULATIONS

Any lot or portion of a lot located in a Shoreland Zone as identified on the City zoning map or in a flood hazard area shall be subject to the requirements of Articles 11 and 12.

FINAL DRAFT LAND USE CODE – SUMMARY OF CHANGES BY ARTICLE

I. FINAL DRAFT LAND USE CODE

ReCode involves changes to all articles of the land use code. These changes are visible as redlines in *Attachment X*. A clean version of the entire draft code is contained in *Attachment Y*. Broadly, the work can be summarized as follows.

1. Introductory Provisions

The Introductory Provisions of the land use code establish the applicability of the code, its relationship with other laws, its enforcement mechanisms, and the process for amendments. The draft changes to this article are minimal. They:

- *Add clarifying language,* including an explicit statement that the code applies to all land, uses, and structures in the city.
- *Revise noticing language* to more comprehensively address noticing for map and text amendments.

2. Administration

The Administration article sets the general rules for the three boards that play a role in administering the code - the Planning Board, the Historic Preservation Board, and the Zoning Board of Appeals. The edits to this article are focused on streamlining and consistency. The edits:

- *Revise noticing requirements*. Noticing requirements have been eliminated where they may be of limited utility. Otherwise, they have been made consistent across application types and boards to the extent possible in the interest of ease of administration. All noticing requirements maintain compliance with state law.
- *Update Historic Preservation Board language*. The Historic Preservation Board component of the article has been revised to clarify the roles and responsibilities of the Historic Preservation Board; update language on appointments, removal of members, pro tempore officers, quorum and necessary vote, conflicts, and meetings to mirror the Planning Board procedures; and clarify the standard of review for administrative appeals.
- *Add state-mandated shoreland language* to Zoning Board of Appeals sections, and *simplify variance provisions* by removing some prohibitions.

3. Definitions

Article 3 is foundational to the remainder of the land use code, as it establishes definitions for terms used throughout the document. The changes to Article 3 are largely about ensuring that the code functions as designed. The changes include:

- *The creation of new definitions*. For instance, definitions are proposed for all new uses that appear in the code, such as "market gardens," "neighborhood nonresidential reuse," and "specialty food service." Existing, previously undefined terms such as "cultural facility," "intermodal transportation facility," "post-secondary school," and "recycling center" have also been defined. Other new terms address new dwelling types that have been introduced to the code, revised uses like long-term care facilities and child care facilities, and areas of new policy like the Coastal Flood Resilience Overlay Zone.
- *Elimination of unused definitions*. Definitions for terms which are no longer used in the code have been eliminated. These include terms like "handicapped family unit," "intermediate care facility," "neighborhood center," and "planned residential unit development."

- *Consolidation of definitions from other articles of the land use code.* Definitions from the India Street Form-Based Code zone, Signs, and Historic Preservation articles have been moved to Article 3 in order to establish a single location for definitions within the code. Where terms have specific meanings in the context of specific articles, those articles are identified within the definition.
- *Updates to existing definitions.* Some existing definitions have been refined in the draft, including terms such as "agriculture," "general offices," "general services," "hotels," "lot," "low-impact industrial," "open space," "place of assembly," "recreation and amusement centers," and "solar energy system." These changes are designed to improve interpretation of the code and align with broader policy objectives.

4. Nonconforming Uses, Structures, & Lots

Article 4 establishes the rules around uses, structures, and lots that met the requirements of the code at the time when they were created, but don't meet the standards of the land use code today. Draft changes to this article:

- *Add general language to support clear interpretation.*
- *Clarify and simplify rules for nonconforming uses and structures.* The nonconforming use provisions, including language around expansions, changes of nonconforming uses, and discontinuance, have been simplified, as have the rules for the reconstruction, alteration, or extension of nonconforming structures.
- *Simplify sections related to the development of nonconforming lots.* The draft code continues to allow for the development of nonconforming lots. However, given proposed reductions in minimum lot size, which will render many more lots conforming, and based on generally held land use principles, language has been revised to prohibit the division of nonconforming lots held in common ownership unless such division will result in conformity.
- *Move Shoreland-related provisions* to Article 11.

5. Zones

Article 5 of the land use code identifies all of the zones within the code and establishes purpose statements for all base zones. Revisions to this article are about the most basic element of our zoning – our zones and their purposes. As such, revisions include:

- *Updates to general language*. For instance, language has been added to support interpretation with the change to a parcel-based zoning map. Language specific to conditional rezoning within I-H zones has also been removed, since it has rarely been used.
- *The introduction of new zones.* The drafts include the introduction of several new zones, most notably the two Transit-Oriented Development (TOD) zones, TOD-1 and TOD-2, which have been drafted into the code to support varying levels of mixed-use development in alignment with investments in transit service. The draft also includes references to the Coastal Flood Resilience Overlay Zone, a new zone meant to address vulnerabilities associated with sea level rise.
- *The reorganization of existing zones:*
  - *Residential zones*. The mainland residential zones have been reorganized and renamed the "Residential Neighborhood" zones. Purpose statements have been updated to correspond to revisions to use and dimensional standards. In brief, the existing residential zones translate to the new residential zones as follows:

	R-1/R-2/R-3	R-4	R-5	R-6	R-5a/R-6a	R-7
New	RN-1	RN-2	RN-3	RN-4	RN-5	RN-6

- *Island zones.* The IR-3 zone, which was predominantly used a tool for Planned Unit Development and is currently co-located with a conditional zoning agreement, has been eliminated. In its place, amendments to the CZA are necessary to incorporate relevant use, dimensional, and site plan review standards from the IR-3 zone, ensuring that existing regulations governing uses and building at Diamond Cove/Fort McKinley are maintained.
- *Mixed use zones.* Certain mixed-use zones, particularly the existing sub-zones (such as the B-1b, B-2c, B-3b and B-3c), have been eliminated in favor of simplifying use permissions and dimensional standards. The parent zones for each of these remain. (B-3b defaults to B-3, for instance.) The mixed-use zones have also been refined to ensure that each is serving a distinct purpose, and consolidated where purpose statements, use permissions, and dimensional standards align. For instance, the B-7 zone has been consolidated into the B-3 zone within the draft.
- *Office zones.* The office zones have been modernized, with the former Office Park zone being reoriented to address both large-scale office parks as well as smaller scale, nodal areas of office development. The Residence-Professional (R-P) zone has been eliminated and all R-P areas have been converted to mixed-use B-1 or B-2/B-2b zones.
- *Industrial zones.* The City's industrial zones have been simplified, with the elimination of those zones that were mapped sparsely or not at all, such as the I-Ma and I-Hb.
- *Open space zones.* Lastly, the open space zones have been adjusted, with the addition of the Open Space Preservation (OS-P) zone to provide a passive recreation zoning corollary to the more active Recreation and Open Space (OS-R) zone. The Open Space Preservation zone is designed to take the place of the current Resource Protection zone.

6. Use Standards

The use standards of the land use code are a core element of the zoning, determining how property may be used based on its zone. The changes to use standards focus on opening opportunities for incremental housing production and small, neighborhood-scale non-residential in our residential and island zones, creating significant potential for housing and economic development in our mixed-use and TOD zones, and preserving the industrial character and the viability of our industrial zones. Changes to this article include:

- *Organizational changes.* To improve legibility, almost all of the existing footnotes from the use tables have migrated to the use standards of Section 6.4. Use standards for permitted and conditional uses have also been consolidated into Section 6.4, and a number of the standards from Article 7 that specifically addressed uses were brought into Article 6.
- *Modifications to residential uses.* The draft expands the housing types within the code from the current single-family, two-family, and multi-family designations to include new "middle-density" options (three-family, four-family, and townhouse) that currently exist within the city's housing stock but are not reflected as distinct uses within the existing code. (Currently, residential use

categories jump from two-family to multi-family (three dwelling units and upward), with the upper limit, whether that be three or 300 dwelling units, unspecified and instead limited by other dimensional standards.) These new categories add a way to define and articulate mid-density housing types, particularly in the context of residential zones. Permitted residential uses have been modified in residential zones in alignment with changes adopted by the City Council under LD 2003 in December of 2023 such that:

- Single- to four-family uses would be permitted by right in the RN-1 to RN-4 zones (the existing R-1, R-2, R-2, R-4, R-5, and R-6).
- Multi-family dwellings would be permitted conditionally as adaptive reuse in the RN-1 (R-1, R-2, and R-3) and RN-3 (R-5), similar to the existing code, and multi-family would be permitted as of right in the RN-2 (R-4), RN-4 (R-6), RN-5 (R-5a/R-6a), and RN-6 (R-7).

In island residential zones, two-family is proposed as a permitted use. It should be noted that this use permission is a revision from the LD 2003 changes in response to public input, which raised concerns about the capacity for growth within the island context. In Island Business (I-B) zones, up to four-family is proposed as a permitted use, with multi-family conditional as a conversion of an existing residential or nonresidential building only.

- *Modifications to group living uses and child care.* The draft changes streamline uses like intermediate care facilities, long-term care facilities, and extended care facilities, consolidating these within the new "residential care facility" use. Similarly, ReCode proposes to restructure child care-related uses to better align with state regulations. Under the final draft, both of these uses would be broadly permitted.
- *Updates to provisions for Accessory Dwelling Units (ADUs).* ReCode continues to allow up to two Accessory Dwelling Units (ADUs) on all lawfully conforming and nonconforming lots with legal residential uses, with changes to dimensional standards, including height and setbacks, to add flexibility for ADU creation.
- *Introduction of new commercial/service uses.* The revisions include new uses that broaden commercial opportunities throughout Portland. These include new creative uses that weren't previously acknowledged within the code, such as market gardens, retail nurseries or greenhouses, and specialty food services (such as coffee roasters). New uses also include neighborhood nonresidential reuse, a use provision that would allow small-scale services, restaurants, retail, and offices to occupy structures in residential zones that were originally built for non-residential purposes, paving the way for important existing non-conforming businesses to remain, and for the establishment of new small-scale commercial uses within Portland's residential neighborhoods.
- *Introduction of limits on certain commercial/service uses.* The draft acknowledges that balancing the City's commitments to complete neighborhoods, walkability, and resiliency means some uses may best be limited in terms of where they are allowed. One example of this is the use of drive-throughs, which are currently permitted in some of the City's most mixed-use, walkable zones including the B-2, B-3, B-6, and B-7 zones. Within the draft, the establishment of new drive-throughs would be limited to the B-4 zone, with exceptions for uses in the B-2 zone that currently have drive-throughs.
- *Reorganization of temporary uses.* The draft changes create a new temporary use permit and add a series of new uses and standards that address things like temporary outdoor sales, temporary storage containers, and farmstands.

- *Simplified performance standards.* Finally, the drafts simplify the performance standards in Section 6.8 that address impacts like noise, odor, and outdoor storage.

7. Dimensional Standards

Article 7 establishes the dimensional standards that apply in different zones within the land use code. The changes proposed to Article 7 are generally aimed at adding flexibility within the context of our existing residential zones, promoting more height and density along our corridors and in our nodes, and focusing significant growth opportunities within downtown. Proposed changes include:

- *Introduction of new approaches to rules of measurement.* The draft changes introduce a number of new approaches to rules of measurement within the dimensional standards, among these the use of build-to zones (a minimum and maximum dimension within which the front of a building has to be located), build-to percentages (the amount of a building's frontage that has to be within the build to zone), and both maximum building length (to encourage connectivity and avoid monolithic facades) and minimum building length as a percentage of street frontage (to reinforce walkability and a consistent pedestrian environment).
- *Clarification of dimensional standards.* Additionally, current rules of measurement have been clarified where needed, with illustrations to help readers understand the way that these controls are applied. For instance, rules around measuring average grade and pre-development grade have been clarified and made consistent.
- *Modifications to minimum lot area standards for residential zones.* Within the dimensional tables for mainland residential zones, minimum required lot sizes for all the residential zones have either been maintained or reduced. As part of the consolidation into the new RN-1 zone, residential lot sizes in the existing R-1 and R-2 have been reduced from 15,000 SF and 10,000 SF respectively to 6,500 SF, the existing minimum lot size for the R-3 zone. The RN-3 (R-5) minimum lot size has been reduced from 6,000 SF to 5,000 SF in order to address longstanding patterns of nonconformity. The drafts also adjust minimum lot area requirements for other dwelling types, including townhomes and multi-family dwellings where those are permitted.
- *Modifications to setbacks for residential zones.* The drafts also simplify setback controls and add new flexibilities. For instance, existing side setback regulations which vary based on structure height have been eliminated in favor of a simplified side setback requirement in the residential zones. In most cases, side setbacks have been reduced.
- *Introduction of alternative development options.* The drafts introduce alternative residential development options that can be used within certain zones. These allow, for instance, cottage court residential developments within the RN-1, RN-2, RN-3, and IR-2 zones, subject to modified dimensional and other development standards.
- *Modifications to standards for island zones.* Dimensional standards within the island zones have been modified to more closely reflect the character of Portland's islands, and to provide some key new opportunities in certain zones. For instance, the IR-2 zone now provides flexibility for "small island lots" on Peaks Island, establishing modified dimensional standards for areas of Peaks Island that were originally developed with smaller lots.
- *Modifications to standards for mixed-use zones.* Dimensional standards for the mixed-use zones have also been updated. Residential density standards for the B-1, B-2 and B-2b zones have been eliminated to encourage residential development in these areas. Build-to zone requirements are

now applicable to all mixed-use zones, and setbacks have been adjusted to allow for greater flexibility in situations where these areas do not abut existing residential zones. Heights have also been increased to correspond with the new flexibilities for residential development and to allow for greater opportunity along key corridors and at central nodes, particularly in and around downtown. To correspond with a new approach to height within downtown, the drafts also include a set of "tower standards" that apply to those buildings built as towers – with portions of the building exceeding 125 feet in height.

- *New standards for TOD zones.* Standards for the TOD zones have been developed to encourage an intensity of development appropriate for key nodes both on and off-peninsula, with minimal setbacks and permission for heights up to 85 feet in the TOD-1, or 125 feet in the TOD-2 zone.
- *Simplified industrial zone standards.* Standards for the industrial zones have been simplified, and allow greater flexibility for industrial development within these areas of the city. For instance, the current "sliding scale" setback requirements based upon building height have been eliminated, replaced with more straightforward controls that acknowledge the form and functional needs of modern industrial development.
- *Simplified exceptions.* Lastly, supplemental dimensional standards, as well as exceptions to the standards of Article 7, have been simplified and clarified so that the rules apply more consistently across similar contexts.

8. Overlay Zones

The Overlay Zones article of the land use code includes provisions for special zones that "overlay" our existing base zoning, including the Institutional Overlay Zone, the Waynflete School Overlay, and the USM Overlay. Changes to this article include:

- *The elimination of some overlays.* The Compact Urban Residential Overlay (the existing R-7) has been transformed into the proposed RN-6 zone, allowing a base zone for high-density residential development outside of a mixed-use context. Relevant provisions of the helistop overlay have been integrated into the Maine Medical Center IOZ and the terms of the Stream-Protection Overlay have been integrated into the Shoreland provisions of Article 11.
- *Updates to the Roux Institutional Overlay Zone, USM Overlay Zone, and PAD Overlay.* Adjustments are proposed to simplify some elements of the Roux Institutional Overlay Zone and integrate shoreland-related input from the Department of Environmental Protection. The USM overlay includes edits designed to remove barriers to campus housing production, simplify review, and clarify some dimensional standards. The Pedestrian Activities District (PAD) Overlay has been revised to reflect changes to uses elsewhere in the code, as well as clarify standards.
- *The creation of a new Coastal Flood Resilience Overlay Zone (CFROZ).* This new zone is based on sea level rise modeling completed by the City with the help of the Army Corps of Engineers. The boundary of the CFROZ would extend beyond the reach of the City's existing floodplain regulations to help protect areas that are vulnerable to flooding due to sea level rise. The requirements of the CFROZ would apply to most new construction, changes of use, and substantial improvements, depending on the use involved. Exempt uses, including certain industrial uses, parking, and spaces required to circulate from grade to upper levels, would be allowed at grade in projects within the CFROZ. Non-critical uses would be required to have a finished floor elevation within 2 ft. of the Sea Level Rise-Base Flood Elevation (SLR-BFE) and include enough floor to floor height to allow for future adaptation. Critical uses, or those uses that are most vulnerable to sea level rise, including

residential uses, medical services, schools and daycare, would be required to be 1 ft. above the modeled SLR-BFE. This tiered, use-based system differentiates projects according to their vulnerability and broader impacts to the city, balancing the need to protect the most vulnerable uses while allowing some flexibility for less vulnerable ones.

9. IS-FBC

The India Street Form-Based Code establishes special set of standards for the India Street neighborhood. Minor changes are proposed, including:

- *Moving definitions into Article 3* to ensure alignment with terminology used throughout the rest of the code.
- *Updating various provisions to address issues in practice.* A reference to performance standards has been added to ensure that performance standards are applied in the zone, mid-block permeability and building addition language has been clarified, and height bonus language has been simplified, tying to the housing bonus provisions of Article 17.

10. Waterfront Zones

The City's waterfront zoning is designed to support a balance of water-dependent and non-marine uses in a way that allows the waterfront to adapt to evolving economic trends and infrastructure needs. The waterfront zoning has been effective in cultivating that balance, and as a result, few changes to the waterfront zoning are proposed. The changes:

- *Revise accessory use provisions to provide some flexibility.* The drafts add an accessory use provision within the Eastern Waterfront Port Zone, based on similar language in the other waterfront zones, and simplify accessory use language within the Waterfront Central Zone to support evolving and emerging uses.
- *Update language to provide consistency with the remainder of the code.* References to the "Commercial Street Overlay Zone" have been revised to better reflect the use of this geography within the Waterfront Central Zone, references to the Shoreland zoning have been added throughout, and design-related language in the Eastern Waterfront Port Zone has been moved to the draft *Design Manual*.

11. Shoreland Overlay Zone

Shoreland zoning is designed to help protect the City's and state's valuable water resources, and is required by the State of Maine. The shoreland zone in Portland works as an overlay, sitting on top of the base zoning and adding special requirements around the placement of structures in relation to the shore, the clearing of vegetation, and planting, for instance. The changes proposed in the shoreland zone are designed to maintain consistency with state shoreland zoning rules in Chapter 1000. They have been reviewed by the State of Maine Department of Environmental Protection. The changes:

- Integrate resource protection and stream protection regulations into the shoreland zone.
- Update standards for piers and docks, shoreline stabilization, clearing of vegetation, roads and driveways.
- Consolidate nonconforming structure provisions into the shoreland zoning, and update nonconformity language for consistency with Chapter 1000.

12. Floodplain Management

The City's floodplain regulations ensure the safety of properties susceptible to flooding. The floodplain regulations are required by FEMA and the State of Maine to maintain the City's participation in the National Flood Insurance Program. In concert with recent changes to the FEMA Flood Insurance Rate Maps, edits to the City's floodplain regulations were adopted in May of 2024. Very minor edits are proposed through ReCode to address newly released updates from the State.

13. Site Plan

The City's site plan ordinance governs the review of development and redevelopment projects. Changes to the ordinance are generally designed to simplify the site plan review process as a means of reducing barriers to development, particularly residential development. The changes also reflect best practice, support related organizational changes involving the *Technical Manual* and *Design Manual,* and align with changes to the remainder of the code. The changes:

- *Streamline site plan review thresholds.* The draft changes the review thresholds for small housing projects by making one- to four-family projects administrative (rather than Planning Board) reviews, aligning with the treatment of single- to four-family uses within Article 6. The draft also increases thresholds for site plan review of other types of projects, such that new construction and additions less than 1,000 SF are not reviewed under site plan, but as building permits, and eliminates specialized use-based reviews (e.g. auto service station, drive through facilities, construction of structures in shoreland zone) on the premise that these types of development should be reviewed under site plan if they otherwise meet site plan thresholds. The master development plan review option has also been removed, in favor of the simpler phased site plan.

  Update site plan review standards. The revisions integrate multi-modal transportation goals by expanding transportation impact standards, adding shared circulation and access standards, adding flexibility to public transit access standards, and aligning parking standards with new parking maximums in Article 18. The revisions support climate resilience strategies by integrating low-impact development principles, tying landscaping and hardscaping standards more directly to heat island impacts, and establishing standards for cool roofs. The draft simplifies standards such as the street tree standard, eliminates the requirement that projects outside of historic districts but within 100 feet of a historic district or landmark undergo advisory historic preservation review, and reorganizes standards to correspond with work on the City of Portland *Design Manual* and *Technical Manual*.

- *Updates to administrative language* to reflect current practice.

14. Subdivision

Article 14 applies to subdivisions, and thus has implications for how land is divided and developed in the City of Portland. Changes to this article are focused on integrating resilience measures and transportation goals. Revisions include the introduction of low-impact development standards, clarification of stormwater standards, and the addition of references to the CFROZ within subdivision review, as well as updates to street connectivity standards.

15. Impact Fees

The impact fee ordinance is a relatively new addition to the land use code, developed based on an *Impact Fee Study* conducted in 2018. The ordinance creates a system for the collection of fees to offset the impacts of new development on our transportation, wastewater, and parks and recreation infrastructure.

Revisions are fairly minor, designed to allow administrative flexibility in the granting of modifications to impact fees.

16. Historic Preservation

Revisions to the historic preservation ordinance are focused on maintaining and strengthening the core functions of the ordinance while making the article easier for all users to understand. These changes were reviewed by the Historic Preservation Board at two workshops, as well as by the Maine Historic Preservation Commission (MHPC). On August 8, the Historic Preservation Board held a public hearing to vote on forwarding a recommendation to the Planning Board regarding final draft (*Attachment X*). That draft:

- *Streamlines the purpose statement for the article.* The language is revised to more discretely address the purpose of the article (as distinct from the purpose of the City's historic preservation program more broadly).
- *Moves definitions to Article 3.*
- *Clarifies the types of historic designations.* The final draft clarifies the types of historic designations (landmarks, historic districts, and historic landscape districts) and clarifies the basis for determining "contributing" classifications within designations.
- *Clarifies the designation process.* The draft also clarifies the steps for initiating a historic designation, the process for moving a historic designation through review, and the criteria for designation, as well as amendments. The final draft also removes the automatic designation for properties listed on the National Register of Historic Places.
- *Streamlines the review process.* The draft establishes clear thresholds for administrative and Historic Preservation Board review of projects, adds exemptions for specific projects that otherwise receive City review (often with historic preservation staff consultation) and/or advance other City goals, updates procedural language to match current practice, and extends the duration of approvals to three years to provide greater flexibility for applicants.

17. Housing

The housing article of the land use code supports the City's goal to encourage housing that meets the needs, preferences, and financial capabilities of all Portland residents. The article includes policies that incentivize affordable housing and also requires affordable housing in residential projects over a certain size. There have been many recent changes to the housing article, through referenda and as a result of changes in state law. As a result, draft edits are mainly focused on streamlining and clarifying these regulations. The final draft:

- *Consolidates all affordable housing incentives.* The final drafts put all incentives for affordable housing in one section of the ordinance, update density bonuses to align with state requirements, and modify incentives to address concerns about height in the context of greater heights in mixed-use zones city-wide. The final drafts also clarify how incentives and requirements relate.
- *Updates inclusionary zoning provisions.* The final drafts simplify the review process for inclusionary zoning projects, clarify interpretation in cases of phased projects, strengthen requirements for the integration of units and bedroom counts, support long-term monitoring, and clarify the applicability of affordable housing bonuses.

18. Off-Street Parking & Loading

Off-street parking and loading requirements are established through the City's land use code. In response to policy guidance that promotes multi-modal transportation and minimizing the city's reliance on single-occupancy vehicles, the City's off-street parking and loading requirements have historically allowed significant flexibility. The changes proposed to this article through ReCode take this approach one step further. The final draft:

- *Removes vehicle parking minimums and adds parking maximums.* The draft establishes new vehicle parking maximums, meaning an upper limit on the amount of off-street parking that may be constructed on a site. This change is meant to reduce construction costs, free up valuable real estate that may be used for other purposes, and help to encourage a move away from single-occupancy vehicles. In TOD zones, parking maximums are proposed to be lower than in other zones.
- *Clarify rules about the location of off-street parking and parking of commercial vehicles.*
- *Expand minimum bicycle parking requirements.* These requirements are aligned with the new use structure of Article 6, to encourage provision of adequate bicycle parking in alignment with the City's goals for multi-modal transportation and climate adaptation.
- *Modernize requirements for loading spaces.* The draft decouples requirements for retail and industrial uses, which have differing demands and thresholds for required off-street loading spaces. Thresholds for the loading requirements have been adjusted, and in no case are more than three loading spaces required by the code.

19. Signs

The signs article of the land use code establishes standards for the construction, installation, and illumination of signs in the city, with the goal of ensuring that signs are compatible with the built environment. The signs article was recently updated in Phase I of ReCode; as a result the proposed changes are very targeted, and generally designed to clarify processes and requirements where questions have arisen. Changes include revisions to the standards for building-mounted and freestanding signs, sign area and quantity, temporary signs, and off-premise signs in residential zones.

20. Public Art

The public art article lays the groundwork for the City's successful public art program. Updates are generally focused on aligning the article with the rest of the code, including the removal of definitions. The revisions also provide some clarification on applicability (what is considered public art vs. what is not).

Other (RPZ + Regulation of Explosives)

The Resource Protection Zone article (previously Article 13) has been deleted in conjunction with updates to the Shoreland Overlay Zone and the base open space zoning. The Resource Protection Zone has been replaced with the Open Space Preservation (OS-P) zone.

Similarly, Article 22 (Regulation of Explosives) is proposed for relocation to Chapter 10 of the City's Code of Ordinances. The Fire Department is managing this change to Chapter 10, which is anticipated to occur this fall following a review by the Health and Human Services Committee of the City Council.

II. FINAL DRAFT ZONING MAP

FINAL DRAFT LAND USE CODE – SUMMARY OF CHANGES BY ARTICLE

In addition to changes to the land use code, the final draft before the Planning Board includes changes to the zoning map. These changes can be viewed on an online map viewer, and can be broadly classified as follows.

1. Shift to Parcel-Based Zoning

In contrast to the existing zoning map, the draft zoning map generally ties zoning to parcel boundaries. This allows for greater precision in determining the zoning of individual properties. Certain zones, such as the OS-P zone and overlay zones tied to geographic features, remain independent of parcel boundaries.

It should be noted that during the creation of the proposed draft map it was necessary to make some adjustments to zone boundaries to match the geometry of parcels. In some instances parcels were found to contain multiple zones. To simplify administration of the code, where possible a single zone was assigned to each parcel, based on the predominant zoning designation and in some cases, the location. In certain areas, however, multiple zoning districts were maintained within one larger parcel.

2. Conversion of Zones

Some zones have been converted to new zoning designations based on "equivalences." For example, the existing R-1, R-2, and R-3 zones have been converted to the new RN-1 zone. The B-7 zone has been converted to the B-3 zone. The R-P zone has been converted to B-1 or B-2/B-2b. And the IR-3 has been converted to a contract zoning designation.

3. Changes to Address Nonconforming Uses

In some areas of the city where there are existing nonconforming uses, particularly corner stores or other nonresidential uses serving important functions in residential zones, new zoning is proposed to eliminate the nonconformity. In most cases, these areas are proposed for B-1 zoning. These changes align with the goals of promoting walkability and complete neighborhoods.

4. Changes to Address Nonconforming Lots

There are numerous areas of the zoning map that are proposed for rezoning based on nonconforming lot size, particularly within residential zones. These changes reflect analysis of current residential lots to identify areas exhibiting a high degree of nonconformity – essentially areas where the built development pattern does not match the requirements of the current zone. Changes of this nature are intended to bring lots into conforming status, making it easier to maintain and use existing homes in these areas.

5. Policy-Based Changes

Lastly, there are a number of areas within the City zoning map that are proposed for changes in order to directly address the goals of *Portland's Plan*. For instance, the draft map includes new TOD zones at seven nodes across the city, based on the future land use framework from *Portland's Plan,* and the guidance of *One Climate Future, Transit Tomorrow, and the Gorham-Westbrook-Portland Rapid Transit Study.* The draft map also includes the expansion of B-1 and B-2/B-2b zoning at neighborhood corners, along corridors, and around major intersections, the expansion of B-5 zoning in areas like Franklin Street, which is poised for additional mixed-use development, and the new CFROZ zoning designation.

NAME	DATE	SOURCE	ARTICLE	TOPIC	COMMENT	RESPONSE
Cheryl Leeman	08/11/2023	Email	1. Introductory Provisions	1.8.1 Meaning of words and terms	Section referencing to “undefined” terms (1.8 Rules of interpretation, Section 1.8.1 Meaning of word and terms if not stated are interpreted by common dictionary meaning or customary usage... To insure correct interpretation, terms to be defined should include definition of urban, urban compact development, on or near peninsula (on-peninsula south of I295 and on-peninsula north of I295), classification of streets (arterial, collector or local), Dwellings (Conservation and Cottage Court),	Not all terms are defined in the code. Many of these are generally used in the code, and their common definition can suffice.
Portland Foreside (c/o Mary McCrann)	10/13/2023	Email	10. Waterfront	General	Ensure that the City’s waterfront zones continue to function effectively. To acknowledge and support prioritizing the mix of marine and non-marine uses in the EWPZ, while prioritizing the health and operational needs of the working waterfront, consider zoning text modifications that allow for the general public to more fully experience the area (see our proposed Zoning Text Amendment on page 1 [regarding rooftop uses]).	See proposed change in Article 7 to exempt decks and other surfaces (such as pedestal pavers) up to 18" in height from height limits.
Barbara Vestal	07/13/2023	Email	13. Site Plan	Design standards	The "first wave" is said to only address definitions, zones, uses and dimensional standards. The design standards appear in later sections -- particularly in the site plan and historic preservation sections. It is hard to tell from this first wave release where you are going with design review issues. Is it your intent to also remove the concepts of preserving neighborhood character and consistency with the neighborhood context from the design standards? If so, what do you envision the standards will be based on? Or is it the intent to remove design considerations entirely? I would be interested in your thoughts.	See Article 13, which continues to require compliance with the Design Manual, which will contain all of the city's design standards.
Portland Foreside (c/o Mary McCrann)	10/13/2023	Email	13. Site Plan	Landscape preservation & planting standards	Landscape requirements should address all aspects of site development, from preservation to screening and buffering – Landscaping standards should be modified to include consideration of current landscaping on adjacent properties and consistency within an area of the City or neighborhood. Consideration should also be given to incentivizing techniques that can be used to support resiliency and flood mitigation.	See Article 13, noting that additional landscape standards have always and will continue to be held within the city's Technical Manual.
Avery Kamila	10/12/2023	Phone	13. Site Plan	Landscape preservation & planting standards	Tree preservation should be prioritized on redevelopment sites.	See Article 13, where tree preservation is proposed to be handled along with other significant natural resources as defined in Article 3. These site plan standards will be accompanied by a 'low-impact development' section of the Technical Manual, which will take a more holistic approach to natural resource protection.
Elizabeth Parsons	07/07/2023	Email	13. Site Plan	Landscape preservation & planting standards	Greetings from the West End and thank you for sending around the information on proposed changes to our land use code. Herewith a few observations and wonderings: Avery Yale Kamila’s comments (email dated 1 July 2023) were spot on and I offer a hearty “second” to everything said there, especially her point that the current times call for us to do things differently. For example, if planning proceeds under the assumption that our power grid will hold steady over the next several decades, this is a very risky proposition. Around the country we are already seeing power grid failures during periods of extreme heat and grids being targeted by violent political extremists. Add to that the complexity of mass conversion to renewables and we arrive back at the importance of tree canopy coverage. Trees have an ancient track record of providing cooling and calm. Our One Climate Future plan implicitly acknowledges this in multiple places: TLU 1.7; CR 2.2; CFR 2.5; CR 4; and CR 5. So it is of great concern to see that the ReCode revisions do not seem to take this into account when allowing new construction in the most densely populated and lowest income sections of the peninsula. While there has been a lot of talk about the disaster that Victor Gruen’s urban renewal effort created by destroying neighborhoods, there seems to be less talk about avoiding the other part of urban renewal's mistakes: constructing massive buildings without giving sufficient attention to physical and socio-economic contexts. How long will the anticipated new, dense developments be expected to last—20 years? 50 years? During the hottest week ever recorded around the world, it’s hard for me to imagine that conditions in urban heat islands even 10 years from now will be consistently stable. The irony here is that many residents of the peninsula’s most densely-treed sections already have options that poorer people lack for fleeing the heat. Now is the time to emphasize tree planting where trees are most lacking. Of course there are all sorts of regulations and tax/financing issues to consider when deciding what can and can’t be done in particular areas. But there are also developers doing good, thoughtful work in Portland whom I suspect would be open to brainstorming creative ways of incorporating more open/green space and trees in areas slated for dense construction. I wonder if they’ve been asked about this. Finally, a wondering about the revisions’ effects across the entire city: while the impetus to eliminate single-family zoning is laudable, we should anticipate that constructing multi-family dwellings and ADUs in areas where such were previously not possible will bring with it more tree felling on private properties. How will we be prepared to deal with this added stressor to an already stressed tree canopy? Assembling this document has undoubtedly been a monumental task perhaps made more onerous by soliciting citizen reactions. Nonetheless, I thank you for considering these comments.	See new climate resilience zoning elements in Articles 8 and 13, including standards related to high heat and stormwater.
GPL Advocacy Committee	12/14/23	Email	16. Historic Preservation		In add ition to locally designated historic districts and buildings, the Maine Historic Preservation Commission has designated neighborhoods and some individual buildings as eligible for the National Register of Historic Places. We feel strongly that design standards are important for these areas as well to ensure adjacent new construction will enhance the setting of those historic places. MHPC’s database, CARMA, is available on their website. We are also curious to learn if MHPC’s GIS layer could be added to the city’s GIS system, to flag any eligible buildings when a demolition or building permit application is made?	See Article 16, where some revisions have been made to language around work on National Register-eligible properties to provide additional clarity around process.
Connect Portland	07/19/2023	Email	17. Housing	Table 18-C Dimensional Bonuses for Affordable Housing	What affect does “housing bonuses” potentially have on proposed 65 height in the B-2 and B2b zones?	As drafted, height bonuses would apply as they do under the current ordinance.

NAME	DATE	SOURCE	ARTICLE	TOPIC	COMMENT	RESPONSE
Acorn Engineering (c/o Will Savage)	10/13/2023	Email	17. Housing	Table 18-C Dimensional Bonuses for Affordable Housing	Strongly encourage Table 18-C be revised to include height and setback bonuses for residential districts such as RN-5 so that affordable housing projects can have the tools they need to get enough floor area to support the density that's currently being promoted by the City and the State's new legislation under LD 2003, effective January 1, 2024.	No change is proposed to the basic structure of the height bonus language, which provides for height bonuses for affordable housing in mixed use zones, where greater height can be more seamlessly integrated, but generally not in residential zones.
Damon Yakovleff	08/04/2023	Email	17. Housing	Table 18-C Dimensional Bonuses for Affordable Housing	Related to this, please add clarifying information regarding the 2.5 times density bonus required by LD2003 to the recode website. It appears that this would apply in all areas except for the RN1 zone, since all these locations are served by public water and sewer and allow multifamily dwellings. The RN2 zone is a bit odd, in that it does not permit the 3 and 4 unit development required in growth zones but does allow for multifamily development. This ambiguity should be clarified.	See Council-adopted LD2003 amendments from December 2023.
Urbanist Coalition Portland (c/o Todd Morse)	10/11/2023	Email	18. Off-Street Parking & Loading	Bicycle parking requirements	Require as much bicycle parking as we do car parking.	See revisions to Article 18, where off-street parking maximums are proposed.
Urbanist Coalition Portland (c/o Todd Morse)	10/11/2023	Email	18. Off-Street Parking & Loading	Parking maximums	In peninsula zones the city should set parking maximums to the current parking minimums, with a few exceptions where the minimums are low like lodging houses and congregate care facilities.	See revisions to Article 18, where off-street parking maximums are proposed.
Christian Milneil	10/12/2023	Email	18. Off-Street Parking & Loading	Parking maximums	In a similar vein, I'd like the city to consider maximum off-street parking limits, especially in the new TOD zones and in the R6, R7, B1, B2, B3, and B7 zones – the zones where Metro provides bus service and mixed-use development is encouraged. Similar to how we've seen large single-family homes monopolize valuable land in transit-accessible neighborhoods, we've also seen, in recent years, high-end development projects with exorbitant off-street parking ratios in buildings that otherwise could have accommodated more productive uses (see, for instance, the latest iteration of the Portland Foreside development). Off-street parking is allowed, subsidized, and mandated everywhere else in Maine. But to meet our climate goals, Portland needs to build more neighborhoods where driving and car ownership are optional. Off-street parking takes up too much space and costs too much money in the service of undermining those goals. The City of Boston recently adopted maximum parking ratios for new development that are calculated as a function of access to transit, jobs, and services like grocery stores. While Boston does have a better transit system in general, the city's rules still apply in more suburban neighborhoods like West Roxbury and Hyde Park, where land uses and transit service are similar to Portland's (in those neighborhoods, developers can build, at most, 1 new off-street parking space per apartment). I encourage the City of Portland to consider a similar approach to help ensure that car-free households can still afford to live in our most transit-accessible neighborhoods.	See revisions to Article 18, where off-street parking maximums are proposed.
Cary Tyson	10/13/2023	Email	18. Off-Street Parking & Loading	Parking maximums	I'm reaching out in support of eliminating parking minimums as a part of ReCode.	See revisions to Article 18, where off-street parking maximums are proposed.
Portland Foreside (c/o Mary McCrann)	10/13/2023	Email	18. Off-Street Parking & Loading	TDM requirements	Consider enhancing the Transportation Demand Management (TDM) Plan requirements to incorporate recommendations within One Climate Future – There is also a need to update the TDM requirements so that consideration is given to the bigger picture of projects and activities within the City and not just the project requiring the TDM. There should be more consideration and collaboration given to what is going on with TDM as a whole.	See broader discussions about transportation demand in the city.
Urbanist Coalition Portland (c/o Todd Morse)	10/11/2023	Email	18. Off-Street Parking & Loading	Transit-proximate exemption	No longer require a Transportation Demand Management plan to benefit from the transit proximity exception to parking minimums. Plans will still be required for very large developments as before, this just removes it as a condition for that exception.	See revisions to Article 18, where off-street parking maximums are proposed.
Cindy Park	07/15/2023	Email	19. Signs		3. Please tighten the restrictions on business signage. Two examples: a. the signage for the business called 'Continental' (Brighton and St John, new and not yet open for business) has lettering that is really too large for the neighborhood setting b. internally lighted signage like the lighted numbers '449' for 449 Forest Avenue, while grandfathered, can be effective without being so bright - the light is too bright for the neighborhood setting	Some changes are proposed to sign regulations in Article 19.
Betsey Remage-Healey	10/12/2023	Email	2. Administration		Re Sec.2.3,11.E.6, it currently deprives ONLY islanders of the right to appeal lot sizes. Not fair !	Revised drafts eliminate this language.
Portland Foreside (c/o Mary McCrann)	10/13/2023	Email	3. Definitions	"Agriculture"	Consider revising the definition of "agriculture" to include modern agricultural activities - Adding to the definition of agriculture some urban agriculture concepts could include elements like rooftop gardens and amenities.	Agriculture definition has been revised to cover modern, urban ag concepts. Rooftop gardens and amenities would be accessory uses.
Will Savage	10/13/2023	Konveio	3. Definitions	"Approval"	an approval date with conditions.	Date is implied.
Heather Sanborn	06/30/2023	Konveio	3. Definitions	"Bar"	As written, this definition of "bar" is broad enough to encompass the definition of "tasting room." It should be narrowed to avoid confusion.	These are two separate uses, addressed and defined separately. One is only allowed as accessory (the tasting room).
Will Savage	10/13/2023	Konveio	3. Definitions	"Construction and engineering services"	Should this read General Office use so that it ties to the definition and land use table?	Revised drafts add the word 'general' to 'office' in this definition.
Jay	07/01/2023	Konveio	3. Definitions	"Drive-through features"	you should add language to differentiate between a drive thru where you have order boards and a pick up window. With mobile ordering and pick up windows, you can have another type of food operator that doesn't necessarily need a typical drive thru and can operate in other zones.	There is no need to differentiate between these uses, as they have the same fundamental operational issues, regardless of the presence of a menu-board.
Todd Morse	10/12/2023	Konveio	3. Definitions	"Dwelling unit"	In the past, this has been interpreted to mean that a dwelling unit can only have one kitchen facility. This interpretation seems overly restrictive and it is not made clear in the definition. I feel this definition should be updated to explicitly allow that. I think the distinction between dwelling units is really the degree of separation from other dwelling units (i.e. separate lockable entrances).	This is a matter of interpretation.
Amy Oberlin	10/11/2023	Konveio	3. Definitions	"Dwelling, townhouse"	Many typical implementations of a townhouse have multiple units stacked vertically, including townhouses proposed by the PHA. This definition requiring "each dwelling unit is located on a separate lot" would not allow the most common form of townhouses.	This definition is intended to distinguish the most typical townhouse form, which is one way of building housing.

NAME	DATE	SOURCE	ARTICLE	TOPIC	COMMENT	RESPONSE
Karen Snyder	08/12/2023	Konveio	3. Definitions	"Fill"	Why isn't it required that developers put fill that is of good quality rather than junk fill?	Quality of fill is handled through other regulations.
Wesley	10/11/2023	Konveio	3. Definitions	"Fill"	That is usually covered in statewide regulations/ best practice, specifically 2021 IBC CODE 1610.1. (however Maine currently uses 2015 IBC). But, why not change the wording?	The land use code refers to state regulations in many areas, rather than duplicating state requirements.
Heather Sanborn	06/30/2023	Konveio	3. Definitions	"Industrial, low-impact"	Given that alcohol production is specifically excluded from "specialty food" definition, it would make sense to specifically include it in "light industrial" if that is the intent (as I think it is).	Proposed low-impact industrial definition does not include specific uses, instead allowing some flexibility around interpretation. Alcohol production has always been a permitted sub-category of low-impact industrial per the city's land use code.
Brent Adler	07/17/2023	Form submission	3. Definitions	"Lodging house"	Another comment that I had was to clearly define the difference between a boarding house,halfway house, and sober house. As the code is defined now somebody can open a boarding house in R6 and run it as a halfway house or homeless shelter. We require certain kinds of social services and onsite professional management under a shelter and somebody could use the boarding house as a loop hole. This kind of management can lead to unsafe conditions in a R6 zone.	Lodging house is distinct from group home and shelter.
Liv Chase	07/26/2023	Email	3. Definitions	"Lodging house"	Under R-6 allowable uses: lodging houses should be excluded from this section or the definition of lodging house needs to be amended. Currently, the city is allowing housing of homeless residents and the operation of homeless shelters under this vague language in the land use code. The original intent of this section I believe was to accommodate b and b style housing. If the definition creates a decrease in value of the homes around it then it would make sense not to include this use under any residential zone. Drug trafficking, trespassing, and vandalism are all an outcome of this loophole that has impacted my property on the West end.	Lodging house is distinct from group home and shelter.
Liz Trice	10/11/2023	Konveio	3. Definitions	"Lodging house"	This needs to be clarified; I believe it's legal to rent out as many rooms in your home as desired without it being considered a lodging house.	Revised draft increases the number of rooming units within a lodging house to differentiate this use.
Wesley	10/11/2023	Konveio	3. Definitions	"Lodging house"	[Response to Liz Trice] Good callout here	Revised draft increases the number of rooming units within a lodging house to differentiate this use.
Twells	10/11/2023	Konveio	3. Definitions	"Lodging house"	[Response to Liz Trice] How would this impact co-living spaces? Many of which may have 8 bedrooms or so and which fit into neighborhoods very nicely. They are not the same as a lodging house.	Revised draft increases the number of rooming units within a lodging house to differentiate this use.
Wesley	10/11/2023	Konveio	3. Definitions	"Non-native invasive species of vegetation"	Is there a distinction between invasive plants that harm the overall ecosystem vs ones that outcompete a specific niche and leave the rest of the ecosystem relatively unchanged. from my limited understanding of this, it seems like it may be useful down the line for resource allocation.	No distinction in current ordinance.
Portland Foreside (c/o Mary McCrann)	10/13/2023	Email	3. Definitions	"Pedestal paver system"	Add a new definition to Section 3 - Pedestal paver roof deck system: Flooring system consisting of pavers which are laid over a pedestal support (fixed or adjustable height) which raises the tiles or pavers off the existing surface to create a level, elevated deck.	See Article 7, where some changes have been made to the interpretation of height.
Todd Morse	10/11/2023	Konveio	3. Definitions	"Place of assembly"	Reducing this from 15 to 8 is needlessly restrictive. What is the motivation behind this change?	This reduction aligns with the adjustment to the definition of "family" from Phase I, which reduced the number of unrelated individuals in a "family" from 15 to 8.
Liz Trice	10/11/2023	Konveio	3. Definitions	"Place of assembly"	[Response to Todd Morse] 8 people seems extremely restrictive, even discriminatory; anyone can have a 50 people in their house for party; a small group of 8 would cause no trouble, and likely is a minority group.	This reduction aligns with the adjustment to the definition of "family" from Phase I, which reduced the number of unrelated individuals in a "family" from 15 to 8.
Ashley Keenan	10/11/2023	Konveio	3. Definitions	"Place of assembly"	This is a highly restrictive new intrusion on places of assembly, lowering the minimum number of congregants and restricting use standards to collector roads is a substantial burden on these places of worship and other assembly. I'm proud to attend a historic parish church which would not be allowed under this provision. I'm further worried that this would conflict with constitutional rights, and am concerned about the history of this provision in conjunction with the treatment of synagogues in Portland.	This reduction aligns with the adjustment to the definition of "family" from Phase I, which reduced the number of unrelated individuals in a "family" from 15 to 8.
Kevin Parker	10/13/2023	Konveio	3. Definitions	"Roadway"	This roadway definition overlaps with the definition of "street" (which is written more broadly to include all users), and should either be updated to specifically include both motorized and non-motorized users (cyclists) under the umbrella of "vehicular", or removed. Currently between the roadway and sidewalk definitions, cyclists have no clearly defined place within a public right-of-way.	Revised draft adds "or bicycle traffic" to this definition.
Kevin Parker	10/13/2023	Konveio	3. Definitions	"Sign copy"	"Copy" is specific to text in the context of signage. Definition name should be "Sign Content" based on the descriptive text.	The term 'copy' is generally preferred.

NAME	DATE	SOURCE	ARTICLE	TOPIC	COMMENT	RESPONSE
Kevin Parker	10/13/2023	Konveio	3. Definitions	"Sign, blade"	What defines "pedestrian scale" in this case? This duplicates the projecting sign definition, unless that is intended for vehicular traffic (in which case more specifics are needed for intended sign audiences)	The concept of 'pedestrian-scale' is reinforced in the area limits and illumination standards for blade signs.
Kevin Parker	10/13/2023	Konveio	3. Definitions	"Sign, cabinet"	This should be made less specific to transparent-faced panels. Cabinet signs are often no longer made with transparent acrylic front faces as described—so a broader definition would also include push-through text and solid sign faces, for example.	The definition uses the term 'translucent.' Revisions have been made to Table 19-E to ensure that illumination standards speak to 'halo' signs, and halo signs have been defined.
Kevin Parker	10/13/2023	Konveio	3. Definitions	"Sign, canopy"	Canopy and awning sign definitions overlap (the awning definition already includes "canopy"), and should be condensed into one category.	The revised draft removes the term 'canopy' from the awning sign definition.
Kevin Parker	10/13/2023	Konveio	3. Definitions	"Sign, single-color or two-color LED"	Why is this capped at two LED colors? For example, commonly-used faux-neon LED "OPEN" signs with a different color per letter would be non-compliant. This level of specificity is not needed, when illumination can be better regulated via the internal and external illumination definitions..	Allowing more than two colors begins to starts to create gray area with an electronic message sign.
Kevin Parker	10/13/2023	Konveio	3. Definitions	"Sign, window"	How far within a space would a sign or graphic need to be for it to fall under the definition of a window sign, if this covers anything exposed to public view through a window? Would a mural graphic on the rear wall of a restaurant be considered a window sign? This should be clarified to mean a sign intended primarily for viewing from outside the window, along with a maximum distance from the interior surface of the window (something in the 5 foot range seems reasonable).	A mural (artwork) is not a sign. It would have to contain sign copy for it to be considered a sign. Currently the definition of 'sign, window' states that the sign must be placed in or on a window, and Table 20-Q narrows what is considered a window sign exempt from area or number standards.
Kevin Parker	10/13/2023	Konveio	3. Definitions	"Sign"	This definition should be modified to exclude murals on building exteriors/windows, where the intent is entirely the art itself as an enhancement to the public space, and not as a sign in any way — or a separate definition should be added for public art/murals, to remove the ambiguity about which definition/regulations would be applicable.	The code does not regulate murals, but does regulate sign copy. For example, if a mural contains text or a logo fitting the definition of sign copy that area would be reviewed as a sign. The rest of the mural would not be reviewed.
Will Savage	10/13/2023	Konveio	3. Definitions	"Stormwater detention area"	Define Storm. 0.5" of rainfall or greater within a 24-hour period. Then go on to clarify that Stormwater Detention does not contain water 48 hours after the end of a Storm.	See *Technical Manual* for these types of technical details.
Will Savage	10/13/2023	Konveio	3. Definitions	"Structure"	Does not include retaining walls.	Drafts exempt retaining walls from setbacks in Article 7, but they are considered structures under state law, etc.
Cheryl Leeman	08/11/2023	Email	3. Definitions	Street types	NO classification of streets that identify arterials, connectors and local roads by recognized traffic standards.	These functional classifications are defined by the state and federal govenrment.
Connect Portland	07/19/2023	Email	3. Definitions	Various	Definitions includes definition of “on-peninsula and off-peninsula, where is the definition for “on or near peninsula”? No definitions for “arterials” vs corridors or other accepted street type designations? No definition for “urban neighborhoods”?	These terms are either defined elsewhere or used broadly in purpose statements and can be interpreted to carry their common meaning.
Tim Wells	10/12/2023	Konveio	5. Zones	5.2.2 Zone boundaries when uncertain	It might be helpful to add a definition of adjacent. I can see how this could be exploited in a legal case and the courts saying that there is not enough definition around "adjacent" and kick a decision back to the City. Someone will sue and say that a zone across a street is adjacent even though that is not what the City intends.	These terms appear in numerous places throughout the code - differentiating through definitions may unintentionally cause issues rather than resolving them. Language has been updated in various places to ensure that there is clarity around this reference, however.
Kevin Parker	10/13/2023	Konveio	5. Zones	6.6.2(C)3 Drive-throughs	[Response to Nathan Miller] Seconding this. Drive-thrus are fine in the suburbs where there's land to spare, but they have no place in a city, where land should be used for housing and pedestrian-focused commercial space. Plenty of people in cities around the world walk/bike/take transit to Dunkin and Starbucks, without wasting the space on drive-thru lanes.	The first wave changes limit drive-throughs considerably.
Connect Portland	07/19/2023	Email	5. Zones	Table 5-A: Zones	Zone Table 5A does not include Roux Institute at Northeastern University in the Overlay Zones.	Table 5-A does not include either of the two institution-specific IOZs, the MMC IOZ or Roux. The text of both of these is incorporated under the general language of the Institutional Overlay Zone.
Karen Snyder	08/12/2023	Konveio	5. Zones	Table 5-A: Zones	Why aren't these zones on page 24 directly linked to the actual purpose statements which are on page 27? This is very clunky and inefficient for the public to follow.	Tables exist in separate places in the code, as not all material can be consolidated into one place.
Winston Lumpkins	7/18/2023	Konveio	5. Zones	Table 5-B: Residential Zones	Single family homes are very expensive for the city (more street, sidewalk, water, sewer etc) while typically generating less tax revenue than multi unit buildings do, while being financially out of reach for many. They also tend to encourage a level of density that can't support public transportation, encouraging car use, which is bad for wildlife, children, people who can't drive, the environment and infrastructure: walking, e-bikes, bikes, scooters etc don't wear out the road and cause fatal crashes. Cars & their effect on infrastructure is super expensive for the taxpayer. Single family homes are expensive for everyone, inequitable, and should not be encouraged. This is a city; there is a lot of Maine that is not a city, but, this is a city.	The revised drafts continue to support a variety of housing types, particularly around transit.
Kevin Parker	10/13/2023	Konveio	5. Zones	Table 5-B: Residential Zones	[Response to Winston Lumpkins] This is so spot on. We need to stop zoning the majority of the city as a 1960's-era suburb—and all the associated harms that come along with that.	The revised drafts continue to support a variety of housing types, particularly around transit.

NAME	DATE	SOURCE	ARTICLE	TOPIC	COMMENT	RESPONSE
Liz Trice	10/11/2023	Konveio	5. Zones	Table 5-B: Residential Zones	It would be lovely to have more small businesses spread throughout neighborhoods like r3; I think neighborhood businesses should be allowed throughout.	Generally, the approach to create more opportunity for small scale, neighborhood commercial is through the addition of the neighborhood nonresidential reuse use category and through map changes.
Liz Trice	10/11/2023	Konveio	5. Zones	Table 5-B: Residential Zones	It would be nice to allow neighborhood businesses like small cafes, shops and restaurants with strict noise restrictions in R3 and other R zones.	Generally, the approach to create more opportunity for small scale, neighborhood commercial is through the addition of the neighborhood nonresidential reuse use category and through map changes.
Tim Wells	10/12/2023	Konveio	5. Zones	Table 5-B: Residential Zones	[Response to Liz Trice] Portland needs to loosen up restrictions on businesses. Saratoga Springs has done a very nice job of allowing neighborhood businesses. It doesn't harm the character of the neighborhood. It greatly enhances the character and livability. We are over-reacting to fear of possible, initial pushback. It is the right thing to do and will strengthen and improve the City.	Generally, the approach to create more opportunity for small scale, neighborhood commercial is through the addition of the neighborhood nonresidential reuse use category and through map changes.
Barbara Vestal	07/13/2023	Email	5. Zones	Table 5-B: Residential Zones	Asking just for myself, I can't help but notice that you have taken out the language in the purpose statement which (admittedly imperfectly) referred to conserving the existing housing stock, preserving the existing neighborhood character, and making new development consistent with the typical compact lot development found on the peninsula. Of course those are things that people living in the R-6 zone have typically valued. It would seem better to improve how they are referenced in the purpose statement rather than deleting them entirely. What was your thinking in making this change?	Many of the purpose statements have been revised with the idea that they should be parallel in structure. In revised drafts, language has been added to purpose statements to ensure that this intent is retained.
Emma Rubin	07/16/2023	Konveio	5. Zones	Table 5-B: Residential Zones	A few zones say they allow for "select nonresidential uses". Not sure exactly what this means but this code should go further to encourage mixed-use walkable neighborhoods.	Purpose statements have been revised to ensure that this language aligns with permitted uses.
Kellan	07/16/2023	Konveio	5. Zones	Table 5-B: Residential Zones	I can't see any purpose for either RN-1 or RN-2 to still exist. These are archaic zoning definitions that arbitrarily prohibit any sort of density, walkability, bike access, safety, or transit. Keeping these in existence will continue to raise housing costs and result in sprawl outside of Portland limits. The zoning definitions overall can be greatly simplified and modernized by eliminating RN-1 and RN-2 zoning.	R-1 and R-2 have been consolidated in drafts, but otherwise no residential consolidation is proposed.
Emma Rubin	07/16/2023	Konveio	5. Zones	Table 5-B: Residential Zones	It seems like these zones could be condensed/simplified. Why are 7 different residential zones needed for a small city?	R-1 and R-2 have been consolidated in drafts, but otherwise no residential consolidation is proposed.
Emma Rubin	07/16/2023	Konveio	5. Zones	Table 5-B: Residential Zones	Eliminate RN1 to allow for smaller lots and more housing density. Roll into RN2?	R-1 and R-2 have been consolidated in drafts, but otherwise no residential consolidation is proposed.
Kevin Parker	10/13/2023	Konveio	5. Zones	Table 5-B: Residential Zones	All of these should condensed into two zones, with the only difference being maximum building heights. Making zones contingent on proximity to existing transportation routes (which by definition would change if/when we get to a higher density that can support more robust public transit), differentiated between on-peninsula vs. off-peninsula, or at all concerned with 'compatibility' and 'context' will just perpetuate the status quo, which is obviously not working.	R-1 and R-2 have been consolidated in drafts, but otherwise no residential consolidation is proposed.
Jill Roland	08/06/2023	Email	5. Zones	Table 5-B: Residential Zones	Why not add the R1 and R2 zones - both higher income areas - to the process?	R-1 and R-2 have been consolidated in drafts, meaning both have been modified.
Cameron Thompson	07/19/2023	Konveio	5. Zones	Table 5-B: Residential Zones	In the zone purpose section there is no mention of climate resilience. Following the recommendations of One Climate Future zoning should consider climate risks when designating zones. In areas where there is a low risk of flooding the city should encourage higher density through zoning. Low density zoning should only be allowed in areas where the risk of flooding is high.	See proposed CFROZ in Article 8.
Nathan Miller	10/13/2023	Konveio	5. Zones	Table 5-B: Residential Zones	As I understand it the current R-3 zoning (here reclassified as RN-2) is the largest (by area) zoning designation in our city, making up almost 1/4 of the square footage of Portland. If we do not make more significant allowances to this zoning type than what is in this draft document this effort will have a muted impact. This zone type deserves significant scrutiny additional loosening of the restrictions.	The changes to use permissions adopted under LD 2003 significantly expand use permissions within this zone.

NAME	DATE	SOURCE	ARTICLE	TOPIC	COMMENT	RESPONSE
Nathan Miller	10/12/2023	Konveio	5. Zones	Table 5-B: Residential Zones	[Response to Emma Rubin] Agree, I don't see any reason we'd want to require lots this large for any portion of our city.	The drafts rely on a combination of zone consolidation, changes in use permissions, and additional flexibility within dimensional standards to create opportunities for more housing within residential zones.
Liz Trice	10/11/2023	Konveio	5. Zones	Table 5-B: Residential Zones	[Response to Kellan] Seems like we should just roll in R1 and R2 into R3	The existing R-3 pattern is generally distinct from the R-1 and R-2.
Urbanist Coalition Portland (c/o Todd Morse)	10/11/2023	Email	5. Zones	Table 5-B: Residential Zones	Eliminate the R-4 zone and zone all land currently zoned R-4 as R-6.	The R-4 pattern is generally distinct from the R-6 pattern in terms of lot size, setbacks, etc. For this reason, it has been retained as a distinct zone. However, uses in the R-4 have been revised to more closely resemble the R-6.
Urbanist Coalition Portland (c/o Todd Morse)	10/11/2023	Email	5. Zones	Table 5-B: Residential Zones	Eliminate the R-5 zone and zone all land currently zoned R-5 as R-6.	The R-5 pattern is generally distinct from the R-6 pattern in terms of lot size, setbacks, and uses. However, uses in the R-5 have been revised to more closely resemble the R-6.
Dela Murphy	08/19/2023	Konveio	5. Zones	Table 5-B: Residential Zones	The RN-1 and RN-2 zones are restrictive enough to still be considered exclusionary zoning. They should be eliminated. Perhaps RN-3 should be generalized to remove language about the Western Prom and instead be the starting point from a density perspective.	The RN-3 pattern is generally distinct from the RN-1 and RN-2, as it was written to apply to a particular on-peninsula neighborhood.
C.M.	07/03/2023	Konveio	5. Zones	Table 5-B: Residential Zones	are the "compatibility and context sensitivity" explained anywhere? many properties have vacant spaces and cannot be properly converted to multi-units, because many cannot conform to current building code or would be too cost prohibitive for small landlords. A few examples that come to mind are stair treads dimensions and requirement of fire sprinklers. Existing multi-unit properties however don't have to conform to such code but are allowed to operate simply by being "grand-fathered-in". Such dichotomy shows a lack of commitment to either safety or compatibility. Are there any plans to address this issue?	This comment pertains to building code/fire code.
Urbanist Coalition Portland (c/o Todd Morse)	10/11/2023	Email	5. Zones	Table 5-B: Residential Zones	Eliminate the R-1 zone and zone all land currently zoned as R-1 as R-2.	Working drafts reflect this change.
Karen Snyder	08/12/2023	Konveio	5. Zones	Table 5-B: Residential Zones/RN-5	Planning Dept has removed the language in R6 now RN5 of "conserve the existing housing stock and residential character of neighborhoods....and controlling the scale of external impacts of professional offices of non-residential use" What will happen? 1) As many houses as possible will continue to be demolished which is extremely environmentally detrimental and large non-descript buildings with luxury condo or subsidized housing will created with no ties to the neighborhood and not really be used for long term residential need. 2) Existing housing stock should be conserved and have an easier time to create more multi units without cost prohibitive improvements. For example, going from a 2 unit to a 3 unit should not require sprinkler systems when an existing 3 unit does not have to have a sprinkler system. 3) The R6 now RN5 zoning statement will also allow more commercial and/or non-residential businesses to easier be built in residential neighborhoods which instead should be focused on creating long term residential housing and not running non-residential businesses such as commercial businesses or professional office, sober houses or group homes. This takes away from long term residential housing units by allowing more commercial businesses within residential zones. Theoretically, a strip joint could be allowed to be located in a residential neighborhood with this type of vague language. 4) There is a mention of a minimum lot size of 2,000 sq ft without stating a maximum lot size which theoretically an entire block could be one parcel instead of multiple existing housing.	Many of the purpose statements have been revised with the idea that they should be parallel in structure. In revised drafts, language has been added to purpose statements to ensure that this intent is retained.

NAME	DATE	SOURCE	ARTICLE	TOPIC	COMMENT	RESPONSE
Karen Snyder	08/14/2023	Email	5. Zones	Table 5-B: Residential Zones/RN-5	How does the Planning Department think that Relaxing the Residential Neighborhood Zoning Language Will Ensure Long Term Residential Housing is Created? City of Portland Planning Department has loosened most of the residential zoning language specifically targeting yet again on-peninsula neighborhoods (RN-5 formerly R6). Specific examples of this are shown below. Example #1: The Gutting of RN-5 (formerly R6) Residential Neighborhood Purpose Statement. In Table 5-B: Residential Neighborhood Purpose Statement (page 27), of the following document link, First Wave Changes - Comments — ReCode Portland, the City of Portland Planning Department has specifically removed from the RN-5 (formerly R6) Residential Neighborhood Zone Purpose statement the following verbiage "conserve the existing housing stock and residential character of neighborhoods....and controlling the scale of external impacts of professional offices of non-residential use" What will happen? Large non-descript buildings with luxury condo or subsidized housing will be created with no ties to the neighborhood and not really be used for long term residential need. The lack of importance now in conserving or incentivizing existing housing stock by having an easier time to create more multi units without cost prohibitive improvements. For example, going from a 2-unit to a 3-unit should not require sprinkler systems when an existing 3-unit does not have to have a sprinkler system. The proposed RN-5 (formerly R6) residential neighborhood zoning statement will allow more commercial and/or non-residential use businesses such as Bed &Breakfast/Hostels/Lodging homes which are all temporary transient housing businesses an easier time to be built in residential neighborhoods instead of focusing on long term residential housing to be built or created. There is a no mention of a maximum lot size but only a minimum lot size of 2,000 sq ft. Theoretically, an entire block could be combined into one parcel instead of multiple existing housing rather than people crammed in large and sterile, solid housing blocks like rats in a lab cage. Didn't the City learn during COVID that large buildings where people lived in close quarters are not livable in which people fled these cities where there was too much density and came to smaller cities such as Portland which are less dense?	Many of the purpose statements have been revised with the idea that they should be parallel in structure. In revised drafts, language has been added to purpose statements to ensure that this intent is retained.
MHNO (c/o Barbara Vestal)	10/11/2023	Email	5. Zones	Table 5-B: Residential Zones/RN-5	2. THE PURPOSE STATEMENT FOR THE NEW RN-5 ZONE OMITS IMPORTANT CONCEPTS. In the purpose statement for the R-6/ New RN-5 zone, the proposed draft has deleted concepts that appear in the current purpose statement that refer to conserving the existing housing stock, preserving the existing neighborhood character, and making new development consistent with the typical compact lot development found on the peninsula. While perhaps imperfectly expressed in the current code, they identify concepts that are typically valued by residents. It would be better to improve the way they are referenced rather than removing them entirely. Staff has said that similar concepts now appear in proposed Table 5-B, with the introductory paragraph emphasizing “context sensitivity.” However, while statements about “standards encouraging compatibility and context sensitivity” do appear in the RN-2, RN-3 and RN-4 zones in the context of conversion of existing structures to higher density uses, that phrase does not appear anywhere in the RN-5 zone. Standards requiring compatibility and context sensitivity should be an integral part of the RN-5 purpose statement, and should apply to all new development as well as to the conversion of existing structures. Similarly rewritten design standards, long put on hold, need to be completed and adopted so that they are a meaningful part of the development review process. Design standards are an integral part of assessing compatibility and context sensitivity.	Many of the purpose statements have been revised with the idea that they should be parallel in structure. In revised drafts, language has been added to purpose statements to ensure that this intent is retained.
Winston	10/13/2023	Konveio	5. Zones	Table 5-B: Residential Zones/RN-5	[Response to Karen Snyder] I want to boost Point 2 & 4: Adding a unit to a 2 unit is a nearly in-surmountable issue, when almost all the Portland's naturally occurring affordable 2-5 unit housing was subdivided larger single family homes, with weird non-standard stairs and odd additions. None of it has sprinkler systems, isn't ADA accessible etc. I've NEVER seen a 3 unit building with a sprinkler. It's a perfectly safe, perfectly accessible unit, or *the street*.... I'm not sure how much we can actually get around that, but it's an issue to be acknowledged: 60 people die on the street in Portland every year... I doubt we have that many people falling down weird stairs.	This comment pertains to building code/fire code.
Cheryl Leeman	08/11/2023	Email	5. Zones	Table 5-D: Mixed-Use Zones	B-2 and B2-b consolidated yet are different in their purpose. The ReCode II recommendation states that the B2-b appears to be working well... the “gradients” in use B-2 zones appear to primarily address levels of commercial intensity and transitions to adjoining neighborhoods. As such, there is likely a need to maintain them.	B-2 and B-2b were not consolidated in the draft.
Connect Portland	07/11/2023	Email	5. Zones	Table 5-D: Mixed-Use Zones	Did the B2 and B2b get consolidated? If so, it appears the height has increased significantly in the Dimensional Standards?	B-2 and B-2b were not consolidated, although many of the use permissions and dimensional standards for these two zones are the same, both in the existing code and in the draft under
Cheryl Leeman	08/11/2023	Email	5. Zones	Table 5-D: Mixed-Use Zones	Every Business Zone includes “residential” to encourage housing is in conflict with it stated purpose of providing for a mixture of commercial as their primary use.	Most mixed-use zones currently permit housing, with the exception of the B-4, and generally the policy goal within these zones has been to support a mix of uses, including residential, for quite some time.
Connect Portland	07/19/2023	Email	5. Zones	Table 5-D: Mixed-Use Zones	Zone Purpose Statements where residential or mixture of residential in RN, Islands and B zones are reference does not clarify what type of permitted residential which are clearly spelled out in the RN1 to RN4 zones. The B-1 provides for residential uses but not in the language, page 5-7.	Purpose statements have been revised to ensure that this language aligns with permitted uses.

NAME	DATE	SOURCE	ARTICLE	TOPIC	COMMENT	RESPONSE
Portland Foreside (c/o Mary McCrann)	10/13/2023	Email	5. Zones	Table 5-D: Mixed-Use Zones	Evaluate and refine the City's mixed-use zones to ensure they support the city's thriving mixed-use areas, and continue to enable modern, sustainable, walkable development in line with the City's vision for the future – To further encourage mixed-use redevelopment, support new development and redevelopment in areas of the City that can occur and is already happening. Incentives and support can be tax, economic, financial, or regulatory. We support simplifying the regulations in the B6 Zone. We encourage the City to require that the majority of a street fronting ground floor in any of the urban mixed-use zones be open to the public (hotel lobby, retail, etc.) to support active pedestrian/public uses.	These types of PAD principles have been integrated into many of the mixed use zones.
Kevin Parker	10/13/2023	Konveio	5. Zones	Table 5-D: Mixed-Use Zones	B1, B2, B2b, and B3 need to be combined into a single zone, broadly following the language in B1, but without being restricted to 'limited areas' or 'small scale'. A truly complete neighborhood with walking access to daily shopping/service needs means allowing for smaller dispersed groceries/markets throughout the city, along with a mixture of other goods/services, both integrated into residential neighborhoods—without being developed into "shopping centers", which are inherently car-oriented and a bad use of land in a city environment.	These zones vary widely in purpose and form.
Tim Wells	10/12/2023	Konveio	5. Zones	Table 5-E: TOD Zones	What is low, moderate and high density? How about: Low Density = or <12 DU per acre Moderate = or <44 DU per acre or requiring no more than 500 sf/du High = > 40 DU per acre with no sf requirement per du	Generally, these terms are not defined in ordinance in terms of specific ranges like these.
Portland Foreside (c/o Mary McCrann)	10/13/2023	Email	5. Zones	Table 5-E: TOD Zones	Explore opportunities to encourage transit oriented development within appropriate areas of the city, in coordination with regional transit planning - Consider the idea of adopting a TOD ordinance that creates incentives (density, height bonuses, tax incentives) or requires certain types of development to meet specific criteria that is focused on TOD.	See TOD zones and associated map changes.
Connect Portland	07/11/2023	Email	5. Zones	Table 5-E: TOD Zones	Where will the Transit Oriented Development (TOD) be located? Define "urban neighborhood" and "on or near peninsula"? TOD heights with a maximum of 80 ft and 125ft in or near residential seems excessive. Doesn't the B2b transit nodes sufficiently address TOD in a more compatible way in highly residential areas in or near peninsula?	There is some overlap between the TOD zones and several of the mixed use zones, including the B-2b, which encourages a dense, urban form. The
Kevin Parker	10/13/2023	Konveio	5. Zones	Table 5-E: TOD Zones	All development in the city should be transit-oriented development. The language in these zones should be incorporated into the residential and mixed-used zones, and it's the city's responsibility to create a robust transit system (and non-motorized vehicular transportation) to encourages the resulting development.	Transit-supportive principles are generally integrated into many of the city's zones that are located proximate to transit.
Cameron Thompson	07/19/2023	Konveio	5. Zones	Table 5-H: Open Space Zones	OS-P purpose should include the acknowledgement of maintaining an open space for climate resilience, i.e. high risk flood areas.	Revised drafts reflect this concept.
Cheryl Leeman	08/11/2023	Email	5. Zones	Various	All Zone Purpose statements should be clearly defined as to what is or what is not permitted in the zone as opposed to open ended terms such as "on or near peninsula, select areas off-peninsula and along arterials. -RN-5 (R-6) includes new inserted text that states and "in select off-peninsula locations." -Inconsistencies in Zone Purpose Statements regarding type of "residential" or "mixture of residential" which are not clearly spelled out in every zone. -Transit Oriented Development (TOD) -1 is off-peninsula and -2 is on or near peninsula with no indication as to where and new zone is similar to the B2-b.	Purpose statements are not meant as a proxy for the use tables, where use permissions are described, but as more broad statements about each zone's intent.
Brent Adler	07/17/2023	Form submission	6. Use Standards	6.4.1	Hello. Thanks for all the work on this recode.. its been a long time! I had a couple things to comment on. What has been done for building on established city streets that are paved that are less than 25' wide. This was a section in the old code under chapter 14-403. This was updated a couple years ago but im concerned that the exception that is allowed to build is up to somebody's opinion. Can we not agree that these narrow streets in Portland are safe and should be allowed to have new buildings built on them. this will help with housing and density. Please remove the restriction on narrow streets to allow development.	See revisions to Section 6.4.1 to provide more flexibility in these situations while ensuring that there is adequate oversight related to life safety and access for basic services.
Liv Chase	07/26/2023	Email	6. Use Standards	6.4.1	Section 6.4.1- width of a street is no less than 35'. Amendment should contain the language that this requirement does not apply to accepted city streets. The original intent of this section was to make sure that existing paper streets were designed in a manner that was up to current fire code requirements. Preventing residential construction on accepted city streets that are already built on is not in line with the overall city goal of creating more affordable housing in areas that can accommodate development.	See revisions to Section 6.4.1 to provide more flexibility in these situations while ensuring that there is adequate oversight related to life safety and access for basic services.
Bob Rodney	9/12/2023	Email	6. Use Standards	6.4.1	Hello,my wife christine and I own two house lots at the dead end of Florida ave in portland.these house lots start where the hot top ends.there is one house after our lots built in the 1980s..and two homes directly Accross the dirt street from our lots.these home owners receive city services,such as trash pick up, snow plowing,mail, etc..christine and I know we need to upgrade the road before we build.my question is.on the recode for rezoning coming up, will our lots become buildable without upgrading?	See revisions to Section 6.4.1 to provide more flexibility in these situations while ensuring that there is adequate oversight related to life safety and access for basic services.

NAME	DATE	SOURCE	ARTICLE	TOPIC	COMMENT	RESPONSE
Andrew Schiller	07/21/2023	Email	6. Use Standards	6.4.1	The proposed language for width of streets has an implied assumption that the street is the same width along its length. Or at least for the segment of street upon which the subject lot fronts the street. This assumption appears to not always be true. Small pavement width variation exists. This does not pose a problem when pavement width is far wider than the proposed language guidelines. It does introduce ambiguity when the street has small pavement width variations that vary around the target width guidelines. This is the case for Bond Street, based on my measurements. The section to which I refer is 6.4.1 (A.1.a). Bond Street is over 20' in width (20' 2" of pavement width, from inside of curb to inside of opposite curb). But not uniformly along its length. Sometimes it is 19' 10", and so forth. Some variation. Should the language clarify that one rounds up to the nearest whole foot? Or conversely take the minimum width measured? The lot is at the corner of Bond and Orange. Clearly, as I get very close to the corner (directly in front of the lot) the streets are preparing to intersect and the pavement width increases further to perhaps 21' or 22'. But numerous feet back away from the intersection on Bond, and still in front of the lot in question, the pavement width measures over 20'. But a few feet further on and it measures 19' 10". Practically speaking, there is no safety or access difference between 20' 2" and 19' 10". So it is not a public safety issue. But the language leaves this ambiguity on where to measure and if to round to the nearest whole foot (up or down), or to use the minimum width found in front of the lot. Or simply round to the nearest whole foot for the minimum width found in front of the lot. Do you have any thoughts on this? Alternatively, this could be such a rare case that it is better to discuss it with the Fire Chief and/or the head of the DPW. I realize this falls squarely into the '90-10' rule of potentially an edge case! But I do want to be thoughtful and engage for clarity and balance the production of housing in Portland with safety. Thank you for thinking about this. In this case, if my measurements are correct, the street is over 20' wide in front of the lot. But not for all of the frontage. It is just a slight variation. But it does dip below 20'. For your consideration, since streets tend to be reasonably stable in width (although imperfectly so as in this case), I would think if the street is 20' or more wide as measured somewhere in front of the lot, that would meet the minimum width requirement. This is because, even if it dipped below, it is always just inches of difference and thus not a safety or access issue. This would allow the production of housing per the language and be in keeping with the intent to promote fire safety and unrestricted DPW access.	This is a matter of interpretation.
Peaks Councilors & Housing + Zoning Subcommittee	10/10/2023	Email	6. Use Standards	6.4.1	Paper Roads - Though not addressed in the draft, the H&Z Committee is wondering if ReCode is planning to interface with the paper road determination process in any way.	This is a separate process.
Llz Trice	10/11/2023	Konveio	6. Use Standards	6.4.1(A)1	[Response to Jaime Parker] If 16' is the minimum needed by fire trucks, 16' should be our minimum street width.	No additional reduction in minimum width suggested, as draft adds significant flexibility to these provisions.
Jaime Parker	10/11/2023	Konveio	6. Use Standards	6.4.1(A)1	These width requirements seem excessively rigid. Will we be considering "skinny streets", Shared-streets, or other. more flexible street designs? IF 16' is an acceptable width on the islands, why wouldn't we consider it for neighborhoods with low-speed, low-volume conditions around the city?	See revisions to Section 6.4.1 to provide more flexibility in these situations while ensuring that there is adequate oversight related to life safety and access for basic services.
WB	10/11/2023	Konveio	6. Use Standards	6.4.1(B)	If you have a detached garage can you tear it down and add additional living units? Based on the principle structure code, it reads, you can not. This will not help get units built.	The changes to use permissions adopted under LD 2003 significantly expand use permissions within this zone.
Todd Morse	10/12/2023	Konveio	6. Use Standards	6.4.1(B)	This seems like it may be a violation of LD2003. The additional units lots are entitled to are not secondary, they are units that must have the same dimensional standards applied.	This language does not comply with LD 2003, so has been struck.
Emma Rubin	07/16/2023	Konveio	6. Use Standards	6.4.1(B) Number of structures on a lot	What counts as a principal structure? Can you have the main 1-,2-,3-,4- family dwelling and then also have an ADU? You should be able to.	Yes, ADUs are permitted as accessory structures within Article 6.
Cameron Thompson	07/16/2023	Konveio	6. Use Standards	6.4.12(A) Multi-family conversion standards	This seems overly strict to the point that multifamily dwellings are not practically allowed in these zones. How many existing buildings are there in these zones that could potentially be converted?	Restrictions in the RN-2 & RN-4 are from the existing code, and I-B currently limits MF to 4 units. 3-family and 4-family are new uses within these zones.

NAME	DATE	SOURCE	ARTICLE	TOPIC	COMMENT	RESPONSE
Connect Portland	07/11/2023	Email	6. Use Standards	6.4.12(A) Multi-family conversion standards	How will the real possibility of demolition of single-family homes to build multi-family structures be addressed in ReCode?	The proposed drafts acknowledge the potential for standards that may incentivize tear-downs. If uses are permitted, tear-downs may occur. Generally speaking, the approach reflected in the draft changes is to allow for conversion from single-family to two-, three-, four-, or multi-family where the higher-density use is permitted within the zone, but to try to ensure that these conversions are achieved in a way that reflects the existing built context (i.e. the pattern of setbacks, heights, and design choices characteristic of the surrounding neighborhood). This is why the draft changes don't include drastic changes to residential dimensional standards.
Connect Portland	07/19/2023	Email	6. Use Standards	6.4.12(A) Multi-family conversion standards	Conversions 6.4.12, additions to “existing structures” in all RN zones. What does “existing structures” mean? All residential and nonresidential structures? Should ‘Conversions’ with sub categories for additions, residential and non-residential be added to the Use Standards Table?	This language has been struck as a result of use changes under LD 2003.
Peter Brandon	10/11/2023	Konveio	6. Use Standards	6.4.12(A)1 Multi-family use limitations	Why limit the opportunity for conversion to only non-residential buildings? Portland contains many large historic homes that already contribute to and match the character of neighborhoods that could easily hold 2-4 units with little to no exterior modification or neighborhood impact.	This language reflects existing policy, and would only apply to 'multi-family,' meaning buildings with 5+ units. Under recently adopted LD 2003 changes, up to four units would be allowed in the RN-2 and RN-4 as new construction or conversion of any type of building.
Ashley Keenan	10/11/2023	Konveio	6. Use Standards	6.4.12(A)1 Multi-family use limitations	It’s an unreasonable restriction on property rights, as well as a legacy of exclusionary and racist local regulations, to prevent the construction of multi-family homes in these zones - especially in a housing shortage.	Under recenlty adopted LD 2003 changes, up to four units would be allowed in all mainland residential zones, plus two ADUs.
Emma Rubin	07/16/2023	Konveio	6. Use Standards	6.4.12(B) Multi-family conversion standards	Why limit to 25% of existing? Seems strange that if you already have a big house you can expand way more than you could if you happened to have a tiny existing house on the same sized lot.	The 25% expansion limitation has been eliminated from the conversion standards.
Llz Trice	10/11/2023	Konveio	6. Use Standards	6.4.12(B) Multi-family conversion standards	[Response to Emma Rubin] agreed. Any expansion should allow whatever lot coverage is already legal. Otherwise you're just putting more restrictions on any attempts to build new housing.	The 25% expansion limitation has been eliminated from the conversion standards.
Kevin Parker	10/13/2023	Konveio	6. Use Standards	6.4.12(B) Multi-family conversion standards	This is an arbitrary restriction that serves no purpose other than to restrict the construction of denser housing in existing neighborhoods. As others have said, as long as the size would otherwise be allowable within other parts of the code, there's no reason for this additional layer of restriction.	The 25% expansion limitation has been eliminated from the conversion standards.
WB	10/11/2023	Konveio	6. Use Standards	6.4.12(B)3 Multi-family conversion standards	Why have this wording? If housing cannot be built because of parking code specific locations, the city will not have the new units they need. Let the parking spots be placed where they fit best on the site plan. Not specified prior to the site and design plans.	It is the city's long-held policy direction to encourage parking to the side or rear of buildings. Parking is currently not required in many locations throughout city.
Llz Trice	10/11/2023	Konveio	6. Use Standards	6.4.12(B)3 Multi-family conversion standards	[Response to WB] agreed. Parking should never dictate whether housing can be built.	It is the city's long-held policy direction to encourage parking to the side or rear of buildings. Parking is currently not required in many locations throughout city.
Ashley Keenan	10/13/2023	Konveio	6. Use Standards	6.4.12(B)4 Multi-family conversion standards	The intent here is clear and sympathetic. But I've lived in studio apartments well below 500 feet, and if I hadn't had that option, I would've been homeless. It was cozy! I don't believe that Portland is at risk of tenement housing slumification, rather the opposite if anything - enforced luxury. If a unit is safe, who cares if it's small? That's our choice to live there, and sometimes its the difference between a warm bed and the street.	Language has been edited to eliminate unit sizes in conversion standards, but retain minimum size of structure for conversion.
Peter Brandon	10/11/2023	Konveio	6. Use Standards	6.4.12(B)5 Multi-family conversion standards	Why? Point 4 above would suggest you could have three studio apartments, or two 1 bedroom apartments in a 1,500 square foot envelope. Fail to see the point of this limitation.	Language has been edited to eliminate unit sizes in conversion standards, but retain minimum size of structure for conversion.
Ashley Keenan	10/12/2023	Konveio	6. Use Standards	6.4.12(B)5 Multi-family conversion standards	This is a redundant measure cluttering up the document. It should be removed.	Language has been edited to eliminate unit sizes in conversion standards, but retain minimum size of structure for conversion.
Kevin Parker	10/13/2023	Konveio	6. Use Standards	6.4.13 Dwellings, townhouse	Why is there a restriction on minimum spacing between townhouses? We already have examples of contiguous townhouses in Portland (on Park Street and Danforth), and they're a more efficient use of land than most residential within the city.	The draft does not require 15 ft. between townhouses.

NAME	DATE	SOURCE	ARTICLE	TOPIC	COMMENT	RESPONSE
Cheryl Leeman	08/11/2023	Email	6. Use Standards	6.4.17 Group homes	Group home restriction that they can not be located within 500ft of another has been eliminated.	There is currently a lodging house separation requirement in the R-5 zone.
Will Savage	10/13/2023	Konveio	6. Use standards	6.4.21 Lodging houses	At almost 3x the room size the common area appears excessive. Are there national examples of best practices for the ratio between room and common area?	This language has been retained as a way to censure common space in buildings with very small living unit sizes
Cindy Park	07/15/2023	Email	6. Use Standards	6.4.23 Marijuana-related uses.	Please include some restrictions on density of cannabis businesses (as in, per square mile).	6.4.23 includes dispersal requirements as they exist today.
Acorn Engineering (c/o Will Savage)	10/13/2023	Email	6. Use Standards	6.4.26 Neighborhood Nonresidential Reuse	Under 6.4.26.A, does an “existing structure that is nonresidential in its current use” include a building that has a principal use of housing, but a subordinate use of commercial?	Clarified that this clause is related to principal uses.
Acorn Engineering (c/o Will Savage)	10/13/2023	Email	6. Use Standards	6.4.26 Neighborhood Nonresidential Reuse	When would the effective date be for locking in an existing neighborhood nonresidential reuse? Does this make it an “existing structure” under this section?	Effective date would be the date of ReCode Phase II adoption. Any nonresidential structure exisitng as of that date would be eligible for nonresidential reuse.
Rachel Conly	10/13/2023	Email	6. Use Standards	6.4.26 Neighborhood Nonresidential Reuse	I think this is a great idea, but the reality is there are few, if any, buildings on Peaks that would benefit fromthis change.	Revised drafts maintain neighborhood nonresidential reuse within island zones.
Lucas Ankhartz	09/11/2023	Konveio	6. Use Standards	6.4.26 Neighborhood nonresidential reuse	Why don't we include all first floor retail and non-nuisance (thinking WFH folks, art studios, barbers, etc) business as part of the zone?	Many of these uses are covered under Section 6.6.2(E) as home occupations.
Nathan	07/25/2023	Konveio	6. Use Standards	6.4.26 Neighborhood nonresidential reuse	[Response to Amy Oberlin & Winston Lumpkins re neighborhood nonresidential reuse.] Agree with the sentiments above. The summary of Recode II progress made it sound like it would be significantly easier to introduce small scale commercial into our purely residential neighborhoods, but this language is far too restrictive. We don't just want to allow buildings originally built to be non-residental to open a business in them, we want to encourage NEW neighborhood amenity business to pop up. I like the allowance for no parking spots however.	New neighborhood businesses are not currently allowed within residential areas. The neighborhood nonresidential reuse category will help to address some need for neighborhood businesses. Other neighborhood business needs are addressed within the B-1, B-2 or other zones located nearby to residential zones. See B-1 mapping.
Amy Oberlin	06/30/2023	Konveio	6. Use Standards	6.4.26 Neighborhood nonresidential reuse	Despite touting the "new use" of neighborhood nonresidential reuse, this section appears to rule out all new neighborhood businesses. Was this the intent?	New neighborhood businesses are not currently allowed within residential areas. The neighborhood nonresidential reuse provides flexibility that allows new businesses in residential zones in certain circumstances.
Winston Lumpkins	7/18/2023	Konveio	6. Use Standards	6.4.26 Neighborhood nonresidential reuse	[Response to Amy Oberlin re neighborhood nonresidential reuse] This seems really problematic. It seemed like more might be allowed above.	New neighborhood businesses are not currently allowed within residential areas. The neighborhood nonresidential reuse provides flexibility that allows new businesses in residential zones in certain circumstances.
Karen Snyder	08/14/2023	Email	6. Use Standards	6.4.26 Neighborhood nonresidential reuse	Example #3: Inconsistent and Unclear All the Different Non-Residental Use Businesses Allowed in the Residential Zones This is strange and not clear. In Section 6.4.26 -Neighborhood Non-residential Reuse (page 52), in the following document link First Wave Changes - Comments — ReCode Portland, it lists additional non-residential use commercial businesses such as: general offices < 5,000 sqft, general services < 5,000 sq ft, restaurants, retail < 5,000 sq ft, specialty foods, studios for arts that can be opened up within residential neighborhoods without listing these commercial/non-residential reuse businesses on page 36 of Table 6-A: Permitted and Conditional Uses in Residential Neighborhood Zones. What will happen? It needs to be clear in Table 6-A (page 36) all the differing types of commercial and non-residential use businesses that are allowed in residential neighborhoods and how far apart these non-residential use businesses can be located between each other. All these different business types can potentially overwhelm residential neighborhoods with commercial and non-residential use businesses rather than long term residents.	Structure of the tables makes integrating of these uses challenging. Instead, they have been consolidated as 'neighborhood non-residential reuse,' with use standards to govern the way that these uses are allowed to occur.

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Karen Snyder	08/12/2023	Konveio	6. Use Standards	6.4.26 Neighborhood nonresidential reuse	This is strange and not clear. In Table 6-A: Permitted and Conditional Uses in Residential Neighborhood Zones it shows what non-residential uses are allowed in the different residential zones but NONE of the general offices, service, restaurants, retail listed in this 6.4.26 section (page 52) nare included in Table 6-A which is on page 36 of this document. Therefore, it needs to be clear in Table 6-A which residential zones allow these nonresidential uses.... of General offices, services, restaurants, retail, etc.. It also needs to be clear how many of these non-residential uses are the allowed in residential neighborhoods and how far apart they are from each other. What will happen? Again, it is really NOT considered a complete neighborhood when non-residential uses could remove long term residential housing units and overwhelm residential neighborhoods.	The neighborhood nonresidential reuse category is meant to allow the use of nonresidential structures for nonresidential uses within residential zones. It does not allow nonresidential uses writ large.
Todd Morse	10/11/2023	Konveio	6. Use Standards	6.4.26(A) Neighborhood nonresidential reuse	Specific calendar dates should never be in a land use code. People should not have to do historical research to know what they are allowed to build on a given piece of land. I am pretty familiar with available city data sources and reasonably well informed about land use but I could not find a single unified data source to figure out which lots this would apply to. This just creates nonconforming lots by another name, but it is ambiguous if the rules of nonconforming lots apply.	Dates have generally been removed from the code where possible.
Ashley Keenan	10/11/2023	Konveio	6. Use Standards	6.4.26(A) Neighborhood nonresidential reuse	An outrageous false name for a nothingburger of a use.	Neighborhood nonresidential use will allow some flexibility for non-conforming uses in locations that currently have none.
Tom Bander	10/11/2023	Konveio	6. Use Standards	6.4.26(A) Neighborhood nonresidential reuse	[Response to Amy Oberlin, Winston Lumpkins, & Nathan re neighborhood nonresidential reuse.] Completely agree. Neighborhood nonresidential reuse is a huge benefit to this project and should be allowed much more broadly, not restricted to those that currently exist. Look no further than the amazing amenities on Congress St on Munjoy Hill. These businesses make neighborhoods more walkable and pleasant to live in!	New neighborhood businesses are not currently allowed within residential areas. The neighborhood nonresidential reuse category will help to address some need for neighborhood businesses. Other neighborhood business needs are addressed within the B-1, B-2 or other zones located nearby to residential zones. See B-1 mapping.
Tom Bander	10/11/2023	Konveio	6. Use Standards	6.4.26(B) Neighborhood nonresidential reuse	Completely agree, we should allow small scale businesses in every residential zone (cafes, small shops, coffee shops).	New neighborhood businesses are not currently allowed within residential areas. The neighborhood nonresidential reuse category will help to address some need for neighborhood businesses. Other neighborhood business needs are addressed within the B-1, B-2 or other zones located nearby to residential zones. See B-1 mapping.
Todd Morse	10/11/2023	Konveio	6. Use Standards	6.4.26(B) Neighborhood nonresidential reuse	From what I have been able to observe this will apply to a tiny number of lots and it will be difficult for people to even know which lots this will apply to so they know where to open a neighborhood business. Their placement is also determined by what made sense decades ago, before zoning was in place preventing them from being built. They may not be the best places for businesses to be today. I would be very surprised if this is ever used, which is a shame because the top-level summary of these changes advertises "create opportunities for neighborhood scale business". This is one of only four "Big Takeaways" listed on the site when really it is an extremely minor change. We should allow small scale neighborhood businesses everywhere people live. We can add limits so they are on the first floor, and are small, to control impact.	New neighborhood businesses are not currently allowed within residential areas. The neighborhood nonresidential reuse category will help to address some need for neighborhood businesses. Other neighborhood business needs are addressed within the B-1, B-2 or other zones located nearby to residential zones. See B-1 mapping.
Kevin Parker	10/13/2023	Konveio	6. Use Standards	6.4.26(B) Neighborhood nonresidential reuse	It's not clear if either general 'retail' or specialty food services'. specifically includes grocers. Having walkable access to small scale grocers/food markets would be one of the main benefits of a zoning change like this—to allow daily necessities to be available in each neighborhood, without everyone in the city traveling to/from large, suburban-style grocery stores. Only utilizing the tiny handful of existing non-residential buildings around the city for an overly-restrictive set of uses makes this a change in name only.	Retail would include grocers.
Todd Morse	10/13/2023	Konveio	6. Use Standards	6.4.30(A) Places of assembly	This is unnecessarily restrictive. Places of assembly have traditionally always been integrated into the residential neighborhood of the people assembling. The majority of our current religious buildings are in residential areas and this pattern makes sense. This requirement will dramatically reduce the number of possible parcels that can accommodate this use. This also feels designed to address the recent controversy around the Chabad house on Pomeroy Street. If that is the case, we should have a public conversation about the motivation behind this change and it's knock on effects. Though the situation was controversial, what they did was ultimately allowed. Neighbors are often frustrated by nearby development and the idea behind having zoning rules is to arbitrate those disputes. If you do something that was allowed, and by doing it, trigger a subtle change of the rules, it brings the reliability of those rules into question.	Collector and arterial roads are currently often the locations of places of assembly within residential neighborhoods.
Todd Morse	10/11/2023	Konveio	6. Use Standards	6.4.30(A) Places of assembly	Specific calendar dates should never be in a land use code. People should not have to do historical research to know what they are allowed to build on a given piece of land. This just creates nonconforming lots by another name, but it is ambiguous if the rules of nonconforming lots apply.	Dates have generally been removed from the code where possible.
Alan Thibeault	12/1/23	Email	6. Use Standards	6.4.31(B)	In regards to revisions noted in section 6.4.31.B Post-Secondary Schools, that now states in “In any residential zone, a new post-secondary school or an expansion on an existing post-secondary school shall not cause displacement or conversion of existing residential uses”. This is in contrast with the deleted version on page 6-39, which stated “The proposed use shall not cause significant displacement or conversion of residential uses as of June 1, 1983, or July 15 in the IR1 and IR2 zones, or thereafter.”This revision is too restrictive and the word “significant” should be reinserted in the proposed text. I can see a situation where we might acquire a residential property and need to convert it to another institutional use, which would be prohibited under the new text. We actually surround three residential properties that could never be repurposed should we ever acquire them. If this is considered in the greater context and we have added a residential facility to accommodate 100 students, this would be overly restrictive and not allow for any growth.	Policy direction has been to move toward IOZs for institutions, which can speak directly to this type of situation, taking into account the long-term growth plans of an institution.
Will Savage	10/13/2023	Konveio	6. Use Standards	6.4.8 Campgrounds	Not allowing recreational vehicles seems outdated. How about a limit on length instead, such as 24 ft and under.	This is language from the existing code.
Cheryl Leeman	08/11/2023	Email	6. Use Standards	6.5.5 Limitations on conditional use approvals	Changed Limitations on Conditional Use from 6 months to 5 years	This language was changed to three years, as six months is a short time to establish a new use, especially if paired with a site plan review.

NAME	DATE	SOURCE	ARTICLE	TOPIC	COMMENT	RESPONSE
Alan Thibeault	12/1/23	Email	6. Use Standards	6.5.6(F)8	A second concern is related to section 6.5.6.F.8 Institutional Uses, which currently reads:8. In the case of a post-secondary school within the R-5 zone and not including the USM Overlay Zone, such school may build principal structures to a height of 55 feet if the following standards can be met: a. Minimum lot size: 10 acres which may include adjacent land owned by the institution on both sides of a public street. b. Minimum setback between buildings on-site: 20 feet. c. Minimum setback from external property boundary: 30 feet, except that parking garages over 35 feet in height must be located 50 feet from external property boundaries when adjacent to an adjoining residential use. d. The area between the structure and adjoining residential uses must be adequately screened with appropriate landscaping or other features to buffer thebuilding and effects thereof (i.e. noise, light, etc.) from abutting properties. UNE lobbied to have this exemption inserted into the code and feel we would be extremely limited in our ability to construct institutional style buildings without it. Our Pharmacy, Oral Health Center and new Medical School buildings wereonly able to be constructed because of this clause.	Policy direction has been to move toward IOZs for institutions, which can speak directly to this type of situation, taking into account the long-term growth plans of an institution.
Urbanist Coalition Portland (c/o Todd Morse)	10/11/2023	Email	6. Use Standards	6.6.2	Remove the ban on renting out a room in your house if you've added a new bathroom or kitchen in the last two years.	This language was removed in the first wave.
Urbanist Coalition Portland (c/o Todd Morse)	10/11/2023	Email	6. Use Standards	6.6.2	Allow renting up to four rooms per dwelling unit instead of two.	This language was removed in the first wave.
Sherida Perrin	10/6/2023	Email	6. Use Standards	6.6.2(A) ADUs	My partner and I live in a 484 sq. ft. house, we also have a 160 sq. ft. utility shed(old garage). Our lot size is 5634 sq. ft. We have been thinking & dreaming about possibly building an ADU on our property, where our shed is now, or having an ADU built somewhere else on our property. We would like to eventually have a year-round rental unit to help provide local affordable housing in Portland, and also to help with paying off our current mortgage. I have read through the RECODE materials, and I'm unsure if we would even be able to have an ADU built based on the Residential Neighborhood Zone Dimensional Standards Lot Area minimum for RN-3 of 6000 sq. ft.? If you know of anyone that could answer my question, and possibly walk us through the process, it would be greatly appreciated.	ADU standards are located within Article 6.
Ken Madore	10/06/2023	Form Submission	6. Use Standards	6.6.2(A) ADUs	Reaching out as I am not able to find zoning and/or regulations for accessory dwelling units in the new RN-4 zone. I own a property that includes 2 garages and additional square footage above the minumum lot requirement for this zone of 5,000sf (lot is approximately 8,000sf with 2 driveways so looking at creative options for possible ADU and/or increased building envelope Re: 12 Kenilworth St	ADU standards are located within Article 6.
Cindy Park	07/15/2023	Email	6. Use Standards	6.6.2(A) ADUs	Please consider allowing ADUs that meet square footage requirements to use grandfathered setbacks (ie. replacing an existing structure like an old garage) *without* needing to fit within the current structure's footprint - or alternatively, at least only ONE of the grandfathered setbacks (side or rear).	Revised draft includes changes to setbacks for ADUs to allow additional flexibility.
Lucas Ankhartz	09/11/2023	Konveio	6. Use Standards	6.6.2(A) ADUs	These rules are subjective thus giving abutters and other busy bodies room to slow down the approval process in creating sorely needed new housing.	This language is meant to acknowledge that ADUs may be close to property lines in nonconforming structures, with some height.
WB	10/11/2023	Konveio	6. Use Standards	6.6.2(A) ADUs	Section 6.4.12 [mulit-family standards] is limiting two zones to push them into ADU's. Then, you restrict ADU's. If you don't allow home owners scale when building, the changes you're making will not be financially feasible for non multiplex developers and fewer units will be built. What is the number of new units the city is hoping to build after these changes?	This seems to be referring to the multi-family limitations in RN-2 and RN-4, which are carried over from the current code. ADUs are broadly allowed.
Lucas Ankhartz	09/11/2023	Konveio	6. Use Standards	6.6.2(A)10 ADUs	Similar comment as 6 [see reference to comment re full remodel] - this makes multi-stage building much more difficult to legally do and will add large financial burdens on small owners looking to upgrade the complete property.	Revised draft modifies language to allow more flexibility around construction of ADUs.
Smith	9/27/2023	Konveio	6. Use Standards	6.6.2(A)10 ADUs	What if you have a one story house that wants to add an ADU over a garage? That may be a very likely scenario that would prevent a otherwise efficient use of space that reduces impermeable surfaces. I consider this a design standard that may not fit into every every neighborhood. Please reconsider.	Revised draft modifies language to allow more flexibility around construction of ADUs.
Winston Lumpkins	7/18/2023	Konveio	6. Use Standards	6.6.2(A)4 ADUs	Does this mean that you couldn't immediately being renting out a new ADU as a longterm rental unit?	The revised draft eliminates this provision.
Lucas Ankhartz	09/11/2023	Konveio	6. Use Standards	6.6.2(A)4 ADUs	Why are we making it harder to create more rental units?	The revised draft eliminates this provision.
Smith	9/27/2023	Konveio	6. Use Standards	6.6.2(A)4 ADUs	I think this is okay, but the other commentator has a point about this provision being another barrier to rental housing production. I can see how this rule would fit well in a suburban community, but that's not the Portland I like to think of in the future. (I live in a single-family zone and would love to have greater density).	The revised draft eliminates this provision.
Kevin Parker	10/13/2023	Konveio	6. Use Standards	6.6.2(A)4 ADUs	This would prevent the landlord of a single family home from building ADUs as additional rental units on the property. Presumably this is the city trying to curb the construction of dedicated Airbnb units, but that regulation can be accomplished elsewhere, without creating this unnecessary barrier on adding much-needed housing units.	The revised draft eliminates this provision.
Lucas Ankhartz	09/11/2023	Konveio	6. Use Standards	6.6.2(A)6 ADUs	How will this be enforced? What happens if the owners are planning to do a full remodel of the property and need a place to store everything before they build a bigger primary home?	The revised draft eliminates this provision, but adds dimensional standards that are meant to allow flexibility while reinforcing the accessory nature of ADUs.

NAME	DATE	SOURCE	ARTICLE	TOPIC	COMMENT	RESPONSE
Nathan Miller	10/12/2023	Konveio	6. Use Standards	6.6.2(A)6 ADUs	[Resposne to Lucas Ankhartz] "significantly visible" is doing a lot of work in this item. I assume it's not defined (don't feel like paging back to the definitions), but seems to arbitrary. Let's not add ambiguous, easy to argue over language.	The revised draft eliminates this provision, but adds dimensional standards that are meant to allow flexibility while reinforcing the accessory nature of ADUs.
Lucas Ankhartz	09/11/2023	Konveio	6. Use Standards	6.6.2(A)7 ADUs	This will force many families in creating LLC's and other financial/legal instruments to maintain compliance which will make ownership even harder to track.	The revised draft eliminates this provision.
Smith	9/27/2023	Konveio	6. Use Standards	6.6.2(A)7 ADUs	What is the deed restriction supposed to accomplish? What other cities have this rule? This rule will increase the costs of developing an ADU as now the homeowner will need legal assistance to understand the implications, draft and record the deed restriction. In addition, many homeowners will be reluctant to to basically create a stain in their deed record. What if in the future the city allows multifamily and neighbors are able to develop and sell condos? We need to think 50 years ahead and the deed is forever. Please strike this out. Let's make developing ADUs easier.	The revised draft eliminates this provision.
Smith	9/27/2023	Konveio	6. Use Standards	6.6.2(C) Drive-throughs	Let's move away from the 80's and get rid of the drive throughs and not allow them anywhere. Do you want to live in a neighborhood with a drive-through? I don't. The B-2 and B-4 zones are right next to residential zones. There is no transition, so let's make the city more conducive to walking. After all, does Portland's climate action plan support cars idling in line?	First wave changes limit drive-throughs.
Kevin Parker	10/13/2023	Konveio	6. Use Standards	6.6.2(C) Drive-throughs	[Response to Smith] Seconding this. Drive-thrus are fine in the suburbs, but have no place in the busiest, densest city in the state.	First wave changes limit drive-throughs.
Tom Bander	10/11/2023	Konveio	6. Use Standards	6.6.2(C)2 Drive-throughs	Dates should not be used, needlessly confusing	The inclusion of a date here is a way to allow a limited number of existing drive-throughs to remain.
Todd Morse	10/11/2023	Konveio	6. Use Standards	6.6.2(C)2 Drive-throughs	Specific calendar dates should never be in a land use code. People should not have to do historical research to know what they are allowed to build on a given piece of land. This just creates nonconforming lots by another name, but it is ambiguous if the rules of nonconforming lots apply. Why not just remove drive throughs entirely? The existing drive throughs will still be able to operate as non conforming structures.	The inclusion of a date here is a way to allow a limited number of existing drive-throughs to remain.
Ashley Keenan	10/11/2023	Konveio	6. Use Standards	6.6.2(C)2 Drive-throughs	Drive-throughs should be heavily restricted in the city, but a carve-out should be make for walk-up windows.	Walk-up windows are not addressed in the code and likely don't need to be. Could occur as an accessory use where associated with a permitted principal use.
Winston Lumpkins	7/18/2023	Konveio	6. Use Standards	6.6.2(C)3 Drive-throughs	Drive throughs are dangerous for Pedestrians, and encourage anti social habits, like driving instead of walking for short errands that could be better done on foot. Pickup windows should of course be allowed, as they're safe and accessible for all modes of transport.	First wave changes limit drive-throughs.
Nathan Miller	10/12/2023	Konveio	6. Use Standards	6.6.2(C)3 Drive-throughs	[Response to Jay] I'm in favor of limiting drive throughs because they inherently favor vehicular traffic (duh) and pedestrian access is often no more than an afterthought, plus pedestrians frequently have to cross both a busy entrance and exit for these businesses, they are set back from the curb, etc. Just sets us up for sprawl and not density and line ups of idling vehicles.	First wave changes limit drive-throughs.
Jay	07/01/2023	Konveio	6. Use Standards	6.6.2(C)3 Drive-throughs	This is a general comment for the all the B districts that don't allow drive thrus for food/coffee. One reason this was changed(and still allowed for a pharmacy or bank) was the thought that the higher retail rents could potentially help with more housing above. If I can get the same rent from a food operator why not allow it? If the drive thru works let them do it. Only allowing drive thrus in certain zones is shortsighted and actually increases traffic since people will travel further to go through those drive thrus. Covid taught us that drive thrus are essential. We all want our Dunkin or Starbucks in the morning and will drive to get it.	The first wave drafts reflect a new policy direction to limit drive-throughs, which are typically suburban in form and can create challenges for vehicles, bikes, and pedestrians. The limited allowances for drive throughs are tailored to the nature and form of the city's zones.
Heather Sanborn	06/30/2023	Konveio	6. Use Standards	6.6.2(G) Tasting rooms	I honestly don't know what this means any more. I would think that the intent is to continue to allow the kind of foods that our breweries (and/or their food truck partners) are currently offering? "Full course meal" isn't a definition that I really understand at this point.	Revised language to refer to 'full meal,' which aligns with language from the state.
Smith	9/27/2023	Konveio	6. Use Standards	6.6.2(I) Wind energy generation	Honestly, I would love to have a neighbor install one in their front yard to show commitment to renewable energy. Pavement and parked cars are less visually appealing. Let's think about making making it easier to implement out climate action goals.	The front yard prohbitiion reflects concerns about pedestrian experience in the right-of-way and to some extent, safety.
Smith	9/27/2023	Konveio	6. Use Standards	6.6.2(I)3 Wind energy generation	Is 25 feet not high enough if one needs to harness wind power? Perhaps ask the sustainability office to look into this…	25 feet is a common standard for accessory systems in a residential or low intensity mixed-use setting.
Portland Foreside (c/o Mary McCrann)	10/13/2023	Email	6. Use Standards	6.7 Temporary Uses	A comprehensive set of temporary uses should be addressed in the Code - Temporary events should not only be modified but also more inclusive. The Temporary Event language in the Eastern Waterfront Port Zone is something that could be modified to focus on the whole Zoning District along with the City owned Ocean Gateway.	The first wave drafts added broad language re temporary uses.

NAME	DATE	SOURCE	ARTICLE	TOPIC	COMMENT	RESPONSE
Kevin Parker	10/13/2023	Konveio	6. Use Standards	6.8.6 Historic resources	[Response to Kellan] Agree with Kellan on this. I can personally attest that Historic Preservation prevented the conversion of our building's condo units from gas boilers to heat pumps. This should be added to the code as an exception from Historic Preservation's oversight ability. There's no sense keeping perfectly-preserved buildings in a world destroyed by climate disaster.	Draft changes to Article 17 provide additional clarity on the review of these types of installations.
Karen Snyder	08/12/2023	Konveio	6. Use Standards	6.8.6 Historic resources	[Response to Kellan] Unhinged Historical Commission? Firstly, it is called the Historic Preservation Board and this unsubstantiated claim that the HPB demands single pane windows and ban installing air heat pumps is unsubstantiated. There are plenty of solar panels and heat pumps installed in the HDs. There are also plenty of single pane windows outside HD so maybe focus on that rather than these hysterical claims about HPB.	Revised drafts include some changes to the historic preservation ordinance in Article 16.
Kellan	07/16/2023	Konveio	6. Use Standards	6.8.6 Historic resources	Suggest expressly prohibiting the historical commission from making rules that substantially hinder improving building energy efficiency. The historical commission has become unhinged in its demands that all windows remain as single pane and its forbidding of the installation of air source heat pumps.	This reference has been eliminated from Article 6.
Tim Wells	10/12/2023	Konveio	6. Use Standards	6.8.7 Landscaping and screening	[Response to Karen Snyder] There are screening requirements. The City is inconsistent in requiring them across zones. But maybe it should be more conditional. Some projects should not be required to install as no one can see the mechanicals on the roofs. But in other places they can be seen by everyone. Like all the developments on Commercial or Fore that the neighborhoods and offices and people on the street can see. It doesn't make sense. A SF home can install a heatpump on the side of the house and it doesn't need to be screened. This is much uglier than rooftop mechanicals which most people cannot see. Why? This can add unneccesary costs but it is wildly inconsistent and doesn't really achieve much for the City.	See changes to landscaping standards under Article 13.
Karen Snyder	08/12/2023	Konveio	6. Use Standards	6.8.7 Landscaping and screening	There does NOT seem to be any landscaping or screen requirements for residential zones RN1 to RN7. Apparently, Planning Dept wants hot, urban and sterile microclimates within residential neighborhoods with no trees or vegetation while allowing large air handling units being installed on the flat roofs with no screening requirements on these modern clunky condo buildings being built.	The performance standards related to landscaping and screening have not been modified. Related standards under site plan review have been changed. See Article 13.
Cheryl Leeman	08/11/2023	Email	6. Use Standards	6.8.7 Landscaping and screening	Landscape and screening changes do not address residential or the recommendations in ReCode II for a stated need to evaluate and revise for consistency and clarity.	The performance standards related to landscaping and screening have not been modified. Related standards under site plan review will be revised in that article.
kmsimp1	07/07/2023	Konveio	6. Use Standards	6.8.8 Noise	"Maintenance Activities" don't seem to be defined elsewhere in the document. Any commercial company not providing one-time construction services (E.G. landscapers) should be subject to the same noise standards as any other activity. Exempting lawn care from noise restrictions and allowing unlimited noise pollution creates significant externalities on the city as a whole. Exempting these activities that also generate enormous levels of air pollution is a direct contradiction of the cities one-climate future pledge.	Exempting these types of activities is typical in most noise/nuisance codes.
Avery Kamila	10/12/2023	Phone	6. Use Standards	6.8.8 Noise	How would noise impacts to residential properties be measured? Are the standards equitable? Are residential properties within a mixed-use zones subject to higher noise thresholds than residential uses in residential zones? This is an equity issue. All residential uses should be afforded the same noise limits as a basic matter of public health.	Noise standards have been revised such that all noise from uses in B zones is measured at the lot line, not at the boundary of the nearest residential zone.
Jonas Eule	07/03/2023	Form submission	6. Use Standards	6.8.8 Noise	Hello. I am wondering if there is anything in these phases pertaining to noise pollution emmiting from in particular Maine Craft Distilling on Washington ave. I also have some questions about sound ordinances and decibel levels.	Some minor changes to noise standards are proposed.
Tim Wells	10/11/2023	Konveio	6. Use Standards	In general	[Response to Jaime Parker] Agree that connectivity has to be considered. Not sure it should be required except in large developments which brings up the questions of how it is defined. But an important point.	Site plan and subdivision standards currently speak to this.
Markos Miller	10/7/23	Email	6. Use Standards	In general	I'm really happy to see the ReCode work is re-emerging for public input. I miss the committee format of pre-pandemic, but appreciate the recent effort to reconnect with the public. this is important work. I just wanted to offer a few comments. On the recent 9/27 virtual public forum one staff member commented that a fair amount of the public response was that the recommendations had gone to far, while another significant amount of the responses were that the recommendations had not gone far enough, and thus the recommendations must be about right. I think that is a good way to think about political efforts- especially when all parties are at the table and able to see that they are getting some wins, and the other parties are some wins, but these wins are balanced, and come with some losses. However, ReCode is not merely a political exercise- it is setting policy to reach Comp Plan goals that have already been established through a comprehensive public engagement process and a political process. The question now should not be what kind of city (zoning-wise) we want to be, but how do we best become the city envisioned in the approved and adopted Comp Plan. Setting a goal, but creating a path/policy that only gets us half way there, is not successful policy. My first comment is that there has been very little reference back to the Comp Plan, and this weakens the position of the recode process. The Comp Plan is visionary, solid, and based in a transparent, broadly supported process. It is foundational to all the ReCode work; ReCode should always be presented in the context of the Comp Plan- the WHY has already been decided, we just need to be reminded. The discussion is HOW we achieve these goals. 2nd comment- I applaud the general move towards more density. This is necessary for more housing, for walkable communities, transit, everything people say they want. However, the high end of the recommendations satisfies only the bare minimum needed to support better transit, neighborhood businesses, and thus, walkable neighborhoods. This means we will never reach those goals- because only in the maximum build out scenario can it be achieved, and we will never have maximum build out. The recommendations must present a plausible path to reaching our goals. I don't know if it's 30%, 50%, build out, or what, but it's not 100%. So, please, be more ambitious with policy that encourages more housing.	The draft changes to the code increase opportunities for housing and mixed use in significant ways in both residential and mixed-use zones.
Portland Foreside (c/o Mary McCrann)	10/13/2023	Email	6. Use Standards	In general	The Code should address additional creative uses not currently listed - We offer support for the idea of “creative uses” not currently listed including but not limited to roof top gardens, roof decks, food and beverage offerings at marinas, etc.	These are generally accessory uses.
Todd Morse	10/09/2023	Konveio	6. Use Standards	Table 6-A: Uses in Residential Zones	Adding new categories for three and four family dwellings adds complexity to the code and limits housing potential. We have dimensional standards in place that will control the impact of buildings and naturally constrain the number of units in certain zones. We should not be constraining numbers of units in entire zones.	3- and 4-family are mid-scale housing types that have historically had a place in the city. Including these uses explicitly will help create broader opportunities for them.

NAME	DATE	SOURCE	ARTICLE	TOPIC	COMMENT	RESPONSE
Ashley Keenan	10/11/2023	Konveio	6. Use Standards	Table 6-A: Uses in Residential Zones	The introduction of 3- and 4-unit uses is plainly a construction to comply with LD2003 while changing as little as possible otherwise. There is no meaningful distinction between a 4-unit and 5-unit use, it's an overly burdensome and unjustified restriction to apply.	3- and 4-family are mid-scale housing types that have historically had a place in the city. Including these uses explicitly will help create broader opportunities for them.
Portland Foreside (c/o Mary McCrann)	10/13/2023	Email	6. Use Standards	Table 6-A: Uses in Residential Zones	Identify barriers, and explore options and implications related to allowing for a greater diversity of housing types within the City's residential zones – Consider a diversity of housing types for all Zones, but when doing so, also think about transportation options that serve each zone and a variety of transportation choices that are and can be offered.	The ReCode drafts include changes designed to support a variety of housing types.
Cameron Thompson	08/15/2023	Konveio	6. Use Standards	Table 6-A: Uses in Residential Zones	[Response to Karen Snyder] The definition for lodging home is on page 9 and matches that of the current code. The current code allows lodging homes in R5, so the recode is more strict and I agree less equitable. They should at least be allowed in RN-4. Lodging homes and SROs are an affordable option for individuals who are struggling with finding housing. They are not necessarily sober homes though they can be. Your comments imply that individuals struggling with housing are also individuals struggling with substance abuse, and they imply that neither demographic deserve housing in our communities. I and I believe many others disagree with your sentiment. We are in the middle of a housing crisis effecting all demographics and in this recode we need to expand and encourage affordable housing options.	Lodging houses are currently permitted as a conditional use in the R-5 only as conversions and with significant restrictions. Added similar langauge to apply to the RN-5.
Phyllis Guevin	07/18/2023	Email	6. Use Standards	Table 6-A: Uses in Residential Zones	No outside gardens should be allowed.We all know they attract critters and rats.They should only be permitted within a structure.Enough said.	Many gardens exist as a customary and incidental accessory use to residential. Supporting gardens and the food economy is reflected in the comprehensive plan.
Emma Rubin	07/16/2023	Konveio	6. Use Standards	Table 6-A: Uses in Residential Zones	Light business use that would benefit residents like small grocers, bakeries, coffee shops, food service etc. should be allowed in residential neighborhoods. Let's make it easier to walk to things!	New neighborhood businesses are not currently allowed within residential areas. The neighborhood nonresidential reuse category will help to address some need for neighborhood businesses. Other neighborhood business needs are addressed within the B-1, B-2 or other zones located nearby to residential zones. See B-1 mapping.
Urbanist Coalition Portland (c/o Todd Morse)	10/11/2023	Email	6. Use Standards	Table 6-A: Uses in Residential Zones	Allow small, low-impact, first-floor commercial uses in all residential zones as well as low- and medium-impact industrial zones. Some examples of uses that will be allowed, on the ground floor: restaurants, small retail, and clinics. Some examples of what will not be allowed: bed and breakfasts, marijuana retail stores, bars, adult business establishments, and auto service stations.	New neighborhood businesses are not currently allowed within residential areas. The neighborhood nonresidential reuse category will help to address some need for neighborhood businesses. Other neighborhood business needs are addressed within the B-1, B-2 or other zones located nearby to residential zones. See B-1 mapping.
Acorn Engineering (c/o Will Savage)	10/13/2023	Email	6. Use Standards	Table 6-A: Uses in Residential Zones	Encourage allowing additional uses within the RN-5 such as office and small retail uses on the ground floor that have a similar (or less) impact than allowable uses in the B-1 zone with similar performance standards such as hours of operation. This provision does not compete with housing, but rather it encourages complete neighborhoods where certain goods and services can be accessed by foot or bike, while promoting mixed-use smart growth development.	New neighborhood businesses are not currently allowed within residential areas. The neighborhood nonresidential reuse category will help to address some need for neighborhood businesses. Other neighborhood business needs are addressed within the B-1, B-2 or other zones located nearby to residential zones. See B-1 mapping.
Will Savage	10/13/2023	Konveio	6. Use Standards	Table 6-A: Uses in Residential Zones	Include General Office as an allowable use.	Offices are currently allowed in a limited capacity as a home occupation.
Will Savage	10/13/2023	Konveio	6. Use Standards	Table 6-A: Uses in Residential Zones	Include" Office Use"	Offices are currently allowed in a limited capacity as a home occupation.
Jim Wolf	07/18/2023	Email	6. Use Standards	Table 6-A: Uses in Residential Zones	While the old R3 zone seems to be allowing more development at a lesser density, the R2 lots remain significantly larger. Is there a explanation for this. I own land at the end of Tucker Avenue where the upper part of Tucker is R3 while the lower is R2. Is the an explanation as to why the old 2 zone is not being made the same as the upper part of Tucker	R-1 and R-2 were consolidated as part of the first wave changes. R-2 lot size has not been modified.
Urbanist Coalition Portland (c/o Todd Morse)	10/11/2023	Email	6. Use Standards	Table 6-A: Uses in Residential Zones	Create a new use called "coliving buildings" that is similar to lodging houses with the crucial difference of allowing separated common spaces. Ensure that the total amount of space available to each resident with the new configuration conforms to the standards for lodging houses.	Revised draft to eliminate requirement that lodging house kitchens be available to 'all residents.'
Cameron Thompson	07/20/2023	Konveio	6. Use Standards	Table 6-A: Uses in Residential Zones	According to definitions section the accessory level are those roof top versions less than 1000 sqft. Minor are those 1000-10000 sq ft Make it clear that accessory solar is also allowed	See 6.6.2(H). This is where solar as accessory is discussed.
Gabe Zappia	07/25/2023	Email	6. Use Standards	Table 6-A: Uses in Residential Zones	I watched your video and I understand how you are consolidating the zones. No mention was made about how the allowed uses are changing. Are there any allowed use changes expected for the RN-2 (formerly R3) zones?	See additional changes as described in companion materials.
Sam Lebel	11/6/2023	Email	6. Use Standards	Table 6-A: Uses in Residential Zones	The current R-3 zone allows for ground-up construction of multifamily under the PRUD when you hit the min lot size of 3acres. Because the PRUD is being eliminated under ReCode, an R-3 lot that is currently 3+ acres today and is eligible formultifamily development via the PRUD will no longer be able to build new multifamily projects. I do appreciate the 1,200SF density for CU multifamily in R-3 (renovation of existing nonresidential building); however, I think these conversionswill be relatively rare and as such, would advocate for perhaps a less dense option with ground-up new multifamily beinga permitted by-right land use in the R-3, otherwise, in a sense this zoning district is going backwards in the pursuit ofhousing for the larger lots.	See alternative development scenarios under Article 7.
Jim Wolf	07/17/2023	Email	6. Use Standards	Table 6-A: Uses in Residential Zones	I also would be curious to know if the zoning map is being altered. In the case of my land on Tucker/Newell it is currently in the R-2 zone, however, via Tucker half the road is R-3. Shouldn't the area have a consistent zone?	See map changes.

NAME	DATE	SOURCE	ARTICLE	TOPIC	COMMENT	RESPONSE
Cheryl Leeman	08/11/2023	Email	6. Use Standards	Table 6-A: Uses in Residential Zones	Removed Planned Residential Unit Development, (PRUDs) and Small Lot Development which have worked well to increase density more in keeping with historical pattern of neighborhoods,	Small lot development standards in the R-5 have been rolled into base standards for the RN-4. Removed PRUDs, and replaced with new alternative development scenarios, as PRUDs are historically fairly inconsistent with neighborhood fabric.
Cheryl Leeman	08/11/2023	Email	6. Use Standards	Table 6-A: Uses in Residential Zones	Demolition of existing structures NOT addressed as a prohibition to achieve proposed changes.	The drafts do no generally prohibit demolition.
Karen Snyder	08/12/2023	Email	6. Use Standards	Table 6-A: Uses in Residential Zones	Example #2: Allowing an Easier Time for More Commerical Business/Non-Residential Use Businesses in RN-5 (formerly R6) Rather than Focusing on Long Term Residential Housing. In Table 6-A: Permitted and Conditional Uses in Residential Neighborhood Zones (page 36), in following document link First Wave Changes - Comments — ReCode Portland, Planning Dept is relaxing how many commercial business and non-residential use businesses can be allowed in residential neighborhoods. For example: 1) Planning Department thinks it is okay to only allow most non-residential use businesses such as: bed&breakfasts, hostels and lodging houses (aka sober houses in RN-5(formerly R6) to RN-7 but yet NOT allow them in the other residential zones of RN-1 to RN-4. How is this fair and equitable? The "Lodging House" definition on Page 9 of document states: " A house, building, or portion thereof containing two or more rooming units, as well as common area, and providing individuals on not less than a monthly basis for compensation". From my understanding, Lodging housing (aka Sober houses) are considered temporary housing for people (Note: They don't even have to be Maine residents). This type of housing is considered transient and "non-residential use" business (besides also the Bed/Breakfasts and Hostels) will only remove more long-term residential housing units within the RN-5 (formerly R6) to RN-7 residential neighborhoods. Let us be very clear, long-term residents do NOT want to live next to transient housing such as: lodging houses, sober houses, bed& breakfasts or hostels. Long-term residents want to live in stable residential neighborhoods where there is an actual residential community and not a transient community which are less safe. 2) In addition, currently, there is no transparency to easily identify in the land use code what residential properties are currently being used as non-residential use businesses such as lodging/sober houses or group homes. Note: There have been at least manually identified over 20 lodging/sober houses within residential neighborhoods without notifying residents that this type of transient housing businesses is actually operating in residential neighborhoods. 3) It also needs to be clear how many and how far apart these commercial businesses and non-residential use businesses are allowed in residential neighborhoods. For example, the Planning Department has removed restrictions that group homes cannot be located within 500 ft of each other. What will happen? Not only Airbnbs are unregulated but now the City of Portland will allow an unlimited amount of non-residential use businesses with no restrictions to the number of Bed&Breakfasts, hostels, and lodging houses that can operate in residential neighborhoods. Consequently, with no restrictions, these types of non-residential businesses can overwhelm a residential neighborhood and remove long term residential housing units rather than ensuring there is enough long-term residential housing being built or created.	The first wave drafts generally reflect existing use permissions with respect to these uses in the R-6.
Karen Snyder	08/12/2023	Konveio	6. Use Standards	Table 6-A: Uses in Residential Zones	In Table 6-A: Permitted and Conditional Uses in Residential Neighborhood Zones below are the following concerning an inequitable observation: 1) There are being proposed a substantial increase of "non-residential uses" being allowed in RN5 (formerly R6) than previously allowed in R6. For example, Bed and Breakfast, Hostels and Lodging Housings will ONLY allowed in RN5 (formerly R6) to RN-7. However, there is no clear definition of what lodging houses actually consist of within this document. From my understanding, Lodging housing (aka Sober houses) are considered temporary housing and a non-residential use (besides Bed and Breakfasts and Hostels) which removes long term residential housing units within the RN5-RN7 residential neighborhoods. Currently, there is no way to identify in the land use code what properties are currently being used as non-residential uses of Bed/Breakfast, Hostels, or lodging/sober houses. Note: There have been at least manually identified over 20 lodging sober houses within residential neighborhoods without even notifying abutters that this type of housing is being installed. 2) It also is NOT fair and equitable to allow these type of non-residential uses in RN-5 to RN-7 but yet NOT allow them in the other residential Zones of RN1-RN4. How is this "fair and equitable"? 3) The Planning Dept also removed the 500 ft rule so these types of non-residential uses can proliferate within RN5-R7 residential neighborhoods taking away from long term residential housing needs. What will happen? Consequently, this is NOT considered a complete neighborhood when non-residential uses could remove long term residential housing units rather than ensuring there is enough long term residential housing being built or created.	The first wave drafts generally reflect existing use permissions with respect to these uses in the R-6.
Urbanist Coalition Portland (c/o Todd Morse)	10/11/2023	Email	6. Use Standards	Table 6-A: Uses in Residential Zones	Combine multi-family, multiplex, two-family, and single-family dwelling uses into a single use (dwellings) and allow that new use anywhere the old uses were allowed, with the exception of island zones. For the island zones, create a new use “Island Dwellings” which are limited to single-family dwellings and apply them wherever single-family dwellings were allowed in island zones to preserve existing standards.	This would be a way of simplifying use standards, but would preclude some of the nuance between uses in the existing residential zoning that ReCode tries to maintain.
Peter Brandon	10/11/2023	Konveio	6. Use Standards	Table 6-A: Uses in Residential Zones	I feel these should be condensed to "Residential Dwellings (1-4 Units)" and allowed in all zones. As another commenter posted, there is no shortage of dimensional standards and other red tape that will protect the character of neighborhoods. There's a lot of talk in this recode effort about improving housing availability but this just looks like more of the same but with more complicated language.	This would be a way of simplifying use standards, but would preclude some of the nuance between uses in the existing residential zoning that ReCode tries to maintain.
Jim Wolf	07/17/2023	Email	6. Use Standards	Table 6-A: Uses in Residential Zones	It does not appear from reading that a great deal is being done to stimulate development in the current R-2 zone. If I am reading correctly the lot size is remaining the same and the only change is duplex construction will be allowed. In contrast, in the R-3 zone not only are duplexes being allowed, the density for multi development is much less restrictive.	Under recenlty adopted LD 2003 changes, up to four units would be allowed in all mainland residential zones, plus two ADUs.
Damon Yakovleff	08/04/2023	Email	6. Use Standards	Table 6-A: Uses in Residential Zones	Based on my reading of the proposed changes, it appears that the new RN1, and possibly the RN2 zones, are not considered the "growth area" because they do not allow 4 or more units. I would suggest that the "growth area" should be defined as "anywhere in mainland Portland served by public water and sewer'. All of these locations should be zoned for medium to high residential densities. Separate considerations for the islands make sense.	Under recenlty adopted LD 2003 changes, up to four units would be allowed in all mainland residential zones, plus two ADUs.
Cheryl Leeman	08/11/2023	Email	6. Use Standards	Table 6-A: Uses in Residential Zones	Removed from current Use Standard Table is Off-street parking as Conditional use “to insure compatibility with the immediate neighborhood.”	Under the drafts, off-street parking would no longer be permitted as a principal use within residential zones. This is in keeping with policy direction both on parking and on housing creation.
Connect Portland	07/19/2023	Email	6. Use Standards	Table 6-A: Uses in Residential Zones	Have PRUDs been eliminated?	Yes.
PIC	1/9/24	Email	6. Use Standards	Table 6-B: Uses in Island Zones	The PIC opted not to put forward detailed recommendations for use permissions for now, as it is a complex issue that weneed to spend further time on. As you all know, this is certainly something that the community is interested in, as there areunique complexities to running businesses on Peaks Island.	General comment.

NAME	DATE	SOURCE	ARTICLE	TOPIC	COMMENT	RESPONSE
Peaks Councilors & Housing + Zoning Subcommittee	10/10/2023	Email	6. Use Standards	Table 6-B: Uses in Island Zones	Light industrial zoning + I-B + allowable uses - One of the most widely discussed zoning issues in all of our discussions is the need for more commercial space. Property values are so high and our business district so small (and filled with residential homes) that it is nearly impossible to start a legal business on Peaks. - In the next phase of ReCode, serious consideration needs to be given toward establishment of a light industrial zone and expansion or alteration of the current I-B zone. Our H&Z Committee recommends looking at land adjacent to the Transfer Station. - Is there consideration to open up allowable uses of IR1 or IR2 at all to allow for more mixed used zoning?	See some proposed changes in zone boundaries under mapping.
Peaks Councilors & Housing + Zoning Subcommittee	10/10/2023	Email	6. Use Standards	Table 6-B: Uses in Island Zones	Sewer - Are there any concerns about how many new housing units the current sewer system can support? - Do you know when the Planning Department/Public Works are looking at another phase of sewer extension on Peaks?	There are concerns about the adequacy of infrastructure on the islands, which is part of the reason that they are defined as outside the 'designated growth area' and permitted uses are limited.
Tanya	7/18/2023	Konveio	6. Use Standards	Table 6-B: Uses in Island Zones	Shouldn't there be studios for artists and craftspeople allowed in IR-1 and IR-2 zones? At least studios that create minimal noise and/or smells	These uses have been added in revised drafts.
Peaks Councilors & Housing + Zoning Subcommittee	10/10/2023	Email	6. Use Standards	Table 6-B: Uses in Island Zones	Multi-family units + LD2003 - Was there consideration to allow multi-family units in IR2 or IR1? Or at least up to four-units? - This was discussed at the last PIC meeting and there was not any pushback to idea of allowing more multi-families. The reality is that the limiting factors of property values and available land on Peaks mean we are very unlikely to see a surge in building even with new zoning allowances. The character of the island is not in danger. - How is LD2003 being dealt with here? Is there a reason the multi-family allowance of the state bill is not being extended to Peaks?	Under recenlty adopted LD 2003 changes, up to three units would be allowed in all island residential zones, plus two ADUs.
Peaks Councilors & Housing + Zoning Subcommittee	10/10/2023	Email	6. Use Standards	Table 6-B: Uses in Island Zones	Two family allowance: - The H&Z committee and the PIC unanimously support island-wide two family allowance. This would increase housing choices, for renting and home ownership, and would not alter the character of the island. We have found widespread support for this throughout the community— including unanimous support of community members who attended the last two PIC meetings.	Under recenlty adopted LD 2003 changes, up to three units would be allowed in all island residential zones, plus two ADUs. These have been integrated into the adopted code and are reflected in the revised drafts.
Laura Glendening	10/17/2023	Email	6. Use Standards	Table 6-B: Uses in Island Zones	Regarding the PIC recommendation for a multi-units in all residential areas this committee recommends further investigation as the survey results did not show support for this allowance.	Under recenlty adopted LD 2003 changes, up to three units would be allowed in all island residential zones, plus two ADUs. These have been integrated into the adopted code and are reflected in the revised drafts.
Joe Walsh	10/13/2023	Email	6. Use Standards	Table 6-C: Uses in Mixed-Use Zones	B-4 Zone Draft: I am highly supportive of allowing multi-family development in this zone. I am a property owner in a B-4 zone on Warren Ave and there is so much vacant land out here that could be housing, and would be suitable for large apartment buildings. And having no setbacks opens lots more possibilities. What is the proposed minimum area/du? Again, I bring up the question of missing middle housing. Large apartment complexes will certainly be built if this change passes. But how about 4-plexes on the smaller lots in this zone? What can the City do to encourage this type of housing?	First wave drafts modified use permissions to allow more housing within the B-4 zone.
Cheryl Leeman	08/11/2023	Email	6. Use Standards	Table 6-C: Uses in Mixed-Use Zones	RP zones added “residential” as permitted use whereas in the current language it states, “any residential use permitted in the nearest residential zone.”	Provisions that refer to 'nearest residential zone' were eliminated in the first wave drafts in favor of clearer, more direct language.
Julie Dubofsky	08/17/2023	Form submission	6. Use Standards	Table 6-C: Uses in Mixed-Use Zones	I would also like to suggest that Emergency Shelters and Residential Care Facilities (small) be permitted/conditional in RN-4 due to the presence of a fixed route transit service on Stevens and Brighton Ave, or to consider adding them as permitted/conditional uses to the B-1 Neighborhood Business zone allow for families experiencing homelessness to be sheltered (allowed in B-2) near their schools and services. Smaller facilities have a better chance of facing less NIMBY opposition, and would support the city's greater efforts in Housing First adoption and opportunities for new housing development with social service providers. Thank you very much for your consideration and the extensive work to marry land uses with all the policy efforts of the city.	Revised drafts add small residential care facilities as a permitted use within the B-1, and to allow large and small in the B-4. Housing first projects have historically simply been permitted as multi-family housing.
Joe Walsh	10/13/2023	Email	6. Use Standards	Table 6-C: Uses in Mixed-Use Zones	B-1 Zone draft - Our City needs more of this type of Zone. Why not eliminate the single-family as a possibility in this zone? I would assume B-1 zones would be surrounded by RN-4, RN-5 and in some areas RN-1 & RN-2 zones - so to allow single family to be built by right in B-1 seems redundant.	Revised drafts eliminate single- and two-family as permitted uses in these zones.
Jaime Parker	10/11/2023	Konveio	6. Use Standards	Table 6-G: Uses in Open Space Zones	Trails, Byways, neighborhood connections. Paved or unpaved.	These are generally not treated as principal land uses.
Ryan Johnson	07/14/2023	Konveio	6. Use Standards	Table formatting/key	Suggest incorporating this key on the table itself for easier reference.	The revised drafts make this change.
Llz Trice	10/11/2023	Konveio	6. Use Standards		Seems like we should be able to have fewer than 6 business zones.	Some consolidation of mixed-use zones has been proposed.
Jaime Parker	10/11/2023	Konveio	6. Use Standards		Trails, Byways, neighborhood connections, pocket-parks, street-side tiny parks and associated amenities (benches, signs and maps, artistic or landscape features should be an allowed "use" in all zones. ALL new development should support connectivity and outdoor social spaces, and connections to and through developments should be required, or if an exception is made, there should be a commenserate improvement to nearby connectivity via bicycle and pedestrian infrastructure, trails, etc....	Under drafts, parks would be allowed in almost every zone. Trails, byways, benches, etc. are generally treated more like site amenities or infrastructure improvements that might be required under subdivision or site plan.
Karen Snyder	08/12/2023	Konveio	7. Dimensional Standards	7.2 "Average grade"	This is a confusing definition. Is average grade connected to pre-development grade? It assumes a structure is in the lot. What if it is an empty lot? How can an average grade be calculated if there is no structure in the lot?	Both the 'pre-development grade' and 'average grade' definitions refer to structures, since both definitions are central to calculations of height, which is only relevant to structures.

NAME	DATE	SOURCE	ARTICLE	TOPIC	COMMENT	RESPONSE
Portland Foreside (c/o Mary McCrann)	10/13/2023	Email	7. Dimensional Standards	7.2 "Height"	Propose that the City consider, as a resiliency measure, allowing developers to convert height restrictions in feet to a maximum number of stories. This change would allow for the increase in floor to floor height of lower floors (thereby providing mitigation from the impacts of flooding) and encourage the thoughtful placement of mechanicals without negatively impacting uses and floors above. To qualify for additional height, a project should be required to demonstrate that the extra height is used for resiliency measures. The City could consider requiring that certain other sustainable development practices be met as well.	See Article 8, where the draft Coastal Flood Resilience Overlay Zone proposes to allow some additional height where DFE affects first floor elevation.
Robert O'Brien	10/06/2023	Email	7. Dimensional Standards	7.2 "Height"	The HP board has at least twice in recent times run into building height limitations for pitched roofs, which ends up making the building look squat as a result. The first example I have was new construction on Danforth Street. This preceeded my time on the HP board, but as you can see the new building on the right had a lower height allowance than both of its historic abutters. I heard the HP board at the time recommended the pitch of the roof should be steeper to match its abutters but City height limits prevented that so it needed to stay squat. It looks a little silly. The second example is a Munjoy Hill attic conversion to living space proposal that's come up recently. In order to accomodate head-heights in the new living spaces, dormers need to be added, reducing the slope of the roof. It would make sense to raise the pitch of the roof to maintain the proportions of the house, but the house runs up against the building height limits. The project would be so much improved if the building's proportions could be retained after this renovation, and all it would take is another few feet to make it right. (This project won't be affected by ReCode, but it's an example that's likely to come up again in the future). --> My idea is allowing a roof pitch to exceed buidling height limits (below an additional 5'? 8'?) if the project is subject to design review (by staff or board) and the height allowance best serves the composition of the building (as opposed to the programmatic desires of the applicant -- I don't want to turn this into a pent house grab). Maybe there's another way to approach it. But it's too bad we've run into a couple of these honest examples that could have benefitted from a couple feet of flexibility.	The preferred approach is for applicants to design projects to meet existing height standards as well as design standards.
Urbanist Coalition Portland (c/o Todd Morse)	10/11/2023	Email	7. Dimensional Standards	7.2 "Height"	If a building is on a hill where one side is at sidewalk level, allow height to be measured from that sidewalk instead of the average height of the lot.	The ReCode drafts generally maintain the existing approach to measuring height, but add some clarity around how to measure grade.
MHNO (c/o Barbara Vestal)	10/11/2023	Email	7. Dimensional Standards	7.2 "Height"	3. HEIGHT REGULATION IS NOT IMPROVED; HEIGHTS SHOULD BE MEASURED FROM PRE-DEVELOPMENT GRADE. Measurement of heights in Portland has been problematic for at least a decade. Rather than fixing the source of the controversy, the proposed draft further embeds the misguided approach. For both the islands and mainland, dimensional height limits should be applied from pre-development grade as existed as of a certain date, such as January 1, 2000. Instead, the proposed draft imposes absolutely no limits upon a developer importing fill or otherwise proposing to alter the site prior to calculating allocable height. That makes the height limits de facto non-existent and defeats the reason for having height limits in the first place. Similarly, the proposed draft does not adequately define the point of measurement; applied details such as planters should not be treated as if they are a foundation.	The ReCode drafts generally maintain the existing approach to measuring height, but add some clarity around how to measure grade.
GPL Advocacy Committee	12/10/23	Email	7. Dimensional Standards	7.2 "Height"	We feel strongly that the definition and/or rules of measurement for building height should be measured from predevelopment grade, to ensure that no development can game the system and achieve a height vastly out of scale with its neighbors. We referenced the Bangor LUC language as an example of another Maine community's handling of this issue: "Height is measured from the vertical distance from the top of the highest roof beams of a flat roof or the mean level of the highest gable or slope of a hip roof to the average grade adjoining the building footprint prior to construction."	The ReCode drafts generally maintain the existing approach to measuring height, but add some clarity around how to measure grade.
MHNO (c/o Barbara Vestal)	10/11/2023	Email	7. Dimensional Standards	7.2 "Height"	4. THERE SHOULD BE A CAP ON HOW MUCH GAIN CAN BE REALIZED FROM AVERAGING GRADE. The code needs to recognize that a high percentage of the sites in Portland that remain to be built upon are on steeply sloped land. In the last several years some buildings have been proposed or built on these steeply sloped sites, which take maximum advantage of grade averaging and produce buildings that are greatly out of scale with their context. These buildings should serve as cautionary examples and the proposed code should be adjusted to establish a maximum amount of height above the lowest grade that can be picked up by averaging grade, such as 4 feet. A cap like that will further context sensitivity from both the uphill and downhill perspectives.	The ReCode drafts modified the rule of measurement to ensure measurement at regular intervals, which will help to standardize the methodology.
MHNO (c/o Barbara Vestal)	10/11/2023	Email	7. Dimensional Standards	7.2 "Height"	5. PORTLAND'S CODE NEEDS TO INCORPORATE A METHODOLOGY FOR MEASURING GRADE THAT IS CONSISTENT WITH STANDARD ENGINEERING PRACTICES AND IS NOT AS VULNERABLE TO MANIPULATION BY APPLICANTS. The proposed definition of "grade, average" proposes minor improvements over current, but the methodology is incomplete. "Foundation" is not operationalized. Using the perimeter of the building as the element to be measured allows for heights to be "gamed" by proposing a building that is heavily crenelated or repeatedly indented on the highest part of a site, giving extra weight to that part of the perimeter. A more standard methodology for measuring grade is in order.	The ReCode drafts modified the rule of measurement to ensure measurement at regular intervals, which will help to standardize the methodology.

NAME	DATE	SOURCE	ARTICLE	TOPIC	COMMENT	RESPONSE
Mary Costigan	10/11/2023	Email	7. Dimensional Standards	7.2 "Height"	Sun Life was recently denied approval of a proposed rooftop occupancy due, in part, to the City's determination that their proposed paver system was a "structure" above the height limitation that was not on the list of approved rooftop appurtenances in the Code. We did request an amendment to add paver systems to the list for ReCode, but it appears that it did not make it into the draft. We are therefore writing to ask that it be added to the list of rooftop appurtenances. With the growing popularity of rooftop occupancy, we believe it is important for the City to consider amendments to its allowed list of appurtenances in order to allow for occupancy. Many rooftops are sloped for drainage and therefore need to have a flooring surface that is on adjustable pavers to create a level walking surface. The paver system, just like tiles laid directly on the surface are simply additional roofing material and do not add any significant height to a structure. Rather, they create an even, safe surface to walk on. Finally, because of the popularity of rooftop occupancy, the issue of what types of structures can go on the roof to support the occupancy is likely to continue. It seems logical that shade structures, attached furnishings, and other accessory structures associated with rooftop occupancy should also be allowed as appurtenances, provided they do not exceed the height of the penthouse or other approved parapet for screening rooftop mechanical systems. We have drafted the following amendments for your consideration. Section 7.7.1. Height E. Exceptions for Rooftop appurtenances. Unless otherwise noted, rooftop appurtenances for the housing of elevators, stairways, tanks, fans, or other building operating equipment not intended for human occupancy, deck railings or guards, pedestal paver roof deck systems, skylights, steeples, flag poles, chimneys, smokestacks, radio or television masts, water tanks, or silos may be erected above the height limitations herein prescribed. Shade structures, attached furnishings, and other appurtenances associated with rooftop occupancy may also be erected above the height limitations provided they do not exceed the height of the rooftop penthouse or other approved parapet for screening of rooftop mechanical systems. . Add a new definition to Section 3: Pedestal paver roof deck system: flooring system consisting of pavers which are laid over a pedestal support (fixed or adjustable height) which raises the tiles or pavers off the existing surface to create a level, elevated deck.	The revised drafts include changes to the height exceptions for rooftop appurtenances to include pedestal paver systems up to 18" and other similar furnishings that support rooftop occupancy while maintaining the effect of the established height limit.
Karen Snyder	08/12/2023	Konveio	7. Dimensional Standards	7.2 "Height"	Why is Planning Dept using a pre-development grade for the Islands but a confusing "average" grade for calculating the height of a building?	This has been the long-standing approach to calculating height within the land use code.
Amy Oberlin	10/11/2023	Konveio	7. Dimensional Standards	7.2 "Landscaped open space ratio"	Green roofs are expensive to construct -- there should be a benefit in terms of counting towards some fraction of landscaped open space to incentivize them.	Green roofs are incentivized elsewhere in the code and related regulations (e.g. within stormwater management requirements).
Karen Snyder	08/12/2023	Konveio	7. Dimensional Standards	7.2 "Landscaped open space ratio"	There is no clear definition what landscaped actually consists of. Does it mean planting pollinators or yard scaping with perennials? Does it mean adding trees, etc.	Open space' is defined in Article 3 as 'land and water areas designed and reserved for use as active or passive recreation areas or for preservation purposes,' and landscaped would carry its common meaning. The rule of measurement does specify some things that do not qualify as landscaped open space.
Connect Portland	07/11/2023	Email	7. Dimensional Standards	7.4 Alternative Development Options	New Alternative Residential Development Options (Conservation and Cottage Court developments) that allows small lot development, does it apply to all zones? Should it be added to the Use and Dimensional Tables?	As written, these options don't apply across all zones, and they have not been added to the use tables, as these options don't represent 'uses' per se, but more a change in dimensional standards. Because the dimensional standards for these alternative options are complex, they lend themselves to text, rather than a table.
Acorn Engineering (c/o Will Savage)	10/13/2023	Email	7. Dimensional Standards	7.4 Alternative Residential Development Options	Would the City consider Private Roads to meet the City Frontage requirements? Given the goals of this section, and potentially elsewhere, it may be advantageous for the City (and Developer) to construct a private street to provide access, utilities, stormwater, street frontage, etc while not being constrained to 50' ROW widths and technical standards. The ownership and maintenance of the private roadway would be the responsibility of a homeowner's association.	Revised drafts refer to frontage on a 'private way' as well as a street.
Jaime Parker	10/11/2023	Konveio	7. Dimensional Standards	7.4.1(D) Conservation residential development	Considering Conservation or Open Space related to development, there should be a requirement for permanent public access and connectivity from the development to, and through the open space.	This is a conveyance option, but has not been added as a requirement.
Nathan Miller	10/12/2023	Email	7. Dimensional Standards	7.4.2(D) Cottage court development	Why limit this to 25%? Cottage courts sound amazing, why wouldn't we allow an entire cottage court development that is nothing but duplex units (meeting the other requirements), to help reduce per-unit costs and increase energy efficiency (shared walls)?	Cottage court is a way to do more units on a lot with some relief on minimum lot size, meaning that buildings by nature will be smaller. This form is not meant to replace multi-family.

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Peaks Councilors & Housing + Zoning Subcommittee	10/10/2023	Email	7. Dimensional Standards	7.4.2(D) Cottage court development	Cottage Court zoning - We have heard broad interest in Cottage Court zoning on Peaks. This could aid in our desperate need for year-round rental housing, while preserving adequate open spaces. ADUs are already of course not allowed to rented short-term on Peaks. This was also supported unanimously by the PIC and H&Z committee.	The revised drafts add cottage courts as a development option within the IR-2 zone.
Betsey Remage-Healey	10/12/2023	Email	7. Dimensional Standards	7.4.2(D) Cottage court development	Why isn't cottage court zoning proposed for IR1 or IR2 ? Surely an important option for small/tiny house clusters. I believe a number of islanders have requested this.	The revised drafts add cottage courts as a development option within the IR-2 zone.
Nathaniel Ferguson	10/11/2023	Konveio	7. Dimensional Standards	7.5.2(A) Pedestrian passage required	This standard for "pedestrian access" is counterproductive. The current street grid is already sufficient for providing pedestrian access. This requirement would reduce the buildable lot area when a sidewalk is added to a street. Parking lots should also not count as a factor requiring pedestrian passage. Importantly, this standard does not allow for walking through the actual building to count as pedestrian passage. Because of this, both the Cross Insurance Arena and City Hall would not comply with this standard. Also, for mid-block connectivity, many existing streets in Portland have more than 300 feet of continuous storefronts, but since they are separate (touching) buildings, they would not be subject to this standard. Please remove this entire standard.	The revised drafts modify this requirement to allow some flexibility.
Publius Portland	07/09/2023	Form submission	7. Dimensional Standards	7.7 Space and bulk exceptions	You should permit the planning board to waive the "step-back" requirements in the RN-5 Zone in the event the lot is an "in-fill" and a finding that there is no material adverse visual impact from the waiver. There are several lots in the current R-6 that could and should be built to 45 feet tall and would fit appropriately in the neighborhood, and requiring the step-back adds construction complexity for very little value.	Stepbacks have generally been successful in mitigating height and mass.
Tim Wells	10/13/2023	Konveio	7. Dimensional Standards	7.7.1(E) Height exceptions (rooftop appurtenances)	How can decking to build a deck not be included? How can the City allow deck railings and guards but not allow the deck itself? Why are decks not allowed on a rooftop? What problem is this solving? Who is deciding that roof decks are immoral or harmful? If the City doesn't want roof decks just say they are not allowed. It is very misleading to allow deck railings, which suggests that a building may have a roof deck, but not allow the actual decking itself. This is not making the code clear, conscise, easy to understand. When the decking is below the parapet does it really impact the neighborhood or neighbors? The answer is obviously no. So who thought this one up? Who is making the judgement that roof decks are bad? Roof decks are outdoor space. On multi-unit buildings, where people are using 435 sf or 725 sf of land per home, not 5000 or 10,000sf, and giving up a huge yard for their own personal use, the City is trying to restrict flexibility to create outdoor space. Effectively penalizing people who live in multi-home buildings. Encouraging single-family home purchase and suburban development patterns by making more urban neighborhoods less appealing. Why? How does this conform with the stated aspirations in the Comprehensive Plan? How is this equitable? How does this help address the issues of affordability and availability of homes? Why would decking that isn't even visible and doesn't add height to a building not be allowed? Especially after COVID and the lockdowns, where we learned that people need balconies and safe, private outdoor space would we be ignoring these lessons? I am not sure what the impetus is for this ommission to effectively disallow roof top decks. Especially when more height is needed to meet the challenges of climate change and reducing floor to ceiling heights is moving in the exact opposite direction of where we need to be heading. Baffling!!	The revised drafts include changes to the height exceptions for rooftop appurtenances to include pedestal paver systems up to 18" and other similar furnishings that support rooftop occupancy while maintaining the effect of the established height limit.
Portland Foreside (c/o Mary McCrann)	10/13/2023	Email	7. Dimensional Standards	7.7.1(E) Height exceptions (rooftop appurtenances)	Exceptions for Rooftop appurtenances. Unless otherwise noted, rooftop appurtenances for the housing of elevators, stairways, tanks, fans, or other building operating equipment not intended for human occupancy, deck railings or guards, pedestal paver roof deck systems, skylights, steeples, flag poles, chimneys, smokestacks, radio or television masts, water tanks, or silos may be erected above the height limitations herein prescribed. Rooftop pools and associated infrastruture, shade structures, unenclosed structures, attached furnishings and other appurtenances associated with rooftop occupancy may also be erected above the height limitations provided they do not exceed the height of the rooftop penthouse or other approved parapet for screening of rooftop mechanical systems.	The revised drafts include changes to the height exceptions for rooftop appurtenances to include pedestal paver systems up to 18" and other similar furnishings that support rooftop occupancy while maintaining the effect of the established height limit.
Rachel Conly	07/13/2023	Email	7. Dimensional Standards	7.7.3(A)	1. In section 7.7.3.A "Small Island Lots". Can you please clarify if this section is ONLY applicable to development on vacant lots, and not applicable to existing non-conforming previously developed small lots in IR-2? For instance, is it possible to apply the new dimensional standards to a remodel/addition in the IR-2 zone for properties that are less 20,000 SF? Or, can a previously existing single family in the IR-2 be converted into a 2 family?	Revised drafts reorganize this language to clarify that the standards would be applicable to both existing residential lots and to vacant lots in certain cases.
PIC	1/8/24	Email	7. Dimensional Standards	7.7.3(A)	The PIC voted unanimously in favor of recommending a 2,500 sq ft lot size for small island allowance. Our Housing &Zoning committee supported us in this decision as well. In examining lot sizes throughout the most dense year-roundresidential streets on the island, we see 2,500 sq ft as reasonable in keeping with the current neighborhood lay-outs. Itwould not bring all lots into conformity, as there are many under 2,000 sq ft, but it would make some progress there, aswell.	The revised drafts establish a 3,000 SF minimum lot size for small island lots.
Will Savage	10/13/2023	Konveio	7. Dimensional Standards	7.7.4(A) Setbacks	Taller bulkheads (>24") should be considered.	Based on experience, most bulkheads meet this standard.
Rachel Conly	10/13/2023	Email	7. Dimensional Standards	Accessory structures	Following the current ADU regulations on Peaks, I would also like to see other accessory structures, whichbenefit the health and well being of people and the planet, be exempt from lot coverage requirements.Things such as greenhouses, sheds (for bikes and gardening, we don't have garages out here, and mostpeople don't have basements), and porches (covered and uncovered) should be allowed to improve thehealth and well being of occupants. I would also argue that artist spaces and home offices should fall intothis category. In addition to removing the barrier of lot coverage restrictions, I would also like to see thesetback requirements either removed, or radically changed for these particular uses. Most properties cannot add any of these accessory structures legally to the lot. This includes ADUs. While the ADU regulationsremoved lot coverage requirements, most IR-2 properties (which includes a population of people that couldreally use extra income and age in place) are still unable to add ADUs due to the setback restrictions. Thelots in IR-2 are very small!!!	Revised drafts reduce setbacks for detached accessory structures (and small island lots), and increase the lot coverage to 60%, as adopted under LD 2003.
Portland Foreside (c/o Mary McCrann)	10/13/2023	Email	7. Dimensional Standards	Accessory structures	A comprehensive set of accessory structures and uses should be clearly defined within the Code – This should include temporary accessory structures that could be renewed with certain time intervals.	The first wave drafts include new language for accessory uses and structures.

NAME	DATE	SOURCE	ARTICLE	TOPIC	COMMENT	RESPONSE
Joe Walsh	10/13/2023	Email	7. Dimensional Standards	Building code	What can the city do to encourage triplexes and four-plexes? Often, these projects don't get built because of sprinkler requirements, min lot sizes and setbacks. If I understand correctly, some of the sprinkler requirements are set at the state level, but I hope we are doing all we can to lessen/streamline this particular burden wherever possible. I know we have to be conscious of safety, but there are diminishing returns at some point and safety needs to be balanced with cost.	Under recenlty adopted LD 2003 changes, up to four units would be allowed in all mainland residential zones, plus two ADUs.
Nate Howes	08/09/2023	Form submission	7. Dimensional Standards	Downtown height map	The block at the NE corner of Cumberland and Elm is under-zoned (85' max height) compared to the block on the NW corner of Elm and Cumberland (105' max height), especially given its location immediately across the street from the Metro transit hub. Portland should be prioritizing density along busy corridors like this in the core of the downtown peninsula. The 105' height overlay should be applied on the NE corner block.	Revised height map includes chane sin this area.
Ashley Keenan	10/13/2023	Konveio	7. Dimensional Standards	Downtown height map	The fact that this map is the only one available leads me to believe that the focus is, as ever, on trying to manhattanize the peninsula instead of encouraging reasonable middle-density housing across the city. We don't need skyscrapers, especially in our regulatory environment. We need the city as a whole to be brought up to parity with the most lovable neighborhoods in the city. Completely wrong-headed approach. I understand that the perception is that we peninsulars are less likely to object, but this poverty of confidence can't be allowed any further to choke our city. I wish a fraction of the effort here was put into upzoning the mainland.	The comprehensive plan supports additional development downtown, close to jobs and services, as the center of the region and an element of a smart growth approach.
Michael Erickson	11/21/21	Email	7. Dimensional Standards	Downtown height map	My name is Mike Erickson and I am the General Manager of Holiday Inn By The Bay (88 Spring St). I recently learned that the city is considering increasing some downtown height limits, and I am writing in hopes of having our parcel included in said height increase. This increase would allow us to activate our rooftop and open a great space to enjoy views of Casco Bay. We hope to add to the city's food and drink scene by making our space available to both visitors and locals while operating in our existing footprint. Please let me know if there are any more formal steps I can take to support this, or if you have any questions for me.	The revised drafts include changes to the height exceptions for rooftop appurtenances to include pedestal paver systems up to 18" and other similar furnishings that support rooftop occupancy while maintaining the effect of the established height limit.
Ashley Keenan	10/13/2023	Konveio	7. Dimensional Standards	Figure 7-J: Tower stepback	As I mentioned elsewhere, stepbacks are aesthetic preference that are often presumed to be architecturally insignificant. This isn't the case. Each stepback requires significantly more load-bearing elements than would otherwise be necessary from an engineering point of view. The reduction in square footage, then, is even greater than it at first appears, not to mention the additional cost of construction. If we must have stepbacks, it should be at most a single stepback, and at a generous height.	Stepbacks have generally been successful in mitigating height and mass.
Portland Foreside (c/o Mary McCrann)	10/13/2023	Email	7. Dimensional Standards	General	Consider developing bonus provisions within the residential and mixed-use zones to encourage sustainable construction and/or a walkable, urban environment – Regulatory incentive (density bonuses and/or height increases), Tax (TIFs), economic, financial (grant programs, support for infrastructure) should be considered for projects that include a mix of uses and prioritize walkability.	The principles of mixed use and walkability are fundamentally supported through the standards of the mixed-use zones.
Acorn Engineering (c/o Will Savage)	10/13/2023	Email	7. Dimensional Standards	Heights	Encourage taller height limits across most zoning districts. This recommendation is due to the new average grade calculation. While the new definition/calculation does provide a more consistent measurement and makes sense from a policy standpoint, it will likely result in lower average grade planes, and thus shorter buildings. The recommendation for taller heights is also being made because of the need for housing and the limited horizontal space available on most lots available for multifamily development.	See proposed changes to height limits within the downtown height map.
Portland Foreside (c/o Mary McCrann)	10/13/2023	Email	7. Dimensional Standards	Resiliency	Evaluate dimensional standards and uses permitted throughout the city in the context of risk and resilience. Developing regulatory incentives and requirements for projects in low risk and high risk areas should be differentiated. Resiliency overlay zones should be flexible and dynamic due to and consider flood zones, stormwater and heat islands. Including flood tolerant landscaping, requiring utility systems to be flood resistant are examples of some regulatory options.	See Article 8, where the draft Coastal Flood Resilience Overlay Zone proposes to address flood risk due to sea level rise and storm events.
Joe Walsh	10/13/2023	Email	7. Dimensional Standards	Setbacks	I'm very much in support of reducing setbacks wherever possible and glad to see it happening in several zones with these changes - it's frustrating to see good lots go unused, or gentle increases in density not happen, because of a few feet of setback. Particularly, excessive front setbacks, which are detrimental to a human-scale streetscape.	Setbacks have been modified in drafts to provide flexibility.
GPL Advocacy Committee	12/12/23	Email	7. Dimensional Standards	Table 7-A: Residential Neighborhood Zone Dimensional Standards	Two recent planning initiatives, Portland's Plan 2030 and One Climate Future, identify sustainability as a key goal and priority for the city's future. We are concerned that the more permissive dimensional standards may, as the city experienced on Munjoy Hill after the 2015 zoning changes, unintentionally encourage teardowns and exacerbate the loss of diverse affordable housing options in the city's residential neighborhoods. Teardowns also have adverse environmental effects, including increased solid waste and energy impacts that do not support the City's sustainability goals.	The ReCode drafts generally do not prohibit tear downs, as the comprehensive plan acknowledges a future of change.
MHNO (c/o Barbara Vestal)	10/11/2023	Email	7. Dimensional Standards	Table 7-A: Residential Neighborhood Zone Dimensional Standards/Building Length	6. THE PROPOSED RN-5 75' BUILDING LENGTH DIMENSIONAL STANDARD IS INADEQUATE TO ADDRESS THE SCALE OF NEW BUILDINGS. The new building length dimensional standard is inadequate to control the scale of new construction. In 2020, the peninsula neighborhoods proposed approaching context sensitivity through regulating lot consolidation in order to retain a development pattern typical of compact lot development. In the alternative, they proposed that lots could be purchased by a common owner but proposed that the maximum dimensional requirements would be established by the maximum that could have been built upon the separate, non-merged lots of record. While this 75' maximum building length restriction may attempt to get at a similar problem, 75' is too big for the Munjoy Hill neighborhood context. 50' would be more in keeping with a typical building size. Similarly, the definition does not specify that a setback would be required between two or more such buildings. Theoretically, a technical break of one foot would suffice under the proposed definition. That is not sufficient. To be contextually appropriate, a full setback on each side of the midline should be required for each building even if they are on a single large lot under common ownership.	Revised drafts reduce the maximum building length in the RN-5 to 60' and eliminate the maximum building length in the RN-7.
PHA (c/o Sarah Tatarczuk)	10/12/2023	Email	7. Dimensional Standards	Table 7-A: Residential Neighborhood Zone Dimensional Standards/Building length	Maximum Building Length in RN-5 and RN-7 set at 75' • IMPACT/EFFECT: This new requirement would severely hinder – and potentially cripple – future mid-rise multifamily development in these zones. Affordable projects would be particularly harmed because they depend on economies of scale gained from multifamily's efficient construction approach and dense use of land. Buildings would need to be significantly smaller and shorter to comply, thereby losing those efficiencies. This regulation would have disallowed many valuable multifamily buildings that were recently built. PHA's new developments in East Bayside have been well over the proposed 75' building length standard, including Bayside Anchor (±144') and Solterra Apartments (±135'). The result of this regulation would be fewer affordable projects and significantly fewer affordable units built in the RN-5 and RN-7 districts. • RECOMMENDATION: A standard of 75' is unrealistically short and arbitrary. We recommend the City eliminate all Maximum Building Length requirements for affordable multifamily projects. If this standard must remain, we encourage the City to a) create an exception process for affordable housing projects; b) significantly increase Max Building Length standards; and/or c) remove this requirement from ReCode and include it in the Design Manual.	Revised drafts reduce the maximum building length to 60' in the RN-5, which generally has a finer-grained lot and building pattern, and eliminate the maximum building length in the RN-7.
Acorn Engineering (c/o Will Savage)	10/13/2023	Email	7. Dimensional Standards	Table 7-A: Residential Neighborhood Zone Dimensional Standards/Building length	Strongly encourage increasing or eliminating the max 75' building length in the RN-5. This is a new dimensional standard and would negatively affect certain projects (especially those with a high ratio of lot frontage to lot depth) causing either a smaller building and thus less housing units, or would require the developer to build two buildings on one lot, which would be cost prohibitive in many cases because it is much less efficient to build 2 buildings vs 1. Instead, rely on the measures already in place such as stepbacks, height limits, and the City's Design Standards to guide the appropriate scale and massing. Ultimately, this new standard will result in less housing units being constructed, while creating a nonconforming condition for a multitude of projects that have already been constructed.	Revised drafts reduce the maximum building length to 60' in the RN-5, which generally has a finer-grained lot and building pattern, and eliminate the maximum building length in the RN-7.

NAME	DATE	SOURCE	ARTICLE	TOPIC	COMMENT	RESPONSE
MHNO (c/o Barbara Vestal)	10/11/2023	Email	7. Dimensional Standards	Table 7-A: Residential Neighborhood Zone Dimensional Standards/Building Length	7. THERE IS INSUFFICIENT ATTENTION PAID TO WHAT THE LAND USE CODE CAN DO TO RETAIN EXISTING HOUSING AND/OR MAKE AFFORDABLE HOUSING MORE LIKELY. So far, the sections of the proposed changes to the land use code seem to focus on new construction. More attention needs to be paid to how the land use code can foster and incentivize retention of existing housing because that is where the "missing middle", "naturally occurring affordable housing" and "workforce housing" is typically found. New construction will be expensive, and frequently in Portland the new "luxury housing" that is built is a second (or more) residence for a non-resident. The creation of luxury housing is unlikely to result in "trickle-down housing" in the Portland market which will be available to middle income residents. Perhaps the rewrite of the section on non-conforming structures will identify some opportunities for the repurposing of formerly non-residential structures into residential uses, or the retention of existing housing with upgrades or additional units which can be part of addressing the shortage of affordable housing. In addition, more attention needs to be paid to how building heights and other dimensional standards can incentivize workforce housing. The (now repealed) Munjoy Hill Neighborhood Conservation Overly Zone contained some height differentiations that should be studied for possible inclusion in the proposed ReCode changes. Instead of allowing 45 feet as of right (as proposed in ReCode II), in the MHNCOZ at least one workforce unit had to be included to increase allowable height from 35' to 45'. This was too generous; it should have required a percentage like 25% rather than a single unit to qualify for the height bonus. The other dimensional requirements should be studied to see what other workforce housing incentives can be incorporated. Perhaps lot area per multi-family unit (725 SF/unit) could be reduced if all units (or a certain high percentage) were workforce housing. But any adjustments to dimensional standards also need to be coupled with intensive scrutiny of the standards for what qualifies as workforce housing. For example, for proposed workforce condominium units, the ordinance should ban the practice of monthly condominium fees being assessed on a per capita basis. Instead, monthly condominium fees should be regulated so they reflect that the workforce unit is smaller, in a less desirable location, has different appliances or finishes, etc., as applicable. It defeats the intent unless the monthly carrying costs are affordable.	The ReCode drafts create more opportunity for housing across the city, including in downtown Portland and in off-peninsula residential zones. This approach should help relieve some pressure on the zones that have historically seen most demand. The drafts generally allow conversion of existing residential and non-residential structures into higher-density residential uses. Per the changes adopted under LD 2003, the workforce and affordable housing density bonuses in Article 17 have been expanded to all mainland zones where residential is allowed.
Tim Wells	10/13/2023	Konveio	7. Dimensional Standards	Table 7-A: Residential Neighborhood Zone Dimensional Standards/Building length (RN-5)	Why should a building be limited to 75 feet? Look at historic homes around Portland, Maine and the Northeast. Many are 100 or 120 feet long and built 100 or 200 years ago. This puts a limit for underground parking, for multi-home buildings to 6 or maybe 7 on each side. This limits the attractiveness of multi-home living. We are in a period of transition, both in terms of reducing dependence on cars and on the stigma for families to live in apartments and condos. But to make a walkable neighborhood where businesses can survive and to combat climate change we cannot continue to put up barriers to multi-home projects. 1 parking space per unit is still going to be a minimum expectation for years to come. Because we don't have walkable neighborhoods yet. Underground parking is much preferable to surface parking. It allows for more homes and doesn't add to heat-sink and to impermeable surface. It should be accomodated not discouraged. Restrictions like this prevent the City from meeting climate and livability goals. It encourages single family, suburban type living and development patterns. Exactly the opposite of where we need to be heading. Why? If there is a limit, it should be no less than 95'. Same applies for width. It needs to accomodate 18" wall thickness, 20' each side for parking and the 24' aisle width so 67' for parking. Then let the architects, engineers and developers make the right decisions for the situation. Let the PB make exceptions if there needs to be compromise on lowering requirements for say aisle width. This flexibility will improve the quality of design and building.	Revised drafts reduce the maximum building length to 60' in the RN-5, which generally has a finer-grained lot and building pattern, and eliminate the maximum building length in the RN-7.
James Pratt	10/12/2023	Email	7. Dimensional Standards	Table 7-A: Residential Neighborhood Zone Dimensional Standards/Corner side setback	After looking over the proposed edits, it appears you are making the Side Setback, corner more restrictive than it was previously. The new standards list a dimension or the depth of abutting lot, whichever is greater. The old table listed a dimension or the depth of the front yard directly abutting the lot. Am I understanding this correctly? Won't this potentially make many new nonconforming structures? If something was previously allowed to be built to the depth of abutting front yard but these new rules require a greater setback, you have essentially reduced the use of the property. As an owner of a corner lot in Portland, it concerns me that you are making tighter restrictions to corner lots when I thought part of the point of recode is to make more sensible rules and reduce non-conformance. Why shouldn't the minimum setback of a corner lot still be determined by the depth of the front yard abutting the lot? Shouldn't it be reworded to read a set dimension or the depth of adjacent front yard, whichever is less?	This was an error. Revised drafts change this language to refer to 'whichever is less.'
Emma Rubin	07/16/2023	Konveio	7. Dimensional Standards	Table 7-A: Residential Neighborhood Zone Dimensional Standards/Corner side setbacks	Setbacks for RN-1 and RN-2 should be 10ft to be consistent with RN-3 and RN-4 and allow for more ADU development/housing density.	These zones currently require 20' or average depth of abutting yard. A reduction to 15' or the average will allow some flexibility while maintaining some of the existing lot and building pattern.
Joe Walsh	10/13/2023	Email	7. Dimensional Standards	Table 7-A: Residential Neighborhood Zone Dimensional Standards/Density	Missing Middle Housing: I'm so happy to see the inclusion of duplexes and tri-plexes in many of these zones. I haven't seen the lot area per dwelling unit requirements, but I would submit that they need to be set such that at least a duplex is possible by-right on any lot where a single-family can be built. So in RN-3, for example, with a min lot size of 6,000 SF, lot area per DU ought to be no more than 3,000SF. It ought to be even lower if we really want to encourage the building of triplexes and four-plexes. Given the cost of construction and land, I see duplexes as a key element of solving the housing crisis.	As structured, single- to four-family residential would be subject to no density standard, just a minimum lot size.
John Voyer	08/16/2023	Form submission	7. Dimensional Standards	Table 7-A: Residential Neighborhood Zone Dimensional Standards/Density	I attended the Open House in the Library and went home and looked over the draft Recode. I may be overthinking what I see in Table 7-A, but it appears that there is an ambiguity for Zone RN-2. It says that only one- and two-family housing is allowed, but then, under "Multi-family," the table indicates that for RN-2 there is a minimum size of 1,200 SF per unit. At a minimum RN-2 lot size of 6,500 SF, that would come out to potentially 5 units on an RN-2 lot (6,500 SF/2,00SF = 5 +/-).	Multi-family as adaptive reuse is currently allowed in the R-3/RN-2 as a conditional use. This density standard is necessary to address that situation.
Urbanist Coalition Portland (c/o Todd Morse)	10/11/2023	Email	7. Dimensional Standards	Table 7-A: Residential Neighborhood Zone Dimensional Standards/Density	Eliminate Lot area per dwelling unit and lot area per rooming unit dimensional standards.	The ReCode drafts essentially take this approach with single- to four-family dwellings in residential zones and all residential use types in mixed-use zones, where no density standard would be applied. The density standard has been retained in residential zones where multi-family (5+) is allowed.

NAME	DATE	SOURCE	ARTICLE	TOPIC	COMMENT	RESPONSE
Christian Milneil	10/12/2023	Email	7. Dimensional Standards	Table 7-A: Residential Neighborhood Zone Dimensional Standards/Density	My first request is that the City consider minimum density thresholds – e.g. a minimum of 1 housing unit per 2000 square feet of built gross floor area – for the R-6 and R-7 zones. In the past decade, I've witnessed a number of previously-affordable rental properties on the peninsula converted from multifamily to single-family. This is not an appropriate land use for the peninsula: we shouldn't allow high-wealth households to hoard real estate and reduce housing opportunities in some of Maine's only walkable neighborhoods. While the city has made a lot of positive progress on reforming zoning to make affordable housing practical under the zoning code (at least on the peninsula), we're increasingly finding that the bigger barriers, now, are financial. The high real estate costs of property acquisition, which are driven upwards by the high end of the market, make building new housing impractical for low- and middle-income price points, even if it's otherwise allowed under the zoning code. There are plenty of residential zones in Maine – pretty much all of them – where high-income people can build 3000 square-foot McMansions. So there's no good reason to permit them in the R6 and R7 zones, especially when we consider that those McMansions block other people from living here.	The ReCode drafts make some significant changes around residential use permissions and dimensional standards across the city. Whether additional, much more significant changes are necessary in the future will depend on the success of these current efforts.
Twells	10/11/2023	Konveio	7. Dimensional Standards	Table 7-A: Residential Neighborhood Zone Dimensional Standards/Density (RN-3)	Why would we not reduce this to 5000 sf. Portland is a city not a suburb.	The ReCode drafts include significant changes to use permissions while largely respecting existing lot and development patterns. Portland's minimum lot sizes are significantly smaller than many surrounding communities.
Liz Trice	10/11/2023	Konveio	7. Dimensional Standards	Table 7-A: Residential Neighborhood Zone Dimensional Standards/Density (RN-3)	I don't see any reason to not have a 500 sf coffee shop on a 2,000 sf lot	The RN-3 is a residential zone. There is opportunity within the RN-3 as drafted for neighborhood non-residential reuse, as well as new commercial opportunities in newly mapped B zones.
Twells	10/11/2023	Konveio	7. Dimensional Standards	Table 7-A: Residential Neighborhood Zone Dimensional Standards/Density (RN-5)	This should be reduced to 500 sf/du to allow a 4 unit on a 2000sf lot.	The drafts would allow 4 units as a 4-family on a 2,000 SF lot.
Tim Wells	10/13/2023	Konveio	7. Dimensional Standards	Table 7-A: Residential Neighborhood Zone Dimensional Standards/Detached accessory structure height (RN-4)	Why couldn't this be increased to 25' if the structure is 15' off the property line? Wouldn't this add to the design flexibility and value of ADUs making them more attractive w/out harming neighbors?	See above re ADUs. The revised drafts added flexibility for ADUs over existing structures, but otherwise new detached accessory structures would be subject to a height limit of 18', which bears a relationship to their reduced setbacks.
Liz Trice	10/11/2023	Konveio	7. Dimensional Standards	Table 7-A: Residential Neighborhood Zone Dimensional Standards/Front setbacks	[Response to Todd Morse] front setbacks don't make any sense. It would be better to build ADUs in front yards as it's very expensive to run utilities to a back yard, and most front yards are useless spaces. People tend to hang out and garden in their back yards. I also think the artificial lack of diversity of setbacks is kind of creepy.	Front setbacks have been maintained as a regulatory tool.
Cameron Thompson	07/07/2023	Konveio	7. Dimensional Standards	Table 7-A: Residential Neighborhood Zone Dimensional Standards/Front setbacks	How would these apply in a greenfield setting, or where there are no adjacent front yards?	See rules of measurement in Section 7.2, which establish minimum setbacks in cases where there are no lots available for averaging.
Twells	10/11/2023	Konveio	7. Dimensional Standards	Table 7-A: Residential Neighborhood Zone Dimensional Standards/Front setbacks	[Response to Todd Morse] Too large front setback. Forces the house to be built towards the middle of the parcel reducing future flexibility.	Setbacks have been modified in drafts to provide flexibility.
Todd Morse	10/11/2023	Konveio	7. Dimensional Standards	Table 7-A: Residential Neighborhood Zone Dimensional Standards/Front setbacks	Setbacks are barriers to housing and creating pleasant walkable places, they should be universally reduced. This makes current setbacks even stickier.	Setbacks have been modified where the context supports it to allow more flexibility.
Todd Morse	10/11/2023	Konveio	7. Dimensional Standards	Table 7-A: Residential Neighborhood Zone Dimensional Standards/Front setbacks	Changing setbacks to be entirely determined by neighbors is needlessly complicated and leads to weird scenarios where you can theoretically lose some of your setback based on what your neighbors chose. It seems like it will make measuring more of a challenge as well.	The draft approach is to use the context to inform the setbacks, which is a fairly common practice.
WB	10/11/2023	Konveio	7. Dimensional Standards	Table 7-A: Residential Neighborhood Zone Dimensional Standards/Front setbacks	The Oakdale, Libbytown neighborhoods have an assortment of front setbacks, with very little consistency. The 20 foot setback in the RN-4 zone is a waste. Especially if you're not allowed to use it for parking spaces because of the codes specific to side and rear parking.	The drafts do not propose a 20' front setback in the RN-4.
Cameron Thompson	07/07/2023	Konveio	7. Dimensional Standards	Table 7-A: Residential Neighborhood Zone Dimensional Standards/Front setbacks	"+/- 5 feet" This is confusing and needs some clarity here or in the preceding definition of setback averaging. e.g. If the average is 15 feet, does that mean the actual setback is 10 or 20 feet?	The revised drafts clarify this language.
Urbanist Coalition Portland (c/o Todd Morse)	10/11/2023	Email	7. Dimensional Standards	Table 7-A: Residential Neighborhood Zone Dimensional Standards/Front setbacks	Allow people to reduce their own setbacks if they have unanimous agreement from their neighbors.	This approach would be difficult to administer.

NAME	DATE	SOURCE	ARTICLE	TOPIC	COMMENT	RESPONSE
Twells	10/11/2023	Konveio	7. Dimensional Standards	Table 7-A: Residential Neighborhood Zone Dimensional Standards/Front setbacks (RN-2)	This should just be 5 feet. The average of adjacent leaves too much to be questioned and to be challenged in court. It adds requirements to Staff. Make it simple.	The draft approach is to use the context to inform the setbacks, which is a fairly common practice.
Damon Yakovleff	08/04/2023	Email	7. Dimensional Standards	Table 7-A: Residential Neighborhood Zone Dimensional Standards/General	Generally speaking, I'd suggest that all the dimensional requirements should be relaxed in all zones and density increased. For example, there's no need for a 5 ft. setback for 250sf accessory structures - this can be reduced to 3', etc.	Accessory setbacks have generally been maintained, with some revisions to create flexibility in the case of ADUs.
Connect Portland	07/11/2023	Email	7. Dimensional Standards	Table 7-A: Residential Neighborhood Zone Dimensional Standards/General	The ReCode II evaluation in the 'overview" of zones grouped all neighborhoods within their respective zones which does not fairly distinguish the differences between them. For example, neighborhoods in the R-5 such as the USM area, Deering Highlands, Back Cove, East Deering, North Deering, Oakdale, Deering Center are all vey different. One size does not fit all in established neighborhoods within the same zone but in different city locations, and evaluation and recommendations are NOT sensitive to differing neighborhood context as an identified land use objective. How can this issue be addressed?	Neighborhoods in the city vary. The drafts address some variation in form by proposing context-based dimensional standards (see setbacks, for instance).
Connect Portland	07/11/2023	Email	7. Dimensional Standards	Table 7-A: Residential Neighborhood Zone Dimensional Standards/General	How do these proposed changes align with the ReCode II recommendations which stated that pretty much all residential zones should be evaluated for bringing zone standards closer to historic patterns of development with decreased lot sizes, reduced dimensional requires, zone changes and allowances for a diverse range of housing types across the city's neighborhoods to make Portland a more "equitable" city? All mainland residential would permit at least two-family dwellings (R1, R-2 and R-3) does not appear to pass the 'straight-face test' for fair and equitable diversity in expanding housing opportunities within residential ones. The R-5 residential zone is being proposed for the most significant changes as is R-4 in the Western Prom.	The revised drafts integrate the recently adopted LD 2003 changes, which broadly permit additional housing in residential zones across the city.
Urbanist Coalition Portland (c/o Todd Morse)	10/11/2023	Email	7. Dimensional Standards	Table 7-A: Residential Neighborhood Zone Dimensional Standards/Height	Allow a little bit more height per floor by looking at all height standards, calculating the number of allowed floors. Based on the allowed number of floors add slightly more height per floor to allow for more insulation between floors.	Height in residential zones has not historically been the point of most pressure. Changes to heights in mixed-use zones are proposed.
Urbanist Coalition Portland (c/o Todd Morse)	10/11/2023	Email	7. Dimensional Standards	Table 7-A: Residential Neighborhood Zone Dimensional Standards/Height	Increase height minimums in R-5, R-5a, and R-3 zones to allow for four stories instead of three.	Height in residential zones has not historically been the point of most pressure. Changes to heights in mixed-use zones are proposed.
Tim Wells	10/13/2023	Konveio	7. Dimensional Standards	Table 7-A: Residential Neighborhood Zone Dimensional Standards/Height	These heights are set by old, outdated thinking and a focus on single family homes. They do not take into consideration adaptations in building design and building methods, in response to climate change. Building entries may need to be a few feet higher to adapt to heavy rainfalls and flash flooding, building walls, floors and roofs are much thicker for insulation values, structural design flexibility, noise mitigation and higher floors to allow for more natural light in multi-home buildings. 45' doesn't allow for 4 floors in a well-designed, resilient, adaptable, high-performing multi-home building. Allowances need to be made. An extra 4-5' needs to be added when a building is built to certain performance standards. Not for the sake of extra height or another floor but to make buildings that are more livable, more sustainable and more resilient. It has no negative impact on the neighborhood, its character but it matters greatly to the people choosing to live in these homes, adoption by families desiring to live in multi-home buildings, creating walkable neighborhoods and fighting climate change. It is an easy and necessary change. So increase the height but limit the floors.	Height in residential zones has not historically been the point of most pressure. Changes to heights in mixed-use zones are proposed.
PHA (c/o Sarah Tatarczuk)	10/12/2023	Email	7. Dimensional Standards	Table 7-A: Residential Neighborhood Zone Dimensional Standards/Height stepback	2) Height Stepback in RN-5 and RN-7 above 35' • IMPACT/EFFECT: This new requirement would harm the financial feasibility of 4-story or taller buildings and significantly raise the cost of mid-rise multifamily development. Efficient multifamily construction depends on "stacking" units so floor plans are consistent vertically throughout building, as well as minimizing unnecessary envelope detailing. Typical affordable multifamily construction targets 4-6 story buildings for cost and construction efficiency reasons. This change to height stepbacks would interrupt "stacking" on buildings with 4-6 stories, thereby complicating simple building envelopes and increasing design and construction costs at a time when affordable housing resources are scarce and construction costs are rising rapidly. PHA's Bayside Anchor (4-stories) and Solterra Apartments (6-stories) were only financially feasible because there were no required height stepbacks. The result of this regulation would be fewer affordable homes built in the RN-5 and RN-7 districts. • RECOMMENDATION: We recommend the City eliminate all Height Stepback requirements for affordable multifamily projects. If this standard must remain, we encourage the City to a) create an exception process for affordable housing projects and/or b) significantly increase the height at which the stepback standard is triggered.	This is an existing dimensional standard within the R-6 (RN-5). In the R-7 (RN-7), height has been increased from 50' to 65'. Stepbacks were added with that change to address the potential for sheer buildings.
Tim Wells	10/13/2023	Konveio	7. Dimensional Standards	Table 7-A: Residential Neighborhood Zone Dimensional Standards/Height stepback (RN-7)	Why add this provision? What problem does it solve? The extra costs and potential problems with water leaks associated doesn't make sense. Let architects, engineers and developers figure this out.	In the R-7 (RN-7), height has been increased from 50' to 65'. Stepbacks were added with that change to address the potential for sheer buildings.
Ashley Keenan	10/11/2023	Konveio	7. Dimensional Standards	Table 7-A: Residential Neighborhood Zone Dimensional Standards/Height stepbacks	Stepbacks are extremely inefficient from an engineering standpoint, requiring more load-bearing elements to absorb the staggered weight. This is an outdated aesthetic preference.	This is an existing dimensional standard within the R-6 (RN-5). In the R-7 (RN-7), height has been increased from 50' to 65'. Stepbacks were added with that change to address the potential for sheer buildings.

NAME	DATE	SOURCE	ARTICLE	TOPIC	COMMENT	RESPONSE
Nathaniel Ferguson	10/11/2023	Konveio	7. Dimensional Standards	Table 7-A: Residential Neighborhood Zone Dimensional Standards/Landscaped open space ratios	Why are landscaped open space ratios being added to lower density residential zones that were not present in the prior version of the land use code? I don't think lawns should be required by law.	Impervious surface ratio is used within the existing code in some zones; landscaped open space is used in others. Restricting unbuilt impervious and requiring lower-impact development is a city policy goal.
Cheryl Leeman	08/11/2023	Email	7. Dimensional Standards	Table 7-A: Residential Neighborhood Zone Dimensional Standards/Lot area	Only decrease in lot size of any significance is in the R-5 (RN-4) from 6,000sf to 5,000sf with addition of three and four family dwellings including conversions.	The ReCode drafts include significant changes to use permissions while largely respecting existing lot and development patterns. Portland's minimum lot sizes are significantly smaller than many surrounding communities.
Urbanist Coalition Portland (c/o Todd Morse)	10/11/2023	Email	7. Dimensional Standards	Table 7-A: Residential Neighborhood Zone Dimensional Standards/Lot area	Cut all existing lot area minimums in residential zones except those in the R-6 zone in half, allowing all existing lots to be split. In cases where the lot area per dwelling unit is identical to the minimum lot size it serves as a de-facto minimum lot size so it is also reduced to match the new minimum lot size. Lot width is also divided by slightly more than halfway to allow for splitting. Street frontage minimums are reduced to 20 ft across the board to allow for a configuration where you split the back of your lot and allow access to the street via a thin path or driveway.	The ReCode drafts include significant changes to use permissions while largely respecting existing lot and development patterns. Portland's minimum lot sizes are significantly smaller than many surrounding communities.
Joe Walsh	10/13/2023	Email	7. Dimensional Standards	Table 7-A: Residential Neighborhood Zone Dimensional Standards/Lot area	Lot sizes: I'm happy to see the 15,000 SF minimum of R1 be eliminated as part of this zone's merging with R-2. Why not make RN-2 and RN-3 lot sizes both 6,000SF - why 500sf more for RN-2? Just thinking about streamlining, and maybe it gently opens the possibility for a bit more density.	The ReCode drafts include significant changes to use permissions while largely respecting existing lot and development patterns. Portland's minimum lot sizes are significantly smaller than many surrounding communities.
Ryan Johnson	07/14/2023	Konveio	7. Dimensional Standards	Table 7-A: Residential Neighborhood Zone Dimensional Standards/Lot area (RN-6)	Lot area requirement for RN-6 is way too high - unless you mean "1,200/unit and a minimum of 40,000sf" - clarify	Drafts have been revised to clarify 1,200 SF and a minimum of 40KSF.
Liz Trice	45210	Konveio	7. Dimensional Standards	Table 7-A: Residential Neighborhood Zone Dimensional Standards/Lot area (RN-6)	[Response to Ryan Johnson] this is very confusing; why couldn't you build a 5 story tower of 500 sf units on a 3,000 sf lot?	Drafts have been revised to clarify 1,200 SF and a minimum of 40KSF.
Karen Snyder	07/12/2023	Konveio	7. Dimensional Standards	Table 7-A: Residential Neighborhood Zone Dimensional Standards/Lot coverage	The Lower R zones should have higher density lot coverage.	Lot coverage is a way to control the amount of a lot that is covered by building. Current maximum lot coverages in the R-1 and R-2 are 20%. Per the recently adopted LD 2003 changes, lot coverage for residential uses in mainland and island residential zones has been increased to 60%.
Ryan Johnson	07/14/2023	Konveio	7. Dimensional Standards	Table 7-A: Residential Neighborhood Zone Dimensional Standards/Lot coverage	Is this total lot coverage (i.e. impervious surface) or just building coverage? Likely too low across the board if total lot coverage.	Lot coverage is defined as the area covered by building footprint.
Urbanist Coalition Portland (c/o Todd Morse)	10/11/2023	Email	7. Dimensional Standards	Table 7-A: Residential Neighborhood Zone Dimensional Standards/Lot coverage	Increase all lot coverage minimums in residential zones except those in the R-6 zone. Increases are designed to gently increase coverage as zones increase in density.	Per the recently adopted LD 2003 changes, lot coverage for residential uses in mainland and island residential zones has been increased to 60%.
Acorn Engineering (c/o Will Savage)	10/13/2023	Email	7. Dimensional Standards	Table 7-A: Residential Neighborhood Zone Dimensional Standards/Lot coverage	Encourage increasing the 30% allowable Lot Coverage in the RN-6 (previous R-5a) to promote housing over parking	Per the recently adopted LD 2003 changes, lot coverage for residential uses in mainland and island residential zones has been increased to 60%.
PHA (c/o Sarah Tatarczuk)	10/12/2023	Email	7. Dimensional Standards	Table 7-A: Residential Neighborhood Zone Dimensional Standards/Lot coverage	4) Max Lot Coverage of 60% in RN-5 and RN-7; and 40% in RN-4 • IMPACT/EFFECT: This Lot Coverage Max would restrict dense development of walkable neighborhoods, especially in East Bayside and at Sagamore Village. This would severely crimp a multifamily project's ability to utilize the entire parcel for affordable housing construction. In lieu of building more homes, this regulation would likely push developers to build more surface parking lots on the unused land and no net decrease in impervious area would occur. This regulation would likely result in fewer affordable homes built and increased vehicular surface parking, and would not necessarily decrease stormwater runoff. • RECOMMENDATION: We recommend the City eliminate all Lot Coverage requirements for affordable multifamily buildings in RN-5, RN-7 and RN-4 districts. If these standards must remain, we encourage City to a) create an exception process for affordable housing projects; b) significantly increase max lot coverage percentages; and/or c) remove this requirement from ReCode and include it in the Design Manual or Technical Manual. We also encourage the City to handle stormwater management via calculations and not through limits on lot coverage.	Per the recently adopted LD 2003 changes, lot coverage for residential uses in mainland and island residential zones has been increased to 60%. The revised drafts propose a lot coverage of 100% in the RN-7.
Acorn Engineering (c/o Will Savage)	10/13/2023	Email	7. Dimensional Standards	Table 7-A: Residential Neighborhood Zone Dimensional Standards/Lot coverage (RN-5)	Strongly encourage increasing the 60% allowable Lot Coverage (which includes all structures on a lot including sheds/decks/balconies) in the RN-5 (previous R-6) to promote housing over parking. Stormwater management will still be held to the same standard and the allowable impervious area would not change. This revision would simply result in more housing.	60% is the existing lot coverage in the R-6. This standard has been retained in light of other city goals, but the drafts increase the lot coverage in the RN-7 to 100%.

NAME	DATE	SOURCE	ARTICLE	TOPIC	COMMENT	RESPONSE
Tim Wells	10/13/2023	Konveio	7. Dimensional Standards	Table 7-A: Residential Neighborhood Zone Dimensional Standards/Lot coverage (RN-5)	60% lot coverage is less than was historically allowed. Many of the older buildings covered 65% to 80% of the lot. People love that historical building pattern. If green roofs are used, multi-home buildings should be able to utilize 70-75% of the lot on lots less than 10,000sf.	60% is the existing lot coverage in the R-6. This standard has been retained in light of other city goals, but the drafts increase the lot coverage in the RN-7 to 100%.
Todd Morse	10/11/2023	Konveio	7. Dimensional Standards	Table 7-A: Residential Neighborhood Zone Dimensional Standards/Rear setback (detached accessory structures)	These limits should be expanded to include larger detached accessories (such as all conforming ADUs).	Accessory setbacks have generally been maintained, with some revisions to create flexibility in the case of ADUs.
GPL Advocacy Committee	12/11/23	Email	7. Dimensional Standards	Table 7-A: Residential Neighborhood Zone Dimensional Standards/Setbacks	The proposed front setback language of “average of adjacent front yards, +/- 5 feet”, along with extra height allowances has the potential to exacerbate the feeling of a new dwelling being out of context. We suggest some additional language, for example “ FFront setbacks for new structures that exceed the height of adjacent structures by 15% or more shall be 5 feet or the average setback of adjacent structures, whichever is greater.”	The draft approach is to use the context to inform the setbacks, which is a fairly common practice.
Urbanist Coalition Portland (c/o Todd Morse)	10/11/2023	Email	7. Dimensional Standards	Table 7-A: Residential Neighborhood Zone Dimensional Standards/Setbacks	Make small reductions to front and side setbacks in all residential zones.	The drafts suggest small changes in setbacks.
Acorn Engineering (c/o Will Savage)	10/13/2023	Email	7. Dimensional Standards	Table 7-A: Residential Neighborhood Zone Dimensional Standards/Setbacks + Lot coverage	Encourage reducing the 10’ rear setback in the RN-5 to 5’ in tandem with an increased lot coverage allowance.	10' is the existing rear setback in the R-6/RN-5.
Karen Snyder	07/12/2023	Konveio	7. Dimensional Standards	Table 7-A: Residential Neighborhood Zone Dimensional Standards/Side setbacks	How is it that majority of R zones have minimum side setback corners except for RN-5 (formerly R6)? How livable besides fair and equitable is this for long term residents living in RN-5 (formerly R6)?	Currently no side setback required on side street, so this reflects existing policy.
Cameron Thompson	07/07/2023	Konveio	7. Dimensional Standards	Table 7-A: Residential Neighborhood Zone Dimensional Standards/Side setbacks	My understanding is that RN-4 is replacing the current R5 zone, which includes the R5 small lots (see CITY OF PORTLAND LAND USE CODE | 7-5). This new dimensional standard is more strict than the previous one for the R5 small lots. Minimum setback is 7 ft and "The width of one side setback may be reduced 1 ft. for every foot that the other side yard is correspondingly increased, but no side yard shall be less than 4 ft. in width." This proposal is more strict than the previous codes and that runs counter to the set goal of relaxing dimensional standards.	Revised drafts modify the setbacks to 7' with some flexibility.
Peaks Councilors & Housing + Zoning Subcommittee	10/10/2023	Email	7. Dimensional Standards	Table 7-B: Island Zone Dimensional Standards	Lot coverage: We looked at a few streets in IR2 as examples, and the draft numbers are still low enough that a considerable amount of homes would still be non-conforming, seemingly the majority of many blocks in IR1 and IR2. - Is there consideration for raising the allowable lot coverage, given that it would not change the current feel of neighborhoods? - At the least, for non-island small lots, can an additional percentage be granted when quality of life enhancements” such as unenclosed porches, deck, greenhouses, and tool sheds?	LD 2003 has resulted in modified lot coverage for residential uses.
Rachel Conly	10/13/2023	Email	7. Dimensional Standards	Table 7-B: Island Zone Dimensional Standards	The proposed changes are a nice gesture, but not impactful. Many of the lots in the IR-2 zone are very, verysmall (2,500SF, 3,000SF, 4,000 SF). The “small island lot” idea is great in concept, but not really helping. Ithink we need a bigger change on setbacks and a bigger change on lot coverage. The IR-2 Zone is not toodissimilar from other residential neighborhoods that border downtown. The IR-2 is more like Munjoy Hill, theWest End, or parts of Deering. It is a residential neighborhood that houses people who work in Portland.The proposed 30% lot coverage is not enough to make an impact. If I use my own house as an example(1,200 SF, story and a half cottage), which is on a 4,200 SF lot (larger than several of my neighbors), Iwould only be able to add about 80SF of footprint based on lot coverage and even less if I am to meet thesetbacks. I have no room for a shed, porch, ADU, etc… At minimum, I would like to see the allowable lotcoverage increase to 35% (like Deering) or more ideal, up to 60% (like Munjoy Hill). I use my house as anexample because I know it best. I believe it is representative of the majority of my neighbors in the IR-2zone.	The revised drafts modify small island lot standards to reduce lot size, setbacks, and other dimensional standards.
Peaks Councilors & Housing + Zoning Subcommittee	10/10/2023	Email	7. Dimensional Standards	Table 7-B: Island Zone Dimensional Standards	Lot area: We support the spirit of the small island lot, but wonder about its proposed size. - How many more lots would become available if the lot size is reduced to 3,500 sq ft? Or 3,000 sq ft? - Is ReCode considering any provisions that would ensure these new lots would be developed for owner-occupied use (not short-term rentals)? Or is this something the City Council would have to legislate?	The revised drafts reduce the size of small island lots to 3,000 SF. No provisions are considered here regarding short-term rentals. Those regulations are in Chapter 6 of the COP Code of Ordinances.
Cheryl Leeman	08/11/2023	Email	7. Dimensional Standards	Table 7-C: Mixed-Use Zone Dimensional Standards	Major changes to Business zones with elimination of density limits to encourage residential urban compact, high-intensity development with increased heights from 45ft to 65ft. (B-2 are major parcels of land abutting neighborhoods such as Shaw's, Hannafords, Northport, Allen Avenue intersection, Ocean Avenue, former Rainbow Mall on Washington Avenue, Congress Street, Forest Avenue, Woodfords/Morrills Corners and St. John Street). NOTE: Does not reference “density bonuses”that will impact the height (perhaps a footnote).	Changes to height and density within mixed-use zones are based on policy guidance focused on placing jobs and housing near transit.

NAME	DATE	SOURCE	ARTICLE	TOPIC	COMMENT	RESPONSE
Cheryl Leeman	08/11/2023	Email	7. Dimensional Standards	Table 7-C: Mixed-Use Zone Dimensional Standards	Removed distinction from Dimensional Standards between on-peninsula and off-peninsula in B-1, B-2 and B2-b zones. There should be a softer approach to transitioning urban, compact development that abut highly residential areas.	Draft dimensional standards acknowledge transitions to residential using modified setbacks, stepbacks, and height. Allowing more to happen within these mixed-use zones off-peninsula supports policy objectives around both complete neighborhoods and placing concentrations of people and jobs near transit.
Portland Foreside (c/o Mary McCrann)	10/13/2023	Email	7. Dimensional Standards	Table 7-C: Mixed-Use Zone Dimensional Standards	Consider opportunities to refine height controls within the Land Use Code's mixed-use zones – Instead of just thinking about refining height controls, think about where additional density and height makes sense for the urban fabric and walkability of the City and allow flexibility for certain types of projects or projects that meet specific requirements.	Revised drafts allow additional height in locations that align with city goals.
Richard Marino	08/14/2023	Email	7. Dimensional Standards	Table 7-C: Mixed-Use Zone Dimensional Standards	Regarding the recoding of Portland I would like to make several comments and suggestions. I believe many of the recommendations are fine. Especially in respect to ADUs. My biggest concern is the increase in height and density in B1. As an abutter in a R6 neighbor zone it will dramatically affect my residence. I and my neighbors were prepared to live under the current situation. In our particular development of Munjoy Heights we have 29 townhomes on 68000 square feet. If the proposed changes go thru our neighbor at 165 Washington Avenue could develop most of 70,000 square feet to a height of 50 feet. It probably would in effect be a building of 5 stories as opposed to 4 stories. All of this without any input from the people it affects most. From an aesthetic perspective and density perspective this is too much. I understand the need for more housing in Portland. There has to be a balance between the citizens that live in the city and the community of special interests that will gain financially from development. I do have a recommendation for B1 as it pertains to 165 Washington Ave. I can't speak to other areas in the B1 zone. I would suggest a height of 40 feet (average existing grade for a benchmark as suggested in the recode). I would also recommend an increase in height up to a maximum of 60 feet as long as it does not increase the net total of square feet. Any increase on part of a building would be offset by a decrease on other parts to maintain the 40 foot average. This could make the building more interesting by getting away from the monolithic boxes that are being built now. This would give the developer an opportunity do develop 260,000+ square feet.	The city's policy guidance supports additional density and growth in zones like the B-1 as a way to encourage housing, mixed-use, and complete neighborhoods. Regarding height, the long-standing practice has been to measure height to a single point for ease of administration. Stepbacks help to achieve some of variation in form.
PHA (c/o Sarah Tatarczuk)	10/12/2023	Email	7. Dimensional Standards	Table 7-C: Mixed-Use Zone Dimensional Standards/Height stepback	3) Height Maximum in B-2 district at 50' when within 25' of RN-4 • IMPACT/EFFECT: This regulation would limit the future development potential in certain corridors. In particular, PHA is concerned this would curtail future affordable housing projects at Sagamore Village along Brighton Ave., which we anticipate will be rezoned to B-2. This location is adjacent to a major corridor with existing infrastructure and transit available and could support redevelopment with increased density of new affordable apartments. The result of this regulation may be somewhat fewer new affordable homes built at Sagamore Village and elsewhere within the B-2 district. • RECOMMENDATION: We recommend that the City eliminate the height restriction in the B-2 when abutting within 25' of RN-4 for affordable multifamily projects, or allow for an exception for affordable housing projects.	These stepbacks are designed to help manage the transitions between increased height in mixed-use zones and adjacent residential neighborhoods.
Portland Foreside (c/o Mary McCrann)	10/13/2023	Email	8. Overlays	MHNCO	Consider the continued applicability of the Land Use Code's overlay zones – Consider eliminating the Munjoy Hill Neighborhood Conservation Overlay Zone now that the Munjoy Hill Historic District has been adopted.	This zone was eliminated by prior Council action.
Virginie Stanley	10/18/23	Email	N/A	In general/miscellaneous	Just a question do you happen to know when the Recode might go into effect, or is it so political that it is [hard to say.]	Adoption will depend on the public, Planning Board, and Council review process.
Rhonda Berg	11/14/23	Email	N/A	In general/miscellaneous	When will new set-back and lot size rules go in to effect? Our lot is in the IR-1 zone. The public sewer stops one house short of ours. 7 houses all with bigger lots could benefit from public sewer on Pleasant Avenue. Is there any plan to extend it? Would it make a difference if the property owners say they are willing to add ADUs should the be able to hook-up to the sewer? Thank you.	Adoption will depend on the public, Planning Board, and Council review process.
Phyllis Guevin	08/11/2023	Form submission	N/A	In general/miscellaneous	Could you please provide the traffic studies that should coincide with any city growth considerations .We need to limit the number of people in our city to avoid adding more traffic until road widening,overpasses,and extensive planning for more cars which our current roads cannot handle as they ave not been widened since the forties.Let's concentrate on comfortable ,safe ,wide roadways to accommodate auto traffic while keeping population growth in the city at a minimum.There is a great need for population growth in northern maine to fill vacant jobs.We can make bike trails in the woods and parks to keep our roads safe for car travel the most practical mode of transportation in our wintry state.Iam not in favor of taller buildings due to blocking our views.Again overcrowding residential lots is not [sic]	Changes to encourage more housing are based on policy guidance from the Council-adopted comprehensive plan, which set a growth target.
Karen Snyder	08/14/2023	Email	N/A	In general/miscellaneous	Recode Phase 2- First Wave Question #1: How is the City of Portland Planning Department Ensuring that a Socioeconomic Diversity of Long-Term Residential Housing will be built especially for the "Missing Middle"? There is no factual evidence that the Planning Department proposed Recode Phase 2 First Wave recommendations will ensure that long term residential housing will be created especially for the "missing middle" or even to protect existing working- and middle-class housing stock. Proof of this is the failed 2015 R6 zoning change recommendations made by City of Portland Planning Department which primarily targeted Munjoy Hill. For example, Between 2016 to 2020, it is estimated that over 50 apartment rentals were removed from 19 demolitions to be replaced with over 100 luxury housing units mostly part-time housing with only 1 laughable "affordable" housing project at 65 Munjoy St which consisted of 8 housing units where people have to be making 120% of AMI which is approx $80,000/ annual income for a single person. The biggest consequence of the 2015 R6 Zoning change which primarily affected Munjoy Hill were: (1) the increase of luxury condos and luxury single family homes, (2) an accelerated property value assessments of existing housing stock with the highest avg property tax increase of 40% in the city, and (3) the price gouging and accelerated rents on existing rental units, and (4) the rampant increase in Airbnbs as the City continues to ignore enforcing the illegally operated Airbnbs These above consequences have caused Munjoy Hill to NOT be a complete neighborhood but a transient place where long-term residents have decreased with an increase of property investors and temporary residents made up of part time luxury condo owners and Airbnb's dragging their suitcases through the streets. What will happen? These proposals will only motivate developers to continue to demolish in order to either create property investment luxury housing for the wealthy and/or subsidized low-income housing and push out even more middle-class tenants and property owners similar to what happened with the 2015 R6 zoning changes which resulted primarily in a proliferation of luxury condos and a reduction of long-term residents on Munjoy Hill.	Changes to residential uses and dimensional standards city-wide will help to create opportunities for additional housing across neighborhoods, some of which will represent small increments and some of which are likely to be more significant. Altogether, these changes should help create opportunities for 'naturally-occurring' affordable housing, in addition to housing at other price points.

NAME	DATE	SOURCE	ARTICLE	TOPIC	COMMENT	RESPONSE
Karen Snyder	08/14/2023	Email	N/A	In general/miscellaneous	Ultimately, it appears the City of Portland Planning Department does not want actual long-term residents but a "Disney Land" city where the housing density is for property investment use and to cater to commercial and non-residential business owners. Long term Portland residents need to realize the City of Portland is registered as a corporation in which policies are NOT meant to ensure long term residential housing and long-term residents but instead policies are created to favor businesses that cater to property investors, real estate, tourists, wealthy, non-profits and restaurant industries at the expense of long-term residents and the environment	Changes to residential uses and dimensional standards city-wide will help to create opportunities for additional housing across neighborhoods, some of which will represent small increments and some of which are likely to be more significant. Altogether, these changes should help create opportunities for 'naturally-occurring' affordable housing, in addition to housing at other price points.
Karen Snyder	08/14/2023	Email	N/A	In general/miscellaneous	Unfortunately, until the City of Portland Planning Dept can prove otherwise, this Recode Phase 2 First wave proposals will once again cause Munjoy Hill and possibly other residential neighborhoods to become more of temporary enclaves for the wealthy and/or subsidized housing while continue to pushout even more working- and middle-class long term residential property owners by continued unfair and inequitable property tax increases which will be passed to their tenants without protecting or ensuring long term residential housing is being created especially for the missing middle.	Changes to residential uses and dimensional standards city-wide will help to create opportunities for additional housing across neighborhoods, some of which will represent small increments and some of which are likely to be more significant. Altogether, these changes should help create opportunities for
David Lehman	10/19/2023	Email	N/A	In general/miscellaneous	I hope you are doing well. My wife and I moved to Maine last June for my Residency training at Maine Medical Center, and we were surprised by how difficult it was to find affordable housing. After having seven offers on different homes in the greater Portland area rejected we were extremely lucky to purchase a home in north Westbrook. Since that time I have been thinking about others that are in a similar situation that weren't as lucky. I strongly want to help create opportunities for others that simply cannot due to lack of inventory in the market. I have been looking for land to create an affordable housing subdivision with the goal being to create a community of 1-2 bedroom homes with 800-1200 sqft per home in an effort to help as many as possible. I have talked with 50+ young medical trainee's and nurses who are currently renting who would do anything to have the chance to buy a home. Would a project like this be feasible for the property at 4 Oramel Ave? Are there zoning restrictions? If so, how can I participate in advocating for changing zoning laws? Or, are there other areas that you know of that would be able to accommodate a subdivision like this?	Drafts include use and dimensional changes designed to support many additiona housing typologies.
Gabriel Ruffin	08/14/2023	Email	N/A	In general/miscellaneous	I haven't learned much about the changes that the City of Portland is making to the zoning laws, but from what I understand I am in support of the new changes. I really appreciate the changes to areas that were previously single-family-zoning exclusive to allow for double-family residents. I also appreciate the addition of Transit-Oriented-Development zones, one of the places in which I believe Portland has the most room for improvement. I believe the addition of more complex family housing into our existing neighborhoods will help all Portland residents with walkability, rent control, and quality of life. The current state of many of the "Single-Family" zoned spaces in Portland are being rented out, sometimes to upwards of 3 different tenants. With spaces zoned for additional residents to begin with, we may find that the price of some of these Attic and Basement 1-bedroom apartments will adjust to a new market normal, helping all Portland renters, esp. low-income folks. This effect is even greater when designing and zoning for multiple-family-zoning above 3 or 4 families, and so I am in favor of the City of Portland zoning additional space for those developments. With changes such as these on the horizon, I think Portland could be stepping towards a brighter, more affordable, easily walkable future.	Revised drafts generally continue to support many of these concepts.
Robert Kahn	09/05/2023	Form submission	N/A	In general/miscellaneous	My comment and concern is that the city puts a lot of time and resources into the zoning code and then ignores zoning when a large development proposal comes before it. This happens time and again. Height limit was exceeded at the apartment building under construction behind the Congress St post office. For what reason? That building is way out of scale with the surrounding buildings. With the mega-project at the base of Munjoy Hill, the developers have submitted one plan which they ignore and do what they want and as they please. Who's watching? Will there be any meaningful enforcement? Yet, if homeowners request a small allowance to building or zoning codes, they are hit over the head with the code books.	The land use code applies to all development in the City of Portland.
Tim Wells	10/13/2023	Konveio	N/A	In general/miscellaneous	A lot of really good work has been done to make this document more usable. Kudos to staff for all that work. It is obvious that a lot of thought and discussion has taken place. I believe there is room for improvement to more aggressively address urgent challenges like climate change, livability and affordability and availability of a multitude of home choices. Re-writing zoning code is a rare event having last been done 55 years ago. The stakes are high. So comments, by definition, are suggesting change and may have a tone of criticism but this process of collaboration is a healthy back and forth to seek clarity for the reasons behind decisions in the spirit of improving outcomes for Portland.	Revised drafts continue to fine-tune changes meant to address these types of comments.
Laura Glendening	10/17/2023	Email	N/A	In general/miscellaneous	Are you aware of an official Housing Needs Assessment for Peaks Island that has been completed recently? Our committee is interested in seeing a needs assessment for the Island.	Assessments of housing needs are always welcome.
GPL Advocacy Committee	12/15/23	Email	N/A	In general/miscellaneous	Although we have identified several areas of concern above, we also have areas of the proposed land use code revisions that we support. We support proposed dimensional changes that build upon the characteristics of Portland's neighborhood's that were of necessity built close to a variety of destinations, including public transit. We believe neighborhoods like those off Brighton, Washington, and Forest Avenues are good models for a more transit-oriented city. These neighborhoods contain examples of multi-family and mixed-use buildings that support the city's goals to create opportunities for a variety of housing types and denser neighborhoods. We also support proposed changes that would permit commercial uses at strategic locations in residential neighborhoods to recreate the historic mix of land uses that organically developed in Portland's neighborhoods in the late 19th and early 20th centuries.	The revised drafts continue to support a variety of housing types, particularly around transit, as well as neighborhood scale commercial. See also map changes proposed under the 'second wave' of ReCode changes.
Liz Trice	10/11/2023	Konveio	N/A	In general/miscellaneous	Good job cutting it down; I think it needs another pass to reduce # of words by another 50%. There are so many special exceptions.	One of ReCode's major goals is to cimplify the code.
Laura Glendening	10/17/2023	Email	N/A	In general/miscellaneous	What is the City's position regarding limiting short term rentals such as Airbnbs? It seems as if short term rentals have had a negative influence on available housing stock on the island – as homes once owner occupied year-round are now being purchased for the business of short term rentals.	Short-term rentals are regulated under Chapter 6 of the City's Code of Ordinances, the building code.
PIC	1/11/24	Email	N/A	In general/miscellaneous	This is obviously a major issue on the island, and one with a great diversity of opinions, as the Casco Bay Islands are theonly part of the city that has effectively no regulation of STRs. After a great deal of community lobbying, the PIC has madea commitment to examining this issue closely through a new committee. There is interest among the Housing & ZoningCommittee for ReCode to take a look at STRs on the island, however the PIC's approach may end up leading straight tocity council and the ordinance revision process.	Short-term rentals are regulated under Chapter 6 of the City's Code of Ordinances, the building code.
Phyllis Guevin	08/15/2023	Form submission	N/A	In general/miscellaneous	Everything I just read is counter to what native Portlanders want,seniors need,and the Maine climate requires,I.e.,improved and widened roadways with removal of bike lanes and decreasing unnecessary streetparking.This is a foolish idea and will be voted down.	The comprehensive plan supports additional, walkable growth.

NAME	DATE	SOURCE	ARTICLE	TOPIC	COMMENT	RESPONSE
GPL Advocacy Committee	12/10/23	Email	N/A	In general/miscellaneous	While much of the conversation has been on how the proposed changes might catalyze new construction, equally important to us is how the new rules will 'legalize' non-conforming historic buildings, especially in older neighborhoods off the peninsula. The land use code should incentivize retention of existing residential structures, in furtherance of sustainability and protection of local fabric. In those limited circumstances when new construction is appropriate in older neighborhoods (vacant lots, non-residential structures, non-contributing structures) our concern is that new construction should not just fill the permitted building envelope, but should integrate into the existing fabric, even if it is larger in height or mass. The design standards, their focus on the examination of context, and their application will be crucial to facilitating that integration. We look forward to seeing the updated design standards manual in the new year and hope they will be brought forth for adoption in tandem with the land use code. We also feel strongly that referencing the design standards explicitly within the dimensional standards section will be important to alert any developer or building owner that both sets of standards must be met. We agree with the statement in the Camiros' Recode Phase II Land Use Code Evaluation Report "Further, it can include thinking carefully about the design and context of development in Portland, helping to ensure that the essential historic fabric of the city remains intact and that — though architectural styles may vary — new development remains authentic to the local character and complementary to the Portland vernacular." We also agree with the goals of encouraging "compatibility and context sensitivity" which are referenced in the draft residential neighborhoods purpose statements. But we find that that those concepts are only partially operationalized in the current draft and note that they are particularly absent int the proposed RN-5 zone. As noted above, an essential part of the operationalization requires finalizing the updated design standards and incorporating them into the land use code by appropriate references stating that a proposed development must meet both zoning dimensional standards and the design standards.	The dimensional standards proposed under ReCode are not generally designed to radically reshape the built environment, but to allow a degree of flexibility and change that acknowledges that additional housing and mixed-use are goals of the comprehensive plan. The drafts allow conversions and adaptive reuse as well as new construction.
PIC	1/12/24	Email	N/A	In general/miscellaneous	It is unlikely that there is a higher density of unresolved paper roads anywhere else in the city than there is on Peaks, dueto convoluted decades of city planning (...unplanning, deplanning, replanning...) and the intersection of shoreline access.This is a critical issue to many islanders and one the PIC is continuing to look at. As it intersects with the PlanningDept's work, do keep us in loop.	The legal status of paper streets is a larger city issue. However, Article 6 does address policy around the construction of roads within paper streets for the purposes of building on adjacent lots. These provisions have been revised under RECode.
George Katilus	10/11/2023	Email	N/A	In general/miscellaneous	I am a resident of North Deering off of Allen's Corner. I think Allen's and Morril's need serious revitalization. At their current state, they provide little to no value to the dense population surrounding the immediate areas. Instead, I feel as these areas are only oriented towards the vehicle traffic that passes through. I wish there could somehow be a redirection of traffic to reduce congestion in the area; more locally owned small businesses, stores, restraints, and cafes; increased priority to pedestrians (it is a scary, ugly, loud place to walk); a reduction and prevention of any more drive-thorough fast food chains and overall a more community-oriented approach to development with mixed use-multi-story buildings. In short; I would see protected bike lanes, transit, walkability, greenery, and local business that makes this area attractive to residents rather than a dangerous, congested thoroughfare serving only those passing by.	The zoning is related to this issues. The revised drafts, when coupled with proposed map changes, are designed to provide more opportunities for pedestrian-oriented mixed-use in areas like these.
Peaks Councilors & Housing + Zoning Subcommittee	10/10/2023	Email	N/A	In general/miscellaneous	Sprinklers - This may be too minute for ReCode to touch, but currently there is a rule that if you touch over 50% of a building you must put in sprinklers. Could this requirement be exempted for some island homes? Such systems make either city supplied water or a well with a pump necessary, which isn't possible in all situations on Peaks. This makes it impossible for many homes to be renovated without an astronomical expense, leading to only wealthy buyers being able to make the numbers work.	This is a building code issue.
Kellan	07/16/2023	Konveio	N/A	Map	The existing zoning map has too many business deserts. The new map needs to allow for more small scale low impact businesses (~ < 1200 sqft) to operate within these large exclusively residential zones. Any carveouts that happen to have been grandfathered in as B-1 are wildly popular with residents who by and large would prefer to walk to businesses when given the option.	Policy goals around complete neighborhoods and access to neighborhood business has been address through the creation of a neighborhood nonresidential reuse category and through additional B-1 mapping.
Patrick Hess	08/09/2023	Form submission	N/A	Map	Oxford St in West Bayside offers good opportunities for infill development, especially of much-needed housing, close to transit, services, and amenities on peninsula. The zoning however is inconsistent. For example, between Chestnut and the block between Cedar and Elm, the City should consider rezoning to extend the adjacent B7 found along Oxford east of Chestnut.	See map changes released under the 'second wave' of ReCode edits.
David Eaton	1/24/24	Email	N/A	Map	I am working with a developer on a multi unit apartment project on Saunders Street near Woodfords Corner. The current zoning is B-2, except the parcel is partially split into the R-5 zone. With what we know about ReCode, thepotential to add up to 15 units to this 30 unit project with the proposed new 65' height limits, is affected by the newrequirement for a 50 foot setback from the zoning boundary for floors above 45', which would prohibit about half of theadditional units if the zoning line is not moved to the property line. Will situations such as this be addressed in the zoningmap boundaries as part of recode? Should we be seeking a map amendment in the meantime? You can call me at 841-5894 if you would like to talk about it.	See map changes, which have resovled many split lots.
Rachel Conly	10/13/2023	Email	N/A	Map	I know that revised maps have not yet been proposed, however, I want to also take this opportunity to makea comment about the IB Zone on Peaks Island. Business development is nearly impossible out here as aresult of the geographic location of the IB zone which comprises mostly waterfront properties. The propertyvalues are far too high for most small scale entrepreneurs. I think allowing accessory structures (and uses)in the IR-2 as noted above could help, but I also think expansion of this zone is needed. The non-residentialreuse proposal would not have much impact out here, if at all.	Some limited expansion of the I-B proposed under map changes.
PIC	1/10/24	Email	N/A	Map	While the PIC has not deeply investigated this topic yet, our Housing & Zoning Committee has suggested the PlanningDepartment look at light industrial zoning by the Transfer Station with the creation of a city-owned parking area in thesame area that will allow for the permitted parking of industrial vehicles.	No light industrial is proposed on the islands at this time.
Sheila Mayberry	08/16/2023	Email	N/A	Process	I am writing to you today to share my impressions of the Open House I attended lastnight at Lyseth. The Recode Portland presentation was difficult to watch and ingest for avariety of reasons. The information presented in the powerpoint was too tiny and denseto even read. The man presenting the information spoke quickly and used too muchplanning board jargon. The overall leader of the workshop was not responsive to theattendees in the room. She was dismissive and she lacked a willingness to listen to therequests of the people in attendance. Overall it felt like the goal was to just go throughthe motions to say there had been public input. In addition, the Open House was poorlypublicised which honestly appears to have been intentional. Code proposals of this magnitude need to involve all stakeholders throughout the city inorder to have a true understanding of the impact on homeowners in everyneighborhood. Transparency in this process appears to be lacking which will only lead topoor overall results. I encourage you to revisit the way information is being disseminated to the public andimprove the transparency of this process.	Additional 'zone guides' were developed following the open houses to help provide some guidance on the proposed 'first wave' drafts.

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Julie Dubofsky	08/16/2023	Form submission	N/A	Process	My apologies for not getting to drop a comment - I blame my toddler - but I meant to relay a positive comment on the extensive work and excellent website. I brought my parents along and in case they don't relay their feedback, I wanted to jot it down. 1. Zoning is intimidating - Maybe a poster or a Zoning 101 video to add to the videos on the Resources page and something at the workshops to help the general audience understand. 2. "What's it mean to me?" - I bet everyone is asking for a map showing the zone changes. I did nudge a stranger to pick up the binder of the existing code to look at the use changes, but maybe a sign being as blunt as that to help someone see what it means for their neighborhood would help. 3. "they're banning single-family homes" - just because you don't understand something, doesn't make it stupid, which is what I should've said to the lady who called all this work stupid because they're "urbanizing the city." She lived by the elementary school and even my mom's efforts to point out that their neighborhood had lots of types of housing, didn't relieve the fear this neighbor expressed. So maybe something showing the changes to the dimensional standards in the more suburban (nay, ruralish) areas might help relieve some of those fears? Excellent work overall and excited to see "residential neighborhoods" and the new uses - the neighborhood non-residential reuse category especially. Visuals of existing contexts and landscapes, by corridor, node or zone, is always helpful to illustrate changes across audiences. Hate to suggest the CNU transect, but even Portland has one and there are great local illustrators who may be interested in showing it (see Maine Needs' recent drawing contest as an example).	Additional 'zone guides' were developed following the open houses to help provide some guidance on the proposed 'first wave' drafts. See zone guides at www.recodeportland.me.
Mary McCrann	07/06/2023	Email	N/A	Process	What is the timeframe currently for accepting public comment on the First Wave of Recode? Also, what is the schedule/timeframe for the project moving forward? When are other phases coming out? When will you go to the Planning Board?	Adoption will depend on the public, Planning Board, and Council review process.
Jim Wolf	07/12/2023	Form submission	N/A	Process	Do you know when the city plans to enact the recode. Thank you	Adoption will depend on the public, Planning Board, and Council review process.
Holly Perry	09/03/2023	Form submission	N/A	Process	Hello, when does the City anticipate these changes being released and officially adopted into the Land Use Code? Thanks!	Adoption will depend on the public, Planning Board, and Council review process.
WPNA via Anne Pringle	08/08/2023	Email	N/A	Process	On March 9, 2015, the WPNA sent a formal letter (below) expressing concerns about the then-proposed (later-enacted) density changes to the R-6. On its face, it made sense to conform zoning to the then-existing development pattern, which would not have been allowed under the existing zoning. Unfortunately, we believe that the "unintended consequences" we foresaw have come to pass on Munjoy Hill. And now, it appears that the density proposals in ReCode II might follow the same approach and thwart the policy objective that failed on Munjoy Hill – to produce more affordable housing. Before going forward with the public review process, we formally urge that you slow the process down and take stock of what has happened on Munjoy Hill since the density was change. These questions must be answered: ~~How many existing units were demolished? What was the location and assessed value of each of those units? At the then-assessed value, were these units considered "affordable"? ~~How many new units were created, either on cleared land or vacant land? What was the sale price of each unit created? ~~How many "affordable units" were created on Munjoy Hill? How many units were affordable to "the missing middle" vs. subsidized housing? ~~If developers opted out of creating the required affordable units, how much money was contributed to the Duson Housing Fund? How many "affordable" units, in aggregate, would those donations have created in this expensive construction market? ~~Was there a net loss of affordable units on Munjoy hill? ReCode II could produce very significant and unintended changes in Portland's housing stock and affect the composition of its residential neighborhoods, as the R-6 changes sis on Munjoy Hill. Let's take time to "get it right".	Changes to residential uses and dimensional standards city-wide will help to create opportunities for additional housing across neighborhoods, some of which will represent small increments and some of which are likely to be more significant, some of which may occur as conversions and some of which may result from new construction. Altogether as a whole, these changes should help create opportunities for 'naturally-occurring' affordable housing, in addition to housing at other price points.
Laura Glendening	07/11/2023	Email	N/A	Process	In the community meeting we see the need for your department to highlight: How the draft ReCode changes zoning on Peaks Island. How the draft ReCode will assist with the development of affordable housing. And to hear from the community the zoning needs on the island, to allow for community input in the development of the new Land Use Code.	These topics were discussed at the Peaks Island open house.
Phyllis Guevin	07/18/2023	Email	N/A	Process	This video is useless. I want to read about any changes and their legality word fir word in a written document.I learned nothing from the useless video and could not read for myself the tiny print.Also why is the code being changed and who authorized it and for what purpose?I hope nit to jam more housing in Portland.we need wider roads,overpasses,more traffic lanes and a comp,etc traffic oriented restructuring of the city and a moratorium on any more people settling in Portland.It's way overcrowded.I know.I was born and raised here and little has been done to manage traffic except paint ridiculous lines.we need a new engineer team brought in from other cities that are truly growing their roadways while limiting overcrowding.The bollards have to go.they are a driving impediment and dangerous distraction.Roads are built for cars and sidewalks for pedestrians.Hire a new engineering team first and foremost!Lets get Portland driver friendly.Thank you.email me the documents and the info I requested.Phyllis Guevin.	The city's comprehensive plan supports additional growth.
Priscilla Doucette	08/14/2023	Form submission	N/A	Process	Could you give me a brief summary of the proposed changes for zoning are free.	See zone guides at www.recodeportland.me.
Connect Portland	07/11/2023	Email	N/A	Process	A meeting was organized for housing developer "stackholders" on ReCode. Will there be similar meetings for affected neighborhood resident "stackholders" in order to engage the community for their feedback on ReCode?	In-person events were held in mid-August, and a virtual event in mid-September. Staff has also met with various groups upon their request throughout the fall and winter.
Connect Portland	07/14/2023	Email	N/A	Process	Thank you, Nell. What Recode mailing list are you referring to? Who is on this list? We would like a copy. How will you notice beyond referring people to the ReCode website as most people are not aware and it is a very complicated document especially for the lay person? How will you reach a city-wide audience given the implications to every neighborhood in the city?	Join the ReCode mailing list here: www.recodeportland.me/contact-us
Damon Yakovleff	08/04/2023	Email	N/A	Process	Generally speaking, please work to include more information about how Portland is complying with LD2003 on the recode website. Look to relax dimensional requirements. And also clear up ambiguity with the RN2 zone, and provisions around the 2.5x density bonus.	LD 2003 changes were adopted by the City Council in late 2023. More information can be found on the ReCode website: www.recodeportland.me
Damon Yakovleff	08/04/2023	Email	N/A	Process	I have a few questions regarding how the changes interact with the requirements in LD2003. Specifically, it seems that the "growth area" is a key consideration. It is not clear exactly where the growth area is located. Please make sure this is clearly identified in the website.	LD 2003 changes were adopted by the City Council in late 2023. More information can be found on the ReCode website: www.recodeportland.me

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Cheryl Leeman	08/11/2023	Email	N/A	Process	More public engagement is needed! Although there have been videos and there are 3 planned Open Houses, it is not enough. There should be more outreach to neighborhood groups and additional forums in the neighborhoods affected by an urban planning approach to land use codes with sweeping changes that in some cases does not appear to "respond to each areas context." And it is unfortunate that the Planning Board will not have the benefit of public comment from these forums for their Workshop.	More public engagement will occur during the review of the 'second wave' of edits.
Leslie Hart	08/13/2023	Email	N/A	Process	As a Portland resident, I am writing to encourage you to slow down the rapid-fire rush to approve Recode Phase 2 until all constituents have ample time to review and comment upon the sweeping changes in this proposal and their potential negative impacts on the city. Many of the Recode Phase 2 elements fly in the face of the City's Portland Plan 2030 adopted by the City Council in June 2017. Specifically the comprehensive Portland Plan, developed with input from city-wide stakeholders, recognizes Portland's built environment and natural environment are inseparable in any consideration of sustainable quality of place The Portland Plan calls for creation of complete neighborhoods by improving livability while retaining the key characteristics that make neighborhoods unique maintaining and enhancing the uniqueness and integrity of our neighborhoods maintaining our character through preservation, innovation, and excellence in design for the built environment developing land use policies which support complete neighborhoods Yet the Recode Phase 2 plan would do away with conserving the existing housing stock and residential character of neighborhoods....and controlling the scale of external impacts of professional offices of non-residential use permit increased height from 45ft to 65ft or 50ft if there is first floor commercial use in the B-2b zone along Washington Avenue & Bayside reduce set-backs so that the amount of trees and plantings would be left to a developer and might well be minimal not make Portland any more equitable or affordable not facilitate the type of housing and business Portland residents desire The Portland Plan also acknowledges that Diverse forums for community engagement will remain essential to a strong civil society. Yet three rushed meetings crammed back-to-back in three days hardly constitutes adequate and diverse forums for community engagement. Please provide more time and opportunities for the public to engage. And please respect the vision for Portland that was established in 2017 by the Planning Board, the City Council, Office of the City Manager, all under the leadership of Project Manager Christine Grimando.	More public engagement will occur during the review of the 'second wave' of edits.
Karen Snyder	08/14/2023	Email	N/A	Process	Question #3-Recode 2 First Wave: Recode II First Wave Public Feedback Time is Charade of Public Engagement and is Nothing but Theater. City of Portland Planning Department headed by Planning Director, Christine Grimando, and Special Project Director, Helen "Nell" Donaldson, claim they want public feedback prior to going to Planning Board workshop is disingenuous. Below is the City of Portland Planning Dept timeline for Recode Phase 2 First Wave public feedback. Friday, 6/23/2023 - Email from City of Portland Planning Dept announcing their proposals for Recode Phase 2 First Wave Changes Wednesday, 8/16/2023 - Planning Dept Open House on Recode Phase 2 11am - 1pm Portland Public Library 5pm-7pm Lyseth Elementary School Library Thursday, 8/17/2023 - Planning Dept Open House on Recode Phase 11am-1pm - Peaks Island Library Thursday, 8/17/2023 Planning Dept Planning Board First Recode Phase 2 Workshop (Same Day as Last Public Open House Meeting, How can Planning Dept incorporate any public feedback changes in a day?) Hybrid Planning Board ReCode Meeting • City of Portland Meetings & Agenda Portal • CivicClerk What will happen? This above public feedback timeline only proves that the City of Portland Planning Department is only wanting to "tick the boxes" by quickly holding public feedback meetings in the summer when they know residents are not engaged at inconvenient times and inconvenient places then immediately holding the first Planning Board Recode Phase 2 First Wave the same week in order to slip by as much as possible passed Portland residents.	More public engagement will occur during the review of the 'second wave' of edits.
Steve Whorf	07/01/2023	Konveio	N/A	Process	Suggest directly linking the headline of the zoning section of the document to an interactive map that tells you the zone and immediately links to the description and rules applicable to that zone.	More interaction between the web-based version of the code and the zoning map is a goal coming out of ReCode.
Anne Pringle	07/09/2023	Email	N/A	Process	In the text below, you note that emails comments are welcome and that in-person meetings will be held "during thesummer". I SRONGLY urge you to push the public process out to September. We are now well into the summer andmany people will be away and/or on vacation in August. "The City" will be roundly criticized for, after two+ years ofdevelopment, putting these very important changes out for public process at the worst possible time.	Public engagement on the 'first wave' edits continued into the fall.
Amy Oberlin	06/30/2023	Konveio	N/A	Process	Where is the accompanying map of the new zones? It is impossible to evaluate what effect these proposed changes will have without it, particularly in regard to brand new zones like TOD.	See map changes released under the 'second wave' of ReCode edits.
Amy Oberlin	6/30/2023	Form submission	N/A	Process	Will you be releasing an updated zoning map to show where these new zones will be located and how the existing zones have changed? It's hard to evaluate these potential changes without knowing where they will apply.	See map changes released under the 'second wave' of ReCode edits.
Rob Foster	07/03/2023	Email	N/A	Process	Hi - I'm looking over the most recent recode changes. Is there an updated zoning map that shows where the new transit-oriented development zones will be?	See map changes released under the 'second wave' of ReCode edits.
Virginie Stanley	07/05/2023	Email	N/A	Process	Thank you for sending out a draft of the Portland Recode. One item is confusing. It looks like R-5 is changing to RN-5, R-5a is changing to RN-6, R-6 what does this change into? R-6a is changing to RN-7. Do you have an updated zoning map showing where the Transit-Oriented Development Zone is located?	See map changes released under the 'second wave' of ReCode edits.
Rachel Conly	07/13/2023	Email	N/A	Process	I do not see any proposed island maps for reshaping the existing zoning boundaries. Should I assume that the boundaries are not changing?	See map changes released under the 'second wave' of ReCode edits.
Kimberly MacDonald	07/18/2023	Email	N/A	Process	The ReCode Portland first wave changes page on the website state that the zones look different—some new, some consolidated and the names of the zones have shifted (ex R-3 to RN-2). However, I can't find a map of the new zones on the website. Where have they consolidated, changed or been added? Can you direct me to a link to the proposed new zoning maps so that I can view how the zones have been changed/re-defined?	See map changes released under the 'second wave' of ReCode edits.

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Laura Glendening	10/17/2023	Email	N/A	Process	When will ReCode be publishing draft maps and will City owned shoreline access land and pathways be a part of this?	See map changes released under the 'second wave' of ReCode edits.
MHNO (c/o Barbara Vestal)	10/11/2023	Email	N/A	Process	1. THE PIECEMEAL APPROACH OF RECODE II IS A BARRIER TO MEANINGFUL CITIZEN PARTICIPATION. It is difficult for citizens to meaningfully participate in the ReCode II drafting process because the "First Wave" is only definitions, zones, uses and dimensional standards. We are "in the weeds" without any context. There are no maps, no development review standards, and the rest of the land use code is missing. Without a draft of the entire land use code document, it is difficult to tell what is intended by staff and the consultant for later sections. We will need the ability to go back and comment on the "First Wave" once later sections are released. It needs to be an iterative process.	The 'second wave' includes the sum total of the changes proposed, so that they can be viewed in their totality.
Cheryl Leeman	08/12/2023	Email	N/A	Process	NO analysis of impact of these changes regarding traffic, parking, environment, infrastructure and city resources. Studies show that "urbanization" can cause environmental and economic strain of land and people.	The ReCode work is a direct response to comprehensive plan goals around housing, economic development, and smart growth.
Barbara Vestal	07/04/2023	Form submission	N/A	Process	As an initial matter, I need help with a couple of inconsistencies to make sure I am reviewing the right thing. Your cover intro says that you have (in my opinion confusingly and unnecessarily) re numbered the residential zones so the old R-6 is now RN-5. But the purpose statements redline in Table 5-B shows old R-6 as new RN-6 (not RN-5). Maybe the problem is with the redlining. The uses in the chart for RN-6 seem to omit things that I would expect to see. Is there a map showing what the bulk of Munjoy Hill will be designated so I can confirm it that way? RN-5 or RN-6? Are you wedded to the idea of renumbering the zones? It would seem to be much less confusing to merge R-1 and R-2 into a new RN-1, skip RN-2 and just keep the same numbering as now -- with a RN in front of it if you prefer -- for zones 3, 4, 5, 6 and 7, with R-5a/R6a to be RN-6a.	The revised drafts maintain the numbering approach. While the transition may be challenging, it will take a short time for people to adapt to the new convention.
GPL Advocacy Committee	12/13/23	Email	N/A	Process	The zoning guides and additional graphics in the proposed sections are very useful for helping citizens understand the proposed changes. We feel strongly that modeling the proposed changes in various zones, as was done during the FBC changes in the India Street neighborhood, would also be helpful for those that don't follow zoning as closely as city staff and those in the development community.	The zone guides attempt to help visualize some of the changes proposed.
Barbara Vestal	07/13/2023	Email	N/A	Process	Similarly the design standards seem to have stalled out from the 2020 or 2021 overhaul. What is the intent with regard to revisions to the design standards?	This work will progress in parallel to ReCode.
Cheryl Leeman	08/11/2023	Email	Process	In general	Use/and Dimensional Tables do not include all the proposed changes – confusing as there are changes in the text but not included in the Use Table Examples; Conversions for Non-residential and Residential, Conservation and Cottage Court Developments and no footnote references in the Use Table that corresponds with the Dimensional Table	The tables can only fit so much text, so choices have been made about how to organize content within both tables and other sections of the code.

DATE	OPEN HOUSE	ARTICLE	TOPIC	COMMENT	RESPONSE
8/16/2023	Downtown	14. Site Plan	Landscape preservation & planting standards	Need to incorporate trees/landscaping when 100% lot coverage allowed.	See 'second wave' edits to the site plan ordinance.
8/16/2023	Downtown	3. Definitions	"Dwelling, townhouse"	Dwelling, townhouse requires each unit be on separate lot so no units can be above other units? Is this compliant with LD2003?	This definition is intended to distinguish the townhouse form, which is just one way of building housing. Vertical stacking would be permitted under the multi-family defition.
8/16/2023	Downtown	5. Zones	Table 5-E: TOD Zones	Light rail down Congress or Cumberland.	This is a transportation-related comment.
8/16/2023	Downtown	5. Zones	Table 5-E: TOD Zones	The entire peninsula should be zoned TOD-2	See map changes released under the 'second wave' of ReCode edits.
8/16/2023	Downtown	6. Use Standards	6.4.26 Neighborhood nonresidential reuse	Neighborhood non-residential reuse has the right idea for supporting neighborhood businesses. Would love to see it extended beyond “reuse” to apply to all structures.	New neighborhood businesses are not currently allowed within residential areas. The neighborhood nonresidential reuse provides new flexibility that allows them in certain circumstances. Other neighborhood business needs are addressed within the B-1, B-2 or other zones located nearby to residential zones. See related map changes.
8/16/2023	Downtown	6. Use Standards	6.4.26 Neighborhood nonresidential reuse	Non-residential reuse seems too restrictive and hard/laborious to back up. I own a 3-unit on Cumberland Ave. First floor is a business and has been a business for 70+ years. This is R-6 so business use is grandfathered. The structure was originally built for residential use. There is wallpaper behind the storefront windows. One year of vacancy terminates this use. This is not good. Need to better support and encourage neighborhood scale businesses.	New neighborhood businesses are not currently allowed within residential areas. The neighborhood nonresidential reuse provides new flexibility that allows them in certain circumstances. Other neighborhood business needs are addressed within the B-1, B-2 or other zones located nearby to residential zones. See related map changes.
8/16/2023	Downtown	6. Use Standards	6.7 Temporary uses	[Like most] temporary uses!	The revised drafts continue to include a section regarding temporary uses.
8/16/2023	Downtown	6. Use Standards	Table 6-A: Uses in Residential Zones	If you want to control business in residential areas, how about limiting businesses that do not provide goods and services to the neighborhoods or are blank storefronts.	B-1 uses attempt to distinguish between larger market retail and smaller, neighborhood scale retail.
8/16/2023	Downtown	6. Use Standards	Table 6-A: Uses in Residential Zones	Can clinics be allowed in multi-family residential properties? Portland Housing Authority has a great partnership with Greater Portland Health at our projects, including Sagamore Village, Riverton Park, Franklin Towers and hopefully more. Health is housing (and vice versa). We need the ability to provide basic healthcare services to our residents on-site.	Currently would be allowed in an incidental, accessory capacity.
8/16/2023	Downtown	6. Use Standards	Table 6-A: Uses in Residential Zones	Multi-family – this should be broken into mid and large scale. 5-25 units is different than 100 units and should have more places in the city.	Currently, the code defines multi-family as 3+ units. Moving to 5+ allows the code to capture a new increment of mid-scale housing that can be easiliy integrated into many existing neighborhood contexts.
8/16/2023	Downtown	6. Use Standards	Table 6-A: Uses in Residential Zones	Should make it easier to build middle-density buildings (5-10 units or so). Shouldn’t group 5+ units into only the highest density zones.	Currently, the code defines multi-family as 3+ units. Moving to 5+ allows the code to capture a new increment of mid-scale housing that can be easiliy integrated into many existing neighborhood contexts.
8/16/2023	Downtown	6. Use Standards	Table 6-A: Uses in Residential Zones	Need to catch mid-density housing types better. Small scale multi-family (5-20) is different than 100 units. Something of this scale needs to be called out.	Currently, the code defines multi-family as 3+ units. Moving to 5+ allows the code to capture a new increment of mid-scale housing that can be easiliy integrated into many existing neighborhood contexts. Over 5 units, scale is addressed through height and form.
8/16/2023	Downtown	6. Use Standards	Table 6-A: Uses in Residential Zones	Separation of Munjoy Hill from Washington Avenue especially by East End School and park does not reflect residential/commercial use by residents.	The B-2b zone on Washington Avenue allows a range of neighborhood- and larger scale businesses that can serve both small and larger catchment areas.
8/16/2023	Downtown	6. Use Standards	Table 6-A: Uses in Residential Zones	[Like most] added market gardens.	The revised drafts continue to include 'market gardens' as a use.
8/16/2023	Downtown	6. Use Standards	Table 6-A: Uses in Residential Zones	How do we get “complete neighborhoods” when neighborhood business is only allowed in places where the non-residential use structure already exists?	Generally, the approach to create more opportunity for small scale, neighborhood commercial is through neighborhood nonresidential reuse + mapping of more B-1.
8/16/2023	Downtown	6. Use Standards	Table 6-A: Uses in Residential Zones	Protect & encourage neighborhood business in residential areas.	New neighborhood businesses are not currently allowed within residential areas. The neighborhood nonresidential reuse provides new flexibility that allows them in certain circumstances. Other neighborhood business needs are addressed within the B-1, B-2 or other zones located nearby to residential zones. See related map changes.
8/16/2023	Downtown	6. Use Standards	Table 6-A: Uses in Residential Zones	Allow residential buildings to be used for retail as long as the building can be converted back.	New neighborhood businesses are not currently allowed within residential areas. The neighborhood nonresidential reuse provides new flexibility that allows them in certain circumstances. Other neighborhood business needs are addressed within the B-1, B-2 or other zones located nearby to residential zones. See related map changes.
8/16/2023	Downtown	6. Use Standards	Table 6-A: Uses in Residential Zones	Places of assembly should be permitted for multi-family properties especially in RN-4 through RN-7. Needed to provide resident services to low-income residents in affordable projects.	Places of assembly are listed as conditional uses in the RN zones.
8/16/2023	Downtown	6. Use Standards	Table 6-A: Uses in Residential Zones	Kill the PRUDS!	PRUDs have been eliminated in the drafts.
8/16/2023	Downtown	6. Use Standards	Table 6-A: Uses in Residential Zones	We need the “corner store” allowable in all zones and all buildings.	See map changes released under the 'second wave' of ReCode edits.

8/16/2023	Downtown	6. Use Standards	Table 6-A: Uses in Residential Zones	Allow all buildings constructed or modified for commercial use to be used for commercial.	See neighborhood non-residential reuse provisions.
8/16/2023	Downtown	6. Use Standards	Table 6-A: Uses in Residential Zones	RN-2 - concerned about converting single-family dwellings to multi-family.	The drafts would not allow multi-family as a permitted use within the RN-2, except as affordable housing or adaptive reuse of existing non-residential buildings, as is permitted under the existing code.
8/16/2023	Downtown	6. Use Standards	Table 6-A: Uses in Residential Zones	Encourage the creation of more housing through renovation and new construction.	The ReCode changes allow new residential uses to occur in both ways.
8/16/2023	Downtown	6. Use Standards	Table 6-A: Uses in Residential Zones	Allow more multi-family, especially small ones.	The ReCode edits create more opportunity for 3-, 4-, and multi-family.
8/16/2023	Downtown	6. Use Standards	Table 6-A: Uses in Residential Zones	RN-5 – will all of this just lead to more teardowns?	There is no prohibition on tear-downs proposed within the base zoning.
8/16/2023	Downtown	6. Use Standards	Table 6-C: Uses in Mixed-Use Zones	118 Congress St. got height bonuses and 1st floor retail with community support.	The revised drafts maintain the B-1 zoning, which supports mixed-use with first floor retail.
8/16/2023	Downtown	6. Use Standards	Table 6-C: Uses in Mixed-Use Zones	These storefronts are dead – e banking and showroom for high-end condo interior design. Not food, not stuff the neighborhood needs.	The revised drafts maintain the B-1 zoning, which supports mixed-use with first floor retail.
8/16/2023	Downtown	6. Use Standards	Table 6-C: Uses in Mixed-Use Zones	B-1 and B-2 should allow at least 4 units of density. No need to stop at 2! (+1)	More than four units are currently permitted within these zones.
8/16/2023	Downtown	7. Dimensional Standards	7.2 "Frontage"	Do we define frontage and encourage or demand that buildings face the street and provide primary entrance to the street?	Street frontage is defined in Section 7.2. Many design standards within the Design Manual reinforce the concept of the principal entrance facing the street.
8/16/2023	Downtown	7. Dimensional Standards	7.2 "Height"	Height – how will measurement work with punch outs?	Drafts modify the rule of measurement to standardize the methodology and ensure measurement at regular intervals.
8/16/2023	Downtown	7. Dimensional Standards	7.2 "Height"	Height measurements need to be refined to reflect new building methods and climate change and noise isolation.	Revised drafts include some changes in permitted heights, particularly within the mixed-use context.
8/16/2023	Downtown	7. Dimensional Standards	7.2 "Height"	For grade measurement it should be measured from the front façade on the street and not points around foundation.	The drafts simplify and clarify the existing height rule of measurement.
8/16/2023	Downtown	7. Dimensional Standards	7.2 "Height"	Grade should be based on street experience.	The drafts simplify and clarify the existing height rule of measurement.
8/16/2023	Downtown	7. Dimensional Standards	7.2 "Height"	Heights on mainland should be measured from pre-development topography.	The drafts simplify the rule of measurement for height.
8/16/2023	Downtown	7. Dimensional Standards	7.4 Alternative Residential Development Options	Cottage courts only allow 25% two-family structures, [the] rest must be single. Remove this requirement! Does it comply with LD2003?	Conforming lots would be eligible for units under LD 2003 provisions. Cottage courts would provide an alternative way to develop these units.
8/16/2023	Downtown	7. Dimensional Standards	7.4 Alternative Residential Development Options	[Like most] cottage courts.	The revised drafts continue to include cottage courts as an alternative development typology.
8/16/2023	Downtown	7. Dimensional Standards	7.6 Towers	Do not like the 10,000 sf maximum floor plate for towers, current (small) towers barely fit.	This language has been maintained in revised drafts.
8/16/2023	Downtown	7. Dimensional Standards	7.6 Towers	10,000 floor plate is too limiting.	This language has been maintained in revised drafts.
8/16/2023	Downtown	7. Dimensional Standards	Table 7-A: Residential Neighborhood Zone Dimensional Standards	RN-5 needs standards for compatibility and context sensitivity.	Dimensional standards have been modified in small ways to promote context sensitivity. See height standards adapted from the MHNCO.
8/16/2023	Downtown	7. Dimensional Standards	Table 7-A: Residential Neighborhood Zone Dimensional Standards	[Like most] integrity of built environment in R-6.	The ReCode drafts, including the recently-adopted LD 2003 changes, expand the residential uses permitted in residential zones, particularly the lower-density residential zones, while largely respecting existing lot and development patterns.
8/16/2023	Downtown	7. Dimensional Standards	Table 7-A: Residential Neighborhood Zone Dimensional Standards/Density	Max lot sizes are too small in some zones. ReCode seems to aim to permit density that would be bare minimum for walkable 10 min. neighborhoods where basic goods and services are available to neighborhoods	The drafts do not include maximum lot sizes. The ReCode approach is generally to allow more units without dramatically altering the existing buildng pattern.
8/16/2023	Downtown	7. Dimensional Standards	Table 7-A: Residential Neighborhood Zone Dimensional Standards/Height	Max. height limits seem too low. (City desperately needs to increase housing supply?)	Some RN heights have been adjusted (e.g. the RN-7). Others have been kept at 35', which is common in residential zoning.
8/16/2023	Downtown	7. Dimensional Standards	Table 7-A: Residential Neighborhood Zone Dimensional Standards/Lot area	Lots should not have to be any bigger than 5,000 sf in any part of the city.	The ReCode approach is generally to allow more units without dramatically altering the existing lot and buildng pattern.
8/16/2023	Downtown	7. Dimensional Standards	Table 7-A: Residential Neighborhood Zone Dimensional Standards/Setbacks	Update setback to allow addition to homes on smaller lots to keep families in the community that need a little more space.	The drafts include some modifications to setbacks to allow more flexibility around addition.
8/16/2023	Downtown	7. Dimensional Standards	Table 7-A: Residential Zone Dimensional Standards/Building length	RN-5 – consider lot merger controls instead of building length to deal with scale and mass.	Length of buildings along street frontage is the impact that is at concern here; the standards have been written to address this impact.
8/16/2023	Downtown	7. Dimensional Standards	Table 7-C: Mixed-Use Zone Dimensional Standards	We failed on Eastern Waterfront redevelopment. Smaller lots encourage human scale and architectural variety. No more block-sized buildings and no more stupid street names like Freedom Way and Thames.	Changes proposed in Article 7, including new rules of measurement, are designed to help manage scale and form.
8/16/2023	Downtown	7. Dimensional Standards	Table 7-C: Mixed-Use Zone Dimensional Standards	What is the character of Bayside?	Under the ReCode drafts, the existing B-7 zone would be removed and the B-7 would be rezoned to B-3, the downtown zone.

8/16/2023	Downtown	7. Dimensional Standards	Table 7-C: Mixed-Use Zone Dimensional Standards	Also, the draft standards would reduce developable area when sidewalks are extended to a lot. Leads to bad incentives for walkability.	Revised drafts increase lot coverage for small island lots to 60%, as adopted under LD 2003.
8/16/2023	Downtown	7. Dimensional Standards	Table 7-C: Mixed-Use Zone Dimensional Standards/Building length	Building length restrictions – the problem isn't that buildings are too long, the problem is that they are too far apart.	Building length limits are meant to reinforce finer-grained contexts.
8/16/2023	Downtown	7. Dimensional Standards	Table 7-C: Mixed-Use Zone Dimensional Standards/Building length	Building lengths – will these make PHA properties non-conforming? Should there be a carveout for affordable housing? Lot coverage may also be an issue. Make affordable housing bonuses across all zones, match LD2003.	Revised drafts reduce the maximum building length in the RN-5 to 60' and eliminate the maximum building length in the RN-7.
8/16/2023	Downtown	7. Dimensional Standards	Table 7-C: Mixed-Use Zone Dimensional Standards/Height	Concerned about change in height in B-2b.	Drafts include changes to heights within mixed-use zones as a way to promote mixed-use, housing, and people and jobs near transit corridors, in alignment with the comprehensive plan.
8/16/2023	Downtown	7. Dimensional Standards	Table 7-C: Mixed-Use Zone Dimensional Standards/Lot coverage	For sustainability and equity, all zones, but particularly the downtown zones, need more trees, greenery and open space. Instead of 100% lot coverage how about 99%? Or some other way to	Street trees are required, as is stormwater infrastructure.
8/16/2023	Downtown	7. Dimensional Standards	Table 7-D: TOD Zone Dimensional Standards/Building length	Max. building lengths in TOD-1 zones are way too small. 75 ft. should be 200 ft. (+1)	Revised drafts adjust building lengths.
8/16/2023	Downtown	N/A	In general	Support waterfront industrial uses (fishing, marine repair, etc.)	Drafts include few changes to existing waterfront zoning.
8/16/2023	Downtown	N/A	In general	Bayside – need to plan with sensitivity to existing neighbors (single-family homes) in Bayside. Development (height, views, parking) can change the neighborhood and push out the little houses, trees.	Under the ReCode drafts, the existing B-7 zone would be removed and the B-7 would be rezoned to B-3, the downtown zone. Areas of Bayside which are currently zoned R-6 and B-2b would remain under those zoning designations (or their equivalents).
8/16/2023	Downtown	N/A	In general	Expand Metro for young and old.	This is a transportation-related comment.
8/16/2023	Downtown	N/A	In general	Parkside cannot expand land.	General comment.
8/16/2023	Downtown	N/A	In general	Old Port retail is failing.	General comment.
8/16/2023	Downtown	N/A	In general	Marketing waterfront is important.	General comment.
8/16/2023	Downtown	N/A	In general	[Like most] more permissive dimensional standards.	The revised drafts maintain the approach of allowing more flexibility around dimensional standards in ways that generally match the existing context, particularly in residential zones.
8/16/2023	Downtown	N/A	In general	[Like most] more permissive [dimensional standards].	The revised drafts maintain the approach of allowing more flexibility around dimensional standards in ways that generally match the existing context, particularly in residential zones.
8/16/2023	Downtown	N/A	In general	[Dimensional standards] better support integrity of built environment.	The revised drafts maintain the approach of allowing more flexibility around dimensional standards in ways that generally match the existing context, particularly in residential zones.
8/16/2023	Downtown	N/A	In general	[Like most] anti-sprawl.	The ReCode drafts generally support additional density across the city, as well as in transit nodes and along transit corridors, which aligns with smart growth goals.
8/16/2023	Downtown	N/A	In general	Not aggressive enough to address pressing challenges. Need for housing affordability and climate change.	Revised drafts create new opportunities for housing city-wide and include new regulatory responses to sea level rise and climate change.
8/16/2023	Downtown	N/A	Map	In R-6, some businesses are grandfathered in current R zones. Long-standing business uses are threatened with tenant turnover. Should be B zones (ie. Cumberland, Franklin, and Washington).	See map changes released under the 'second wave' of ReCode edits.
8/16/2023	Downtown	N/A	Map	Look at area behind Moran's Market on Forest Avenue for more B-1, B-2 or RN.	See map changes released under the 'second wave' of ReCode edits.
8/16/2023	Downtown	N/A	Organization	Have the [dimensional standards] terms and language been vetted with legal counsel for clarity to avoid future lawsuits? Clarity for builders and property owners.	Corporation Counsel has reviewed drafts.
8/16/2023	Downtown	N/A	Organization	[Like most] consolidated terms.	The ReCode drafts streamline use categories and terms.
8/16/2023	Downtown	N/A	Organization	[Like most] streamlined presentation [of uses]. (+1)	The revised draft maintains this approach.
8/16/2023	Downtown	N/A	Process	Geared to interests of developers over residents.	General comment.
8/16/2023	Downtown	N/A	Process	The staff did a very nice job!	General comment.
8/16/2023	Downtown	N/A	Process	Additional ways to engage the public.	Review of 'second wave' will include additional opportunities for public engagement.
8/16/2023	Downtown	N/A	Process	I think it would be useful to include old standards next to new standards.	See zone guides at www.recodeportland.me.
8/16/2023	Downtown	N/A	Process	Process [is] rushed.	The public engagement on the 'first wave' continued throughout the summer and into the fall. The review of the 'second wave' of changes will also involve many opportunities for the public to engage.

8/16/2023	Downtown	N/A	Process	Why was there no opportunity for public comment? After hearing 'presentation' hard to see how it relates to the needs and desires of current Portland workforce?	There was a long public comment period for the 'first wave' of ReCode edits. A similar process will occur for the 'second wave.'
8/16/2023	Downtown		Map	B-2b zone from 295 to Congress along Washington Avenue does not reflect Munjoy Hill neighborhood – walking, green space. Should be rezoned	The map changes released under the 'second wave' of ReCode edits retain this area as B-2b.
8/16/2023	N. Deering	3. Definitions	"Place of assembly"	Place of assembly at 8? Too restrictive. (+1)	8 persons aligns with the adjustment to the definition of family in the code from Phase I, which reduced the number of unrelated individuals in a family from 15 to 8. .
8/16/2023	N. Deering	4. Nonconformities	Lots of record	RN-2 – 6,500 sf – what about lots that are below that minimum? Make nonconformity provisions refer to "legal when created."	The revised drafts modify this language.
8/16/2023	N. Deering	4. Nonconformities	Lots of record	Lots of record to 1957? Go away with that date!	The revised drafts modify this language.
8/16/2023	N. Deering	5. Zones	Table 5-B: Residential Zones	I like the changes for R1 and R2.	The revised drafts continue to propose consolidating these two existing zones.
8/16/2023	N. Deering	5. Zones	Table 5-B: Residential Zones	[Like most] R1 + R2. ♡	The revised drafts continue to propose consolidating these two existing zones.
8/16/2023	N. Deering	5. Zones	Table 5-B: Residential Zones	R-4 should be R-6. (It is mansions only.)	The R-4 zone has been maintained as the RN-3.
8/16/2023	N. Deering	5. Zones	Table 5-B: Residential Zones	R-5 should be R-6.	The R-5 zone has been maintained as the RN-4, with some geographic expansion. See map changes.
8/16/2023	N. Deering	5. Zones	Table 5-B: Residential Zones	RN-3 talks about Western Promenade but it also covers a lot of residential Portland?	The RN-3 is generally confined to the West End.
8/16/2023	N. Deering	5. Zones	Table 5-D: Mixed-Use Zones	[Concerned about] B-2 and B-2b consolidation.	These have been maintained as distinct zones.
8/16/2023	N. Deering	5. Zones	Table 5-E: TOD Zones	[Like most] added TODs.	The revised drafts continue to include TOD zones. See map changes released under the 'second wave' of ReCode edits.
8/16/2023	N. Deering	5. Zones	Table 5-E: TOD Zones	I like TOD zones.	The revised drafts continue to include TOD zones. See map changes released under the 'second wave' of ReCode edits.
8/16/2023	N. Deering	5. Zones	Table 5-E: TOD Zones	Love the ideas of TODs!	The revised drafts continue to include TOD zones. See map changes released under the 'second wave' of ReCode edits.
8/16/2023	N. Deering	5. Zones	Table 5-E: TOD Zones	[Like most] TOD Zones.	The revised drafts continue to include TOD zones. See map changes released under the 'second wave' of ReCode edits.
8/16/2023	N. Deering	5. Zones	Table 5-E: TOD Zones	No need for TOD.	The revised drafts continue to include TOD zones. See map changes released under the 'second wave' of ReCode edits.
8/16/2023	N. Deering	5. Zones	Table 5-E: TOD Zones	[Like most] TOD at Allen's Corner!	The revised drafts continue to include TOD zones. See map changes released under the 'second wave' of ReCode edits.
8/16/2023	N. Deering	5. Zones	Table 5-E: TOD Zones	[Like most] height near transit!	The ReCode drafts generally place most height in mixed-use zones and TOD zones, which are designed to be applied near transit.
8/16/2023	N. Deering	6. Use Standards	6.4.12(A) Multi-family conversion standards	Multi-family reuse in RN-2 shouldn't be limited to non-residential. What about massive old Victorians? (+1)	The multi-family reuse language in the RN-2 is based on the existing code. Under the adopted LD 2003 changes, 4 new units would be allowed on a conforming lot in this zone.
8/16/2023	N. Deering	6. Use Standards	6.4.26 Neighborhood nonresidential reuse	"Reuse" is arbitrary and limiting. (+1)(+1)	New neighborhood businesses are not currently allowed within residential areas. The neighborhood nonresidential reuse provides new flexibility that allows them in certain circumstances. Other neighborhood business needs are addressed within the B-1, B-2 or other zones located nearby to residential zones. See related map changes.
8/16/2023	N. Deering	6. Use Standards	6.4.26 Neighborhood nonresidential reuse	Reuse is conditional downgrade from B-1b. (+1)	New neighborhood businesses are not currently allowed within residential areas. The neighborhood nonresidential reuse provides new flexibility that allows them in certain circumstances. Other neighborhood business needs are addressed within the B-1, B-2 or other zones located nearby to residential zones. See related map changes.
8/16/2023	N. Deering	6. Use Standards	6.4.26 Neighborhood nonresidential reuse	Look at non-residential reuse in RN-2. Why can't a non- residential be reused as a 3-family or 4-family?	This would be allowed under the recently adopted LD 2003 changes.
8/16/2023	N. Deering	6. Use Standards	6.6.2	I am concerned that the deed restriction requirement will hinder the development of ADUs. Please strike out 6.6.2.A.7. See AARP's model ADU ordinances/best practices.	This language has been eliminated in the revised drafts.
8/16/2023	N. Deering	6. Use Standards	Table 6-A: Uses in Residential Zones	No hotels in residential neighborhoods.	Hotels' are not permitted within residential zones.
8/16/2023	N. Deering	6. Use Standards	Table 6-A: Uses in Residential Zones	Ban religious buildings.	Places of assembly are broadly permitted.
8/16/2023	N. Deering	6. Use Standards	Table 6-A: Uses in Residential Zones	Want small businesses in new construction. (+1)	See map changes released under the 'second wave' of ReCode edits.
8/16/2023	N. Deering	7. Dimensional Standards	7.2 "Blank wall"	Please clarify that "blank wall" doesn't include side elevations.	The draft rules of measurement state that this standard is 'measured along a street frontage.'
8/16/2023	N. Deering	7. Dimensional Standards	7.4 Alternative Residential Development Options	[Like most] cottage courts!	The revised drafts continue to include cottage courts as an alternative development typology.
8/16/2023	N. Deering	7. Dimensional Standards	Table 7-A: Residential Neighborhood Zone Dimensional Standards/Density	Still arbitrary density limits in R- zones. Why not higher?	The ReCode approach is generally to allow more units without dramatically altering the existing buildng pattern.

8/16/2023	N. Deering	7. Dimensional Standards	Table 7-A: Residential Neighborhood Zone Dimensional Standards/Density	Need to delete dimensional standards for 3- and 4-units in RN-1 and RN-2 in dimensional table.	The revised drafts align permitted uses and dimensional standards.
8/16/2023	N. Deering	7. Dimensional Standards	Table 7-A: Residential Neighborhood Zone Dimensional Standards/Desity	Don't limit number of units. Let dimensions control.	ReCode changes use a combination of use, density, and bulk controls to address housing potential. This is consistent with existing approach to residential zoning and the approach used in many communities throughout the country.
8/16/2023	N. Deering	7. Dimensional Standards	Table 7-A: Residential Neighborhood Zone Dimensional Standards/Lot area	Lot minimums still too big.	The ReCode approach is generally to allow more units without dramatically altering the existing lot and buildng pattern.
8/16/2023	N. Deering	7. Dimensional Standards	Table 7-A: Residential Neighborhood Zone Dimensional Standards/Lot area	Lot sizes too big.	The ReCode approach is generally to allow more units without dramatically altering the existing lot and buildng pattern.
8/16/2023	N. Deering	7. Dimensional Standards	Table 7-A: Residential Neighborhood Zone Dimensional Standards/Setbacks	Setbacks too high.	The drafts include some modifications to setbacks to allow more flexibility around addition.
8/16/2023	N. Deering	7. Dimensional Standards	Table 7-C: Mixed-Use Zone Dimensional Standards/Height	Additional height in B-2b is extremely useful in allowing modular to be an option since it has a 2x unusable premium space (1" – 10" typical vs. 12" for stick built).	Drafts include changes to heights within mixed-use zones as a way to promote mixed-use, housing, and people and jobs near transit corridors, in alignment with the comprehensive plan.
8/16/2023	N. Deering	7. Dimensional Standards	Table 7-C: Mixed-Use Zone Dimensional Standards/Height	[Concerned] about increasing height from 45 ft. to 65 ft. [in B-2/B-2b].	Drafts include changes to heights within mixed-use zones as a way to promote mixed-use, housing, and people and jobs near transit corridors, in alignment with the comprehensive plan.
8/16/2023	N. Deering	7. Dimensional Standards	Table 7-C: Mixed-Use Zone Dimensional Standards/Height	Need more height at the corner of Elm and Cumberland (105').	Drafts include changes to heights within mixed-use zones as a way to promote mixed-use, housing, and people and jobs near transit corridors, in alignment with the comprehensive plan.
8/16/2023	N. Deering	7. Dimensional Standards	Table 7-C: Mixed-Use Zone Dimensional Standards/Height	Advocating for more height on corner of Elm and Cumberland. Increase from 85' to 105'.	Drafts include changes to heights within mixed-use zones as a way to promote mixed-use, housing, and people and jobs near transit corridors, in alignment with the comprehensive plan.
8/16/2023	N. Deering	7. Dimensional Standards	Table 7-C: Mixed-Use Zone Dimensional Standards/Height	Excited for the new height maximums.	The revise drafts include some modifications to permitted heights.
8/16/2023	N. Deering	7. Dimensional Standards	Table 7-C: Mixed-Use Zone Dimensional Standards/Height	Heights along Franklin should relate to width of new Franklin Street.	The drafts increase heights along the Bayside portion of Franklin. More work could be done under future Franklin Street planning effort.
8/16/2023	N. Deering	N/A	In general	Need evaluation of potential impacts [of use changes]!	Changes to encourage more housing are based on policy guidance from the Council-adopted comprehensive plan, which set a growth target.
8/16/2023	N. Deering	N/A	In general	How many people can the city manage?	Changes to encourage more housing are based on policy guidance from the Council-adopted comprehensive plan, which set a growth target.
8/16/2023	N. Deering	N/A	In general	[Concerned about] impacts of urbanization (noise pollution, increased traffic, environmental, stress on city resources).	Changes to encourage more housing are based on policy guidance from the Council-adopted comprehensive plan, which set a growth target.
8/16/2023	N. Deering	N/A	In general	Too aggressive - urbanization of off-peninsula.	Changes to encourage more housing are based on policy guidance from the Council-adopted comprehensive plan, which set a growth target.
8/16/2023	N. Deering	N/A	In general	Infrastructure – our roads, sewer, water and all other systems are not keeping up with the growth.	Changes to encourage more housing are based on policy guidance from the Council-adopted comprehensive plan, which set a growth target.
8/16/2023	N. Deering	N/A	In general	More homes, town houses, condos on smaller lots means more traffic, pollution and depletion of natural resources. The continual state of global warming is devastating to our neighborhoods, our ocean, lakes, rivers, air. We will become like Florida or any other state. That is not why we live in Maine.	Changes to encourage more housing are based on policy guidance from the Council-adopted comprehensive plan, which set a growth target.
8/16/2023	N. Deering	N/A	In general	The transition between zones – if homes abut commercial land, we need greater and larger buffer zones of green, trees and nature to protect the homes. Airport area is perfect example of noise, air pollution and more with little protection from further expansion.	Drafts address mixed-use to residential transitions within dimensional standards.
8/16/2023	N. Deering	N/A	In general	Yes to more housing! Yes to ability to build 2 or more units per lot! Yes to higher density!	The ReCode drafts generally support additional density.
8/16/2023	N. Deering	N/A	In general	[Concerned about] unintended consequences.	General comment.
8/16/2023	N. Deering	N/A	In general	Love market gardens.	The revised drafts maintain 'market gardens' as a use.
8/16/2023	N. Deering	N/A	In general	[Concerned about] some of the language in the text.	General comment.
8/16/2023	N. Deering	N/A	In general	[Concerned about] on-/off-peninsula??	Drafts remove some of the on-/off-peninsula distinctions in zones like the B-2 within the existing land use code, reflecting the policy goal of additional growth in mixed-use zones off-peninsula.
8/16/2023	N. Deering	N/A	In general	What type of structures are allowed in each zone?	See use and dimensional tables in Articles 6 and 7.

8/16/2023	N. Deering	N/A	In general	Does not address affordable housing.	The drafts promote housing writ large, and include revisions to Article 17 (Housing).
8/16/2023	N. Deering	N/A	In general	I would like to see discussion of affordable housing.	The drafts promote housing writ large, and include revisions to Article 17 (Housing).
8/16/2023	N. Deering	N/A	Map	Please look at parcels that awkwardly split zones and choose one (ex. Washington Ave. and Hammond St.	See map changes released under the 'second wave' of ReCode edits, which generally address split lots.
8/16/2023	N. Deering	N/A	Map	Westminster Edgeworth plat - move R-3 to R-5.	See map changes released under the 'second wave' of ReCode edits.
8/16/2023	N. Deering	N/A	Organization	[Like most] clarity [in definitions].	General comment.
8/16/2023	N. Deering	N/A	Organization	[Like most] easy to read.	General comment.
8/16/2023	N. Deering	N/A	Organization	Consolidated and clarity is good. Could go further.	General comment.
8/16/2023	N. Deering	N/A	Organization	Clickable links in PDF of code TOC [Table of Contents].	General comment.
8/16/2023	N. Deering	N/A	Process	Process!	General comment.
8/16/2023	N. Deering	N/A	Process	What if non-english speaking members came tonight? A verbal presentation of each article presented on picture boards and opportunity for questions. Hard to understand the language on the boards.	The public engagement on the 'first wave' continued throughout the summer and into the fall. The review of the 'second wave' of changes will also involve many opportunities for the public to engage and will focus on providing what is very technical material in a variety of forms.
8/16/2023	N. Deering	N/A	Process	I appreciate that the city is going to hold more meetings and opportunity for more information, clarification, and question and answer periods. It is crucial to us residents – especially since we do not get to vote on this.	The public engagement on the 'first wave' continued throughout the summer and into the fall. The review of the 'second wave' of changes will also involve many opportunities for the public to engage.
8/16/2023	N. Deering	N/A	Process	Tables do not match up with proposed changes.	General comment.
8/16/2023	N. Deering	N/A	Process	It would be helpful to have comparison charts (What you can do now, what will change).	See zone guides at www.recodeportland.me.
8/16/2023	N. Deering	N/A	Process	We need to have comparison tables and charts not just recode charts.	See zone guides at www.recodeportland.me.
8/16/2023	N. Deering	N/A	Process	Zoning changes not equitable across the city.	The draft changes affect all zones, trying to create opportunities for housing and small businesses, as well as other changes that meet comprehensive goals, across the city.
8/16/2023	N. Deering	N/A	Process	Process – do neighborhood meetings everywhere.	The engagement on the 'first wave' of changes included meetings with all neighborhood associations that requested them.
8/17/2023	Peaks Island	2. Administration	Variances	Get rid of current clause that declares that no lot size variances can be granted in IR-1 or IR-2.	Revised drafts eliminate this language.
8/17/2023	Peaks Island	6. Use Standards	Table 6-B: Uses in Island Zones	More information on “lodging or boarding” houses on Peaks Island please.	Lodging houses' are a use defined in Article 3, with use standards in Article 6.
8/17/2023	Peaks Island	6. Use Standards	Table 6-B: Uses in Island Zones	Need opportunities for neighborhood non-residential.	New neighborhood businesses are not currently allowed within residential areas. The neighborhood nonresidential reuse provides new flexibility that allows them in certain circumstances.
8/17/2023	Peaks Island	6. Use Standards	Table 6-B: Uses in Island Zones	Nonconforming lots – open up to place of assembly.	Nonconforming lots are subject to the use regulations of the zone in which they lie. See Article 4.
8/17/2023	Peaks Island	6. Use Standards	Table 6-B: Uses in Island Zones	Consider low-impact industrial as a permitted use (support, landscapers, truck parking.	Revised drafts add low-impact industrial as a permitted use in the I-B zone.
8/17/2023	Peaks Island	6. Use Standards	Table 6-B: Uses in Island Zones	Clarify ways artists can have functional studios (with sales) in IR-1 and IR-2.	Revised drafts add studios as a permitted use in island zones.
8/17/2023	Peaks Island	6. Use Standards	Table 6-B: Uses in Island Zones	Want more flexibility for density for affordable housing – duplexes?	The recently adopted LD 2003 changes allow up to three units on conforming lots in island zones.
8/17/2023	Peaks Island	6. Use Standards	Table 6-B: Uses in Island Zones	[Concerned about] flexibility for IR-2 uses -access units.	The recently adopted LD 2003 changes allow up to three units on conforming lots in island zones.
8/17/2023	Peaks Island	6. Use Standards	Table 6-B: Uses in Island Zones	[Concerned about] flexibility for IR-2 zone - ADUs, increase density.	The recently adopted LD 2003 changes allow up to three units on conforming lots in island zones.
8/17/2023	Peaks Island	6. Use Standards	Table 6-B: Uses in Island Zones	Would like even more flexibility to allow for greater density on island.	The recently adopted LD 2003 changes allow up to three units on conforming lots in island zones.
8/17/2023	Peaks Island	6. Use Standards	Table 6-B: Uses in Island Zones	Revisit permitting 2-family conversion on the island.	The recently adopted LD 2003 changes allow up to three units on conforming lots in island zones.
8/17/2023	Peaks Island	7. Dimensional Standards	7.4 Alternative Residential Development Options	Allow cottage courts on Peaks.	The revised drafts add cottage courts as a development option within the IR-2 zone.
8/17/2023	Peaks Island	7. Dimensional Standards	7.4 Alternative Residential Development Options	Add IR-1 and IR-2 to permission for “cottage court” development.	The revised drafts add cottage courts as a development option within the IR-2 zone.
8/17/2023	Peaks Island	7. Dimensional Standards	7.4 Alternative Residential Development Options	Cottage courts should be allowable on islands also.	The revised drafts add cottage courts as a development option within the IR-2 zone.

8/17/2023	Peaks Island	7. Dimensional Standards	7.7.4(A) Setback exceptions	Space/bulk exceptions (e.g., entry porch provision) – consider adding similar language for other types of spaces.	Revised drafts include some changes around setbacks to allow more flexibility.
8/17/2023	Peaks Island	7. Dimensional Standards	Table 7-B: Island Zone Dimensional Standards	Minimum lot size for residential is still too big.	Revised drafts reduce the small island lot size to 3,000 SF.
8/17/2023	Peaks Island	7. Dimensional Standards	Table 7-B: Island Zone Dimensional Standards	Reduce minimum lot size in IR-2 for small island lots.	Revised drafts reduce the small island lot size to 3,000 SF.
8/17/2023	Peaks Island	7. Dimensional Standards	Table 7-B: Island Zone Dimensional Standards	Reduce minimum lot size in IR-2 for small island lots to 3,000.	Revised drafts reduce the small island lot size to 3,000 SF.
8/17/2023	Peaks Island	7. Dimensional Standards	Table 7-B: Island Zone Dimensional Standards	Is 4,000 small enough for small lot provision?	Revised drafts reduce the small island lot size to 3,000 SF.
8/17/2023	Peaks Island	7. Dimensional Standards	Table 7-B: Island Zone Dimensional Standards	Nonconforming lots – minimum lot sizes in IR-1 and IR-2 are still too small.	Second wave' drafts include some changes to rules around nonconforming lots, with the aim of simplifying and allowing more flexibility.
8/17/2023	Peaks Island	7. Dimensional Standards	Table 7-B: Island Zone Dimensional Standards	IR-2 small island lots – sewer not likely. What uses might be allowed. Note: They adjoin an unused – 50' wide paper road. Could the paper road somehow influence how the lots (15 sf total) be used?	The existing approach has generally been maintained in the 'second wave' drafts.
8/17/2023	Peaks Island	7. Dimensional Standards	Table 7-B: Island Zone Dimensional Standards	Small island provisions in IR-2 – open to non-residential?	These are meant as a tool for residential development within a residential zone. I-B provides opportunities for non-residential.
8/17/2023	Peaks Island	7. Dimensional Standards	Table 7-B: Island Zone Dimensional Standards	What about a non-residential structure on a "small island lot"?	These are meant as a tool for residential development within a residential zone. I-B provides opportunities for non-residential.
8/17/2023	Peaks Island	7. Dimensional Standards	Table 7-B: Island Zone Dimensional Standards	IR-2 small lot (5,000 sf) could be put on sewer. Could an alternate use be a historical society building? If so, what parking would be required, if any?	These are meant as a tool for residential development within a residential zone. I-B provides opportunities for non-residential.
8/17/2023	Peaks Island	7. Dimensional Standards	Table 7-B: Island Zone Dimensional Standards/Lot coverage	Increase lot coverage under small lot provisions.	Revised drafts increase lot coverage for small island lots to 60%, as adopted under LD 2003.
8/17/2023	Peaks Island	7. Dimensional Standards	Table 7-B: Island Zone Dimensional Standards/Setbacks	Consider reducing setbacks on land parcels that border "undevelopable land" like PILP land or wetlands.	Revised drafts include some changes around setbacks to allow more flexibility.
8/17/2023	Peaks Island	7. Dimensional Standards	Table 7-B: Island Zone Dimensional Standards/Setbacks	Side setbacks and rear setbacks on small lots – consider provisions to allow trading one side for other.	Revised drafts include some changes around setbacks to allow more flexibility.
8/17/2023	Peaks Island	7. Dimensional Standards	Table 7-B: Island Zone Dimensional Standards/Setbacks	Accessory structure setbacks are too large.	Revised drafts include some changes around setbacks to allow more flexibility.
8/17/2023	Peaks Island	7. Dimensional Standards	Table 7-B: Island Zone Dimensional Standards/Setbacks	10 ft. setbacks for accessory structure in IR-2 is too big.	Revised drafts include some changes around setbacks to allow more flexibility.
8/17/2023	Peaks Island	7. Dimensional Standards	Table 7-B: Island Zone Dimensional Standards/Setbacks	ADU setbacks are too large.	Revised drafts include some changes around setbacks to allow more flexibility.
8/17/2023	Peaks Island	7. Dimensional Standards	Table 7-B: Island Zone Dimensional Standards/Setbacks	Accessory building side setbacks under small lot – reduce like the mainland.	Revised drafts include some changes around setbacks to allow more flexibility.
8/17/2023	Peaks Island	N/A	In general	Values are changing.	General comment.
8/17/2023	Peaks Island	N/A	In general	Allow building on paper streets.	See section 6.4.1.
8/17/2023	Peaks Island	N/A	In general	Integrate with the legal department a public forum on paper roads and development vs. conservation.	This conversation would occur outside of the ReCode process.
8/16/2023		7. Dimensional Standards	Table 7-C: Mixed-Use Zone Dimensional Standards/Height	Prefer Temple Street to be consistent 325'.	See some revisions to downtown height map.

NAME	DATE	SOURCE	ARTICLE	TOPIC	COMMENT	RESPONSE
Jeff Sherman	5/10/2024	Konveio	1. Introductory Provisions	1.10.2(B) Procedure	Only properties that are adjacent to the subject property and properties that are adjacent to the properties that are adjacent to the subject property should receive notice by mail. Alternatively, the property owner should be able to provide notice by putting a yard sign on the property with the information that would be in the letter. This would drastically reduce costs.	Generally, the City's approach has been to err on the side of broader notice, in the interest of supporting broader engagement with land use issues.
Jeff Sherman	5/3/2024	Konveio	1. Introductory Provisions	1.6.1 Relationship with other laws	This should not apply to housing. With regards to housing if there is a conflict, the less restrictive provision should control.	This language was suggested by Corporation Counsel under Phase I of ReCode and is standard within codes. Creating different approaches to different broad topic areas within the code with respect to this type of provision could create significant issues around interpretation.
Jeff Sherman	5/3/2024	Konveio	1. Introductory Provisions	1.6.2 City of Portland Land Use Code	This should not apply to housing. With regards to housing if there is a conflict, the less restrictive provision should control.	This language was suggested by Corporation Counsel under Phase I of ReCode and is standard within codes. Creating different approaches to different broad topic areas within the code with respect to this type of provision could create significant issues around interpretation.
Robert Bergeron	4/23/2024	Konveio	10. Waterfront Zones	10.2.8(D) Federal and state environmental regulations	having been dealing with issues regarding emissions into the air and dealt with both the city permitting as well as the DEP I was assured that there would be stronger language inserted regarding dust emissions. it doesn't appear there has been any changes made regarding this issue. this has been an ongoing issue and needs to be addressed.	Language has been revised under the performance standards in Article 6.
Urbanist Coalition	6/15/24	Email	13. Site Plan	13.5 Review procedures	How Will the City Streamline Approvals? Another conspicuous absence from the ReCode conversation is all the more notable for how prominently it featured in Mayor Mark Dion's campaign – a significant streamlining of approvals. While there are many costs which go into building and renovating in Portland, one which should not be underestimated is the time and uncertainty involved in getting the appropriate permits and approvals from various city government organs. This bureaucratic slog is one of the primary factors driving builders elsewhere in the northeast, and one that Portland's administration ought to be seriously reckoning with. Yet, little evidence of such reckoning can be found here.	The second wave draft includes changes to streamline approvals, including the reclassification of single- to 4-family housing as a minor site plan, requiring only administrative approval. In addition, the high thresholds for Planning Board review in the IS-FBC have been proposed for the TOD zones. In addition, much can be done outside of the land use code to streamline the review process.
Ionel Postolache	7/28/24	Form	13. Site Plan	13.5 Review Procedures	I will only make comments related to my case- my house and my history of interaction with the "City" ... I hope the proposed change from R6 to RN5 will work as intended- although I do not see significant differences (in setbacks for example). From what I read, I did not get an answer on how to request a zoning change- if one is desired. I don't, so I am fine for now. The hidden part of the iceberg is - for me- the permitting and inspections process: restrictive, cumbersome , intimidating, inflexible (favors the traditional wood frame structures)	The second wave draft includes changes to streamline approvals, including the reclassification of single- to 4-family housing as a minor site plan, requiring only administrative approval. In addition, the high thresholds for Planning Board review in the IS-FBC have been proposed for the TOD zones. In addition, much can be done outside of the land use code to streamline the review process.
Lauren Swett	5/8/2024	Konveio	13. Site Plan	13.5.5 Neighborhood outreach	Is the intent of "workshop or hearing" to mean before a first workshop, or before a hearing if there is no workshop? Clarify if needed for just the first meeting or if needed for both.	This language will be clarified in the final draft.
Jeff Sherman	5/10/2024	Konveio	13. Site Plan	13.5.5 Neighborhood outreach	Affordable housing should be exempt from neighborhood outreach	In experience, it has been helpful for affordable housing projects to hold neighborhood outreach just like other projects subject to this requirement.

NAME	DATE	SOURCE	ARTICLE	TOPIC	COMMENT	RESPONSE
Jeff Sherman	5/10/2024	Konveio	13. Site Plan	13.5.5 Neighborhood outreach	The notice requirement should be changed to adjacent properties only.	Generally, the City's approach has been to err on the side of broader notice, in the interest of supporting broader engagement with land use issues.
Portland Regional Chamber of Commerce	8/2/24	Email	13. Site Plan	13.5.5(A) Neighborhood outreach	The amendments to this subsection seem to imply that a neighborhood outreach meeting must be completed before both workshops and public hearings. Unless this is clarified, it could be interpreted to mean that an applicant must hold more than one public meeting for a single site plan application. We suggest clarifying that only one neighborhood outreach meeting is required, and that it can take place either before a workshop or before the public hearing.	This language will be clarified in the final draft.
Jeff Sherman	5/10/2024	Konveio	13. Site Plan	13.5.6(A) Review costs	(1) Fees should be waived or significantly reduced for affordable housing development. (2) The Planning Board should set a fixed fee (or a maximum fee) for all residential developments (1-4 units).	Fees are reduced for affordable housing projects under Article 17. The fee for administrative review (proposed as 1-4 units) is less than that for Planning Board review. Other adjustments to fee schedules would occur outside of the land use code.
Jeff Sherman	5/10/2024	Konveio	13. Site Plan	13.6.1(C)3 Public transit access	If this requirement is waived, developers should have to pay an additional transportation fee.	Projects are required to pay transportation impact fees, which cover the cost of projects which expand the capacity of the multi-modal transportation system, and certain projects are required to develop TDM plans, which help to support the regional transit system.
Jeff Sherman	5/10/2024	Konveio	13. Site Plan	13.6.1(D)1.c Parking requirements	The word "appropriate" should be changed to "essential" or "necessary." The parking maximums suggest that anything over the limit is not appropriate. There should be a high standard needed to deviate from the limits.	THsi language will be revised in the final draft to refer to companion language in Article 18.
Cheryl Leeman	7/17/24	Note	13. Site Plan	13.6.2(B) Site landscaping and buffers	Landscape & Tree Replacement? Environmental Carbon Reduction Assessment	Site plan standards related to landscape and landscape preservation have been modified slightly in the draft. They continue to encourage tree preservation and tree planting.
Jean McManamy	7/30/24	Email	13. Site plan	13.6.2(B) SIte landscaping and buffers	Prioritize climate impacts and sustainability goals over all others 1. Address heat island effect, as reported two weeks ago in Press Herald by Climate Central: East End is six degrees hotter than an undeveloped field, and the proposed B2 zone change will aggravate an already unpleasant pedestrian experience on Washington Ave. Heat island effect is far more critical for our planet than enabling market rate development, and promotes growing use of air conditioners as well as automobiles. Ensure all development provides adequate setback for healthy tree canopy. 2. Mandate in the proposed B2 zone use of white roofs and green roofs, wind gust mitigation, bird safe glass, onsite greenspace, full tree canopy over pedestrian walkways, cooling architectural strategies with penalties for south facing glass walls, and fossil fuel replacement.	ReCode includes several changes designed to address heat island effect, informed by our climate resilience zoning effort. These include landscaping standards that prioritize shade over other landscaping benefits, new non-vehicular hardscape solar reflective index standards, and cool roof standards (in 13.6.4(A)).
Avery Yale Kamila	4/5/2024	Konveio	13. Site Plan	13.6.2(B)1 On-site landscaping	Since many downtown and peninsula sites don't have space for sidewalk trees and because recent research shows that green walls/canopies provide more urban cooling than street trees, I recommend adding green walls and green canopies as an option.	The Technical Manual allows alternatives to street trees in cases that warrant it, with the review of the City Arborist. This language can be updated to refer to these types of alternatives.

NAME	DATE	SOURCE	ARTICLE	TOPIC	COMMENT	RESPONSE
Jeff Sherman	5/10/2024	Konveio	13. Site Plan	13.6.2(B)2 Buffers and screening	The restriction of roof mounted utility structures should be eliminated.	Screening of roof-mounted utilities has become more important as structures continue to be erected on flat roofs across the city.
Avery Yale Kamila	4/5/2024	Konveio	13. Site Plan	13.6.2(B)5 Street trees	Since the cooling, oxygen production and water retention of mature trees cannot be duplicated by saplings (no matter how many are planted), I recommend this section add language requiring protection and preservation of mature trees (of specified diameter) and provide a bonus of some type (height? less parking? reduced fees?) for this required preservation	The draft includes protections for street trees, requiring contributions for the removal of large existing street trees. New LID standards in the Technical Manual will also help to preserve existing, larger trees on development sites
Avery Yale Kamila	4/5/2024	Konveio	13. Site Plan	13.6.2(B)5 Street trees	It's my understanding that the new arborist does NOT recommend raised planters (which add about $5,000 each to projects' costs) but instead is recommending much bigger planting wells and high-qualitie soils, typically a 50/50 compost/loam mix. This section should also recommend integrated planting wells, where multiple trees share the same well that spans a significant length of the sidewalk. These wells give more room for tree roots and better survival chance. They also lessen impervious surfaces, thereby lessening runoff and lowering summertime temps.	The draft includes language requiring measures to enhance tree survival, including structural soils. This is addressed through the site plan review process by the City Arborist.
Avery Yale Kamila	4/5/2024	Konveio	13. Site Plan	13.6.2(C) Water quality, stormwater management, and	Since trees provide significant stormwater retention, the use of this green infrastructure should be recommend here.	This will be addressed in the Technical Manual updates integrating LID.
Jeff Sherman	5/10/2024	Konveio	13. Site Plan	13.6.4(F)3 Street lighting	Cyclists should be added to this section	This reference will be added in the final draft.
Jeff Sherman	5/10/2024	Konveio	13. Site Plan	Table 13-A: Site Plan Classifications	Rather than number of spaces, this distinction should also be made based on the parking maximums. Therefore, consider changing this section to the following: Minor: Less or equal to than 25 parking spaces and the total number of parking spaces is equal to or less than the maximum number of parking spaces allowed by section XX.XX.XX Major: Greater than 25 parking spaces or the total number of parking spaces is greater than the maximum number of parking spaces allowed by section XX.XX.XX	The parking maximums are meant to be maximums, meaning that they should not be exceeded, except under the circumstances listed in Article 18.
Jeff	6/21/2024	GIS Map Viewer	13. Site Plan	Table 13-A: Site Plan Classifications	Please consider making and streamlining the permit process for conversions and to add more units on a property. Make the process less intimidating and welcoming! We want to help! TY	As proposed, conversions of existing buildings would only be reviewed under site plan if they trigger change of use thresholds.
The Urbanist Coalition	7/29/24	Email	13. Site Plan	Table 13-A: Site Plan Classifications	Small to medium-sized projects will still need to go through major site plan review. This means that limited Planning Board time will need to be used to approve projects with only a handful of units.	The second wave draft includes changes to streamline approvals, including the reclassification of single- to 4-family housing as a minor site plan, requiring only administrative approval, the extension of the high thresholds for Planning Board review in the IS-FBC to the TOD zones, and the exemption of changes of use to residential from site plan review. In addition, much can be done outside of the land use code to streamline the review process.

NAME	DATE	SOURCE	ARTICLE	TOPIC	COMMENT	RESPONSE
The Urbanist Coalition	7/29/24	Email	13. Site Plan	Table 13-A: Site Plan Classifications	Streamlined approval process: Allowing more housing types to go through the simpler minor site plan process could make it faster and easier for more projects to get approved.	The second wave draft includes changes to streamline approvals, including the reclassification of single- to 4-family housing as a minor site plan, requiring only administrative approval, the extension of the high thresholds for Planning Board review in the IS-FBC to the TOD zones, and the exemption of changes of use to residential from site plan review. In addition, much can be done outside of the land use code to streamline the review process.
Todd Morse	8/2/24	Konveio	13. Site Plan	Table 13-A: Site Plan Classifications	This should be increased beyond four units. We shouldn't be wasting the planning board's time on small multi-unit projects. The planning board's schedule is full. If we want to have more housing we will either need to increase the capacity of the planning board, or increase the size of projects. If we expand the projects that go through minor site plan review we can approve more units without doing either of these. I think it should be entirely based on square footage and not unit count and we should increase the square footage to 50,000 SF like it is in TOD and the IS-Form Based Zone.	The second wave draft includes changes to streamline approvals, including the reclassification of single- to 4-family housing as a minor site plan, requiring only administrative approval, the extension of the high thresholds for Planning Board review in the IS-FBC to the TOD zones, and the exemption of changes of use to residential from site plan review. In addition, much can be done outside of the land use code to streamline the review process.
Liz Trice	7/30/24	Email	13. Site Plan	Table 13-C: Site Plan Review Procedures	4. Create a simpler, faster permitting process. The zoning is still too long, too complicated, and has too many exceptions, too many conditional uses, and if we were actually successful in building the housing we need, it would overwhelm the current planning board process. Also, I and others made hundreds of comments in the Recode draft, and it's not clear what is being done with them.	The second wave draft includes changes to streamline approvals, including the reclassification of single- to 4-family housing as a minor site plan, requiring only administrative approval, the extension of the high thresholds for Planning Board review in the IS-FBC to the TOD zones, and the exemption of changes of use to residential from site plan review. In addition, much can be done outside of the land use code to streamline the review process.
Liz Trice	7/30/24	Email	13. Site Plan	Table 13-C: Site Plan Review Procedures	Here's what we can do to speed up predevelopment: • Allow staff review only for 80% of projects, starting with projects of under 10,000 sf or 10 units • Follow the 80-20 rule. • Review all conditional uses, and make 80% allowed by right. • Review all exception-type rules, and eliminate 80% of them by incorporating them into standard • Eliminate the TDM requirement - if there's no parking required, just let it be no parking required • Eliminate historic review for non-historic buildings. • Create a process by which 80% of changes allowed or required by planning board, or contract • Compress planning board schedule to only have one meeting per project unless the project isn • Require all departments to review proposals within 4 weeks.	The second wave draft includes changes to streamline approvals, including the reclassification of single- to 4-family housing as a minor site plan, requiring only administrative approval, the extension of the high thresholds for Planning Board review in the IS-FBC to the TOD zones, and the exemption of changes of use to residential from site plan review. In addition, much can be done outside of the land use code to streamline the review process.

NAME	DATE	SOURCE	ARTICLE	TOPIC	COMMENT	RESPONSE
Tom Landry (Benchmark Real Estate)	7/25/24	Email	13. Site Plan/16. Historic Preservation	Process	Simplify & Streamline Permitting - From Historic and Planning Board approvals to permit in hand, this process needs to be simplified and streamlined.	The second wave draft includes changes to streamline approvals, including the reclassification of single- to 4-family housing as a minor site plan, requiring only administrative approval, the extension of the high thresholds for Planning Board review in the IS-FBC to the TOD zones, and the exemption of changes of use to residential from site plan review. HP review procedures have also been streamlined in the drafts. Lastly, much can be done outside of the land use code to streamline the review process.
Tom Landry (Benchmark Real Estate)	7/25/24	Email	13. Site Plan/16. Historic Preservation	Process	Establish Pre-Approved Development Types. These would bypass public meetings, both historic and planning board approvals, and receive a building permit upon Planning staff approval.	This concept has been suggested in the past; if pursued, it could theoretically be handled administratively, outside of the land use code.
Susan Anspacher	7/27/24	Email	13. Site Plan/16. Historic Preservation	Process	Simplify & Streamline Permitting - From Historic and Planning Board approvals to permit in hand, this process needs to be simplified and streamlined.	The second wave draft includes changes to streamline approvals, including the reclassification of single- to 4-family housing as a minor site plan, requiring only administrative approval, the extension of the high thresholds for Planning Board review in the IS-FBC to the TOD zones, and the exemption of changes of use to residential from site plan review. HP review procedures have also been streamlined in the drafts. Lastly, much can be done outside of the land use code to streamline the review process.
Susan Anspacher	7/27/24	Email	13. Site Plan/16. Historic Preservation	Process	Establish Pre-Approved Development Types. These would bypass public meetings, both historic and planning board approvals, and receive a building permit upon Planning staff approval.	This concept has been suggested in the past; if pursued, it could theoretically be handled administratively, outside of the land use code.
Jamie Wright (Gorham Bike and Ski)	7/27/24	Email	13. Site Plan/16. Historic Preservation	Process	Simplify & Streamline Permitting - From Historic and Planning Board approvals to permit in hand, this process needs to be simplified and streamlined.	The second wave draft includes changes to streamline approvals, including the reclassification of single- to 4-family housing as a minor site plan, requiring only administrative approval, the extension of the high thresholds for Planning Board review in the IS-FBC to the TOD zones, and the exemption of changes of use to residential from site plan review. HP review procedures have also been streamlined in the drafts. Lastly, much can be done outside of the land use code to streamline the review process.
Jamie Wright (Gorham Bike and Ski)	7/27/24	Email	13. Site Plan/16. Historic Preservation	Process	Establish Pre-Approved Development Types. These would bypass public meetings, both historic and planning board approvals, and receive a building permit upon Planning staff approval.	This concept has been suggested in the past; if pursued, it could theoretically be handled administratively, outside of the land use code.

NAME	DATE	SOURCE	ARTICLE	TOPIC	COMMENT	RESPONSE
Craig Mathieson	7/28/24	Email	13. Site Plan/16. Historic Preservation	Process	Simplify & Streamline Permitting - From Historic and Planning Board approvals to permit in hand, this process needs to be simplified and streamlined	The second wave draft includes changes to streamline approvals, including the reclassification of single- to 4-family housing as a minor site plan, requiring only administrative approval, the extension of the high thresholds for Planning Board review in the IS-FBC to the TOD zones, and the exemption of changes of use to residential from site plan review. HP review procedures have also been streamlined in the drafts. Lastly, much can be done outside of the land use code to streamline the review process.
Craig Mathieson	7/28/24	Email	13. Site Plan/16. Historic Preservation	Process	Establish Pre-Approved Development Types. These would bypass public meetings, both historic and planning board approvals, and receive a building permit upon Planning staff approval.	This concept has been suggested in the past; if pursued, it could theoretically be handled administratively, outside of the land use code.
Jeff Sherman	5/10/2024	Konveio	14. Subdivisions	14.3.3. Neighborhood Outreach	Neighborhood outreach should only be required for subdivisions building single family homes. Otherwise, neighborhood outreach should be eliminated if the area is already zoned business or residential. Alternatively, subdivisions building affordable housing (or units that will be designated affordable for X period of time) on lots already zoned residential should be exempt from neighborhood outreach.	The City does not recommend changes to the neighborhood outreach requirements for new subdivisions, which are triggered when five or more new lots are created.
Jeff Sherman	5/10/2024	Konveio	14. Subdivisions	14.5.6(B) Blocks	The "may" in this section should be changed to a "shall" and the Planning Board should have the option of requiring 2 easements. Therefore, this section could be rewritten to say: In blocks exceeding 800 feet in length, measured from the nearest street lines of intersecting street, the Planning Board shall require, if feasible, the reservation of 1 easement, at least 20 feet wide, to the City through the block to provide for the crossing of underground utilities, pedestrian traffic, and bicycle traffic. In its discretion, the Planning Board may require multiple easements through the block to provide for the crossing of underground utilities, pedestrian traffic, and bicycle traffic. Additionally, at its discretion, the Planning Board may require that an accessible path for pedestrians and cyclists be included.	The final draft will be modified to include the word "shall."
Jeff Sherman	5/10/2024	Konveio	14. Subdivisions	14.5.6(B) Blocks	Whenever there is a development where the rear setback of residential lots abuts the rear setback of another set of residential lots, the Planning Board should require an easement or the creation of a path that is a minimum of 20 feet wide between the rear setbacks of the two streets. This should be a requirement and not up to the planning board. This will create alleyways that will allow for future infill development along the rear setbacks and will create alternatives for pedestrians and cyclists who wish to avoid vehicle traffic.	While alleys work well in many locations, they have not generally been a feature of the city's block pattern. Given that there is fairly limited large-scale greenfield subdivision likely in the future, this change would have limited utility.
Jeff Sherman	5/10/2024	Konveio	14. Subdivisions	14.5.6(B) Blocks	This requirement should be for blocks of any size and not just for blacks in excess of 800 feet in length.	There are many instances of smaller blocks in the city which function well without a cut-through.
Jeff Sherman	5/10/2024	Konveio	15. Impact Fees	15.9 Use of impact fees	The city should also be able to use impact fees for maintenance of existing infrastructure.	By law, impact fees may only be used to expand infrastructure capacity in a manner proportional to development's impact on that infrastructure. Use of funds for maintenance is prohibited.

NAME	DATE	SOURCE	ARTICLE	TOPIC	COMMENT	RESPONSE
Jeff Sherman	5/10/2024	Konveio	15. Impact Fees	Table 15-A: Impact Fee Schedule	Impact fees should be based on the square footage of the lot and not on how many new units are built.	Under the City's *Impact Fee Study*, impacts are measured based on the number of new people associated with any new use; as such units provides a much better metric than lot size.
Greater Portland Landmarks	5/28/24	Email	16. Historic Preservation	"Certificate of Appropriateness"	The existing historic preservation ordinance defines certificate of appropriateness, while the staff proposed draft removes this definition. Our concern is that "Certificate of Appropriateness" is a term-of-art and that there is value in retaining the definition.	"Certificate of appropriateness" has the effect of mystifying what is the approval of a proposed change to a property reviewable under the historic preservation ordinance. "Certificate of appropriateness" has been replaced with historic preservation approval throughout.
Greater Portland Landmarks	5/28/24	Email	16. Historic Preservation	"Certificate of Economic Hardship"	Not defined	Certificate of Economic Hardship is defined within the text under 16.8(A).
Greater Portland Landmarks	5/28/24	Email	16. Historic Preservation	"Certificate of Non-Applicability"	Not defined	Certificates of non-applicability are proposed to be removed from the ordinance.
Greater Portland Landmarks	5/28/24	Email	16. Historic Preservation	"District"	Not defined	Historic district and historic landscape district are defined separately under 16.2.1.
Greater Portland Landmarks	5/28/24	Email	16. Historic Preservation	"New construction"	Not defined	New construction is a commonly understood phrase that does not need to be defined.
Greater Portland Landmarks	5/28/24	Email	16. Historic Preservation	"Object"	Not defined	"Object" in the context of the historic preservation ordinance will be added into Article 3 in the revised draft.
Greater Portland Landmarks	5/28/24	Email	16. Historic Preservation	"Preservation"	While not defined in the current ordinance, we believe strongly that "preservation" should be defined. If it is included in the general definition section, it should clarify that the definition pertains to its use in Chapter 16 and matters in other chapters pertaining to historic preservation. The minimum requirements for local legislation (A.2.) in the Guidelines for the CLG Program in Maine specifically state that Local legislation for designation and protection of historic properties by CLGs in Maine must contain, at a minimum, the definitions of designation and protection (ie. Historic District, Historic Landmark, Historic Site) that meet federal statutory definitions. We also believe they should include the definitions for the four treatment standards, Preservation, Rehabilitation, Restoration, and Reconstruction.	The term is not used in the ordinance outside of the overarching phrase historic preservation, the scope of which is laid out in the purpose statement or under the jurisdiction and authority of the Historic Preservation Board. A definition is not necessary.
Greater Portland Landmarks	5/28/24	Email	16. Historic Preservation	"Restoration"	We believe strongly this should be defined. The minimum requirements for local legislation (A.2.) in the Guidelines for the CLG Program in Maine specifically state that Local legislation for designation and protection of historic properties by CLGs in Maine must contain, at a minimum, the definitions of designation and protection (ie. Historic District, Historic Landmark, Historic Site) that meet federal statutory definitions. We also believe they should include the definitions for the four treatment standards, Preservation, Rehabilitation, Restoration, and Reconstruction.	The term is not used in the ordinance therefore a definition is not necessary.

NAME	DATE	SOURCE	ARTICLE	TOPIC	COMMENT	RESPONSE
Greater Portland Landmarks	5/28/24	Email	16. Historic Preservation	"Site"	The existing historic preservation ordinance defines “Site” as distinct from the definition of “Site” in the general zoning. The staff proposed language would use the general definition for all chapters of the ordinance. These are really two very different meanings, and in the 43 occurrences of the term ‘site’ found in the staff proposed Chapter 16 the meaning is significantly changed from the existing ordinance. It is problematic to have the definition of "site" that is used in the general ordinance, in a historic preservation context. In addition to the lack of clarity stated above, the minimum requirements for local legislation (A.2.) in the Guidelines for the CLG Program in Maine specifically state that Local legislation for designation and protection of historic properties by CLGs in Maine must contain, at a minimum, the definitions of designation and protection (ie. Historic District, Historic Landmark, Historic Site) that meet federal statutory definitions. We would support adding either definition below within Chapter 3. The NPS definition: Historic Site - The site of a significant event, prehistoric or historic occupation or activity, or structure or landscape (extant or vanished), where the site itself possesses historical, cultural, or archeological value apart from the value of any existing structure or landscape. From the Guidelines for the CLG Program in Maine: Site. The location of a significant event; an Archaeological Site; a landscape or traditional cultural property; or a building or structure, whether standing, ruined, or vanished, where the location itself maintains historical or archeological value regardless of the value of any existing structure. Other Maine cities and the NPS use “Historic Site” to differentiate the terms, which would require editing the body of the historic preservation ordinance at the 43 occurrences of the term “site”. That may be awkward, and if so, we would support a definition in Chapter 3 that included the historic preservation definition as a second meaning that ONLY applied to chapter 16 and instances in other chapters where “site” is used in the context of historic preservation.	"Site" in the context of the historic preservation ordinance will be added into Article 3.
Greater Portland Landmarks	5/28/24	Email	16. Historic Preservation	16.1 Purpose	The language in the existing ordinance’s purpose statement has been significantly abbreviated in the staff proposed draft. Although the added language is useful, the minimum requirements for local legislation (A.2.) in the Guidelines for the CLG Program in Maine specifically state that a statement of purpose should give an overview of why the ordinance was created and its intent. We believe several of the paragraphs in 17.1 should remain because as stated in the Guidelines, a statement of purpose may be used to determine whether a decision related to the ordinance is justifiable. We believe the existing statements establishing purpose that describe fostering civic pride, resource of expertise, protecting and enhancing neighborhoods, fostering preservation, etc. should remain. We also believe a purpose statement should include advising other city boards and the City Council on land use matters related to historic preservation.	Changes will be proposed within the purpose statement to address this comment and comments from MHPC.
Greater Portland Landmarks	8/2/24	Email	16. Historic Preservation	16.1 Purpose	We strongly recommend including a full description of the purpose of historic preservation as is included in the current ordinance. As drafted, many public, cultural, and economic benefits of historic preservation are not mentioned, and this is an important place to highlight these benefits for people who need to interact with the regulations and understand why they are necessary.	Changes will be proposed within the purpose statement to address this comment and comments from MHPC.

NAME	DATE	SOURCE	ARTICLE	TOPIC	COMMENT	RESPONSE
Greater Portland Landmarks	5/28/24	Email	16. Historic Preservation	16.2.1 Categories of historic designations	While the existing ordinance has definitions for many terms, the staff proposal imbeds several definitions within the body of the ordinance. This is reasonable, but the alteration of the definitions in some cases is problematic. For instance, it is problematic to have the wrong definition of "site" in the general ordinance, not "site" in a HP context in this section. The definition of landmark in 16.2.1.A differs from the existing definition by removing "property" and keeping "site" which is defined as all contiguous land in common ownership in the general ordinance. See also comments on Chapter 3 above. In addition, the definition of landmark incorporated in 16.2.1.A leaves out from the current definition "historic, architectural or archeological" as a modifier for “particular”, leaving it to read "particular or individual significance." Those left out words seem to be important and should remain. 16.2.1 B in defining historic district leaves out the word "buildings" from the current definition. It should remain.	The language will be revised to consistently use "building, structure, site, object, or area," as appropriate to the context. All significance is framed within the Criteria for Designation. The criteria cover the these modifiers.
Greater Portland Landmarks	5/28/24	Email	16. Historic Preservation	16.2.1(A) Landmark	1) The existing definition includes "historic, architectural or archeological" as a modifier for particular. The staff proposes removing the definition and imbedding it within the body of the text. However, the definition of landmark incorporated in 16.2.1.A. leaves out "historic, architectural or archeological" as a modifier for particular, leaving it to read "particular or individual significance." The left-out words are important in defining what type of significance a Landmark possesses. We believe this needs to be added back to the text either as stated in the existing definition or as defined in the Guidelines for the CLG Program in Maine. From the Guidelines for the CLG Program in Maine: Any site, building, or structure of particular archaeological, historic or architectural significance to the municipality relating to its heritage, cultural, social, economic or political history, or which is associated with historic personages or important events in local, state or national history which has been designated in accordance with the municipality’s historic preservation ordinance. 2) The staff proposed definition of Landmark states that landmarks may be in historic districts, yet in Section 16.2.3 “Classifications within Historic Designations”, Section 16.2.3 A. states that the sites, structures, or objects within a nominated historic designation may be classified as contributing or noncontributing. This is in conflict with the definition of Landmark and current practice in Portland, and it should be clarified that within historic districts, resources may be classified as Landmark, contributing, or non-contributing.	All significance is framed within the criteria for designation. The criteria cover the these modifiers. Language will be added to clarify that Landmark is a separate designation that is applied overlapping historic districts or historic landscape districts. All landmark structures that are also within historic districts or historic landscape districts will be considered contributing to the district as well.

NAME	DATE	SOURCE	ARTICLE	TOPIC	COMMENT	RESPONSE
Greater Portland Landmarks	5/28/24	Email	16. Historic Preservation	16.2.1(B) Historic district	The existing definition includes the phrase united “by past events”. The proposed staff ordinance removes the definition and instead incorporates the definition of historic district into the body of the ordinance. Section 16.2.1. removes the phrase " united by past events”. Those left out words are important in defining how objects, sites, or structures may be categorically united and is included in the National Parks Service’s definition: NPS definition: Historic District - A geographically definable area, urban or rural, possessing a significant concentration, linkage, or continuity of sites, landscapes, structures, or objects, unified by past events or aesthetically by plan or physical developments. A district may also be composed of individual elements separated geographically but linked by association or history. We believe the existing definition or the NPS definition is the appropriate definition to use.	Language has been revised to include "united by past events" and better align with the National Register.
Greater Portland Landmarks	5/28/24	Email	16. Historic Preservation	16.2.1(C) Historic landscape district	The staff proposes to add language to the definition of historic landscape district which is taken from 17.4.3. It seems appropriate to include it within the definition of HLDs, which staff proposes to include within the body of the ordinance.	No response necessary.
Greater Portland Landmarks	5/28/24	Email	16. Historic Preservation	16.2.2 Criteria for designation	The existing ordinance instructs the two bodies to apply the historic preservation goals and other aspects of the comprehensive plan. The staff proposed draft in 16.2.2 C, simplifies the reference to the comp plan by calling out the comp plan in general and eliminating that a designation should consider the "historic preservation goals included in the comp plan". We believe that the designation process should specifically consider "historic preservation goals”, along with consideration of other goals in the comp plan.	In the final draft, this section will be revised to clarify that the Planning Board and City Council should weigh the criteria for designation, integrity, and all components of the Comprehensive Plan on equal footing based on feedback from the Historic Preservation Board.
Greater Portland Landmarks	5/28/24	Email	16. Historic Preservation	16.2.2 Criteria for designation	[Existing 17.4.1(B)] This is an important criterion for evaluating historic districts. We are unclear why this was deleted. It appears to address the National Parks Service’s Standards for evaluating significance within registered historic districts.	This language is redundant to the proposed definition (which follows the model of the National Register) in that it still identifies that there must be a "concentration, linkage, or continuity" and that the district be "united."
Greater Portland Landmarks	5/28/24	Email	16. Historic Preservation	16.2.2 Criteria for designation	[Existing 17.4.1(B)] This too is an important criterion for evaluating historic landscape districts. We are unclear why this was deleted, especially as Portland has five HLDs: Evergreen Cemetery, Eastern Prom, Deering Oaks, Western Prom, and Lincoln Park.	This language is redundant to the proposed definition which requires a "concentration, linkage or continuity og natural or man-made components." The significance would be framed within the criteria for designation.
Chamber of Commerce	5/29/24	Email	16. Historic Preservation	16.2.2 Criteria for designation	We welcome the opportunity to provide written comments on behalf of our members regarding the proposed amendments to Article 16 of the City of Portland’s Land Use Code being advanced under the ReCode initiative. Increasing the production of housing of all types is the top policy initiative of the Chamber, and as you know, your Board plays an important role in the permitting of housing within Portland’s historic districts. It is imperative that the amendments advanced to Article 16 through ReCode affirmatively further the goals of our comprehensive plan and the priorities of our elected officials, both of which strongly prioritize the creation of thousands of units of housing over the next decade.	The proposed revisions to Article 16 are intended to clarify many of the city's existing review procedures and thereby improve the review process.

NAME	DATE	SOURCE	ARTICLE	TOPIC	COMMENT	RESPONSE
Chamber of Commerce	5/29/24	Email	16. Historic Preservation	16.2.2 Criteria for designation	The draft before you from staff advances several key changes that we believe will streamline review of alterations, adaptive reuse, and new construction within Portland's historic districts. Most importantly, the clarification of standards of review and scope of jurisdiction are welcome amendments that will go a long way towards removing subjectivity from the current process that leads to delays that cost applicants considerable amounts of time and money. Additionally, we appreciate the elimination of the existing criteria for designation on Page 55 of the redline PDF that currently allow for historic districts to be assembled through the amalgamation of various building types regardless of the individual merit of structures and even if the proposed district is "composed of a wide variety of resources". This change significantly limits potential for abuse in the designation of districts which do not contain any sufficient cohesiveness among style, period, or type of building, and which are only currently able to be designated based off this vague standard. Finally, we appreciate the addition of the new criteria in 16.2.2.C that clarifies the applicability of all sections of the comprehensive plan when making designation decisions.	As drafted, historic districts may still be composed of a wide variety of resources provided that it can be demonstrated that they are united by past events, culturally, or aesthetically and collectively meet at least one of the criteria for designation. See 16.2.1(B). The ability of the Planning Board and Council to weigh all components of the comprehensive plan in establishing historic designations has been a component of the ordinance since its adoption in 1990 (See 17.4.1(D) & 17.5.8(B), existing language)
Greater Portland Landmarks	8/2/24	Email	16. Historic Preservation	16.2.2 Criteria for designation	In section 16.2.2 Criteria for Designation, rephrasing criteria to create clear subheadings is helpful, however we caution that engineering significance is somewhat lost in this format and recommend that 4. Significant Architecture should clarify that significant works of engineering are also included consistent with National Park Service criteria for listing in the National Register (such as a bridge, or structure that isn't a building).	The final draft will rename this section to "Significant or design or construction" in accordance with the National Register guidance.
Greater Portland Landmarks	8/2/24	Email	16. Historic Preservation	16.2.2 Criteria for designation	The current ordinance notes that the City Planning Board and the City Council may consider proposed designations based on criteria for significance and integrity as well as "historic preservation goals" and other aspects of the City's comprehensive plan. This has been a reasonable policy especially for historic districts, which do impact elements of the City's comprehensive plan, and we support it remaining in place. (We also urge that the current language with specific reference to the "historic preservation goals" within the comprehensive plan remains, as a reminder that the City prioritizes historic preservation along with other important goals).	In the final draft, this section will be revised to clarify that the Planning Board and City Council should weigh the criteria for designation, integrity, and all components of the Comprehensive Plan on equal footing based on feedback from the Historic Preservation Board.
Greater Portland Landmarks	8/2/24	Email	16. Historic Preservation	16.2.2 Criteria for designation	Language in the proposed ReCode plan (16.3.7.D, and by reference 16.2.2.C) would also allow consideration of the comprehensive plan in designation amendment and rescission applications, for example to change the contributing status of a building within a historic district for reasons other than its integrity or significance. We have heard from the Maine Historic Preservation Commission (MHPC) that this language constitutes the same result as a "project of special merit" provision, which was for years a barrier to Certified Local Government status and was specifically removed for Portland to become a CLG. We feel very strongly that once designated—a process that involves consideration of the City's comprehensive plans and the historic preservation goals stated within it—rescission and amendment standards should remain limited to the minimum criteria for designation and the integrity standard and be so stated in very clear language within the ordinance. We appreciate your commitment to retaining Portland's CLG status and are happy to work with you and MHPC as you finalize the updated code.	In the final draft, the amendments and recission section will be revised to strike references to the comprehensive plan.

NAME	DATE	SOURCE	ARTICLE	TOPIC	COMMENT	RESPONSE
Greater Portland Landmarks	5/28/24	Email	16. Historic Preservation	16.2.2(A) Criteria for designation	The existing ordinance defines the criteria for consideration as “minimum criteria”, while the staff proposed language in 16.2.2 strikes "minimum" from criteria for designation, but later references in the document (16.2.3.B.2) are made to minimum criteria. It is confusing. The terminology should be consistent throughout, using “minimum criteria”.	Revisions are suggested to strike the word "minimum" from all references, using "criteria for historic designation" or "historic designation criteria"
Greater Portland Landmarks	5/28/24	Email	16. Historic Preservation	16.2.2(B) Criteria for designation	General Note: We believe that integrity, which is not defined in either the existing ordinance or in the proposed staff draft, is important to define. Other CLG communities in Maine use the following: HISTORIC INTEGRITY: The authenticity of a property’s historic identity as evidenced by the survival of physical characteristics (location, design, setting, materials, workmanship and association) that existed during the property’s prehistoric or historic period.	Integrity is defined within the body of the ordinance under 16.2.2(B) as conveying its significance.
Greater Portland Landmarks	5/28/24	Email	16. Historic Preservation	16.2.2(B) Criteria for designation	The existing ordinance includes “condition” as an aspect of integrity. The staff proposed language in 16.2.2.B discussing integrity omits the term "condition". “Condition” should be considered with any discussion of integrity, as this is a national and state standard. The language in 17.4.2 omitted from the staff proposal “make it worthy of preservation or restoration” is standard preservation language when discussing integrity in historic preservation ordinances. The language should be returned to its original phrasing. We also believe “integrity” should be defined. The citation at the end of the proposed paragraph 16.2.2.B. should cite "appliable criteria as defined in Subsection 16.2.2.A.”	Condition is distinct from integrity. Integrity is a building's ability to convey its significance (p. 44 of the National Register Bulletin: How to Apply the National Register Criteria for Evaluation). Condition is a building's state in terms of its ability to continue to serve a function/purpose. The National Register Bulletin does not identify condition as an aspect of integrity. Other National Park Service guidance states, "A measure of integrity is not the same as an assessment of condition. The National Register recognizes seven aspects or qualities that define integrity: location, design, setting, materials, workmanship, feeling, and association. Researchers assess historic integrity by evaluating whether a property reflects the spatial organization, physical components, and historic associations that is attained during the period(s) of significance. A measure of integrity is not the same as an assessment of condition." (https://www.nps.gov/articles/000/cultural-landscapes-national-register-significance-integrity.htm#:~:text=Researchers%20assess%20historic%20integrity%20by,as%20an%20assessment%20of%20condition.) Based on feedback from Maine Historic Preservation Commission staff, (B) will be revised in the final draft to include all seven aspects of integrity referenced by the National Register. Integrity is defined within the body of the ordinance under 16.2.2(B) as conveying its significance.

NAME	DATE	SOURCE	ARTICLE	TOPIC	COMMENT	RESPONSE
Chamber of Commerce	6/1/24	Email	16. Historic Preservation	16.2.2(B) Criteria for designation	In the draft proposed 16.2.2.B why is “condition” being removed as a criteria for a nominated area, site, structure or object?	Condition is distinct from integrity. Integrity is a building's ability to convey its significance (p. 44 of the National Register Bulletin: How to Apply the National Register Criteria for Evaluation). Condition is a building's state in terms of its ability to continue to serve a function/purpose. The National Register Bulletin does not identify condition as an aspect of integrity. Other National Park Service guidance states, "A measure of integrity is not the same as an assessment of condition. The National Register recognizes seven aspects or qualities that define integrity: location, design, setting, materials, workmanship, feeling, and association. Researchers assess historic integrity by evaluating whether a property reflects the spatial organization, physical components, and historic associations that is attained during the period(s) of significance. A measure of integrity is not the same as an assessment of condition." (https://www.nps.gov/articles/000/cultural-landscapes-national-register-significance-integrity.htm#:~:text=Researchers%20assess%20historic%20integrity%20by,as%20an%20assessment%20of%20condition.) Based on feedback from Maine Historic Preservation Commission staff, (B) will be revised in the final draft to include all seven aspects of integrity referenced by the National Register. Integrity is defined within the body of the ordinance under 16.2.2(B) as conveying its significance.
Greater Portland Landmarks	5/28/24	Email	16. Historic Preservation	16.2.3 Classifications within historic designations	Does “historic designations” = historic districts? Or does it encompass HDs, HLDs, and individual landmarks? This is confusing language throughout 16.2.	Historic designation is intended as an overarching term that encompasses landmarks, historic districts, and historic landscape districts. Where language refers to specific categories of historic designations, they are called out specifically.
Greater Portland Landmarks	8/6/24	Email	16. Historic Preservation	16.2.3 Classifications within historic designations	Section 16.2.3.(C) Would landmarks in a historic district still be reviewed as landmarks? (in that all elevations of the historic resource(s) are generally considered for review, not just those from a public way or open space?)	As drafted, the review would be the same for all contributing structures within a historic designation.
Greater Portland Landmarks	5/28/24	Email	16. Historic Preservation	16.2.3(A) Classifications within historic designations	In the staff proposed language “landmark” classification seems to be inappropriately omitted. Currently certified local historic districts include landmark, contributing, and non-contributing resources and we believe this should be amended to include “landmark”	In the final draft, revisions will be made to clarify that landmarks as designations may overlap with districts or stand alone.

NAME	DATE	SOURCE	ARTICLE	TOPIC	COMMENT	RESPONSE
Greater Portland Landmarks	5/28/24	Email	16. Historic Preservation	16.2.3(B) Classifications within historic designations	A contributing classification shall only be applied to an area, site, structure, or object which: 1) Were Was built at least 50 years prior to the date of district designation or were was built within a period of significance specified in the designation application. 2) Are Is found to have a relationship with or physically embodies the qualities that give the historic designation cultural, historic, architectural, or archaeological significance as embodied in the minimum criteria specified in the designation report; and 3) Retain sufficient integrity to communicate that significance as defined in Subsection 16.2.2(B). The existing ordinance definition of "contributing" has been removed in the staff proposal. Instead, new language is proposed within the body of the ordinance. Our concerns with the proposed amendment are: a) That the new language lacks clarity in Section 16.2.3. Classifications within historic designations. Would the term "contributing" apply to historic designations generally (including individual landmarks?) or only to resources in historic districts? b) Section 16.2.3 omits "landmark" as a classification in a historic district. c) Refers to the "designation report". Section 16.3. Nomination, Consideration, and Historic Designation references "report" several times but those references should be clarified to be "designation report" in order to be consistent. The minimum requirements for local legislation (A.2.) in the Guidelines for the CLG Program in Maine specifically state that Local legislation for designation and protection of historic properties by CLGs in Maine must contain, at a minimum, the definitions of designation and protection (ie. Historic District, Historic Landmark, Historic Site) that meet federal statutory definitions. We believe the term 'contributing' should be a defined term in Chapter 3 and suggest the following definition: From the Guidelines for the CLG Program in Maine: A property or resource that has historical significance through location, design, setting, materials, workmanship, feeling, or association, and adds to the sense of time and place and historical development in a historic property. Minor edit – verb tense in paragraphs 16.2.3.B.1. &2. (see Greater Portland Landmarks proposed corrections to the left in red)	Contributing classifications could also be applied to buildings, structures, sites, or objects within the boundaries of landmarks. This is consistent with the approach taken under the National Register where individual National Register listings include lists of contributing and noncontributing resources. This approach was also taken under the recent local landmark designation of the B&M Cannery. The notion of "contributing" is generally self-explanatory. The contributing and noncontribuiting classifications are defined through the parameters given for determining such a classification within the body of the ordinance under 16.2.3. Revisions will be made to correct verb tenses. Revisions will be made to clarify the distinction between the nomination materials and reports issued by the Historic Preservation Board and Planning Board, which would include findings and recommended changes to any nomination.

NAME	DATE	SOURCE	ARTICLE	TOPIC	COMMENT	RESPONSE
Greater Portland Landmarks	5/28/24	Email	16. Historic Preservation	16.2.3(B) Classifications within historic designations	We think there would be greater clarity if the term "contributing" were defined in Chapter 3 with a general definition such as “A contributing resource means and includes any building, other structure or site that by age, location, design, setting, materials, workmanship or association adds to the district’s sense of time and place and historical development or is capable of yielding important information about an historically significant period.” Chapter 16.2.3.B. would then set out the criteria for contributing (older than 50, sufficient integrity, etc.) The entirety of Section 16.2.3 is confusing because it seems to apply to historic designations generally, but the language seems to be discussing historic district designation, not individual landmarks. Is section 16.2.3 A. and 16.2.3 B. attempting to say that within a “nominated historic designation” like a Landmark, the term contributing would be applied? In a “nominated historic designation” like a Landmark, if there are multiple resources (like House Island for example) the designation is considered a district. This needs clarity, see our comment in 16.2.3 above. Landmarks are also an existing classification within a district, and there is no discussion of that classification in this section. Chapter 3. 16.2.3.B.2. refers to the "minimum criteria" in the "designation report”. The “designation report” contents are not clearly articulated in the staff proposed draft, contrary to the detailed contents contained in the existing ordinance, see Chap. 17.5.4.A. We believe clearly outlining the contents of the designation report is important. Also, there is inconsistent use of the term “report” and “designation report” in the proposed document that needs to be made consistent.	The contributing and noncontribuiting classifications are defined through the parameters given for determining such a classification within the body of the ordinance under 16.2.3. Landmarks can contain multiple structures and objects (for example a primary structure and associated accessory structures). This is consistent with individual National Register listings and the approach previously taken at the B&M Cannery, a local landmark.
Greater Portland Landmarks	5/28/24	Email	16. Historic Preservation	16.2.3(C) Classifications within historic designations	The existing definition includes three ways a resource can be considered non-contributing. The last paragraph in the existing definition includes the ability for the board to determine a portion of a building is non-contributing. The new definition is proposed by staff to be imbedded into the body of the text. The proposed definition has been altered through defining contributing buildings in section 16.2.3.B. and ceding all other buildings that do not meet the criteria in 16.2.3.B will be non-contributing. However, the removed language from the third paragraph of the existing definition removes the ability of the Historic Preservation Board to designate a portion of a site or structure as non-contributing. Having the Board retain the option to designate a portion of a site or structure as non-contributing is useful as they review proposed rehabilitation or alteration proposals. The opportunity of the Board to make this determination should not be lost and should be included either as new language in 16.2.3.B or added to 16.2.3.C.	If a building is not contributing, then it would be noncontributing. Under 16.3.8, there is a presumption of contributing classification where a building, structure, site or object was not previously classified. This is consistent with existing language. 16.3.8 adds a framework for finding buildings, structures, sites, or objects of no significance or integrity as noncontributing. The Historic Preservation Board would still retain the authority to approve removal of portions of structures under the certificate of approval process. The Board could find that portions or elements of structures are not distinctive or character-defining and therefore approve their removal as consistent with the standards for review.
Greater Portland Landmarks	5/28/24	Email	16. Historic Preservation	16.2.3(C) Classifications within historic designations	The definition included in the staff proposed text has altered the existing ordinance through defining contributing buildings in section 16.2.3.B. and ceding all other buildings will be non-contributing. The altered language removes the ability of the historic preservation board to designate a portion of a site or structure as non-contributing. Designating a portion of a site or structure is useful for historic preservation board as they review proposed rehabilitation or alteration proposals.	See above.

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Greater Portland Landmarks	8/6/24	Email	16. Historic Preservation	16.2.3(C) Classifications within historic designations	[In final HPBoard draft,] Added "C. Where a landmark overlaps with a historic district or historic landscape district, the constributing buildings, structures, objects, and sites of the landmark shall be classidied as contributing to the historic district or historic landscape district." Would these landmarks still be reviewed as landmarks (in that all elevations of the historic resource(s) are generally considered for review, not just those from a public way or open space?)	As drafted, the review would be the same for all contributing structures within a historic designation.
Greater Portland Landmarks	5/28/24	Email	16. Historic Preservation	16.3.2 Nomination of a historic designation	Can MHPC provide information on how other Maine CLG communities handle public notice? During several recent district nominations, like House Island and Munjoy Hill, properties have been sold during the designation process. New residents/owners that arrive during the process deserve public notice so they may participate in the process at the next public meeting. Notifications should be sent to owner(s) at the various points of determination by HP and PB.	The noticing language for the designation process has been modified to better align with other land use decision-making processes, such as zoning map amendments, which rely more heavily on board and council hearing notice procedures. Notice of a final designation decision has been retained in the draft. The noticing language accounts for potential changes in the geography of the designation.
Greater Portland Landmarks	5/28/24	Email	16. Historic Preservation	16.3.2 Nomination of a historic designation	The existing ordinance requires nominations to be submitted with signature. There is also language in the existing ordinance which allows the historic preservation board members to make a nomination at a meeting, in writing, and then complete further information before it is processed. The staff proposed language in 16.3.2.A lists all the information that should be included in a nomination, but 16.3.2.C says a nomination can be made "verbally" at a HP meeting. It is inconsistent to have a verbal nomination allowed if all of the information in 16.3.2.A is required. This inconsistency should be resolved. We believe at a minimum a letter signed by at least two members of the historic preservation board should be required, and signatures for public nominations should be a minimum requirement.	In final draft, revisions will be made to require that all nominations and sponsorships be in writing.
Greater Portland Landmarks	5/28/24	Email	16. Historic Preservation	16.3.3 Historic Preservation Board review	The existing ordinance allows for multiple workshops during the designation process, while the staff proposed language would limit workshops to one, unless the nominators provide consent. A historic district can be nominated by members of the public and then sponsored by two members of the historic preservation board. It is unclear if the staff proposal is to require consent by all nominators (members of the public) or the two members of the HPB. Requiring all public nominators consent to additional meetings for a large district nomination would be unduly complicated. What would that process be if they were not all present at the first workshop? The intention in the proposed language is not clear. Designations might only require one workshop, particularly for individual nominations, but a large district would likely require multiple workshops to allow for public comment and time to discuss additional information that might be required during the process. We propose that Language be included that nominations should be pursued expeditiously to clearly signal the process should not be unduly drawn out.	In the final draft, revisions will be made to add "one or more workshops."

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Greater Portland Landmarks	5/28/24	Email	16. Historic Preservation	16.3.3(D) Historic Preservation Board review	The staff proposed language in 16.3.3.D refers to findings by HPB as to whether the criteria have been met. Is this supposed to be the designation report? There are later references to a HPB report as well. Chapter 16.2.3.B.2. refers to the "minimum criteria" in the "designation report". The designation report contents are not clearly articulated in this proposed redraft, contrary to the level of detail contained in the existing ordinance, see Chap. 17.5.4.A. We believe clearly outlining the contents of the designation report is important so that the public, staff, and members of the board are aware of the content needed. Comparing 16.3.3.D to the existing ordinance there is a provision (17.5.5.B), that if the HPB votes not to designate, a new designation cannot be brought back for at least a year. That is struck from the proposed text.	The information to be provided in the nomination materials is detailed under 16.3.2(A). See above regarding the contents of the nomination and subsequent reports. In the final draft, revisions will be made to add the provisions under 17.7.5(B) under 16.3.3(E).
Greater Portland Landmarks	5/28/24	Email	16. Historic Preservation	16.3.7 Amendment or rescission of designation	The language in staff proposed 16.3.7 Amendment or rescission of designation is a significant change from the existing language in 17.5.9. By referring to 16.2 as a whole in referencing standards for rescission or amendment, it allows the planning board or the city council to decide that a landmark or contributing building can be reclassified as noncontributing (and therefore demolished) based on goals, other than historic preservation, identified in the comprehensive plan. Proposing to amend the ordinance to introduce consideration of the comprehensive plan in amendments or rescission decisions is misguided and tantamount to reintroducing the "projects of special merit" provision that had to be removed from the ordinance in 2004 to qualify Portland's HP ordinance for CLG certification. Comprehensive plans are general scoping documents and city ordinances are the regulatory implementation of those general goals. Once the district or individual designation has been made, a rescission or amendment should be based on new evidence and the application of the enumerated standards and criteria of the ordinance, rather than broad policy goals in the comprehensive plan. This proposed language appears NOT to meet the minimum requirements for a Local Review Commission per the Guidelines for the CLG Program in Maine.	In the final draft, the amendments and recission section will be revised to strike references to the comprehensive plan.
Greater Portland Landmarks	8/6/24	Email	16. Historic Preservation	16.3.7 Amendment or rescission of designation	Regarding Portland's CLG status, we support the inclusion of the goals in Portland's comprehensive plan as a criterion during the Planning Board and City Council's consideration of historic designations. This has been a long-standing provision in Portland's Historic Preservation Ordinance. However, Landmarks does not support the inclusion of the goals in Portland's comprehensive plan as a criterion during rescission or amendment deliberations by the Planning Board and City Council. We urge the Board to support language in Section 16.3.7 (D) that would remove reference to comprehensive plan goals, similar to the existing language in Section 17.5.9. We believe that would address MHPC's concerns about the proposed language in the standards for recission or amendment that would allow the Planning Board or the City Council to decide that a landmark or contributing building can be reclassified as noncontributing (and therefore demolished) based on goals, other than historic preservation, identified in the comprehensive plan.	In the final draft, the amendments and recission section will be revised to strike references to the comprehensive plan.

NAME	DATE	SOURCE	ARTICLE	TOPIC	COMMENT	RESPONSE
Greater Portland Landmarks	5/28/24	Email	16. Historic Preservation	16.3.7(A) Amendment or rescission of designation	In addition, as proposed in 16.3.7.A there is no application of amendment possible with this process for reclassification to a landmark designation downward to contributing or non-contributing (if say there was a fire or other disaster that altered its exterior appearance) because it explicitly calls out contributing and noncontributing. Is the only option in case of a landmark to remove the designation completely as a rescission? Would that potentially create a 'donut hole" in a district boundary, which is generally to be avoided? What is MHPC position on this? We believe there should be a mechanism for all designation categories and that a rescission or amendment should be based on new evidence and the application of the standards and criteria of the ordinance, as intended by the minimum requirements for a Local Review Commission per the Guidelines for the CLG Program in Maine.	See above clarifying that landmarks are separate designations that may overlap historic districts or historic landscape districts.
Greater Portland Landmarks	8/6/24	Email	16. Historic Preservation	16.3.7(D) Amendment or rescission of designation	From MHPC: This section is not consistent with Maine's CLG guidelines if 16.2.2.C. is incorporated into the ordinance. Landmarks agrees with MHPC's opinion and urges the Board to amend the proposed language to include limiting the criteria to 16.2.2.(A) and (B) as exists in the current ordinance that HAS been approved by MHPC and NPS.	In the final draft, the amendments and recission section will be revised to strike references to the comprehensive plan.
Chamber of Commerce	6/2/24	Email	16. Historic Preservation	16.3.8 Presumption of contributing classification	In the draft proposed 16.3.8 why is there a presumption that structures or objects in an area or site are contributing? Shouldn't all structures have the test of the standards in 16.2.2 applied and explicitly listed in the City ouncil order before they are locked into a potentially irreversible designation as contributing?	This language is consistent with 17.7.1(B), but will be relocated and refined for improved clarity.
Greater Portland Landmarks	8/6/24	Email	16. Historic Preservation	16.3.8 Presumption of contributing classification	[In final HPBoard draft,] Added new paragraph: 2. The Historic Preservation Board holds a public hearing and finds that the building, structure, object, or site has no significance relating to the criteria for historic designation under Subsection 16.2.2(A) referenced in the nomination for the historic designation, or reports of the Historic Preservation Board, Planning Board or City Council This proposed language seems to state the existing process when a historic designation does not specify the classification.	No response necessary
Greater Portland Landmarks	5/28/24	Email	16. Historic Preservation	16.3.8 Presumption of contributing classification	What is the definition of area in the staff proposed language? A district? What about buildings and structures? The staff proposed language in 16.3.8 differs from the existing ordinance in that it provides exceptions to the presumption of contributing status. 16.3.8.B, proposes an exception to the presumption of a contributing classification if the structure was substantially altered within 50 years. We believe there should be some requirement that it was lawfully altered, particularly if it was altered after the date of designation. An applicant should not be able to significantly alter a building without the necessary permits and still qualify for the exemption. This does not appear to meet the minimum requirements for a Local Review Commission per the Guidelines for the CLG Program in Maine.	Area is not currently definied within the ordinance. Staff find the notion of an "area" to be self-explanatory. Under the proposed language, buildings are not distinguished from structures, but as noted above, revisions are suggested to add "buildings" consistently within the designation language. If a building or structure was unlawfully altered after the date of designation, that would constitue a separate violation under the ordinace's requirement for a COA before permitting and or undertaking any exterior alterations. In the final draft, language will be added to clarify that alterations will need to have been completed lawfully.

NAME	DATE	SOURCE	ARTICLE	TOPIC	COMMENT	RESPONSE
Greater Portland Landmarks	8/6/24	Email	16. Historic Preservation	16.4 Interim protections	The interim protections no longer include the provisions that the ordinance applies upon the recommendation of the designation of the HPB. Landmarks believes this has been a helpful and effective provision during the designation of historic districts.	The draft includes language applying teh demolition and minimum maintenance provisions from the time of nomination until Council action.
Greater Portland Landmarks	5/28/24	Email	16. Historic Preservation	16.4 Interim protections	The staff proposed language differs from the existing ordinance by altering the Interim protections. As proposed only minimum maintenance and protections from demolition would apply from nomination until City Council action. It proposed to delete the full protections that currently are in place as soon as the HPB recommends designation to the PB. Staff's proposal will encourage major alterations as soon as a resource is nominated but before final designation by the City Council, which can be an extended process in the case of a historic district. We believe the language "Upon final action of the Historic Preservation Board recommending designation, the site, structure, object, or area nominated shall be subject to all of the protections of this article until a final decision on designation by the City Council" should be included.	The draft includes language applying teh demolition and minimum maintenance provisions from the time of nomination until Council action.
Greater Portland Landmarks	5/28/24	Email	16. Historic Preservation	16.4 Interim protections	The existing ordinance language allows for HP determination of a demolition request for a non-contributing resource during the designation process, which can take months. During the designation process, the owner of a building deemed a non-contributing building by the HP Board should be entitled to the same provisions they would have if the district was already designated.	In the final draft, revisions will be made to add the provisions under 17.5.2(E) under 16.4.2 or 16.4.3.
Greater Portland Landmarks	5/28/24	Email	16. Historic Preservation	16.4 Interim protections	The staff proposed draft is missing the existing interim protections that go into effect upon HPB determination and would only require minimum maintenance and protection from demolition throughout the designation review process. As proposed to be amended by staff, there would be no HPB or staff review of proposed projects while a district is being considered by the Planning Board or City Council. It is extremely important that the full interim protections enumerated in the current ordinance (17.6) upon HPB determination are retained. As we found with the Munjoy Hill Local Historic District, review of projects began as soon as the HPB determination began and projects were expediently approved, with the public having the opportunity to comment. This significantly calmed fears about the onerous nature of the review process expressed by opponents and gave members of the public that wanted a say in their neighborhood's development, an opportunity to do so.	The draft includes language applying teh demolition and minimum maintenance provisions from the time of nomination until Council action.
Greater Portland Landmarks	5/28/24	Email	16. Historic Preservation	16.4.2 Protection from demolitions	The existing ordinance definition includes partial demolition. The staff proposed ordinance is missing 'partially or'. Our concern with the proposed language is since partial demolitions tend to occur more often than total demolitions. reference to partial demolition, not just removal of features, really should be specified in the ordinance. City staff have indicated that the proposed new definition of alteration encompasses partial demolitions with the phrase "removal of features". That does not seem sufficient.	Staff find this sufficient.

NAME	DATE	SOURCE	ARTICLE	TOPIC	COMMENT	RESPONSE
Greater Portland Landmarks	5/28/24	Email	16. Historic Preservation	16.5 Protections for Properties listed on the National Register of Historic Places	Again, what does “area” in this context mean? Historic District? Be consistent with terminology to provide clarity. This section in particular needs review by MHPC. The proposed language states that NRHP listings or properties with a DOE are not allowed to be demolished, with exceptions. The proposed language does not provide review of relocation, alterations or other actions for those properties. We confirmed that MHPC is passing DOEs along to the city, but this staff proposed language doesn’t state if newly listed (or eligible) National Register properties fall under the ordinance once they are listed or as stated in the existing ordinance, that a nomination is deemed submitted and the procedures for nomination should be followed. We understand that the city has not been routinely following the existing requirement of the ordinance for local nomination. The Guidelines for the CLG Program in Maine set out minimum duties of the local review commission to “review alterations, relocation, demolition, and other actions affecting designated historic properties under its jurisdiction”. Guidelines for the CLG Program in Maine sets out that minimum requirements for local legislation include “mandatory review of alterations, demolition, building relocation or new construction (Certificates of Appropriateness)- within the boundaries of designated individual landmarks or districts or which may affect such landmarks or districts”. We believe that new NRHP designations should be considered by the HPB as a nomination for local designation as the existing ordinance requires or in some other manner be protected from alterations by the ordinance as they are designated historic properties.	Based on feedback and comments from MHPC staff, this section will be removed to eliminate any automatic regulations placed upon properties based on their having been listed on the National Register of Historic Places. Based on Board feedback local Historic Designation will not be automatically initiated for National Register listed properties.
Greater Portland Landmarks	5/28/24	Email	16. Historic Preservation	16.5 Protections for Properties listed on the National Register of Historic Places	This exception does not include any preservation criteria related to significance or integrity, nor does it weigh in the reuse potential of a building. By this standard for example, Deering High school, a NRHP-eligible building could be demolished for a new consolidated high school or any other use. We believe this does NOT meet the CLG guidelines and should be removed as an exception.	Based on feedback and comments from MHPC staff, this section will be removed to eliminate any automatic regulations placed upon properties based on their having been listed on the National Register of Historic Places.
Greater Portland Landmarks	8/2/24	Email	16. Historic Preservation	16.5 Protections for Properties listed on the National Register of Historic Places	The current ordinance provides a mechanism by which properties listed on the National Register are forwarded to the Historic Preservation Board for consideration as local landmarks. Understanding concerns by MHPC that an automatic path to local designation from National Register is not consistent with National Park Service standards or CLG requirements, we recommend including language to ensure communication with the MHPC and keeping an inventory of listed and eligible sites for consideration.	This is a matter of process and procedure for the HP program.
Greater Portland Landmarks	8/6/24	Email	16. Historic Preservation	16.5 Protections for Properties listed on the National Register of Historic Places	[In final HPBoard draft,] Deleted the proposed section 16.5 in its entirety per MHPC comments Will Planning Staff, upon communications with MHPC regarding NRHP listings and determinations of eligibility, make those properties known to the Board and public, so that if there is interest, a local nomination might be undertaken following the process outlined in the ordinance? Will those properties be flagged in the permitting systems when there is a request for demolition?	National Register listings are currently being communicated to the Historic Preservation Board, and this process will continue to be followed.
Greater Portland Landmarks	8/6/24	Email	16. Historic Preservation	16.5 Protections for Properties listed on the National Register of Historic Places	Deletion of text currently addressed in Section 17.6.2: Will Planning Staff, upon communications with MHPC regarding NRHP listings and determinations of eligibility, make those properties known to the Board and public, so that if there is interest, a local nomination might be undertaken following the process outlined in the ordinance? Will those properties be flagged in the permitting systems when there is a request for demolition?	National Register listings are currently being communicated to the Historic Preservation Board, and this process will continue to be followed.

NAME	DATE	SOURCE	ARTICLE	TOPIC	COMMENT	RESPONSE
Jeff Sherman	5/10/2024	Konveio	16. Historic Preservation	16.6.1 Applicability	Installation of energy efficient windows should be exempt.	Windows are often distinctive and character-defininging features of historic structures. Their replacement should be carefully reviewed. Historic Preservation staff regularly work with property owners to review the design and details of energy efficient replacement windows to ensure that they preserve the historic design of the original windows.
Greater Portland Landmarks	5/28/24	Email	16. Historic Preservation	16.6.1 Applicability	The existing ordinance is explicit in what activities require a CoA. The staff proposed language in 16.6.1 only seems to apply if a permit is otherwise required. This would no longer regulate activities that don't require a building permit. This language is a major change. With this staff-proposed language and the deletion of the current definition of "Alteration" (which included specifically listed non-building permit changes) a Certificate of Appropriateness would only be needed for work that would require a building permit. The changes to the definition of alteration which informed the current definition of Certificate of Appropriateness, which has also been removed is problematic and has significant impacts. This would be a significant change and does not appear to meet the minimum requirements for a Local Review Commission per the Guidelines for the CLG Program in Maine to review alterations, relocation, demolition, and other actions affecting designated historic properties under its jurisdiction	The intent was not to significantly reduce the scope of what work is subject to review. Revisions have been made to clarify that review is not limited to those projects requiring a building permit.
Greater Portland Landmarks	5/28/24	Email	16. Historic Preservation	16.6.1 Applicability	What is the reasoning behind these new exemptions? Solar installations, heat pumps, and public art should be reviewed to ensure they are installed in a manner that is reversible and removable without damaging character defining features, including historic materials. ROW exceptions: This is not the current practice and is inconsistent with the requirements in 16.7.3.C.4. Streetscape, pedestrian improvements: Streetscape and pedestrian improvements and any change in the appearance thereof located adjacent to or on a landmark, within a historic district, or within a historic landscape district which is readily visible from any street or open space shall not be incongruous to the historic character of the landmark or district and shall comply with the criteria and guidelines specified in the Historic Resources Design Manual. This would remove review of historic materials used in crosswalks, the stone gutters in Baxter Boulevard, and Belgian pavers where they exist in the ROW. We believe that the ROW exemption should be removed to preserve historic materials where possible.	The changes to this part of the ordinance are intended to provide much greater clarity as to what is reviewed and by whom, as well as to streamline review for common projects that advance other city goals and projects that are otherwise subject to city-led project development processes. In the final draft, work in the right-of-way is no longer proposed to be exempt.
Greater Portland Landmarks	8/6/24	Email	16. Historic Preservation	16.6.1 Applicability	[In final HPBoard draft,] Added new paragraph: I. Ground-mounted heat pumps and HVAC equipment where: 1. Exterior units are installed at least 30' from public rights-of-way or behind the street-facing facades of the associated building or structure, whichever is a greater distance, and 2. Any associated line hides, conduit, vents, and other equipment or penetrations are not installed on street-facing facades. Will the updated Design Guidelines address best practices for siting heat pumps - for example to encourage screening - either with plantings or fencing?	Yes.

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Greater Portland Landmarks	8/6/24	Email	16. Historic Preservation	16.6.1(E) Applicability	Does not address Landmarks concern that installations should be reviewed for their physical impact on a designated resource (for example, murals on a previously unpainted brick wall)	This exception is only for public art approved or acquired through the Public Art Program, where there would be a City of Portland review and public process that would consider any impacts to a designated resource.
Greater Portland Landmarks	8/6/24	Email	16. Historic Preservation	16.6.1(H) & (I) Applicability	Will updated design guidelines address the best practices for siting solar panels and heat pumps to coordinate with the revised provisions proposed in 16.5.1.(H) and (I)	Yes
Greater Portland Landmarks	8/6/24	Email	16. Historic Preservation	16.6.1(I) Applicability	[In final HPBoard draft,] Added H. Roof-mounted solar energy systems where the system: 1. Is consistent with all other city requirements, 2. Is installed reversibly with no damage to any historic roofing materials, 3. Is not installed on street-facing roof planes on landmarks or contributing buildings or structures, and 4. Any associated electrical equipment is not installed on street-facing facades. Landmarks supports the installation of rooftop mounted solar panels on historic resources and believes that provisions like those proposed in paragrapahs 2. 3. and 4. are reasonable provisions. Will the updated Design Guidelines address best practices for siting solar panels - for example to encourage regular patterns of panels and slight setbacks from the eaves?	Yes
Greater Portland Landmarks	5/28/24	Email	16. Historic Preservation	16.6.12. Issuance of a CoA	Currently a 14-day time period, proposed to be removed.	Time limits on processes have been removed across the code unless otherwise required by state statute. The intent is always to move processes expeditiously.
Greater Portland Landmarks	5/28/24	Email	16. Historic Preservation	16.6.12(A) Issuance of a CoA	Currently located under 17.3 Administration, Section 1 'Costs'.	No response necessary.
Greater Portland Landmarks	5/28/24	Email	16. Historic Preservation	16.6.13 Expiration of approvals	The expiration is proposed to change from six months to three years. This seems like a dramatic extension. Does it reflect a current administrative problem of approvals running out for projects often? Perhaps it makes sense to require that work commence within two years, the current not-to exceed amount, with the opportunity to extend for another 12-months. Is this current practice? Or does it clear up a current administrative issue? Does this change reflect similar board language for PB?	Reviewing requests for extensions is an unncessary administrative burden. Three years is intended to provide applicants with sufficient time to begin projects given ongoing challenges with securing financing, acquiring materials, and scheduling contractors. The proposed is consistent with proposed language under the site plan ordinance.
Greater Portland Landmarks	5/28/24	Email	16. Historic Preservation	16.6.14 Amendments	The staff proposed language in 16.6.14.B. and 16.6.14.C. is not language in the existing ordinance but seems to represent current process. We believe providing this clarifying language will help to avoid potential confusion regarding what constitutes a minor or major amendment to an approved plan and what the review process for amending an approved plan will be.	No response necessary.

NAME	DATE	SOURCE	ARTICLE	TOPIC	COMMENT	RESPONSE
Greater Portland Landmarks	5/28/24	Email	16. Historic Preservation	16.6.2 Review classifications	• How were the numerical limitations determined? For instance, 25% could be the storefront of a 4-story or less building. Is the intention that a storefront alteration could be a staff review? • What about Landmark building reviews – are they to all be Board reviews? • Signage – does "all" include new construction? Often the board provides guidance on building signage design concepts as part of the overall design scheme.	The intention is to make clear that modest alterations can also be reviewed by staff and approved if they are found to meet the applicable standards for review. Under 16.6.2(B), the Planning Authority may escalate projects due to anticipated impacts or where staff cannot determine that the project would meet the applicable standards. Applicants would also be allowed to request review by the Board for any project under 16.6.2(C).
Greater Portland Landmarks	5/28/24	Email	16. Historic Preservation	16.6.2 Review classifications	We believe some of the potential staff reviews as laid out in Table 16-A should have the opportunity for public comment and review by the board, as they can alter a significant portion of a structure.	The proposed thresholds are intended to streamline reviews for common project types, easing the time and administrative burden for applicants.
Greater Portland Landmarks	5/28/24	Email	16. Historic Preservation	16.6.3 Historic Preservation pre-application meeting	This is a good addition.	No response necessary.
Greater Portland Landmarks	5/28/24	Email	16. Historic Preservation	16.6.5 Costs of review	Does this change reflect similar board language for ZBA or PB?	This language is generally similar to language included within site plan.
Greater Portland Landmarks	5/28/24	Email	16. Historic Preservation	16.6.6 Lapse in application	Does this change reflect similar board language for ZBA or PB?	This language is generally similar to language included within site plan.
Greater Portland Landmarks	5/28/24	Email	16. Historic Preservation	16.6.7 Administrative review	The existing ordinance states that a project must meet the standards of Section 17.8 and the Historic Resources Design Manuel. The staff proposed language in Section 16.7.1.A, states the Historic Resources Design Manual supplements the ordinance. Although similar language exists in 17.8.1. removing the "AND" in this earlier section and just referencing Section 16.7 has changed the standards for review. We believe that projects should comply with the standards in the ordinance AND Historic Resources Design Manual, which may include additional standards specific to a designated property as part of a designation report. The Historic Resources Design Manual should be specifically incorporated by reference into the review standards, and should not just vaguely be said to "supplement" the ordinance as in the staff proposal.	Projects are required to meet the standards for review. The Design Manual is supplemental, providing guidance and serving as a resource.
Greater Portland Landmarks	5/28/24	Email	16. Historic Preservation	16.6.7 Administrative review	Why is staff proposing to eliminate the option to use the consent agenda with	Review of substantive applications is not appropriate under the consent agenda. Where staff do not find that they can determine that a project meets the standards for review, the Planning Authority may escalate a project to the Board for review under 16.6.2(B).

NAME	DATE	SOURCE	ARTICLE	TOPIC	COMMENT	RESPONSE
Greater Portland Landmarks	5/28/24	Email	16. Historic Preservation	16.6.8 Historic Preservation Board review	Please see our comment in 16.6.7 above. This section provides an opportunity to provide clear concise language about the required standards. The most comprehensive existing language is in 17.8.2. "In considering an application for a Certificate of Appropriateness involving alteration, the Historic Preservation Board and the Planning Board shall apply the following general standards, as further described in the Historic Resources Design Manual, and any design guidelines accompanying the specific designation" This seems like the standard to use, not just those enumerated in Section 16.7. As mentioned in our comments above, the staff language proposed in this draft is not as explicit as the existing ordinance regarding what information is in the Historic Resources Design Manual and that the manual may include resource specific criteria (See 17.8.1 and 17.8.2)	Projects are required to meet the standards for review. The Design Manual is supplemental, providing guidance and serving as a resource. There are no examples of existing historic designations that have included specific criteria or guidelines. There is nothing preventing the Board from developing guidlines on specific topics or for specific designations, but those would again only be supplemental and serve as a resource for the Board and applicants in interpreting the standards within that context.
Portland Regional Chamber of Commerce	8/2/24	Email	16. Historic Preservation	16.6.8 Historic Preservation Board review	Consider adding to the end of the subsection "and provide direction to the applicant regarding issues to be addressed to bring the application into compliance with the relevant standards of Section 16.7." This necessary addition will clarify that the Historic Preservation Board must provide feedback at workshops specific to the standards. In several recent cases of the Board feedback, the applicant has been left with subjective criticisms from various Board members that do not directly address which standards the member believes the applicant is not complying with, creating confusion that leads to needless additional rounds of workshops. Board feedback in workshops must be explicitly tied to the relevant standards to reduce the number of workshops needed.	This language will be added to the final draft.
Chamber of Commerce	5/30/24	Email	16. Historic Preservation	16.6.8(C) Historic Preservation Board review	Consider adding to the end of the subsection "and provide direction to the applicant regarding issues to be addressed to bring the application into compliance with the relevant standards of Section 16.7." This necessary addition will clarify that the Board must provide feedback at workshops specific to the standards. In several recent cases of the Board feedback, the applicant has been left with subjective criticisms from various Board members that do not directly address which standards the member believes the applicant is not complying with, creating confusion that leads to needless additional rounds of workshops. Board feedback in workshops must be explicitly tied to the relevant standards to reduce the number of workshops needed.	Revisions will be made to add clarity here.
Greater Portland Landmarks	5/28/24	Email	16. Historic Preservation	16.7 Standards for Review of Application for Certificate of Appropriateness	The Historic Resources Design Manual is only partially incorporated. Sections 16.7.1 and 16.7.2. describe what the Historic Resources Design Manual is, but unhelpfully say the manual supplements the ordinance and deletes the portion of the standard that says "in review of alterations they shall review in accordance with the Historic Resources Design Manual AND any design guidelines accompanying the specific designation". There should be consistent terminology used to define what the review standards are within the proposed text of Chapter 16. The design manual is incorporated more completely in relation to signage (19.3.4 and 16.7.3B5) and streetscapes (16.7.3 C4). Please see our comments regarding 16.6.7 and 16.6.8. above.	Projects are required to meet the standards for review. The Design Manual is supplemental, providing guidance and serving as a resource.
Greater Portland Landmarks	8/2/24	Email	16. Historic Preservation	16.7 Standards for Review of Application for Certificate of Appropriateness	It should also be clear that landmark and historic district designation only impacts the exterior of a building, that the HP Board does not regulate work that only impacts the interior.	Language will be added to the final draft to make this point clear.
Chamber of Commerce	6/3/24	Email	16. Historic Preservation	16.7.1 Historic Resources Design Manual	This draft removes all references to the Historic Design Manual. Is the intent that this manual will no longer be applied as a consideration when reviewing an application and that only the standards within the code will be applied?	Projects are required to meet the Standards for Review. The Design Manual is supplemental, providing guidance and serving as a resource.

NAME	DATE	SOURCE	ARTICLE	TOPIC	COMMENT	RESPONSE
Greater Portland Landmarks	5/28/24	Email	16. Historic Preservation	16.7.2(A) Compatible use	This staff proposed language is unclear. If the paragraph in the existing ordinance needed to be edited for brevity, we would propose that the staff proposed draft use the following NPS language, it's succinct, less words than proposed, and standard preservation language. "A property will be used as it was historically or be given a new use that requires minimal change to its distinctive materials, features, spaces and spatial relationships."	This change is proposed given that Historic Preservation does not review or regulate use. The current language suggests that it does. This clarifies that the function of the review is to minimize the alterations regardless of what allowable use a property owner may be pursuing.
Greater Portland Landmarks	5/28/24	Email	16. Historic Preservation	16.7.3 Standards for review of new construction	The Historic Preservation Board needs the flexibility to require design approaches that minimize the non-compatible scale and form that sometimes occurs when old and new structures are juxtaposed in order to meet the compatibility requirements of the ordinance. We strongly believe that the standards for review of new construction should remain as is, currently allowing discretion to restrict a new construction project to less than the maximum dimensions allowed by the underlying zoning, with the retention only of these three notable existing exceptions (Congress Street, India Street and Portland Company). A height and massing assessment has not been done on a broad scale in other zoning districts where historic resources are located. "New construction" is without a definition in proposed 16.7.3. Currently the definition includes "comprehensive redesign/renovation of an existing structure." This is a proposed change, and we believe a definition in Chapter 3, or definition within the text of Chapter 16 could help to provide clarity lost with the elimination of the definition.	Scale and form are important components of design and should be considered by the Board in review the compatibility of proposed new construction. The draft language relating to the underlying zoning under 16.7.3(A)6 has proven to be easily misinterpreted and has been removed.

NAME	DATE	SOURCE	ARTICLE	TOPIC	COMMENT	RESPONSE
Chamber of Commerce	5/29/24	Email	16. Historic Preservation	16.7.3 Standards for review of new construction	With that said, we do want to raise some concerns that persist with the current draft. The largest disappointment in this draft as written is that it continues to provide jurisdiction to the Board for review authority over new construction and alterations to non-contributing buildings where more than 40% of the façade is altered. The Board rightly has jurisdiction around alterations and additions to historic structures which we do not question. However, in recent years the subjective deliberativeness that the Board has applied to new construction within historic districts has significantly exacerbated permitting delays and cost increases for developers of new housing, such that policymakers would be wise to revisit if these applications are still well suited to come before it for review. Since 2020, the Board has reviewed 19 applications for new construction within historic districts, nine of which have involved at least three meetings with the board, and four of which have not come back to the board after having been put through one to two workshops. That means that of those 19 applications, just six were processed in what can be considered a reasonable review period of one workshop and one public hearing. In some cases, applicants have had to come to the board more than four times for projects as small a five-unit multifamily building. These unacceptable delays present considerable cost challenges for developers of small multifamily buildings within historic districts, undermining citywide goals of increasing production of this type of gentle density within our historic neighborhoods.	A significant reduction in the authority of the Board, such as eliminating review of new construction or alterations to noncontributing buildings, has not been part of the approach to updating the Historic Preservation ordinance. Applicants choose not to pursue final approval of projects for a variety of reasons, many of which are unrelated to historic preservation review. The City's 2023 study Trends in Portland's Historic Districts found, among other impacts, that, "Despite lower levels of construction, retention of existing housing has led housing densities in historic districts to increase at similar rates as elsewhere. This is accounted for through a mix of new construction, retention of existing residential units, and repurposing of historic structures for higher densities (single family to two family or commercial to residential conversions, for instance)." (page 6, https://portland.civilspace.io/en/projects/historic-preservation-impact-study). According to the City's housing dashboard, since 2020, 1,492 housing units have been approved within Portland's historic districts and 670 have been completed. inclduing Maine's tallest building at 201 Federal Street which include 263 new homes (https://www.portlandmaine.gov/1462/Housing-Dashboard).
Chamber of Commerce	5/31/24	Email	16. Historic Preservation	16.7.3(A) Standards for review of new construction	Strike all standards in this section except for 16.7.3.A.6. That subsection is a welcome addition to the code, but its addition obviates the need for subsections 16.7.3.A.1-16.7.3.A.5. This draft wisely makes clear that the Board is unable to impose standards on the applicant that would require reductions to the building envelope beyond restrictions present in the base zoning, and thus there no longer need to be standards that even mention the ability for the Board to analyze dimensional components of a building like height and width. This current source of confusion has been a key driver to the lengthy review process the Board has undertaken on applications for new construction and making explicit that the Board cannot force an applicant to reduce height and width or increase setbacks and step backs must be clear and enforceable. If the Board is to continue to have jurisdiction over new construction, the standards in sections 16.7.3.B & 16.7.3.	Scale and form are important components of design and should be considered by the Board in reviewing the compatibility of proposed new construction. The draft language relating to the underlying zoning under 16.7.3(A)6 has proven to be easily misinterpreted and has been removed.

NAME	DATE	SOURCE	ARTICLE	TOPIC	COMMENT	RESPONSE
Portland Regional Chamber of Commerce	8/2/24	Email	16. Historic Preservation	16.7.3(A) Standards for review of new construction	Strike all standards in this section except for 16.7.3.A.6. That subsection is a welcome addition to the code, but its addition obviates the need for subsections 16.7.3.A.1-16.7.3.A.5. This draft wisely makes clear that the Board is unable to impose standards on the applicant that would require reductions to the building envelope beyond restrictions present in the base zoning, and thus there no longer need to be standards that even mention the ability for the Board to analyze dimensional components of a building like height and width. This current source of confusion has been a key driver to the lengthy review process the Board has undertaken on applications for new construction and making explicit that the Board cannot force an applicant to reduce height and width or increase setbacks and step backs must be clear and enforceable. If the Board is to continue to have jurisdiction over new construction, the standards in sections 16.7.3.B & 16.7.3.C are more than sufficient to ensure compatibility with the aims of a historic district.	Scale and form are important components of design and should be considered by the Board in reviewing the compatibility of proposed new construction. The draft language relating to the underlying zoning under 16.7.3(A)6 has proven to be easily misinterpreted and has been removed.
Jeff Sherman	5/10/2024	Konveio	16. Historic Preservation	16.7.3(A)1 Standards for review of new construction	The height restrictions should be eliminated. There are already height restrictions in the underlying zones.	Scale and form are important components of design and should be considered by the Board in review the compatibility of proposed new construction. The draft language relating to the underlying zoning under 16.7.3(A)6 has proven to be easily misinterpreted and has been removed.
Greater Portland Landmarks	5/28/24	Email	16. Historic Preservation	16.7.3(A)6 Applicability of underlying zoning	This would be a major change in the review standards so that the zoning dimensional standard always trumps historic preservation board considerations in all historic districts, where currently it only applies in three specific locations: For Congress Street, with the variety of height in the district and the downtown height study, it was reasonable to let the underlying zoning determine height. The India Street Historic District and Portland Company Historic District similarly were in areas where a height study had been undertaken to examine the existing context and create a framework for the underlying zoning dimensional standards. This kind of assessment has not been done on a broad scale in other zoning districts where historic resources are located.	The draft language relating to the underlying zoning under 16.7.3(A)6 has proven to be easily misinterpreted and has been removed.
Tim	7/22/24	Konveio	16. Historic Preservation	16.7.3(A)6 Applicability of underlying zoning	This should be governed by the Dimensional Standards allowed in the zone. HPB should have no say or vote on this. Dimensional Standards have to be abided by. How does any property owner know what can be built on their land if it is arbitrary and left to a group of volunteers to decide what height is appropriate? This seems very odd, unreliable, unpredictable.	The draft language relating to the underlying zoning under 16.7.3(A)6 has proven to be easily misinterpreted and has been removed.
Karen Foster	6/7/2024	Konveio	16. Historic Preservation	16.7.3(B) Standards for review of new construction	Would this require review for non-permanent signs placed on sidewalks, such as UPP parking lot signs on upper Park St.?	Sandwich boards and other non-permanant signage are not subject to review.

NAME	DATE	SOURCE	ARTICLE	TOPIC	COMMENT	RESPONSE
Greater Portland Landmarks	5/28/24	Email	16. Historic Preservation	16.7.3(C)4 Streetscape, pedestrian improvements	This proposed provision is inconsistent with the proposed language in Section 16.6.1 “Applicability”. This is an appropriate provision to remain in the proposed draft and Section 16.6.1 should be revised to be made consistent with this provision. We believe that streetscape features, furniture, paving materials, and other pedestrian improvements in historic districts should continue to be reviewable. While modern streetscape elements like bus stops, crosswalks ATMs etc. have been approved, their review of location has been important and allows for public comment on projects that would not otherwise have public input. Even if the review is at the staff level, it codifies a working relationship between the Historic Preservation Program, Public Works, Transportation Planning, and others with interest in the ROW. In addition, projects like the Wharf Street paving project impact a significant character defining feature of the Old Port, and while not all the materials there are historic, it is a prominent streetscape that is valued by locals and tourists, providing an operational function for businesses and a positive pedestrian experience with outdoor dining options. Not reviewing a project such as that and as well not offering the opportunity for public input is problematic.	The changes to this part of the ordinance are intended to provide much greater clarity as to what is reviewed and by whom, as well as to streamline review for common projects that advance other city goals and projects that are otherwise subject to city-led project development processes. In the final draft, work in the right-of-way is no longer proposed to be exempt.
Greater Portland Landmarks	8/6/24	Email	16. Historic Preservation	16.7.3(D)	the language in this section on compatible use, distinguishing original character, archeaological resources, contemporary design, and additions appears to have been removed in its entirety, but perhaps some of the language was incorprated or found elsewhere? Can the staff adress this?	These are standards for alteration that were included under the review of new construction. In the final draft, the heading of this section will be changed to reflect that these standards are applied in the case of new construction and additions. Where an application involves alterations to existing buildings and additions or new construction, both sets of standards would apply.
Greater Portland Landmarks	5/28/24	Email	16. Historic Preservation	16.8 Certificate of Economic Hardship	This is a significant change. How do other Maine CLG communities handle this provision?	Based on Board feedback, review of Certificates of Economic Hardship will remain with the Zoning Board of Appeals.
Greater Portland Landmarks	5/28/24	Email	16. Historic Preservation	Definitions	The elimination of virtually all of the definitions in the ordinance raises the opportunity for a lot of (perhaps unintentional) misinterpretation because the ordinance was carefully crafted to build on the basic definitions. See Chapter 3 Comments above.	The integration of definitions within the article is intended to improve the article's ease of use. Where necessary terms can not be embedded within the text, additional revisions will be suggested to Article 3 to accommodate HP-related definitions.
Greater Portland Landmarks	8/2/24	Email	16. Historic Preservation	Definitions	Further, we recommend maintaining a set of clear definitions of terms that are used in Chapter 16, rather than just embedding them in the body of the text. The definitions could move to the end if needed for the flow of the chapter and having process information readily accessible.	The integration of definitions within the article is intended to improve the article's ease of use. Where necessary terms can not be embedded within the text, additional revisions will be suggested to Article 3 to accommodate HP-related definitions.

NAME	DATE	SOURCE	ARTICLE	TOPIC	COMMENT	RESPONSE
Brian Scios	5/31/24	Email	16. Historic Preservation	General	I'm writing to voice my strong opposition to the rewriting of ReCode that would essentially put historic preservation at risk in Portland. If you decide to move forward with existing language that would weaken the oversight of the Historic Preservation Board, many damages caused by this will be IRREVERSIBLE and I'm afraid the treasured history and soul of Portland will be at risk. Time and time again we've seen other cities maintain a high bar for historical preservation while balancing the need for growth, development and tax revenue. I urge you to use those cities as examples to model off of for our own great city of Portland.	The draft revisions focus on consolidating related sections, clarifying procedures, and simplifying long-standing language, with the goals of making the article easier for all users to understand while supporting the rehabilitation of historic resources and compatible infill development.
Teresa Pierce	6/7/24	Email	16. Historic Preservation	General	I oppose weakening the historic preservation language in the ReCode. Let's not in five, ten, 25 years realize that we have lost Historic Portland, we can never get it back. As a resident of the greater Portland community I value the history and culture of the community, the proposed language destroys the current Historic Preservation ordinance, codifies the city council's recent action on 142 Free St., and puts Portland out of compliance with standards required by the Maine Historic Preservation Commission and National Park Service. These are things we should not put in jeopardy.	The draft revisions are intended to simplify and clarify the ordinance in the interest of strengthening the City's historic preservation program. The intent and authority of the program is not changing.
Sandra Radis	6/7/24	Email	16. Historic Preservation	General	Please do not change the preservation code! We love Portland for the care the city takes to protect history, please do no change this code for one organization's desires. It is wrong.	The draft revisions are intended to simplify and clarify the ordinance in the interest of strengthening the City's historic preservation program. The intent and authority of the program is not changing.
Robert Kahn	6/7/24	Email	16. Historic Preservation	General	I am totally against RECODE's language that guts the Historic Preservation Ordinance. Why was this unnecessary attack on the ordinance included? It was pointless and divisive. Also, graphic examples (proposed changes next to existing conditions) need to be offered to the public so that we can visually compare the before to proposed after. The heights and density seem to be excessive. Is the code attempting to develop future dense tenement slums like in New York City?	The draft revisions are intended to simplify and clarify the ordinance in the interest of strengthening the City's historic preservation program. The intent and authority of the program is not changing.
Victoria Bonebakker	6/10/24	Email	16. Historic Preservation	General	as it pertains to historic preservation issues. The proposed ReZone plan guts the current protections and would destroy the integrity of Portland's historic districts, whose character enhances the attractiveness of the city for its residents and also draws tourists as well as new residents, supporting the business community and the tax base. Jeopardizing, and in some cases destroying, Portland's historic character will weaken the city irreparably. The plan needs to be amended!!	The draft revisions are intended to simplify and clarify the ordinance in the interest of strengthening the City's historic preservation program. The intent and authority of the program is not changing.

NAME	DATE	SOURCE	ARTICLE	TOPIC	COMMENT	RESPONSE
Peter Murray	6/12/24	Form	16. Historic Preservation	General	The Recode proposals appear to significantly weaken and undermine what has been a very successful historic preservation program in the City of Portland. "If it ain't broke, don't fix it!" Some years ago Portland made the decision that preservation of historically significant structures and areas of the City will enhance the attractiveness of the City for purposes of economic development, as a place to visit (tourism) and as a desirable environment for its inhabitants. Portland's historic preservation ordinance has generated a number of historic districts in key areas of the city, for the most part on the Portland Peninsula. Protections afforded contributing structures in these districts have maintained the historic authenticity and amenity of these parts of Portland and have generated millions of dollars of investment in tax credit supported restoration and reuse of contributing buildings - all to the benefit of the City. There is no reason why a regime that has been so successful should be weakened or diluted by the various recode provisions that would 1) allow criteria other than historic authenticity to be considered in declassifying contributing structures, 2) allow dimensional standards of the zoning ordinance to override considerations of historic compatibility, 3) dilute interim protections pending evaluation of a pending historic district designation, or 4) restrict historic review of changes that do not require building permit. There is no showing that any of these changes are needed. All of them tend to undermine the quality of the historic fabric of the City. Some might even jeopardize qualification of Portland's districts for Federal dollars and tax credits. Please leave the Historic Preservation ordinance as it is!	The draft revisions are intended to simplify and clarify the ordinance in the interest of strengthening the City's historic preservation program. The intent and authority of the program is not changing.
Dugan Murphy	6/12/24	Email	16. Historic Preservation	General	I understand some of the changes will have the effect of weakening Portland's historic preservation ordinance and I think doing that is a big mistake. Portland has a major housing crisis right now and a good way to remedy that seems to be encouraging development of surface parking, allowing higher densities of development, and removing requirements for parking. The answer is neither making it easier to demolish contributing buildings in historic districts, nor is it stripping review responsibilities from the Historic Preservation Review Board. This is important to me because Portland's livability is so dependent on the human scale of our historic districts. This is what kept me here when I became an adult and had to decide whether to move away or stay in the Portland area! Furthermore, the integrity of those historic districts bring tourists here, which is the basis for my livelihood and makes it possible to continue living here. Please create a development code that encourages development that integrates well with our historic districts. That will enhance walkability, livability, bikeability, and transit viability.	The draft revisions are intended to simplify and clarify the ordinance in the interest of strengthening the City's historic preservation program. The intent and authority of the program is not changing.
Greater Portland Landmarks	8/2/24	Email	16. Historic Preservation	General	Given the public and economic benefits of preserving and fostering Portland's special historic character, we are particularly focused on proposed changes that could weaken the city's historic preservation ordinance or threaten our status as a Certified Local Government (which supports investment in and benefits owners of historic structures through tax credit opportunities, among other advantages). Our primary recommendations are to maintain language that clearly describes the purpose and benefits of historic preservation and defines evaluation and review standards for landmarks and historic districts, and that limits review of designation amendments or rescissions to specific criteria.	See responses above.

NAME	DATE	SOURCE	ARTICLE	TOPIC	COMMENT	RESPONSE
Abigail Theobald	8/4/24	Email	16. Historic Preservation	General	I will keep this brief, but I would like to comment today on the final draft of Article 16 in the Land Use Code. It is my opinion that the board has done a thorough job of providing detailed definitions and outlines regarding criteria for historical designation and the process by which an entity is considered for such distinction. These guidelines work to ensure that sites selected for historical designation are worthy of such title and allow for adequate stakeholder engagement through each step of consideration. The language implemented in this article is user-friendly and ensures that those new to land use planning procedures, such as myself, can grasp certain concepts.	No response necessary.
Greater Portland Landmarks	5/28/24	Email	16. Historic Preservation	General	General Comment: The impact of deleting several of the definitions cited below or using alternative definitions that are more appropriate for general land use standards appears to have not been thoroughly considered. Some definitions have been inserted as text into the body of the ordinance, which seems reasonable. However, in the relocation of the definitions, their meaning has been altered. Other definitions as noted below are no longer defined.	The integration of definitions within the article is intended to improve the article's ease of use. Where necessary terms can not be embedded within the text, additional revisions will be suggested to Article 3 to accommodate HP-related definitions.
Greater Portland Landmarks	5/28/24	Email	16. Historic Preservation	Historic Resources Design Manual	In the staff proposed draft the manual is vaguely defined in the body of the text. We believe a definition is important – or greater clarity in the body of the text is needed. See 16.6.7 and Section 16.7 for additional comments on the Historic Resources Design Manual.	A statement of the purpose and role of the Historic Resources Design Manual is included under 16.7.1(A).
Greater Portland Landmarks	5/28/24	Email	16. Historic Preservation	Noticing for non-contributing structures	The existing notice requirement for non-contributing structures in a nominated or designated district has been removed in the staff proposed draft. This seems like a reasonable public notice requirement to advise the board at a regular board meeting that a demolition will be occurring in a historic district, as the public may not be aware of a building's designation status and have questions as to why a demolition is occurring. Additionally, this provision seems to meet the intent of the CLG requirements regarding public participation.	Demolition of noncontributing structures is by right. Requirement to provide notice is unnecessary.
Greater Portland Landmarks	5/28/24	Email	16. Historic Preservation	Time limits	We believe general language that will move the process along in good faith or expeditiously should be included.	Time limits on processes have been removed across the code unless otherwise required by state statute. The intent is always to move processes expeditiously and there is no need to include additional language.
Jeff Sherman	5/10/2024	Konveio	17. Housing	17.1.7(D) Replacement unit requirement	The unit size requirement shouldn't apply if the developer builds more units than are being lost.	The 80% requirement ensures that replacement units are fairly comparable in size to the original units.
Cheryl Leeman	7/17/24	Note	17. Housing	17.2.2 Affordable housing incentives	Housing bonuses - impact on what is allowed (not mentioned in the informational depiction of housing)	No response necessary.

NAME	DATE	SOURCE	ARTICLE	TOPIC	COMMENT	RESPONSE
Portland Housing Development Corporation	7/19/24	Email	17. Housing	17.2.2 Affordable housing incentives	Recommendation #5 – Allow ALL Affordable Housing Project Types to be Eligible for Affordable Housing Incentives under §17.2.2 Applicable language: • §17.2.2.A states: "Eligible Projects. Under this subsection, eligible projects shall include any development project… 2. That creates new dwelling units, among which is at least one low income or workforce housing unit for rent or sale" (emphasis added). Justification for making all affordable deals – including renovations – eligible for Table 17.2 incentives: • We recommend §17.2.2.A.2 read: "2. That creates new and preserves existing affordable dwelling units, among which…" • Enabling renovation projects to utilize §17.2 incentives will increase the quantity of long-term affordable housing preserved and prevent conversions to market-rate rental or condos. • This change aligns with the goals §17.2.1 ("…this section will assist the city in meeting its comprehensive goals for affordable housing, in preventing the... deterioration of the limited supply of affordable housing") and the goal in Portland's Plan's 2030 to "Increase, preserve, and modify the overall supply of housing city-wide" (emphasis added).	The draft language reads that any project "that creates new dwelling units...through new construction, **substantial alteration or existing structures, adaptive reuse or conversion of a nonresidential use to residential use, or any combination of these elements**" is eligible for affordable housing incentives. This language is being interpreted to include the case described here.
Acorn Engineering	7/24/24	Email	17. Housing	17.2.2 Affordable housing incentives	Affordability incentives in RN-5. At a minimum, we would encourage allowing additional lot coverage to incentivize affordable housing. Most affordable projects in residential zones who achieve a density bonus are not able to physically fit the allowable unit count due to space and bulk restrictions such as lot coverage which is set at 60% and not only includes the footprint of the main structure, but includes stoops, stairs, accessory structures, etc. Unless there are extenuating circumstances such as micro units coupled with a large lot and a height overlay to allow 5 stories, the density bonus becomes much less effective without a corresponding increase in certain space and bulk standards. This change would better align with the spirit of LD 2003 while limiting the bonus to a larger footprint (no change to setbacks or height).	Lot coverage, which is a measure of building footprint, was modified under LD 2003 to allow up to 60% on any residential lot. This was a significant increase in many residential zones (although it maintained the existing standard of the R-6), and is reflected in ReCode. Generally speaking, lot coverage does not arise through development review as a significant issue in this zone.
Jeff Sherman	5/10/2024	Konveio	17. Housing	17.2.2(D)4 Density and dimensional bonuses and reductions	Notice should just be required for adjacent properties.	This provision will be deleted in the final draft.

NAME	DATE	SOURCE	ARTICLE	TOPIC	COMMENT	RESPONSE
Portland Housing Development Corporation	7/19/24	Email	17. Housing	17.2.2(D)4 Density and dimensional bonuses and reductions	Recommendation #7 – Eliminate Additional Public Meeting Requirement (§17.2.2.D.4) for Affordable Housing Bonus Incentives Applicable language: • §17.2.2.D.4 states: “Required public process. The developer of the project must also commit to a good faith effort to communicate openly with affected properties as their process moves forward. At a minimum, no less than 30 days prior to application for site plan review, any project that wishes to take advantage of this subsection [affordable housing bonuses in §17.2] must hold a public meeting noticed to all properties within 500 feet of their site and post a sign on the property in question describing the proposed project, intent to submit an application to the City in 30 days (cite anticipated submission date), and contact information for the developer and the Planning Authority. The Planning Board may adopt regulations regarding the content and processes for noticing as part of the Technical Manual.” Justification for eliminating §17.2.2.D.4: • This public meeting requirement is in addition to the public meeting requirement that must be held ahead of a Planning Board Workshop. • This requirement inequitably burdens affordable housing projects. There is no comparable requirement for a market-rate rental, workforce housing, hotel, or condo project. • PHA recommends that this requirement be removed from Recode as it does not contribute to the construction of more affordable homes and instead hinders that goal. It conflicts with the spirit of §17.2.2.C "Expedited Review" to streamline affordable housing entitling process and with Portland's Plan 2030 affordable housing goals. Alternative Recommendation: • Eliminate the phrase "no less than 30 days prior to application for site plan review". Plans and renderings are rarely ready more than 30 days before site plan submission.	This provision will be deleted in the final draft.
Harris Van Pate, Maine Policy Institute	5/29/24	Email	17. Housing	17.2.3 Ensuring workforce housing	Rent control and inclusionary zoning both have chilling effects on the development of multifamily properties and high-density housing. Inclusionary zoning reduces the ability of developers to guarantee profitability from new housing projects, especially middle-class apartments, compared to lower-income or luxury housing.2 Rent control also reduces the ability of landlords to adjust rent to inflation and demand and, therefore, discourages the creation of new rental units.3 While reducing the cost of housing is certainly a laudable goal, a large body of evidence shows that these policies reduce the availability of affordable housing rather than increase it.4	Inclusionary zoning will remain as passed through referendum with small changes to address administrative issues that have developed in practice. Rent control is not contained within the land use code.

NAME	DATE	SOURCE	ARTICLE	TOPIC	COMMENT	RESPONSE
Portland Regional Chamber of Commerce	8/2/24	Email	17. Housing	17.2.3 Ensuring workforce housing	While we understand that this subsection is not amendable at this time pursuant to restrictions elsewhere in City Code on amending citizen approved referendums within a five-year period, we would be remiss if we did not flag the devastating impacts the 25% inclusionary zoning requirement has had on the development of housing in the last four years. While ReCode must be adopted before that five year timeline concludes, we urge the Planning Board to commence amendments to this section as soon as possible in late 2025 to reduce this tax on multifamily housing production, thereby unlocking the potential for thousands of more housing units in Portland. Since this section of code was amended in 2020, just six major site plans have been approved subject to this requirement, only three of which have been built or are on track to be. That is not a healthy production level in a city of Portland's size, and until this tax is amended or rescinded many of the worthy goals this draft of ReCode advances will be of limited impact.	No response necessary.
Jeff Sherman	5/10/2024	Konveio	17. Housing	17.2.3(C)3 Standards	The requirement that the finishes and amenities demonstrate general parity is vague, burdensome, and does not promote the creation of more workforce units. This requirement should be eliminated.	This language is designed to ensure that affordable units are generally similar and equivalent to the market rate units. This is a Fair Housing Act issue.
Portland Regional Chamber of Commerce	8/2/24	Email	17. Housing	17.2.3(C)3 Standards	We have concerns with the addition of new requirements for affordable and market rate unit parity that speak to "unit design, finishes and amenities." This is particularly troublesome for multi-building developments that may need to restrict all the affordable units to a single building for purposes of securing local, state, and federal subsidies. In many cases, MaineHousing and other affordable housing financing partners are incredibly strict on the finishes and amenities they allow projects built with their funding to include. In some cases, they will even restrict the ability of a developer to invest additional private funds to incorporate said amenities or finishes. The addition of this new requirement for unit parity could potentially run afoul of these requirements, and it should be removed to maintain the status quo which simply requires unit bedroom counts to be equal between the market rate and affordable portions of a development.	This language is designed to ensure that affordable units are generally similar and equivalent to the market rate units. This is a Fair Housing Act issue.
Jeff Sherman	5/10/2024	Konveio	17. Housing	17.2.3(C)4 Standards	This requirement is confusing and unnecessary it should be eliminated or significantly rewritten for clarity.	This language is clear.
Jean McManamy	7/30/24	Email	17. Housing	17.2.3(C)5	Eliminate trivial in lieu of payments which are ludicrous on million dollar condo developments and monitor more closely use of "affordable" units such as for family members and so forth.	These provisions of the inclusionary zoning ordinance are not eligible for modification at this time, as they were the subject of a 2020 referendum.
Jeff Sherman	5/10/2024	Konveio	17. Housing	17.2.3(C)5 Standards	Additionally, developers should be able to pay a fee to the Housing Trust Fund to lessen the amount of time the units must stay affordable.	The intent is to promote long-term affordability for affordable units created through these provisions.
Jeff Sherman	5/10/2024	Konveio	17. Housing	17.3.6 Term of affordability	The fund should be able to provide low interest or below market rate loans to Portland residents who want to build affordable ADUs on their property. For these loans, the term of affordability should be "until the loan is repaid in full"	The language does not prohibit ADU subsidies with the Housing Trust Fund. However, goal is long-term affordability of untis created with this Housing Trust Fund.
Ben Shields	5/15/2024	Konveio	17. Housing	Table 17-A: Affordable Housing Fee Reductions	Affordable Housing Fee reductions should be expanded such that development fee discounts and building permit fees continue to decrease as % of low income/workforce new units goes beyond 25%. This seems arbitrarily low for a threshold and this table should have additional rows for housing with much greater than 25% of low income/workforce new units.	Increasing the degree of discount on development fees is unlikely to have any measurable effect as an incentive to develop more affordable units .

NAME	DATE	SOURCE	ARTICLE	TOPIC	COMMENT	RESPONSE
Jeff Sherman	5/10/2024	Konveio	18. Off-Street Parking & Loading	18.1.3(C) Vehicle parking maximum exemptions	Section 18.1.3 should be separated into 2 sub sections to make it easier to read. (i) Waterfront Zone and (ii) Any Zone.	This change will be reflected in the final draft.
Jeff Sherman	5/10/2024	Konveio	18. Off-Street Parking & Loading	18.1.3(E)3 Permission to exceed parking maximums	The word "appropriate" should be changed to "necessary" or "essential."	Revisions will be made to this section in the final draft.
Micah Edelblut	4/12/24	Form	18. Off-Street Parking & Loading	On-street parking	I did not see anything in section 18 of the new land use code regarding on-street parking. Is this out of scope for the land use code or an oversight not to include information or guidance about street parking?	On-street parking is not regulated through the land use code
Liz Dunn	7/5/24	Email	18. Off-Street Parking & Loading	Table 18-A:	I am a resident of Portland and am writing to express my concerns regarding the proposed zoning changes that would allow developers to build without adequate parking and permit the increase in size of the new buildings. I am not against change in general and having increased housing options, however, I believe the significant change to the existing neighborhoods should be taken into higher consideration and the ongoing impact of these changes. Also, holding developers accountable to the public to provide adequate parking and not put this back on the city tax payers.	Based on guidance in *Portland's Plan,* Portland's land use code has provided options for developers to opt out of parking for years. In practice, many choose to provide parking. The parking maximums proposed will help to ensure that valuable real estate is not devoted to parking in cases where developers might choose to use it for housing, or other purposes, instead.
Ben Shields	5/15/2024	Konveio	18. Off-Street Parking & Loading	Table 18-A: Off-Street Parking Maximums and Minimum Bicycle Parking Requirements	This might be a controversial suggestion but shouldn't parks and open spaces have a designated maximum parking area?	Maximums may always be revised in the future as the City continues to monitor parking trends.
Christian MilNeil	5/22/2024	Konveio	18. Off-Street Parking & Loading	Table 18-A: Off-Street Parking Maximums and Minimum Bicycle Parking Requirements	General comment on this table: I agree with another commenter that the maximums should be tighter in transit-accessible locations, and would like to suggest that the table include a distinction such that less parking would be allowed to be built in highly walkable and transit-accessible locations (the City of Boston takes this approach, see https://www.boston.gov/departments/transportation/maximum-parking-ratios).	Final draft will introduce lower maximums within the TOD zones.

NAME	DATE	SOURCE	ARTICLE	TOPIC	COMMENT	RESPONSE
					Introduction. The purpose of this written testimony is to explore the likely implications of the recommendations in ReCode Portland to eliminate minimum parking standards for all uses, as now required in Table 19-A, and presumably eliminate/modify related provisions in the zoning code necessary to resolve internal conflicts. Although this is considered to be a progressive strategy in many respects – promoting efficient development, reducing development costs, encouraging use of alternative transportation modes, reducing congestion, promoting climate resiliency -- the elimination of minimum required parking ratios should be based on sound, reality-based analysis. The purpose of this written testimony is to explore the resulting parking requirements to achieve the standard of "adequate but not excessive". This is of particular concern for housing, since residents in both owner- and renter-occupied units store their vehicles for long periods when not in use. I base this analysis upon my 35+ years of experience as an urban planning consultant in Portland, Oregon, where I have undertaken parking analyses for a wide variety of public- and private-sector projects including Portland International Airport, Oregon Zoo, major medical centers and universities, market-rate and affordable housing, and large mixed-use projects. For 25 years, I was also the "planner of record" for the City of Portland's SmartPark public garage system. Parking 101: Basic Theory. Many progressive American communities, including the "other" Portland, have eliminated minimum required parking ratios* because these almost always over-estimate parking demand in general and do not take into consideration variations due to location – mixed-use versus single-use neighborhoods, availability of transit – and/or users – tenants over 65 who are less likely to drive. Rather than ask a property-owner or developer to seek a variance or other means to justify a lower minimum ratio, most jurisdictions provide the opportunity to "right-size" the parking supply taking into consideration the project's unique characteristics. Theoretically, this is assured by two factors: *A companion strategy is to create maximum parking ratios for some or all uses, above which the property owner/developer must justify the need for the additional parking, as is the case in Portland (OR). ▪Market-driven: Assumes the property owner/developer will make a judgement call on how many on-site parking spaces are needed to make the project economically competitive. For example, if one beer garden on the street has on-site customer parking and the another nearby does not, the latter will be at an economic disadvantage. One check on the adequacy of proposed on-site parking is the willingness of a financial institution to lend on the project. ▪Regulatory-driven: Requires Site Plan Review (SPR) that in most jurisdictions becomes the mechanism whereby the applicant builds the case for the proposed on-site parking supply via a parking study by documenting the specific characteristics of the site's location and users. In larger projects, this study often is combined with a Transportation Demand Study (TDM) to include measures designed to reduce vehicle trips and, thus, parking demand at both the points of origin and destination. The basic premises for this approach is that the property owner/developer: ▪Can provide parking in a combination of on-site and on-street parking, for such short-term users as customers, clients, patients, and restaurant/entertainment goers. ▪Is required to provide an adequate amount of parking either on site or, under certain circumstances, in nearby off-street parking lots or garages, for long-term users such as residents and employees. This is based on the premise that adverse impacts generated on site must be mitigated on site.	

NAME	DATE	SOURCE	ARTICLE	TOPIC	COMMENT	RESPONSE
The Urbanist Coalition	7/29/24	Email	18. Off-Street Parking & Loading	Table 18-A: Off-Street Parking Maximums and Minimum Bicycle Parking Requirements	Removing parking minimums: This barrier to housing has been removed city-wide.	No response necessary.

NAME	DATE	SOURCE	ARTICLE	TOPIC	COMMENT	RESPONSE
					1. The City appears likely to approve the ReCode Portland recommendation to eliminate minimum parking standards for all uses, as now required in Table 19-A, and presumably eliminate/modify related provisions in the zoning code necessary to resolve internal conflicts. Although this is considered to be a progressive strategy in many respects – promoting efficient development, reducing development costs, encouraging use of alternative transportation modes, reducing congestion, promoting climate resiliency -- the elimination of minimum required parking ratios does not mean that parking and traffic impacts disappear. 2. Reality-based analysis should consider the following givens: ▪ Currently, 92% of Portland households own at least one car (US Census data); this is typical of communities of this size, as characterized by development density and transit availability. It is unlikely that planning regulations and/or economic incentives will result in any meaningful reduction of car ownership. As a result, providing adequate off-street parking should still be a requirement of development. ▪ There is a difference between "carless" and "car-light". Increasing use of alternative modes of transportation and car ownership are not mutually exclusive. The key is encouraging car owners to increase the proportion of trips that they take using alternative modes, achievable by providing more walkable, transit-rich, mixed-use neighborhoods. These car-owning households still need a place to store their vehicles when not in use. 3. Many progressive American communities have eliminated minimum required parking ratios because these almost always over-estimate parking demand in general and do not take into consideration variations due to location and/or users that can significantly decrease site-specific parking demand. Rather than ask a property-owner or developer to seek a variance or other means to justify a lower minimum ratio, these jurisdictions provide the opportunity to "right-size" the parking supply during project development based on two assumptions: ▪ Market-driven: The property owner/developer will determine the minimum number of on-site parking spaces needed to make the project economically competitive but not provide more than is needed. One check on the adequacy of proposed on-site parking is the willingness of a financial institution to lend on the project. ▪ Regulatory backstop: The local jurisdiction will have a regulatory mechanism – e.g., Site Plan Review (SPR), Transportation Demand Management (TDM) Plan -- that requires the applicant to build the case for the proposed on-site parking supply via a parking study that documents the specific characteristics of the site's location and users. 4. The basic premises for this approach is that the property owner/developer: ▪ Can provide parking in a combination of on-site and on-street parking, for such short-term users as customers, clients, patients, and restaurant/entertainment goers. ▪ Is required to provide an adequate amount of parking either on site or, under certain circumstances, in nearby off-street parking lots or garages, for long-term users such as residents and employees. This is based on the premise that adverse impacts generated on site must be mitigated on site. Thus, it is not acceptable for a project to "externalize" its parking demand by using the nearby on-street parking supply as its private parking lot. ▪ Is also required to estimate and mitigate traffic impacts to and from the site accurately, which is inextricably linked to the number of proposed on-site parking spaces. 5. Having undertaken a thorough analysis of the existing City of Portland	

NAME	DATE	SOURCE	ARTICLE	TOPIC	COMMENT	RESPONSE
Beverly Bookin	8/28/24	Email	18. Off-Street Parking & Loading	Table 18-A: Off-Street Parking Maximums and Minimum Bicycle Parking Requirements	2. With regard to the elimination minimum parking standards for all uses, Section 18.1.2 ("No vehicle parking spaces required") of the porposed revised code refers the reader to Section 13.6.1 in the new Chapter 13 on Site Plan Review. Specifically, Section 13.6.1.E Transportation Demand Management (TDM) states in Section E.: "The following types of development shall design and implement a Transportation Demand MAnagement (TDM) Plan [including a parking analyses]: a. All commercial, institutional and mix-use developments of 50,000 square feet or more in total floor area." Discussion -- So, in the B-2b zone, a mixed-use building with ground-floor commercial is required to accout for its true parking demand via a TDMP, but an all-residential building of exactly the same size is exempt. Really, what is the rationale to exclude large-scale residential from having to document its true parking demand on the word of the developer that there is no little or no demand? That magically majes it so?. -- In my written testimony, I have discussed this issue at length so no need to reiterate here. Using the Redfern project as an example, you and I both know that 30 spaces for 320 DUs (almost 1 space/11 DUs) is such a "magical" number. So assuming that I am interpreting the proposed code laguage correctly, if the project is to retain the proposed ground-floor commercial, the resulting parking study will likely show the need for many times that number of parking spaces, requiring that the applicant build at least a one-floor underground garage, but if the ground-floor commercial is eliminated, no parking stufy will be required. It is clear what the rational here is - more housing at the expense of all other considerations. If there are other mitigating justifications for excluding large-scale residential-only projects from this TDMP requirement, please share. My response: It is bad enough that you are forcing the Munjoy Hill Neighborhood to accommodate development in the B-2 zones that is more than three times the R-6 density and then force it to absorb the negative impacts associated with parking and traffic for which the devloper should be accountable.	The TDM requirements under site plan have long required job-generating uses over a certain size, as significant regional trip generators, to develop TDM plans, but not applied this requirement in the case of multi-family residential projects, which tend to have a smaller trip generation footprint. The switch to parking maximums proposed in ReCode is supported by work in the city's comprehensive plan, *Portland's Plan*, which focuses not only on opening opportunities to a diverse range of housing types, but moving away from our reliance on single-occupancy vehicles. The City's climate action plan, *One Climate Future*, also foregrounds this goal.
Willem Davis van Bakergem	4/29/2024	Konveio	18. Off-Street Parking & Loading	Table 18-A: Off-Street Parking Maximums and Minimum Bicycle Parking Requirements/Dwelling, residential	The existing parking requirements in Table 19-A (old) require 1 space per dwelling unit. In the proposed Table 18-A (new) the minimum is 2 spaces per unit. How will this parking requirement be applied to higher density affordable parcels in RN-2 zones where 2.5 times the number of up to 4 units is allowed? As single lot might legally have 10 units, but need 20 parkings spaces. Street parking would be difficult and a problem.	The proposed Table 18-A sets maximums, not minimums.
Jean McManamy	7/30/24	Email	18. Off-Street Parking & Loading	Table 18-A: Off-Street Parking Maximums and Minimum Bicycle Parking Requirements/Dwelling, residential	Loss of parking requirement in R6 and proposed B2 doesn't pass the straight face test and reflects a fantasy about future transit unlikely to happen. Cost of Uber from airport to Munjoy Hill last week was $60. Bus from Munjoy Hill to Hannaford takes an hour and is impractical when shopping for a family drinking milk by the gallon. No buses exist to transport families to area athletic fields. Use of bicycles dangerous at this location due to crossing of high speed interstate ramps and impossible for older or disabled persons.	Policy within the City's comprehensive plan supports the movement to parking maximums within the land use code. Under the proposed revisions to Article 18, property owners and developers could continue to provide off-street parking up to a certain amount.
Jeff Sherman	5/8/2024	Konveio	18. Off-Street Parking & Loading	Table 18-A: Off-Street Parking Maximums and Minimum Bicycle Parking Requirements/Hotels	This is a good start, but this should be less. Maybe there should be a distinction for on-peninsula hotels and off-peninsula hotels. In general, this should be 1 per guest room (or as close to 1 as possible).	This maximum allows for some flexibility for guests. Maximums may always be revised in the future as the City continues to monitor parking trends.

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Christian MilNeil	5/22/2024	Konveio	18. Off-Street Parking & Loading	Table 18-A: Off-Street Parking Maximums and Minimum Bicycle Parking Requirements/Intermodal transportation facilities	Why are airports treated differently from other intermodal facilities? We need our Jetport to be more accountable to the city's mode shift goals, and the Airport maximum should be the same as this one.	Maximums may always be revised in the future as the City continues to monitor parking trends.
cp	5/4/2024	Konveio	19. Signs	Table 19-F: Allowed Sign Types by Sign District	error here? table 19-V gives dimensions for pole signs allowed in this sign district?	The final draft will be revised to clarify that pole signs are allowed in this district.
Portland Regional Chamber of Commerce	8/2/24	Email	2. Administration	2.1.10(J) Jurisdiction and authority	To our knowledge no Planning Board in recent memory has exercised this power to offer recommendations on the City's Capital Improvement Program. We do think there could be value in the board undertaking this exercise annually, but if there are no plans to bring this review back, we suggest eliminating this from the Land Use Code. If this provision is retained, we feel this could be an opportunity for the Planning Board to annually evaluate map amendments to align with major investments in City infrastructure. For example, if a roadway is going to be significantly altered and upgraded with transit and bike/ped infrastructure through the CIP, it would be a valuable opportunity to update adjacent zoning to reflect additional transportation capacity in the area.	Though review of the CIP by Planning Board is not an established part of City practice, this provision allows that it could be, as noted.
Portland Regional Chamber of Commerce	8/2/24	Email	2. Administration	2.1.8(B) Meetings and procedures	We suggest removing the requirement that site plan, subdivision, map amendments, text amendments, and contract/conditional zones must be noticed in a "newspaper of general circulation". This represents a cost for applicants, and it does not appear that that cost supports a corresponding benefit of public awareness about applications given diminished readership of print newspapers. In lieu of this requirement, a dedicated notice section on the City's website and consistent notice through City social media channels should suffice, while reaching the intended audience.	While some of these requirements are a product of state law, revisions will be proposed to reduce noticing requirements where the noticing is not required by the state and of limited value in terms of modern day means of accessing information. Requirements for newspaper noticing for workshops will be removed in the final draft.
Portland Regional Chamber of Commerce	8/2/24	Email	2. Administration	2.1.8(B) Meetings and procedures	We suggest limiting the mailed notice for site plan, subdivision, map amendments and text amendments to property owners within 100 feet of a subject property or just the abutters of said property. This reduces costs for applicants and aligns with the current least restrictive notice requirements in the Land Use Code, which are 100 feet for Certificates of Appropriateness before the Historic Preservation Board, or just the abutters as is the existing requirement for contract/conditional zones.	Revisions will be proposed to streamline mailed noticing requirements across application types, and requirements to notice to a broader area in industrial zones will be eliminated in the revised draft. However, in other instances, the 500' requirements will be retained as a means of ensuring that the public is aware of pending actions.
Portland Regional Chamber of Commerce	8/2/24	Email	2. Administration	2.1.8(B) Meetings and procedures	We suggest removing the differential notice requirements for rezoning to industrial designations, as this would align with a similar shift in eliminating this differential in 1.10.2.B and 2.1.8.B.1. This reduces costs for applicants.	This change will be reflected in the final draft throughout the code.
Jeff Sherman	5/13/2024	Konveio	2. Administration	2.1.8(B)1 Meetings and procedures	The requirement that notice be published in a newspaper should be eliminated. Notice should be allowed via the city website / social media accounts.	While some of these requirements are a product of state law, revisions will be proposed to reduce noticing requirements where the noticing is not required by the state and of limited value in terms of modern day means of accessing information. Requirements for newspaper noticing for workshops will be removed in the final draft.

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Jeff Sherman	5/3/2024	Konveio	2. Administration	2.1.8(B)2 Meetings and procedures	There should not be a requirement to post notice in the newspaper. People don't read newspapers anymore. Instead notice should be on the city's website or social media. This would be cheaper and also more likely to give notice to interested parties.	While some of these requirements are a product of state law, revisions will be proposed to reduce noticing requirements where the noticing is not required by the state and of limited value in terms of modern day means of accessing information. Requirements for newspaper noticing for workshops will be removed in the final draft.
Jeff Sherman	5/3/2024	Konveio	2. Administration	2.1.8(C) Meetings and procedures	The procedures for upzoning a parcel should be set up to support incremental zoning increases overtime so that mixed use and higher density areas can grow and spread naturally overtime. Therefore, there should be a less onerous standard for upzoning a parcel that is abutting a higher zoned parcel. For example, if an RN4 lot abuts a B1 lot or an RN5 lot and wishes to be rezoned to either a B1 or an RN5 then the Planning Commission should grant their request unless certain criteria are met.	The basis for analysis of zone changes is consistency with the comprehensive plan. As such, considering potential 'upzonings' in the comprehensive plan would be the principal way to address this suggestion.
Portland Regional Chamber of Commerce	8/2/24	Email	2. Administration	2.2.1 Composition	We question why there is a requirement for members of the Historic Preservation Board to “have a demonstrated interest, knowledge, ability, experience, or expertise in restoration, rehabilitation, or neighborhood conservation or revitalization.” The requirement for Planning Board membership is simply residency in the Portland, and it should be no different for the Historic Preservation Board whose remit is no more technical nor specialized than that of the Planning Board. Too often the membership of the Historic Preservation Board has been drawn from a small subset of interest group leadership and/or architects specializing in historic preservation who have at least an appearance of a conflict of interest when deciding on district designations which may generate additional work for the individuals and their firms. In the interest of engendering broad participation in all City boards we recommend striking this requirement and retaining just the residency requirement.	In the final draft, this language will be broadened to refer to "interest, knowledge, or training in historic preservation or closely related fields." There is an expectation for maintaining CLG status that an HP board has knowledge specific to historic preservation.
George Rheault	8/6/24	Email	2. Administration	2.2.1 Composition	Remove any references to extra requirements for HPB members. No such requirement exists for Planning Board members even though the Planning Board routinely engages in far more sophisticated decision-making reviews than the HPB. We do NOT insist in our land-use code that Planning Board members "shall have" demonstrated interest, knowledge, experience or training in things like land use law, architecture, civil engineering, infrastructure management or land-use planning. Applicants with this kind of knowledge and experience almost certainly have a leg up on those applicants that do not have such experience, but we should be 100% honest that the entire point of the HPB and the Planning Board is to engage in political decision-making around land-use issues like historic preservation and planning approvals. Insisting that candidates MUST arrive at these jobs with certain requisite skill sets just hides the fact that even when such candidates are installed, they are typically making VERY political judgments about the merits or demerits of a particular project's contours and details which often have very little to do with the specialized professional credentials many of these members possess that made them politically-favored for their appointments to the HPB and the Planning Board.	In the final draft, this language will be broadened to refer to "interest, knowledge, or training in historic preservation or closely related fields." There is an expectation for maintaining CLG status that an HP board has knowledge specific to historic preservation.
Portland Regional Chamber of Commerce	8/2/24	Email	2. Administration	2.2.2 & 2.2.3 Appointments and Removal of members	We recommend aligning the Planning Board and Historic Preservation Board appointment and removal processes.	In final draft, language will be revised to make appointment, vacancy, and removal of members consistent across all three boards.

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Valerie Paquin-Gould	5/8/2024	Konveio	2. Administration	2.2.5 Quorum	Wording unclear, states "the hearing may be adjourned for a period not less exceeding three weeks at any one time." This does not make sense and needs to be reworded for clarity.	The section will be revised for clarity.
George Rheault	8/6/24	Email	2. Administration	2.2.5 Quorum and necessary vote	Do NOT make the change that actions of the HPB can be valid with a board minority of only 3 votes. This also applies to the Planning Board decisions. The requirement of a 4-member quorum for a 7-member board is some protection but the idea that big and small decisions of the HPB (and the Planning Board) can be done with ONLY 3 votes undermines the credibility of this board's mandate and scope of authority. The public should have complete confidence that the members of the HPB should be showing up to do their job and that a MAJORITY of the ENTIRE BOARD is the only valid way for it to conduct business when authorizing projects to get its stamp of approval. By reducing the HPB's threshold to action to ONLY 3 votes, is simply going to lead to all kinds of mischief whereby it will be even easier for board members to strategically skip meetings for items they do not wish to have to be called on the record for when seeking HPB acceptance. The public is often unhappy with HPB decisions, but it will be even ANGRIER if the HPB begins to start throwing its powerful weight around with a board MINORITY of 3 votes, especially when very controversial projects may be in play.	This language is proposed to be revised in ReCode as advised by Corporation Counsel, in the interest of fairness to applicants in the case of a hearing where only 4 members are present.
George Rheault	8/6/24	Email	2. Administration	2.2.6 Conflicts	Insist that NO HPB members may be allowed to deliberate and vote if they are entitled to receive a required public notice due to their property being within 500 feet of a project site seeking approvals (this also should be applied to the Planning Board). This requirement for an automatic recusal makes clear that if our land-use law requires abuttors or nearby owners within 500 feet of a project to receive special public notices via mail (with the costs borne by the applicant and administered by city staff), that is an indication that THOSE property-owners have a very special interest in a project's details and outcomes. Therefore, to protect both the public and applicants from undue influences as well as the integrity of the HPB and Planning Board members, no one living in close proximity to a project should have to sit in judgment of such a project. This is not a hypothetical thing. In just the last few months, Hillary Bassett has weighed in deeply about a project at 20 Morning Street despite being a nearby property owner (55 Morning Street) as well as Robert Whitten (actually voting AGAINST the proposed apartment building at 42 Atlantic St while owning 4 large parcels of land a stone's throw away at 23 St. Lawrence Street). Robert O'Brien also has routinely weighed in on West End projects that are all in very close proximity to his property at 95 West Street.	This language will not be revised in the final draft, given that this change could potentially create quorum issues and present the appearance of bias in cases when it does not necessarily exist.
Portland Regional Chamber of Commerce	8/2/24	Email	2. Administration	2.2.7(B) Meetings and procedures	For the reasons stated in 2.1.8.B.1, 2.1.8.B.2, and 2.1.8.B.3 above, we recommend removing the newspaper notice requirement for landmark, historic district, or historic landscape district nominations and instead rely on a dedicated notice section of the City website and dissemination of notice through appropriate City social media channels.	The Historic Preservation Board language will not be revised in the final draft, except to align in timeframes with Planning Board noticing requirements.
Jeff Sherman	5/6/2024	Konveio	2. Administration	2.2.7(B)1 Notice	Notice should be allowed on via the city's website or social media accounts instead of the newspaper	This occurs in practice.
Jeff Sherman	5/6/2024	Konveio	2. Administration	2.2.7(B)2 Notice	Notice should only be given to the adjacent properties. Additionally, a party should be able to waive this requirement if they get the signatures of the adjacent properties. This would bring down costs and encourage cooperation with neighbors.	Generally, the City's approach has been to err on the side of broader notice, in the interest of supporting broader engagement with land use issues.

NAME	DATE	SOURCE	ARTICLE	TOPIC	COMMENT	RESPONSE
Jeff Sherman	5/6/2024	Konveio	2. Administration	2.2.7(B)3 Notice	This should be changed to all adjacent properties and properties adjacent to the adjacent properties. This requirement should be waived if the homeowners get the neighbors to sign off.	Generally, the City's approach has been to err on the side of broader notice, in the interest of supporting broader engagement with land use issues.
George Rheault	8/6/24	Email	2. Administration	2.2.8 Record and decisions	Add "audio-video recording" to the section pertaining to "Records" since a digital recording of the HPB's proceedings is now the MOST accurate record of its work (the rote paper "minutes" that get approved each meeting are a bare minimum artifact of the days when the Pony Express was a major innovation in human communication) and should be required to be preserved and carefully archived (i.e., redundantly backed up in a reliable industry-standard digital storage format) so that EVERY word spoken at a HPB proceeding by anyone present for it (whether or not transcribed anywhere else) can be re-played at the touch of a button and absolutely no ambiguity about what was said and done will exist (unless of course the video itself has production quality issues, which is on city staff to avoid such occurrences).	In the final draft, language will be added in the case of the Planning and Historic Preservation Boards to include a reference to an audio or video recording.
Greater Portland Landmarks	5/28/24	Email	2. Administration	2.2.9. Jurisdiction and authority	The existing ordinance includes several responsibilities for the Historic Preservation Board such as investigating places to nominate and keeping a register, as well as advising the city and public on historic preservation related issues. The staff proposed amendment includes a new Jurisdiction and Authority section which has removed several responsibilities for the Historic Preservation Board. Our concern with the proposed language is that it would remove several responsibilities for the Historic Preservation Board which are minimum requirements for a Local Review Commission per the Guidelines for the CLG Program in Maine From 3.b. Duties of Local Review Commissions: 4) conducting or causing to be conducted a continuing survey of cultural resources in the community according to guidelines established by the MHPC; 17.2.2.8.C “investigating places to nominate” meets the “continuing survey” minimum required duty of a Local Review Commission and its omission would be a loss of authority. We believe the responsibility for survey should remain a duty of the Historic Preservation program. 5) making recommendation for designation of local landmarks and historic districts to the appropriate local governing body and keeping records of such decisions; 17.2.2.8.D “Keeping a register” meets the “keeping records” minimum required duty of a Local Review Commission and its omission would be a loss of authority. 7) acting in an advisory role to other officials and departments of local government regarding the protection of local cultural resources; 17.2.2.8.N. and 17.2.2.8.O. meet this minimum required duty of a Local Review Commission, the language regarding what topics they should provide advice (easements, grants, etc) could be altered, but losing the authority to “advise” on those protection measures would be a loss of authority. 8) acting as a liaison on behalf of the local government to individuals and organizations concerned with historic preservation; and 17.2.2.8.E. and 17.2.2.8.J. meet this minimum required duty of a Local Review Commission, losing the authority to “advise and assist property owners” and “educate residents” would be a loss of authority. 9) working toward the continuing education of citizens within the CLG's jurisdiction regarding historic preservation issues and concerns. 17.2.2.8.J. meets this minimum required duty of a Local Review Commission, and its omission would be a loss of authority.	The goal with the revisions to this section of the ordinance was to clarify the role of the Historic Preservation Board as distinct from the purpose of the historic preservation program and the historic preservation ordinance. Survey is identified as an ongoing purpose of the Historic Preservation Program under 16.1, "...identify, preserve, and enhance distinctive areas, sites, structures, and objects that have historic, cultural, architectural, and archaeological significance." Records are required to be maintained under 2.2.8. Records of designations shall be maintained by the planning authority under 16.3.5(D). Generally, the maintaining of records is a given and accepted function of government. The role of the Historic Preservation Board in serving in an advisory capacity is still captured under 2.2.9 (F), (G), & (H). The role of the program and Board in serving as a resource to the public is a given function and does not need to be called out specifically as an authority of the Board. However, changes will be made to this section insofar as CLG requires it.

NAME	DATE	SOURCE	ARTICLE	TOPIC	COMMENT	RESPONSE
Greater Portland Landmarks	5/28/24	Email	2. Administration	2.2.9(E) Jurisdiction and authority	The existing ordinance delegates authority for economic hardship hearings to the Zoning Board of Appeals. The staff proposed language assigns that duty to the Historic Preservation Board. This is a change from the current practice (which city staff claim has never been used). Our question is, do other Maine CLG communities assign this duty to Historic Preservation Boards/Committees/Commissions? If so, does MHPC know how well it has worked?	The final draft will maintain the ZBA as the reviewing authority for Certificates of Economic Hardship.
Jeff Sherman	5/6/2024	Konveio	2. Administration	2.3.11(C)1 Disability variance	This should be changed to: "the board MUST grant a variance to an owner of a residential dwelling for the purpose of making that dwelling accessible to a person with a disability."	This existing language is based on state statute, which uses the term 'may.'
Jeff Sherman	5/6/2024	Konveio	2. Administration	2.3.11(C)1 Disability variance	The restrictions in this section should be removed. As long as the variance is "for the purpose of making that dwelling accessible to a person with a disability" it should be allowed. The remaining restrictions are unnecessary and confusing.	This existing language is based on state statute.
Jeff Sherman	5/6/2024	Konveio	2. Administration	2.3.11(D) Practical difficulty variance	This should be changed so that the variance must be granted if the below conditions exist.	This existing language is based on state statute, which uses the term 'may.'
Jeff Sherman	5/6/2024	Konveio	2. Administration	2.3.11(D)2 Practical difficulty variance	The character of the neighborhood language should be eliminated. Alternatively, the code should make clear that adding 1-4 units of housing to a preexisting lot cannot be considered an "undesirable change to the character of the neighborhood"	This existing language is based on state statute.
Portland Regional Chamber of Commerce	8/2/24	Email	2. Administration	2.3.11(D)2 Practical difficulty variance	We believe the first half of this subsection should be eliminated as it is subjective, and the term “character of the neighborhood” enjoys dubious historical antecedents related to the undesirability of multifamily housing in historically single-family neighborhoods. A far less subjective version of this subsection would simply read: “The granting of the variance will not have an unreasonably detrimental effect on either the use or fair market value of abutting proprieties.”	This existing language is based on state statute.
mako bates	8/2/24	Konveio	2. Administration	2.3.11(D)2 Practical difficulty variance	Agreed; basically anywhere "character of the neighborhood" or similar appears in zoning restrictions, it's a subjective restriction that's only useful for NIMBY-ism per se.	This existing language is based on state statute.
Portland Regional Chamber of Commerce	8/2/24	Email	2. Administration	2.3.13 Reconsideration	We question why the Zoning Board of Appeals is the only board with express reconsideration powers. While there exists appeal authority for all boards pursuant to Rule 80B of the Maine Rules of Civil Procedure, adding in a step for board reconsideration seems to add another step of uncertainty for applicants that could lead to project delays and added costs. We suggest removing this unique reconsideration procedure for the Zoning Board of Appeals that appears to be a new addition to the Land Use Code.	This is based on state statute, which speaks to ZBA procedure but not the procedure of the Planning Board or Historic Preservation Board.
Portland Regional Chamber of Commerce	8/2/24	Email	2. Administration	2.3.5 Quorum and neccesary vote	The final two sentences of this section seem to conflict, with one requiring the concurring vote of at least four members present to grant a request or sustain an appeal, and one requiring a vote of a majority of members present to authorize any action by the Board. We suggest eliminating the first sentence in this sequence, thus aligning the voting requirements for the Zoning Board of Appeals with the Planning Board and the Historic Preservation Board for the reasons listed above for sections 2.1.6 and 2.2.5.	This language will be clarified in the final draft.
Portland Regional Chamber of Commerce	8/2/24	Email	2. Administration	2.3.7(C)2 Meetings and procedures	Fore the reasons stated in 2.1.8.B.1, 2.1.8.B.2, 2.1.8.B.3, and 2.2.7.B.1 above, we recommend removing the newspaper notice requirements for Zoning Board of Appeals public hearings and instead rely on a dedicated notice section of the City website and dissemination of notice through appropriate City social media channels.	Notice is provided by City website. ZBA noticing requirements will not be modified in the final draft.

NAME	DATE	SOURCE	ARTICLE	TOPIC	COMMENT	RESPONSE
Jeff Sherman	5/6/2024	Konveio	2. Administration	2.3.7(C)2 Notice	Instead of Notice by publication in a newspaper of general circulation the city should be allowed to give notice on its website or social media accounts.	Notice is provided by City website. ZBA noticing requirements will not be modified in the final draft.
Jeff Sherman	5/6/2024	Konveio	2. Administration	2.3.7(C)5 Notice	This should be changed so that notice is only required for adjacent properties.	Generally, the City's approach has been to err on the side of broader notice, in the interest of supporting broader engagement with land use issues.
Portland Regional Chamber of Commerce	8/2/24	Email	2. Administration	2.3.7(C)7 Notice	While this is not new language, we appreciate that the Zoning Board of Appeals section clearly states: “Failure of any property owner to receive a notice of public hearing shall not necessitate another hearing and shall not invalidate any action of the Board.” All too often this is given as justification from a property owner for opposition to an application, and in the worst cases can lead to approval delays. We suggest adding a similar clause to the relevant sections in 2.1 and 2.2 for the Planning Board and the Historic Preservation Board.	This language will be added to the Planning Board and Historic Preservation Board in the final draft.
Portland Regional Chamber of Commerce	8/2/24	Email	2. Administration	2.3.9(C) Jurisdiction and authority	We question why the Zoning Administrator is the only City staff member that is not subject to a final binding appeal of their interpretation decisions by the oversight board of jurisdiction. If there is no good reason for granting the Zoning Administrator is inordinate power, we suggest making the Zoning Board of Appeals’ review of interpretations binding.	This provision allows for additional public process in a matter of interpretation by tthe Zoning Administrator. In practice, the opinions of the ZBA are effectively binding.
Portland Regional Chamber of Commerce	8/2/24	Email	2. Administration	Notice Requirements	Notice Requirements Generally: We continue to hope that the City can develop the ability to expand notice to individuals in the vicinity beyond just property owners to all residents, whether they rent or own. While nearby property owners deserve notice, this is often not a representative sample of the neighborhood demographics and extending notice to renters could bring new voices into the process. We know this may be technically difficult for the City to execute, but we believe sufficient data exists within the voter registry and/or last known postal addresses in the United States Postal Service’s data to make this a reality. If this is determined to be technically feasible, we recommend amending all the notice provisions within Article 2 to incorporate notice to these individuals.	Notice of public meeting sign requirements were aded to the land use code under Phase I of ReCode. In addition, in practice the City notices through other means, includin the website and social media.
mako bates	8/2/24	Konveio	3. Definitions	"Accessory dwelling units"	They're still discussed later, but I can't find anywhere in here saying what they are...	No response necessary.
Liz trice	7/1/24	Konveio	3. Definitions	"ADU"	why was accessory dwelling unit removed?	It was relocated to "dwelling unit, accessory"
Portland Regional Chamber of Commerce	8/2/24	Email	3. Definitions	"Appurtenance"	Appurtenance: While this definition has not changed, it does appear that other sections of the Land Use Code have expanded the definition of rooftop appurtenances to facilitate more active roofs while not requiring height reductions to accommodate them. Specifically, 7.6.1.E seems to expand the definition of appurtenances to include access vestibules, pedestal paver systems, decks and unenclosed shade structures. We support this expanded definition, and we wonder if it should be incorporated into a more specific definition of appurtenance in Article 3, along with the removal of “not intended for human occupancy”. We increasingly see demand to activate and monetize rooftop spaces in a recessive manner that does not add visual height to a building. This added amenity can add significant value to a project, making development more feasible, while adding outdoor space on infill lots. The Land Use Code should embrace rooftop activation in all regards throughout the code.	This definition addresses "appurtenances" in general, including those which may not be placed on a rooftop. The revisions within Article 7 regarding rooftop appurtenances are meant to address this topic more specifically.

NAME	DATE	SOURCE	ARTICLE	TOPIC	COMMENT	RESPONSE
Greater Portland Landmarks	5/28/24	Email	3. Definitions	"Building alteration"	The existing historic preservation ordinance defines Alteration as distinct from the definition of Building Alteration in the general zoning. The staff proposed language would use the general definition for all chapters of the ordinance. Our concern with the proposed amendment is that deleting the current definition of "Alteration" in the historic preservation ordinance (which included specifically listed non-building permit changes) and the use of the standard land use definition of "Building Alteration" is problematic. The definition of "Alteration" informed the current definition of Certificate of Appropriateness (required for "alteration"). The deletion of "any other act or process not requiring a building permit specifically listed in this article as a reviewable action" changes the applicability standard so that a Certificate of Appropriateness would only be required for work that would otherwise require a building permit. Alterations like painting brick, replacement of siding, re-roofing, heat pump installation, solar panel installation, installation of landscaping improvements, and projects in the ROW that do not require a building permit would not be reviewable. This is a significant change and does not appear to meet the minimum requirements for a Local Review Commission per the Guidelines for the CLG Program in Maine to review alterations, relocation, demolition, and other actions affecting designated historic properties under its jurisdiction.	Minor and major alterations and site alterations have been defined in Table 16-A. A change to Section 16.6.1 is suggested to clarify that review will be required for work beyond that requiring a building permit.
Greater Portland Landmarks	5/28/24	Email	3. Definitions	"District"	Not defined	Historic district and historic landscape district are defined separately under 16.2.1.
Portland Regional Chamber of Commerce	8/2/24	Email	3. Definitions	"Dwelling, live/work"	Dwelling, live/work: While not a common use, we question why dwellings permitted under this section would preclude an included commercial component from converting to residential use should the commercial component no longer be in use. We suggest striking the last sentence of this definition.	STrike final sentence.
The Urbanist Coalition	7/29/24	Email	3. Definitions	"Dwelling, multi-family"	Multi-family housing limited to four units: The new three- and four-family designations add complexity to the code in order to limit gently dense housing options.	The new three- and four-family designations allow for these uses to more easily and explicitly be added wtihin the RN zones.
Portland Regional Chamber of Commerce	8/2/24	Email	3. Definitions	"Family"	Family: While we do not propose specific language, we suggest a holistic review of this definition to determine if it is still relevant in our modern Land Use Code. Increasingly, roommates and shared housing make up a larger share of our housing market, and this definition feels overly restrictive and unenforceable.	The "family" definition was recently reconsidered under ReCode Phase I.

NAME	DATE	SOURCE	ARTICLE	TOPIC	COMMENT	RESPONSE
Greater Portland Landmarks	5/28/24	Email	3. Definitions	"Historic rehabilitation"	The existing definition is the same as the definition from the Guidelines for the CLG Program in Maine: Rehabilitation. The act or process of returning a property to a state of utility through repair or alteration which makes possible an efficient contemporary use while preserving those portions of features of the property which are significant to its historical, architectural, and cultural values. We are unclear why the new term “historic rehabilitation” and the new definition proposed by staff, that is virtually the same length as the current definition, is changed from that included in the Guidelines for the CLG Program in Maine. The term “historic rehabilitation” does not appear in Chapter 16, only “rehabilitation”. We believe the existing definition is sufficient and the prevailing definition at federal, state, and local levels. The term itself should be consistent used within the body of the ordinance and in the definition section for clarity.	Terms will be reviewed for consistency prior to final revision.
Portland Regional Chamber of Commerce	8/2/24	Email	3. Definitions	"Manufactured housing"	It is unclear from the redline draft of the Land Use Code how the city treats manufactured housing generally, but staff should ensure that the proposed regulatory approach is in line with newly passed legislation (LD 337) that legalized manufactured housing on all lots where single family dwellings are allowed, subject to the same requirements as single-family dwellings.	Under ReCode Phase I, changes were made to the code to ensure that manufactured housing is treated as any other single-family dwelling. 'Manufactured housing' as a term is not used within the code anymore and should have been deleted at the time of Phase I. It will be deleted in the final draft.
mako bates	8/2/24	Konveio	3. Definitions	"Manufactured housing"	This phrase doesn't seem to appear anywhere else, so why have it defined?	This term will be eliminated in the final draft, as it is not used within the code.
Portland Regional Chamber of Commerce	8/2/24	Email	3. Definitions	"Mid-block permeability"	We believe this definition should be amended to qualify the “must be open to the sky” requirement to allow for shade covers and other low impact approaches to reducing heat impacts within the 20’ corridor of permeability.	This definition would not preclude temporary shade structures.
mako bates	8/2/24	Konveio	3. Definitions	"Neighborhood nonresidential reuse"	Even more fundamentally, why would anyone want to live in a place where all you're allowed to do is _live there_.	Some map changes are proposed to address areas of the city with existing nonconforming nonresidential uses in residential zones, generally in areas where these uses can be found at intersections or existing nodes. These map changes will create new opportunities for new businesses accessible to residential neighborhoods. Beyond those map changes, the nonresidential neighborhood reuse classification will allow for new nonresidential uses to be established where other nonconforming uses exist, or in nonresidential structures in residential zones, such as churches, etc.

NAME	DATE	SOURCE	ARTICLE	TOPIC	COMMENT	RESPONSE
Kellan M Simpson	7/5/24	Konveio	3. Definitions	"Nonresidential neighborhood use"	This recode effort seems to be completely missing the opportunity to define low impact commercial spaces (small markets (bodega), coffee shops, etc.) and allowing them to be in more areas throughout the city to encourage walkability and complete neighborhoods. Take Ocean ave as an example in this map. By this new re-code effort all of the great businesses that help make the area special would not be allowed under the new code if they hadn't been grandfathered in. This is a massive oversight that is overly restrictive and will continue to force car dependency and sprawl. The neighborhood needs low impact commercial spaces to be permitted, especially on a corridor like Ocean.	Some map changes are proposed to address areas of the city with existing nonconforming nonresidential uses in residential zones, generally in areas where these uses can be found at intersections or existing nodes. These map changes will create new opportunities for new businesses accessible to residential neighborhoods. Beyond those map changes, the nonresidential neighborhood reuse classification will allow for new nonresidential uses to be established where other nonconforming uses exist, or in nonresidential structures in residential zones, such as churches, etc.
Robert Todd Morse	5/19/2024	Konveio	3. Definitions	"Place of assembly"	I commented on the previous wave that reducing the threshold for place of assembly from 15 to 8 is unnecessarily restrictive. The response to my previous comment was that it is in line with the threshold for family size, which was also reduced to 8. The family size reduction is even more exclusionary. It should not have been reduced and it is certainly no justification to add additional exclusionary restrictions.	The change in the place of assembly definition aligns with the adjustment to the definition of "family" from Phase I, which reduced the number of unrelated individuals in a "family" from 15 to 8. Under ReCode, construction of any new buildings as places of assembly is proposed to be limited to collector or arterial roads within RN zones only; adaptive reuse would be allowed anywhere within these zones. In other zones, no such restrictions would apply.
Greater Portland Landmarks	5/28/24	Email	3. Definitions	"Relocation"	This is a good, revised definition, as it addresses a resource's orientation.	No response necessary.
Amy Johnson	5/17/2024	Konveio	3. Definitions	"Short term rental"	I was looking for a definition of "short term rental". In which zones are they allowed?	Short term rentals are regulated under Chapter 6 of the City's code of ordinances.
Jeff Sherman	5/10/2024	Konveio	3. Definitions	"Social service center"	Sober living homes should be allowed in all residential and business zones by right. There should not be any restrictions on services provided at sober living facilities.	Group homes and residential care facilities are addressed within Article 6.
Tim L	6/23/24	Konveio	3. Definitions	"Structure"	This definition should be clear that it does not include retaining walls. It is currently insufficient for judges to understand what "structure" is meant to define especially in terms of setbacks. The City is currently involved in a lawsuit about this very issue and the Maine Supreme Court gave the City this feedback and remanded the case back to the City. This needs to be more clearly written. The clearer it is the better. Why would retaining walls not be included as items that do not constitute a structure for the habitation of people, animals, etc.?	Draft Article 7 of ReCode includes language that exempts retaining walls from setbacks.
Dirigo Center Developers, LLC (Waterstone Properties Group, Inc.)	7/11/24	Email	3. Definitions	"Recreation and amusement centers"	Recreation and amusement centers - We propose adding the word "outdoor" to the definition so it reads: "Facilities equipped for the conduct of sports or indoor or outdoor leisure time recreation activities. Such facilities may limit admission either to members or persons paying an entrance fee. Recreation and amusement centers do not include sports complexes or stadiums." The addition of this term would allow for outdoor recreation and sports, such as Frisbee golf, that would not be of a scale to qualify for the "stadium" use definition. We also would like to confirm that an escape room, laser tag, or even virtual reality type of facility would fall under this use as "leisure."	"Outdoor" will be added to this definition to clarify in the final draft.

NAME	DATE	SOURCE	ARTICLE	TOPIC	COMMENT	RESPONSE
Rachel Conly	5/9/24	Email	4. Nonconforming Uses, Structures, & Lots	4.3 Nonconforming lots	In the Second Wave ReCode, it looks like the "Lot of Record" designation has been removed and there are now only the requirements outlined in Section 4.3.1 Lot In Separate Ownership. Is this correct? Related to the above question, in the current code, Section 4.3.1 (A)3, it states "A lot of record as of July 15, 1985 may be considered a buildable lot in the IR-1 and IR-2 zones, provided the applicable setback dimensions can be met.....". In the Second Wave ReCode, does the "lot of record" date of July 15,1985 still apply, or do the current Lot of Record criteria simply not exist in the new ReCode? In Section 4.3.1 of the Second Wave ReCode, Lots In Separate Ownership, there is no reference date, so I am wondering if there is some other parameter I am missing for establishing a "small lot".	In an effort to simplify the nonconforming lot provisions, Section 4.3 has been revised significantly, the definition of 'lot' has been revised, and a definition for 'nonconforming lot' has been added. Per Section 7.6.3, 'existing developed and undeveloped lots in the IR-2 zone on Peaks Island that do not meet the 20,000 SF minimum lot area standard as of [date of adoption]' can generally take advantage of the small island lot provisions.
Liz trice	7/1/24	Konveio	4. Nonconforming Uses, Structures, & Lots	4.3 Nonconforming lots	the minimum lot width should also be mentioned and eliminated as a barrier to building here	Lot width is proposed to be eliminated under ReCode.
Liz trice	7/1/24	Konveio	4. Nonconforming Uses, Structures, & Lots	4.3 Nonconforming lots	Should also make clear when talking about ADUs that the lot just needs to be buildable, not conforming.	This is covered under Section 6.6.2(A) ADUs.
Elizabeth Chase	7/30/24	Konveio	4. Nonconforming Uses, Structures, & Lots	4.3 Nonconforming lots	This provision makes no sense. Table 7 sets out minimum lot sizes for a buildable lot. Why include a minimum if this provision says wipes out the requirement for vacate lots. This in effect would render the new proposed IR-2 small lot size of 3,000 sq feet for vacate lots meaningless. Minimum lot size needs to be fundamental requirement.	Minimum lot size is a fundamental requirement when creating new lots. Section 4.3 allows for building to occur on older lots that may have preceded minimum lot size provisions, so long as setbacks and other dimensional standards may be met. Historically, there have been many nonconforming lots in the city. The small lot provisions are useful in that they come with reduced setbacks an dother modified dimensional standards. Otherwise, under 4.3, a lot in the IR-2 would have to meet the base setbacks and other dimensional standards of the IR-2 zone.
Alex Coupe	7/18/24	Konveio	4. Nonconforming Uses, Structures, & Lots	4.3.1 Lots in separate ownership	Lots of record should still have the ability to be developed whether held in separate or common ownership. This is a great way to add housing stock on infill lots that blend with the neighborhood	A generally held legal principal in land use is that a property holder cannot create a new nonconformity or increase the degree of an existing nonconformity. The draft aligns with this general principle. It is also coupled with a variety of dimensional changes designed to make many more properties conforming in the first place.
Jeff Sherman	5/13/2024	Konveio	4. Nonconforming uses, structures, & lots	4.4.4 Nonconformity as to dwelling units	Notice should be limited to only abutters	This change will be reflected in the final draft.
Jeff Levine	4/19/24	Form	5. Zones	Table 5-A: Zones	The RN-7 zone that replaces the R-7 zone seems counter to the goal of cleaning up the code here. The R-7 zones were always stopgap measures intended as a work-around from the limitations of the R-6 zone.	The RN-7 (proposed as the RN-6 in the final draft) fills a need for a higher density, higher height residential-only zone, mainly suitable for on-peninsula locations.

NAME	DATE	SOURCE	ARTICLE	TOPIC	COMMENT	RESPONSE
Jacob Lavarnway	4/28/2024	Konveio	5. Zones	Table 5-A: Zones	As the draft map shows, only the Unum complex has the Office zoning applied. This zone does not permit housing, nor does it permit retail for basic needs, such as food. As a result, the Office zone does not encourage the city's goals of complete neighborhoods, nor the state's goals of reducing VMT. These critical uses for enabling car-free living are not permitted. Some of the options the City should consider : 1) Alter permitted uses in the Office zone to allow housing and basic retail. 2) Rezone the Unum complex into another district, such as RN-5, which is used at the Maine Medical Center, or B-3, like much of downtown & Old Port, or B-4, like Warren Ave. These examples are not exhaustive. 3) Cull the Office zone entirely, and change the zoning of its parcels to other mixed used zones as mentioned above.	The O zone will be maintained in the final draft, as the locations that are currently zoned O are not necessarily suitable for denser mixed-use development.
Jeff Sherman	5/3/2024	Konveio	5. Zones	Table 5-A: Zones	The RN-2 zone should be merged with the RN-3 zone. The side setback is the only real difference between the two and it is not that significant. Having 1 zone instead of 2 will be much simpler and will allow for more incremental growth throughout Portland.	These zones have some distinctions in terms of permitted uses and dimensional standards.
Jacob Lavarnway	5/21/2024	Konveio	5. Zones	Table 5-A: Zones	The only area that I can see that has the Office district is the Unum lot, north of Exit 46. This office district should not exist. Instead, it should be replaced with one of the business districts. This would enable dense housing to be built for Unum employees right nearby, improving cost-effectiveness for the infrastructure and enabling bike/ped-oriented development for Unum employees.	The O zone will be maintained in the final draft, as the locations that are currently zoned O are not necessarily suitable for denser mixed-use development.
Urbanist Coalition	6/5/24	Email	5. Zones	Table 5-A: Zones	Consolidation into Fewer Residential Zones: The re-categorization of residential zones, (from R-1, R-2, …, R-6, with an R-7 overlay, to RN-1, RN-2, …, RN-6,) represents a good start towards liberalizing residential areas in response to demand. While the number of zones being only slightly reduced in number is a missed opportunity to more significantly streamline the code, the character of the consolidations is much more gratifying, effecting a moderate but general 'pulling up' of neighborhoods towards greater density. In particular, the released maps reflect a number of incremental upzones from low- to medium- and high-density areas, and these seem both sensible and exciting.	No response necesssary.
The Urbanist Coalition	7/29/24	Email	5. Zones	Table 5-A: Zones	Streamlined Zones: Combining some zones simplifies the code and allows for a more responsive housing market.	No response necesssary.
MEREDA	7/30/2024	Email	5. Zones	Table 5-A: Zones	MEREDA appreciates the considerable work that has been done in redesigning the city's base zones. This work includes a change in the physical mapping of the zones, an expanded set of allowable uses, streamlined dimensional standards including reduced minimum setbacks and modified maximum heights. However, there are a few areas where we feel small changes could yield additional housing and promote smart growth.	No response necesssary.
Todd Morse	8/2/24	Konveio	5. Zones	Table 5-A: Zones	We can probably combine RN-1 and RN-2, there isn't a ton of difference and there still isn't a ton of RN-1. We could also combine RN-4 with RN-5 to spread the sort of density we see on peninsula gradually off peninsula.	RN-1 and RN-2 will be combined in the final draft.
Portland Regional Chamber of Commerce	8/2/24	Email	5. Zones	Table 5-A: Zones	In general, we are pleased to see an overall reduction in zones from 40 to 33 (not including overlay zones). With that said, we think there are probably opportunities to further reduce the number zones, particularly by combining several of the proposed RN zones to streamline the Land Use Code more effectively. These proposed combinations are further outlined below in the applicable zone purpose statement tables.	RN-1 and RN-2 will be combined in the final draft.

NAME	DATE	SOURCE	ARTICLE	TOPIC	COMMENT	RESPONSE
Portland Regional Chamber of Commerce	8/2/24	Email	5. Zones	Table 5-A: Zones	First, we suggest combining the RN-1 and RN-2 zones. These zones are very similar from a use perspective, with the only difference being multifamily dwellings as a conditional use in the RN- 2 zone and agriculture being an allowed use in the RN-1 zone. The conditional allowance for multifamily in the RN-2 zone is only for conversions of existing non-residential structures. To the extent these nonresidential structures also exist in the RN-1 zone, there should be no problem with them converting to multifamily should the structure be able to accommodate it subject to other requirements in the Land Use Code. On the dimensional front, the differences are again negligible, and we would suggest a combined RN-1 and RN-2 zone utilize the proposed RN-2 dimensional standards in Table 7-A. The biggest change here would be the reduction in minimum lot size, however 15-26% of lots currently in in the R1 and R2 are not compliant with the existing minimum lot size, and these smaller lots do not seem to have a deleterious effect on the realization of these zone's purpose statements.	RN-1 and RN-2 will be combined in the final draft.
Portland Regional Chamber of Commerce	8/2/24	Email	5. Zones	Table 5-A: Zones	Next, we suggest combining the RN-3 and RN-4 zones. Again, the uses allowed in these zones are nearly aligned, with the RN-3 allowing multifamily by right and the RN-4 allowing it conditionally, and the RN-3 not allowing lodging housing and the RN-4 allowing them conditionally. It would seem to hold that if the RN-4 can take the impact of lodging houses on a conditional basis, it can absorb multifamily housing on a by right basis, subject to the applicable dimensional requirements. Similarly, if the RN-3 can allow multifamily housing by right, it can allow lodging houses conditionally. Dimensionally these proposed zones are aligned on all factors.	While these zones are similar, there are distinctions in uses and dimensional standards that reflect their differing contexts in the West End and in inner off-peninsula residential neighborhoods.
mako bates	8/2/24	Konveio	5. Zones	Table 5-A: Zones	I don't believe you need all these different zones. Instead of micromanaging what's allowed where, only have different zones when it's necessary to forbid different things in different areas. The Residential, Mixed Use, TOD, and Office zones all more-or-less fit in a single spectrum of increasing density and commercialization; even accepting some variation perpendicular to that axis, ten zones would be plenty for everything covered in those buckets in this draft. The use of so many distinct zones kinda guarantees that the whole system is overly restrictive.	The variation within zone types is necessary to address varying scales and intensity of development.
PIC Housing and Zoning Committee	8/2/24	Email	5. Zones	Table 5-A: Zones	New Business Zone Category, IB-2: The intent of this suggested new category is to create space for additional small businesses primarily serving islanders needs, but with limitation appropriate for its setting, such as: • Maintains setbacks of IR-2 • Hour of operation limits, such as 9-5:00, to minimize noise impacts • Use limits, such as no hotels or restaurants • Rear fencing requirements to reduce visual and sound impacts Suggested Location for IB-2: Starting at Central Ave and Ernest St intersection (at the Health Center) extending east down Central Ave and Central Ave Extension to intersection with Highland Ave	The general approach in ReCode is to try to simplify the code by consolidating and eliminating zones. For this reason, a second island business zone is not proposed, but needs around island commercial space will be addressed through modest changes in the zoning map and permitted uses.
mako bates	8/2/24	Konveio	5. Zones	Table 5-A: Zones	Just get rid of RN-1.	RN-1 and RN-2 will be combined in the final draft.

NAME	DATE	SOURCE	ARTICLE	TOPIC	COMMENT	RESPONSE
Peaks Island Council	8/30/24	Email	5. Zones	Table 5-A: Zones	New Business Zone Category, IB-2: The intent of this suggested new category is to create space for additional small businesses primarily serving islanders needs, but with limitation appropriate for its setting, such as: - Maintains setbacks of IR-2 - Hour of operation limits, such as 9-5:00, to minimize noise impacts - Use limits, such as no hotels or restaurants - Rear fencing requirements to reduce visual and sound impacts - Necessary fire prevention and fire-fighting infrastructure Suggested Location for IB-2: Starting at Central Ave and Ernest St intersection (at the Health Center) extending east down Central Ave and Central Ave Extension to intersection with Highland Ave	No new island business zones will be recommended in the revised draft. Some limited new uses are recommended in the I-B zone, and home occupation language is proposed for some revisions as well.
Portland Regional Chamber of Commerce	8/2/24	Email	5. Zones	Table 5-A: Zones/B-2 and B-2b Zones	In the mixed-use zones we suggest combining the B2 and B2b zones. These zones are well aligned from an allowed use perspective, with the inconsequential exception of marijuana retail uses which are by right in the B2 and conditional in the B2b. If these zones are to remain separate, there should be a clear context-specific differentiation on a dimensional front that delineates a more restrictive and less restrictive zone.	The B-2 and B-2b have some distinctions which are maintained in the ReCode draft, including small differences in permitted uses (drive throughs, marijuana, auto service) and in dimensional standards which reflect the B-2's application for larger lot developments, where redevelopment may be complex.
Portland Regional Chamber of Commerce	8/2/24	Email	5. Zones	Table 5-A: Zones/R-P Zone	We suggest combining the R-P zone with the B1 zone. The relatively few instances of the R-P zone on the proposed map are all proximate to B1 zones and this would significantly expand the type of small neighborhood businesses that could be in these locations for the use of nearby residences. Additionally, the housing allowances are more desirable in the B1 zone, because they preclude single family development unlike the R-P. The current R-P sites are perfect for residential infill, but none of them lend themselves to single family home development. In fact, many of the R-P sites are composed largely of surface parking lots along major transit routes, making them prime targets for B-1 type infill development with multifamily and a wide range of commercial uses on the ground floor. While the dimensional standards are more permissive in the B1 zone, it is not evident that any of the R-P sites would look out of place with development pursuant to those more permissive standards. All of the proposed R-P sites exist either along a City-designated priority corridor, or in proximity to higher intensity residential zones.	R-P will be eliminated in the final draft.
Urbanist Coalition	6/6/24	Email	5. Zones	Table 5-A: Zones/TOD Zones	New Transit Oriented Development (TOD) Zones: The addition of new TOD (Transit-Oriented Development) zones does, again, represent a missed opportunity to reduce the total number of zones, but otherwise represent a positive direction for land use in Portland. With car ownership being an expensive, risky, and environmentally-hazardous factor in many Mainers' lives, the enabling of car-light and car-free households to thrive in Portland is more important than ever. Reforms in dimensional standards, as well as initiatives from the Planning Department like instituting parking maximums across the city, will go further towards this goal.	Additional TOD zones will be proposed in the final zoning map.
The Urbanist Coalition	7/29/24	Email	5. Zones	Table 5-A: Zones/TOD Zones	Transit-oriented development (TOD) zone type: The new TOD zones encourage walkable and sustainable neighborhoods.	No response necesssary.
Todd Morse	8/2/24	Konveio	5. Zones	Table 5-A: Zones/TOD Zones	We should map much more of these along priority nodes and corridors.	Additional TOD zones will be reflected in the final draft map.
Jenepher	8/2/24	Konveio	5. Zones	Table 5-A: Zones/TOD Zones	The newly created TOD-2 zone should be used abundantly to meet climate and housing goals. Applying this to all transit corridors and nodes is imperative to follow the spirit of the comprehensive plan.	Additional TOD zones will be reflected in the final draft map.

NAME	DATE	SOURCE	ARTICLE	TOPIC	COMMENT	RESPONSE
Jenepher	8/2/24	Konveio	5. Zones	Table 5-A: Zones/TOD Zones	The new TOD-2 zone should be applied to all transit corridors - current and planned, in keeping with the Comprehensive Plan and Maine climate goals. The TOD-2 zone is more progressive and more appropriate than the Mixed Use zoning proposed for transit corridors.	Additional TOD zones will be reflected in the final draft map.
Jeff Sherman	5/3/2024	Konveio	5. Zones	Table 5-B: Residential Zone Purpose Statements	The RN-2 zone and the RN-3 zone are substantially similar. There is no practical difference. The standards currently used for the RN-3 zone should be used for all properties in the RN-2 zone. This would make the code simpler and it would also reflect that fact that many parcels in the new RN-2 zone are under 6,500 square feet and would already be nonconforming.	While the RN-2 (proposed as the RN-1 in the final draft) and RN-3 (proposed as the RN-2 in the final draft) are similar, the RN-3 includes some uses that are not permitted within the RN-2, and lot size and setbacks vary.
Emma Morse	5/19/2024	Konveio	5. Zones	Table 5-B: Residential Zone Purpose Statements	Would be really great to simplify the zones and combine RN-4, RN-5, and RN-6. Based on where RN-4 is in the proposed maps it seems like these areas could have the density of places like Munjoy Hill. Given we are in a housing crisis it would be great if these zones reflected the housing needs of the residents and considered future growth.	These zones will be retained within the final draft.
mako bates	8/2/24	Konveio	5. Zones	Table 5-B: Residential Zone Purpose Statements	Agreed, and I'll add that most of the area marked RN-1,2, or 3 on the current draft map should be upgraded to RN-4 or denser.	While the RN-1 and RN-2 are proposed to be combined in the final draft, broader consolidation with the RN-4 (now proposed as the RN-3) is not proposed, given the variation in the pattern between these zones.
Jeff Sherman	5/8/2024	Konveio	5. Zones	Table 5-B: Residential Zone Purpose Statements/RN-1	The RN-1 zone should be eliminated. It is too big and low-density considering the ongoing housing crisis. The RN-1, RN-2, and RN-3 zones should all be combined into 1 zone.	In the final draft, the RN-1 and the RN-2 will be combined, using the standards of the RN-2.
Emma Rubin	5/18/2024	Konveio	5. Zones	Table 5-B: Residential Zone Purpose Statements/RN-1	Agree with the other commenter, RN-1 should be eliminated. Setting aside some arbitrary neighborhoods to have very big lots and higher setback requirements doesn't make sense considering the housing shortage in Portland and the goals of ReCode.	In the final draft, the RN-1 and the RN-2 will be combined, using the standards of the RN-2.
Emma Rubin	5/18/2024	Konveio	5. Zones	Table 5-B: Residential Zone Purpose Statements/RN-2	All RN-2 zones should be reclassified as RN-4 zones. The zone types are very similar and keeping the code simple and understandable should be prioritized. Doesn't seem like there would be a huge impact to lowering the minimum lot size of RN-2 areas anyway.	The RN-2 (now proposed as the RN-1) and the RN-4 (now proposed as the RN-3) are different in terms of lot size, setbacks, and uses. In areas where the existing lot pattern in the RN-2 broadly matches the RN-4 dimensional standards, map changes have been proposed.
Emma Rubin	5/18/2024	Konveio	5. Zones	Table 5-B: Residential Zone Purpose Statements/RN-3	Unclear why there needs to be an entire separate zone for the Western Prom neighborhood. Can these be combined into RN-4?	While the RN-3 (now proposed as the RN-2) is similar to other zones, there are distinctions in uses and dimensional standards that reflect its particular context within the peninsula.
Emma M	5/19/2024	Konveio	5. Zones	Table 5-B: Residential Zone Purpose Statements/RN-3	What is the point of RN-3. This zone is almost identical to RN-2 but only applied to the western prom. This seems like a lot of added complexity for marginal change. RN-3 should be removed and the western prom should be zoned according to on peninsula standards.	While the RN-3 (now proposed as the RN-2) is similar to other zones, there are distinctions in uses and dimensional standards that reflect its particular context within the peninsula.
Michael	6/5/2024	Konveio	5. Zones	Table 5-B: Residential Zone Purpose Statements/RN-4	We live in a wonderful century home in R-4, surrounded by other similar homes and multifamily dwellings. All of these homes would be illegal today based on both lot sizes and setbacks. Why is Recode being so timid with these numbers, when the common sense approaches of the past are right in front of our eyes? So far as I'm concerned, any Recode that makes my neighborhood remain non-conforming will be a historic mistake. If it made a great neighborhood in 1900, it makes a great neighborhood now! 5000 feet is too big and multifamily is a must.	The proposed minimum lot sizes in the RN-4 (R-5)(now proposed as the RN-3) zone are based on an analysis of existing lot patterns. The setbacks have also been reduced, as has lot frontage, to match the prevailing pattern.

NAME	DATE	SOURCE	ARTICLE	TOPIC	COMMENT	RESPONSE
mako bates	8/2/24	Konveio	5. Zones	Table 5-D: Mixed-Use Zone Purpose Statements/B-1	I think if we were designing the zoning from scratch, we would start with the whole city as "B-1" as described here, and then carve out exceptions. Looking at the draft map, it's mostly yellow RN-X zones. Even accepting the current zoning paradigm, those yellow areas should be broken up by copious strips of B-X zoning.	B-1 has historically been applied in a nodal fashion. It is designed for smaller scale, neighborhood businesses which generally tend to cluster at instersections.
Wendy Cherubini	5/25/2024	Konveio	5. Zones	Table 5-E: TOD Zone Purpose Statements	Why is TOD-2 only on or near the peninsula? Seems to me there are areas off peninsula appropriate for this type of zone.	TOD is the more intensive of the two TOD zones, with more height, a smaller build-to zone, and a greater building length as a percentage of street frontage requirement. As such, it is more appropriate for a peninsula setting.
Wendy Cherubini	5/25/2024	Konveio	5. Zones	Table 5-E: TOD Zone Purpose Statements	Another purpose of both TOD zones should be to allow housing densities that will support more frequent (10 or 15 minute) transit service along existing transit corridors - Franklin, Washington, Brighton, Forest, Congress, Riverside. This will enhance the ability of people living in areas adjacent to transit corridors to more easily use transit and reduce reliance on cars.	A reference to high-frequency transit service will be added to the purpose statements in the final draft.
Charlotte R	6/4/2024	Konveio	5. Zones	Table 5-E: TOD Zone Purpose Statements	I agree with the comment about housing density along transit corridors. Denser development along bus lines would support more frequent bus service. I think transit would be more efficient, frequent, reliable, and usable if there were higher density along the entire route.	The draft changes to off-peninsula mixed-use zones include the elimination of density limits and increases to height limits, making these zones transit-supportive, much like the proposed TOD zones. In addition, additional TOD zones will be proposed in the final zoning map.
Jenepher	8/2/24	Konveio	5. Zones	Table 5-E: TOD Zone Purpose Statements	Look at Brighton, Washington, Stevens, and outer Forest - all of which are **residential** in the current draft! That makes no sense. ReCode created TOD zones, which is great. Now the city needs to maximize them!	Additional TOD zones will be proposed in the final zoning map.
Jenepher	8/2/24	Konveio	5. Zones	Table 5-E: TOD Zone Purpose Statements	Building and planning for housing and transit together starts a virtuous cycle where more density > more and better transit $$ > better density for more services, tax dollars and neighborhood vibrancy.	No response necessary.
Jenepher	8/2/24	Konveio	5. Zones	Table 5-E: TOD Zone Purpose Statements	TOD zoning has the potential to transform Portland in so many positive ways! Portland needs to grow. Put people near transit nodes and lines to help grow in a smart way that protects the environment, cuts down on car ridership, and contributes to the livable, walkable cities Portlanders want.	No response necessary.
Jenepher	8/2/24	Konveio	5. Zones	Table 5-E: TOD Zone Purpose Statements	Why limit vibrant, accessible, 24-hour neighborhoods to on or near the peninsula? All European cities embrace transit-oriented design organically and through government policy. People love living in and visiting that sort of city - rather than suburban sprawl.	The draft changes do not limit these type of neighborhoods to on or near the peninsula.
Cheryl Leeman	7/17/24	Note	5. Zones	Table 5-B: Residential Zone Purpose Statements	Zone Purpose Statement RN-2 to RN-6, "subject to standards encouraging compatability and context sensitivity to ensure the stability of established residential neighborhoods." What standards? New construction and conversions Define "residential neighborhood environment"	This is a reference to dimensional and use standards, among others.
Cheryl Leeman	7/17/24	Note	5. Zones	Table 5-E: TOD Zone Purpose Statements	TODs - not needed.	The TOD zones are designed to encourage densities and uses that support transit, particularly in the areas proposed for rapid transit improvements.

NAME	DATE	SOURCE	ARTICLE	TOPIC	COMMENT	RESPONSE
Acorn Engineering	7/24/24	Email	6. Use Standards	6.2.3 Multiple uses	2-4 unit building cluster development. Presently in the RN-4, only one 2-4 unit structure is allowed per lot. To meet this requirement for larger lots, the lot would need to be subdivided and bifurcated with a 50 ft right of way to construct a public roadway in order to meet individual lot (street) frontage requirements. Alternatively, the larger lot could remain whole with a cluster development, whose individual lot would meet all frontage, space and bulk requirements. The intent is that the cluster development would be served by a private driveway instead of a public right of way. By not requiring each 2-4 unit structure to be on an individual subdivided lot with public frontage, it would free up additional land for housing, open space, or preservation while reducing future public infrastructure maintenance costs. We would respectively request the Planning Board, working with Staff and their consultant, study this option.	The alternative development scenarios within Article 7 are meant to provide some flexibility for different forms within residential neighborhoods. Otherwise, ReCode advances the concept of increased housing opportunity within the context of lots and blocks as found in the city's most walkable, compelte neighborhoods.

NAME	DATE	SOURCE	ARTICLE	TOPIC	COMMENT	RESPONSE
Liv Chase	5/28/24	Email	6. Use Standards	6.4.1 In general	This section of the land use code originated from the previous Chapter 14-Land Use Code, Section 14-403. The intention of this section of the code was to define guidelines for unaccepted city streets. Many of these streets were considered paper streets at the time this section was written (1968) and it was important for the city to define the guidelines for the creation of new streets. It was also important for unaccepted city streets to come up to a standard, Chapter 25 Article III- Street Acceptances. Street width as related to fire and life safety. One of the main concerns regarding street width stems from the ability to get to the location in the event of a fire or other emergency. Attachment C shows the guidelines set forth by the NFPA regarding the minimum clearance necessary for a fire truck to access. This minimum clear width is 10'. Additionally, all new construction in the City of Portland is required to have a sprinkler system installed. This in itself makes new construction much safer than existing construction. Street condition, existing infrastructure and city services. Under Portland's Plan 2030: Policy Guide: Economy, page 44, the City's future goal is to invest in infrastructure. Attachment E Accepted city streets already have city services. i.e. water/sewer, plowing, general upkeep etc. As property owned by the city, the city already holds the responsibility/cost foe maintaining these streets. Adding additional buildings to a street with city services does not unreasonably impair these services because these services are already in place. Definition of Accepted City Streets. An accepted city street is a public way established or maintained under the public authority which appears on the official map of the city. These streets contain existing buildings which are serviced by public utilities and maintained by the city of Portland's public works department. Accepted city streets on the peninsula have been streets since the 1800s. The peninsula is home to the highest density of building infrastructure in Portland. Impact. If this section of the code continues to not be revised, it will affect 53 streets on Portland's peninsula. Attachment A and Link B. These are all areas where the City is encouraging growth. They are all walkable locations that can benefit from high density and more housing. History. Despite the current land use code, large scale development projects were permitted on streets that did not meet the minimum width. Attachment D. The city is still approving projects with limited street width as seen in the current townhouse development by Newheight Redfern LLC on Winter Street, a street with a width of only 23.8 feet. Conclusion. Section 6.4 Supplemental Use Standards should not apply to any accepted city street. The revision attached reflects the intent of this section as it applies to unaccepted city streets. Additional Points: Section 6.4 as written directly effects property owners rights and the value of the land. The inability to develop or expand on an existing developed parcel decreases its value. There is no section in the proposed land use code that addresses unaccepted city streets. As previously stated, it is in the best interest of the City to define this.	The working draft includes revisions to Section 6.4.1 to provide more flexibility in these situations while ensuring that there is adequate oversight related to life safety and access for basic services. The draft language provides significantly more room for new development on narrow streets.

NAME	DATE	SOURCE	ARTICLE	TOPIC	COMMENT	RESPONSE
Andrew Schiller	6/3/24	Email	6. Use Standards	6.4.1 In general	Regarding 6.4.1. Dear Friends, given that the minimum street width requirements are for public safety. And given that Portland Fire Prevention Leadership, the Portland Fire Chief, and Department Staff including Planning & Urban Development reviewed and concurred that a corner lot with 20 foot minimum street width presents "zero concern" for safety and accessibility, it makes good sense for corner lot requirements to be a minimum of 20 foot street width for structures for all uses rather than 28 foot minimum width for non-corner lots. Portland Fire noted that corner lots offer access from multiple directions that non corner lots do not, and a wider paved intersection that makes them easier for equipment to maneuver. Adopting this simple adjustment allows a more streamlined review for the creation of much needed housing in Portland, while maintaining high public safety standards. In the interest of assisting ReCode Portland advance the goals of the city's comprehensive plan, I offer the following language [added text denoted by bold]: 6.4.1 In General A. Street Access. 1. Existing, accepted streets. a. The lot meets minimum street frontage requirements on a paved and accepted City street with a minimum width of 20 feet for single-family or two-family dwellings or 28 feet for structures for all other uses, measured from curb to curb. In the case of a corner lot, a minimum street width of 20 feet for structures for all uses is satisfactory. In the absence of a curb, the minimum clear paved width shall be measured from the edge of the pavement, excluding sidewalks.	In the final draft, this language will be modified to require 20' for two-way streets for all uses.
Andrew Schiller	07/26/2024	Konveio	6. Use Standards	6.4.1 In general	Dear Friends, the National Fire Protection Agency (NFPA) guidelines are for 20' width, yet call for reducing that width in any case where access is not unreasonably impaired for providing services. It isn't in regards to if meeting the minimum width is 'impracticable,' as the current language here states. But simply that it is not an impact on access for public safety. Following that simpler language here would be helpful. Also, the language here may be more effective if it is clearer that on the mainland, the width can be reduced. Importantly, I also suggest following NFPA guidelines that call for the minimum street width to only apply if the location is greater than 400' from a wide street that allows such emergency access (perhaps here is where the 'wide street' would be at least 28 feet wide). In such cases, a narrower width of 12 or 16 feet could potentially be adopted. That is, 20' minimum width for all uses in the zone. In cases where a location is within 400' of a wide street that allows such emergency and maintenance access, a minimum width of 12 or 16 feet would be adequate.	In the final draft, this language will be modified to require 20' for two-way streets for all uses.

NAME	DATE	SOURCE	ARTICLE	TOPIC	COMMENT	RESPONSE
Andrew Schiller	6/3/2024	Konveio	6. Use Standards	6.4.1(A)1 Existing, accepted streets	Regarding 6.4.1. Dear Friends, given that the minimum street width requirements are for public safety. And given that Portland Fire Prevention Leadership, the Portland Fire Chief, and Department Staff including Planning & Urban Development reviewed and concurred that a corner lot with 20 foot minimum street width presents "zero concern" for safety and accessibility, it makes good sense for corner lot requirements to be a minimum of 20 foot street width for structures for all uses rather than 28 foot minimum width for non-corner lots. Portland Fire noted that corner lots offer access from multiple directions that non corner lots do not, and a wider paved intersection that makes them easy for equipment to maneuver. Adopting this simple adjustment allows a more streamlined review for the creation of much needed housing in Portland, while maintaining high public safety standards. In the interest of assisting ReCode Portland advance the goals of the city's comprehensive plan, I offer the following language [added text denoted by CAPS]: 1. Existing, accepted streets. a. The lot meets minimum street frontage requirements on a paved and accepted City street with a minimum width of 20 feet for single-family or two-family dwellings or 28 feet for structures for all other uses, measured from curb to curb. IN THE CASE OF A CORNER LOT, A MINIMUM STREET WIDTH OF 20 FEET FOR STRUCTURES FOR ALL USES IS SATISFACTORY. In the absence of a curb, the minimum clear paved width shall be measured from the edge of the pavement, excluding sidewalks.	In the final draft, this language will be modified to require 20' for two-way streets and 10' for one-way streets for all uses.
Liv Chase	6/25/24	Konveio	6. Use Standards	6.4.1(A)1 Existing, accepted streets	with a minimum width of 20 feet for a 2 way street or 10 feet for a one way street for a single family or two-family dwelling	In the final draft, this language will be modified to require 20' for two-way streets and 10' for one-way streets for all uses.
Liv Chase	6/25/24	Konveio	6. Use Standards	6.4.1(A)1 Existing, accepted streets	d. The lot is located within 400 feet of a street that meets the criteria for an existing , accepted street that is 28 feet wide or greater.	In the final draft, this language will be modified to require 20' for two-way streets for all uses.
Eric Pierpont	6/25/24	Konveio	6. Use Standards	6.4.1(A)1 Existing, accepted streets	I also think that the minimum width should be 20 feet for a 2-way street and 10 feet if we are dealing with a one-way street for a single-family or two-family home. Especially if this is a thru-street. Fire trucks are around 8 feet wide. There are currently many non-buildable lots because of the existing standards during this housing crisis. https://www.google.com/maps/d/edit?mid=1wB-JP_4WCZ61qcy2EwZh-42VP9bC9Ws&usp=sharing "	In the final draft, this language will be modified to require 20' for two-way streets and 10' for one-way streets for all uses.
Liz trice	7/1/24	Konveio	6. Use Standards	6.4.1(A)1 Existing, accepted streets	agree with narrower street widths. 16' is necessary for fire trucks, and beyond that it's just individual choice. 28' is too much pavement in front of housing, implies space for fast cars, rather than space for kids to play.	In the final draft, this language will be modified to require 20' for two-way streets for all uses. For narrower streets, the language is maintained allowing som variation in this standard with the review and approval of Fire + DPW.

NAME	DATE	SOURCE	ARTICLE	TOPIC	COMMENT	RESPONSE
Liz trice	7/1/24	Konveio	6. Use Standards	6.4.1(A)1 Existing, accepted streets	the non-conforming lot section seems to eliminate minimum street frontage requirements, so that should be eliminated here, too. Small lots can allow for really fun architecture, and they still have to comply with setbacks, so govt shouldn't intervene if someone wants a skinny house.	Section 4.3.1 allows a lot that does not meet minimum street frontage and minimum lot size to be considered buildable. Section 6.4.1 requires that a lot meet minimum frontage requirements on an accepted street. In the final draft, these sections will be aligned to allow for building on a nonconforming lot, so long as it has frontage on a street meeting the requirements of 6.4.1.
Liz trice	7/1/24	Konveio	6. Use Standards	6.4.1(A)1 Existing, accepted streets	again, minumum street frontage and lot width should be removed, unncessarily restrictive.	Lot width has been removed. Street frontages have been reduced in many zones.
Liz trice	7/1/24	Konveio	6. Use Standards	6.4.1(A)1 Existing, accepted streets	these are the types of comments that cause real problems when trying to build housing. Set a minimum width and make it by right. Having to deal with the whims of individual people late in the process rather than following laws makes it really hard to build housing affordably and efficiently.	In the final draft, this language will be modified to require 20' for two-way streets for all uses.
Liz trice	7/1/24	Konveio	6. Use Standards	6.4.1(A)3 Exceptions	two accessory dwelling units are allowed by right, so this should say two ADUs.	Two ADUs are allowed by right, but they aren't required to be in situations on unaccepted City streets.
Jeff Sherman	5/6/2024	Konveio	6. Use Standards	6.4.12(A) Use limitations	This restriction should be eliminated. Multifamily should be allowed by right in the RN-2 and RN-4 zones	3-family and 4-family are proposed as new uses within these zones. The existing code restricts larger multi-family buildings to conversion only in the RN-2 (now proposed as the RN-1) & RN-4 (now proposed as the RN-3). This is being retained.
WB	5/27/2024	Konveio	6. Use Standards	6.4.12(A) Use limitations	Why only conversions of nonresidential structures in these two zones? Why the restriction?	3-family and 4-family are proposed as new uses within these zones. The existing code restricts larger multi-family buildings to conversion only in the RN-2 (now proposed as the RN-1) & RN-4 (now proposed as the RN-3). This is being retained.
Charlotte R	6/4/2024	Konveio	6. Use Standards	6.4.12(A) Use limitations	I agree that multifamily housing should not be limited to existing structures in RN-2 and RN-4. This takes us in the wrong direction, especially if we are planning for future needs.	3-family and 4-family are proposed as new uses within these zones. The existing code restricts larger multi-family buildings to conversion only in the RN-2 (now proposed as the RN-1) & RN-4 (now proposed as the RN-3). This is being retained.
Michael	6/5/2024	Konveio	6. Use Standards	6.4.12(A) Use limitations	Absolutely essential to allow new multifamily housing in RN-4	3-family and 4-family are proposed as new uses within these zones. The existing code restricts larger multi-family buildings to conversion only in the RN-2 (now proposed as the RN-1) & RN-4 (now proposed as the RN-3). This is being retained.
Jenepher	8/2/24	Konveio	6. Use Standards	6.4.12(A) Use limitations	100%. We are in a housing crisis. ReCode should be putting as few restrictions as possible, seeking to remediate when actual harm is being done, rather than anticipating bad outcomes by default without strict regulation.	3-family and 4-family are proposed as new uses within these zones. The existing code restricts larger multi-family buildings to conversion only in the RN-2 (now proposed as the RN-1) & RN-4 (now proposed as the RN-3). This is being retained.

NAME	DATE	SOURCE	ARTICLE	TOPIC	COMMENT	RESPONSE
Portland Regional Chamber of Commerce	8/2/24	Email	6. Use Standards	6.4.12(A)1 Use limitations	See above suggestion in Table 6-A to allow multifamily housing by right in the RN-4 zone. The mention of RN-4 in 6.4.12.A.1 should be eliminated.	3-family and 4-family are proposed as new uses within these zones. The existing code restricts larger multi-family buildings to conversion only in the RN-2 (now proposed as the RN-1) & RN-4 (now proposed as the RN-3). This is being retained.
Jeff Sherman	5/6/2024	Konveio	6. Use Standards	6.4.12(B) Conversion standards	Exterior Stairs should be allowed regardless of whether the property is a conversion or not.	This language will be struck in the final draft in favor of one regulation for exterior stairs in Section 6.8.
WB	5/27/2024	Konveio	6. Use Standards	6.4.12(B) Conversion standards	Parking is already a problem. Why not go case by case and by the site plan to determine the best parking options.	Many conversions are not subject to site plan review. The goal with this language is to ensure that front yards are not occupied by parking, which affects walkability.
Portland Regional Chamber of Commerce	8/2/24	Email	6. Use Standards	6.4.14(D) Emergency shelters	We suggest considering language here to ensure that management plans are enforceable and followed by applicants. In lieu of a licensing scheme for emergency shelters, it is imperative that ongoing enforcement of the management plan standard occurs. Unlike other emergency shelter conditional use standards that are be static and established at the time of construction completion and occupancy, a management plan requires constant enforcement and follow-through on the part of the city and the applicant, and there should be a mechanism to continually enforce this standard as long as the use is occurring on a given site.	Management plans are enforceable under existing language.
mako bates	8/2/24	Konveio	6. Use Standards	6.4.2 Adult business establishments	This whole clause can be removed; it's not doing anything valuable.	This language is from the existing code.
	5/6/24	Email	6. Use Standards	6.4.21 Lodging houses	It seems like the lodging house model that we thought might work to temporarily assist unhoused families until they can get permanent housing is almost impossible to get to work with the proposed zoning rules in Portland. Here are some of my thoughts regarding "Lodging Houses" in Re-Code. I wonder why the number of bedrooms for lodging houses in the new proposed zoning would require a minimum of 5 bedrooms. I am not sure how the requirement of monthly payment would work for our non-profit model. In addition the zones Lodging Houses are actually allowed without a "conditional use" are extremely limited. It seems RN-6 zones are already occupied. I couldn't find anything labeled RN-7 on the map. The rest are business zones that might not be ideal for families and seem to have very limited opportunities. I appreciate it's not easy to please everyone and realize that Portland is trying to work towards housing more people. It just appears the model of housing multiple families in one building with community dining and living space just doesn't seem to work with the city of Portland. It appears Portland only would be applicable for shelters that have no privacy or we would need to house families in full apartment units which is not very cost effective for our transitional housing model.	The draft reads that a lodging house is a house, building, or portion thereof containing five or more "rooming units," defined as "one or more rooms forming a single unit used, or intended to be used, for living and sleeping purposes by an individual or a family, but not designed for food preparation...." The reference to five units was added to differentiate this use from the common letting of rooms that may happen within a smaller setting.
Jeff Sherman	5/3/2024	Konveio	6. Use Standards	6.4.22(B) Low-impact industrial	It is not clear to me why this restriction exists. This seems like something that should be removed.	This language is from the existing code, intended to limit any expansion of bars or breweries within the Eastern Waterfront.

NAME	DATE	SOURCE	ARTICLE	TOPIC	COMMENT	RESPONSE
Bob Harville	4/25/24	Email	6. Use Standards	6.4.26 Neighborhood nonresidential reuse	Concerns: 1. IR-2 Zoning District - The proposed allowable uses include “Neighborhood non-residential uses”. I can find no outline of what would be allowable “Neighborhood non-residential” uses. To understand the impact of this proposed change, more clarity is required. The implications could be positive or negative. There is not enough information to allow island residents to understand the impact of this proposed broadening of allowable land uses. This change should not go forward without additional clarification and discussion.	Description of neighborhood nonresidential reuse can be found in both the definition in Article 3 and under Section 6.4.26.
Tim Wells	7/29/24	Email	6. Use Standards	6.4.26 Neighborhood nonresidential reuse	Mixed use is not expanded to enough neighborhoods to comply with the Comprehensive Plan or what people want. People want walkable neighborhoods. They want to be able to walk or ride their bike to the coffee shop, bakery, restaurants, work, post office, pharmacy, dentist, florist, etc. This requires density, neighborhood centers but also small businesses peppered throughout neighborhoods. People love this mixed use but Recode fails to address this adequately. Development and change takes a long time. Portland, and most cities, are already 20 years behind in making these changes. We can’t afford further delay because we are resisting being innovative, ambitious and sincere in addressing these shortfalls.	The neighborhood nonresidential reuse category is meant to allow the use of nonresidential structures for nonresidential uses within residential zones. It does not allow nonresidential uses writ large, as many residential areas are not suitable for impacts associated with nonresidential uses.
The Urbanist Coalition	7/29/24	Email	6. Use Standards	6.4.26 Neighborhood nonresidential reuse	Neighborhood-scale businesses are limited to specific, pre-selected pockets that are often few and far between instead of allowing neighborhood centers to form organically.	The neighborhood nonresidential reuse category is meant to allow the use of nonresidential structures for nonresidential uses within residential zones. It does not allow nonresidential uses writ large, as many residential areas are not suitable for impacts associated with nonresidential uses.
The Urbanist Coalition	7/29/24	Email	6. Use Standards	6.4.26 Neighborhood nonresidential reuse	Limited neighborhood businesses: The proposed changes to allow for more neighborhood businesses are limited to just a handful of buildings and are complicated to comply with.	The neighborhood nonresidential reuse category is meant to allow the use of nonresidential structures for nonresidential uses within residential zones. It does not allow nonresidential uses writ large, as many residential areas are not suitable for impacts associated with nonresidential uses.
Todd Morse	8/2/24	Konveio	6. Use Standards	6.4.26 Neighborhood nonresidential reuse	I am not opposed to this being allowed but I would like to see a lot more small-scale commercial in residential areas. This neighborhood nonresidential reuse got top billing in a lot of the ReCode materials but I would be surprised if more than a handful of properties took advantage of it. A lot of this is allowed already because of nonconforming buildings. This really only pushes the idea of nonconforming very slightly further. It is also fairly confusing and obscure so I'd imagine a lot of people won't know they could take advantage of this.	ReCode proposes additional B-1 zoning to promote neighborhood scale residential in addition to the neighborhood nonresidential reuse. There are a number of nonresidential structures within residential zones that would be eligible for new small scale commercial under this provision.
Jeff Sherman	5/3/2024	Konveio	6. Use Standards	6.4.26(A) Neighborhood nonresidential reuse	This restriction should be eliminated. There should be more nonresidential uses allowed by right in predominantly residential areas.	The neighborhood nonresidential reuse category is meant to allow the use of nonresidential structures for nonresidential uses within residential zones. It does not allow nonresidential uses writ large, as many residential areas are not suitable for impacts associated with nonresidential uses.

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Charlotte R	6/4/2024	Konveio	6. Use Standards	6.4.26(A) Neighborhood nonresidential reuse	I agree that this restriction should be eliminated to promote walkable neighborhoods and allow people more access to stores and services they need	The neighborhood nonresidential reuse category is meant to allow the use of nonresidential structures for nonresidential uses within residential zones. It does not allow nonresidential uses writ large, as many residential areas are not suitable for impacts associated with nonresidential uses.
Jeff Sherman	5/3/2024	Konveio	6. Use Standards	6.4.26(B) Neighborhood nonresidential reuse	Grocery stores should explicitly be allowed (although they are likely already covered).	Small grocery stores would be allowed under this language.
Urbanist Coalition	6/11/24	Email	6. Use Standards	6.4.30 Places of assembly	Too Many Restrictions on Places of Assembly: Places of Assembly, the most common use designated for churches and other places of worship, have been redefined in the Phase II proposals to apply to congregations of more than 8 people, a drastic reduction from 15 people in the current land use code. This broader requirement, which affects multiple small religious bodies, has been paired with a new restriction which bans places of assembly from non-major roadways. In other words, while a group of ten Jews, Christians, Muslims, or any other religious (or indeed non-religious) congregants are currently permitted to assemble freely nearly anywhere in Portland, under the proposed Phase II changes, they'd be restricted to upzoned parcels on major roads only. While the justification provided for this change is an anodyne attempt at standardization with other definitions, the impact of this change on community groups and congregations should not be understated. It may even rise to the level of violating first amendment rights. This change is capricious and unnecessary, and should not be pursued. You've probably hosted or attended a gathering at a home with more than eight people yourself, why should this be any different?	The change in the place of assembly definition aligns with the adjustment to the definition of "family" from Phase I, which reduced the number of unrelated individuals in a "family" from 15 to 8. Under ReCode, construction of any new buildings as places of assembly is proposed to be limited to collector or arterial roads within RN zones only; adaptive reuse would be allowed anywhere within these zones. In other zones, no such restrictions would apply.
The Urbanist Coalition	7/29/24	Email	6. Use Standards	6.4.30 Places of assembly	New restrictions on places of assembly: Limiting places of assembly like religious centers to major roads is unnecessarily restrictive and removes the possibility of small walkable community gathering places.	The change in the place of assembly definition aligns with the adjustment to the definition of "family" from Phase I, which reduced the number of unrelated individuals in a "family" from 15 to 8. Under ReCode, construction of any new buildings as places of assembly is proposed to be limited to collector or arterial roads within RN zones only; adaptive reuse would be allowed anywhere within these zones. In other zones, no such restrictions would apply.
Todd Morse	8/2/24	Konveio	6. Use Standards	6.4.30 Places of assembly	I have commented on this numerous times before, this condition is needlessly restrictive and may even open us up to legal challenges via RULIPA. Residential zones are supposed to allow for schools and places of assembly. These places are neighborhood anchors and to limit them from walkable streets is an example of zoning at its worst. There are existing religious structures that are not on arterial or collector roads today and they are largely appreciated and charming. I know that some people were upset about the Pomeroy Street Chabad House but that is no reason to lock off most of the land in the city to places of assembly.	The change in the place of assembly definition aligns with the adjustment to the definition of "family" from Phase I, which reduced the number of unrelated individuals in a "family" from 15 to 8. Under ReCode, construction of any new buildings as places of assembly is proposed to be limited to collector or arterial roads within RN zones only; adaptive reuse would be allowed anywhere within these zones. In other zones, no such restrictions would apply.

NAME	DATE	SOURCE	ARTICLE	TOPIC	COMMENT	RESPONSE
Jeff Sherman	5/3/2024	Konveio	6. Use Standards	6.4.34(A) Restaurants	The restrictions on restaurants operating between the hours of 11pm and 6am should be eliminated. The issues that this restriction is trying to address is already addressed with noise restrictions. Businesses in this zone should be able to naturally grow overtime and if there is a demand for restaurants staying open later, a small local business should be able to fill that demand. What this restriction does is forces people to order delivery or drive into town late at night. This leads to more traffic and more drunk driving. Additionally, it benefits larger businesses in the old port over small businesses. For the same reason, the requirement that food service and consumption shall be the primary function should be eliminated. If there is demand for a bar in the B-1 zone, then the zoning code should not prevent a bar from operating. There are still noise restrictions that would prevent incompatible uses.	The B-1 is intended as a small neighborhood business zone. There are other zones that can help to fulfill demand for bars.
Portland Regional Chamber of Commerce	8/2/24	Email	6. Use Standards	6.4.34(A) Restaurants	We agree with other public comments that restaurants should not face arbitrary limits on their hours of operation in the B-1 zone, primarily because noise regulations elsewhere in the City Code should suffice as a control on impacts to neighbors in the later hours. This would further enhance the concept of complete neighborhoods that allow people to access goods and services near their homes without driving to the larger business districts of the city to access late night dining.	This language is meant to reinforce the concept of businesses that can be easily integrated into the neighborhood context.
Jeff Sherman	5/3/2024	Konveio	6. Use Standards	6.4.34(B) Restaurants	This section should be eliminated.	This language is from the existing code, intended to limit any expansion of restaurants within the Eastern Waterfront.
Alex Coupe	07/26/2024	Konveio	6. Use Standards	6.4.35 Residential care facilities	After recently going through this process, the state is licensing facilities at a higher occupancy than the city, and furthermore there is no lot size requirement. What is the purpose of a 20,000 sf minimum lot size? This seems restrictive for bed counts when the state doesn't have that threshold.	This lot size requirement in residential zones is meant to ensure that large residential care faciliites are located on larger lots which can accommodate the greater number of people and services likely to be present in such a facility.
Robert Harville	4/26/2024	Konveio	6. Use Standards	6.4.36 Retail	In Section 6.4-36 Retail Section A states - in I-B zone, retail uses are limited to a maximum 10,000 s.f. Of gross floor area. Section B states - In I-B zone, retail uses are limited to a maximum of 5,000 s.f. Of gross floor area..... Sections A and B contradict on another.	A speaks to the Island Business zone. B speaks to the B-1 zone.
Jeff Sherman	5/3/2024	Konveio	6. Use Standards	6.4.36 Retail	[Response to Robert Harville] I think that you are confusing the I-B zone and the B-1 zone	A speaks to the Island Business zone. B speaks to the B-1 zone.
Jeff Sherman	5/3/2024	Konveio	6. Use Standards	6.4.37(A) Self-storage facility	This section should be eliminated.	This language is increasingly common in land use codes, in order to make clear that self-storage is intended for storage only.
Jeff Sherman	5/3/2024	Konveio	6. Use Standards	6.4.37(B) Self-storage facility	This section should be eliminated.	This language is increasingly common in land use codes, in order to make clear that self-storage is intended for storage only.

NAME	DATE	SOURCE	ARTICLE	TOPIC	COMMENT	RESPONSE
Portland Regional Chamber of Commerce	8/2/24	Email	6. Use Standards	6.4.9(C)2 Child care centers	The requirement that childcare facilities maintain a 10-foot-wide landscaped buffer between their fence and the adjacent property lines in residential zones seems needlessly restrictive when a fence is already required. We face an immense shortage of adequate childcare facilities in our region, and often one of the largest barriers to converting a structure for childcare use is finding a parcel with adequate outdoor play space to meet state licensing standards. Eating into a childcare center's outdoor play space with a required landscape buffer could seriously hinder the ability for childcare providers to secure a facility that can meet state requirements. We recommend removing this standard, given that a solid fence should more than suffice as privacy and use buffering tool.	This standard is only applied for child care centers in residential and island residential zones, where these types of facilities are allowed, but impacts can be a concern. The standard does not apply for family childcare providers, which are allowed as home occupations within residential zones.
Jeff Sherman	5/3/2024	Konveio	6. Use Standards	6.5.1(D)Conditional use review procedure	This section should be changed as follows: The failure of the review authority to act within 30 days shall be deemed an approval of the conditional use	In the final draft, this language will be revised.
Jeff Sherman	5/3/2024	Konveio	6. Use Standards	6.5.2 General conditional use standards	There should be certain nonresidential uses (cafes, grocery stores, coffee shops, retail, etc.) that are granted conditional use unless the Zoning Board of Appeals makes certain findings.	Within the neighborhood nonresidential reuse category, where there are specific uses identified, these uses could be established assuming that they meet the conditional use standards.
Jeff Sherman	5/10/2024	Konveio	6. Use Standards	6.6.1(A)3 In general	This restriction should be eliminated. Alternatively, the word "clearly" should be replaced with "reasonably"	This is longstanding language from the code and has not presented interpretation issues in the past.
Jeff Sherman	5/10/2024	Konveio	6. Use Standards	6.6.1(C) In general	This restriction should not apply to Accessory Dwelling Units.	This provision only applies to uses not within a building.
PIC Housing and Zoning Committee	8/2/24	Email	6. Use Standards	6.6.2 ADUs	We support the allowance of ADUs for only year-round housing and request that this requirement is put back in the Land Use Code.	Short-term rental regulations are within Chapter 6 of the City's Code of Ordinances. For administrative reasons and for ease of public use, the City continues to prioritize the consolidation of all STR policy within Chapter 6. Because the new island STR cap more holistically addresses the issue of short-term v. long-term housing on the island, and applies to ADUs (among other sorts of housing), the final drafts do not propose to re-establish the prohibition on ADUs as STRs on Peaks.
Peaks Island Council	8/30/24	Email	6. Use Standards	6.6.2 ADUs	ADUs and STRs: We support the allowance of ADUs for only year-round housing and request that this requirement is put back in the Land Use Code.	Short-term rental regulations are within Chapter 6 of the City's Code of Ordinances. For administrative reasons and for ease of public use, the City continues to prioritize the consolidation of all STR policy within Chapter 6. Because the new island STR cap more holistically addresses the issue of short-term v. long-term housing on the island, and applies to ADUs (among other sorts of housing), the final drafts do not propose to re-establish the prohibition on ADUs as STRs on Peaks.

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Betsey Remage-Healey	7/29/24	Email	6. Use Standards	6.6.2(A) ADUs	I write in distress about the absence of year long residency restriction for Accessory Dwelling Units , for the following reasons: 1. In March of 2019, a text amendment was added to Section 6.6.2A of the Portland Land Use Code specifying that on Peaks Island ADUs must be rented year round only. 2. It is no longer there, wiped out at some point for some unknown reason, without any notification or discussion. 3. Is this legal ? To quietly remove a clause that supports year round affordable housing ? 4. Is it sensible ? NO. At the direction of the Peaks community (a study, a zoning advisory committee, the Home Start board and the Peaks Island Council) , its purpose was to ensure the creation of more year round housing and to prevent the creation of more short term rentals. 5. Should a year round rental restriction be added for all ADUs in Portland ? Yes, if there is truly a commitment to creating more affordable housing in Portland. Without such a restriction the ReCode leaves the door wide open to more short term rentals. One sentence will fix this. To the proposed ReCode Chap. 14, 6.6.2.A add a 9th point: "Neither the accessory unit or the principal dwelling shall be used for short-term rentals as defined under Section XXXXXX." This wording is from the Peaks text amendment added in 2019 - and then mysteriously removed. To support ADUs as one way to add affordable units, it must be restored and expanded for all of Portland.	Short-term rental regulations are within Chapter 6 of the City's Code of Ordinances. This comment has been provided to City staff who are currently engaged in active discussions on STR policy.
Liz trice	7/1/24	Konveio	6. Use Standards	6.6.2(A)4 ADUs	this is too vague. Just cut it.	This provision was added in 2020 to address situations in which nonconforming accessory structures are very close to lot lines.
Jeff Sherman	5/3/2024	Konveio	6. Use Standards	6.6.2(A)5 ADUs	This section should be changed to the following: An ADU shall be limited to a gross floor area of either (i) 2/3 of the gross floor area of the largest principal unit on the lot or (ii) 1,100 square feet, whichever is greater. This change would allow the city to pre-approve designs for ADUs that would be permitted on any city lot. Also, it would allow property owners to purchase modular homes without significant changes to the design.	In some cases, 1,100 SF may be larger than the principal unit on the lot, in which case the ADU is no longer 'accessory.' New principal units would also be allowed in many zones under ReCode, and those come without these restrictions.
Jeff Sherman	5/9/2024	Konveio	6. Use Standards	6.6.2(A)5 ADUs	This should use a fixed number to promote standard building designs: The maximum aggregate square footage of detached ADUs shall be either: (i) 110% of the total gross floor area of the principal structure or (ii) 1,750 sq. feet, whichever is greater.	ADUs are accessory uses by nature, which is why this language was originally written. New principal units would also be allowed in many zones under ReCode, and those come without these restrictions.
Jeff Sherman	5/9/2024	Konveio	6. Use Standards	6.6.2(A)5 ADUs	The language "largest principal unit on the lot" should be changed for 2-family, 3-family, and 4-family properties. If the goal is to add more in-fill development, then homeowners should be able to build 1 or two units of similar size to the units already on the property. Therefore, the following language should be added: If the principal structure is a 2-family, 3-family, and 4-family home, the maximum gross floor area of an ADU shall be either (i) 110% of the gross floor area of the largest principal unit on the lot, or (ii) 1100 square feet, whichever is greater.	ADUs are accessory uses by nature, which is why this language was originally written. New principal units would also be allowed in many zones under ReCode, and those come without these restrictions.

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Tanya Seredin	4/5/24	Email	6. Use Standards	6.6.2(A)7 ADUs	Regarding section 6.6.2 - ADU standards, paragraph 7. This allows an ADU above an existing garage to have a maximum height of 25'. We are exploring the idea of building a new garage with an ADU above it. For an 18' wide garage, there would be very little headroom on the second floor with an average building height of 18', and it would be much more successful if the average height allowed is the same as for existing. It would be more feasible even if the allowed height were 22'. Would that be a possible adjustment?	In the revised draft, 25' will be allowed for detached ADUs above new or existing garages.
Jeff Sherman	5/3/2024	Konveio	6. Use Standards	6.6.2(A)7 ADUs	This section should be changed as follows: Detached ADUs shall be limited to a maximum height of 20 feet, unless constructed as a vertical addition to a garage, in which case the height of the structure shall be limited to either (i) 25 feet or (ii) the height of the principal structure, whichever is greater.	In the revised draft, 25' will be allowed for detached ADUs above new or existing garages.
WB	5/27/2024	Konveio	6. Use Standards	6.6.2(A)7 ADUs	It would be very beneficial to the community to increase height restrictions to 35' maximum for garage conversions. This would allow for current homeowners to feasibly build efficient and reasonably sized living spaces utilizing two levels over a garage/pre-existing structural footprints. This would help current property owners build quality residential spaces which would be advantageous to meeting Portland's housing development goals.	Detached garages tend to be located to the side and rear of properties, and in many zones are often nonconforming with respect to setbacks. For this reason, while some flexibility is proposed, height up to 35' is not recommended.
Charlotte R	6/4/2024	Konveio	6. Use Standards	6.6.2(A)7 ADUs	I agree that the height for additions to a garage should be raised to 35 feet to allow for increased housing space without adding to the footprint of the building	Detached garages tend to be located to the side and rear of properties, and in many zones are often nonconforming with respect to setbacks. For this reason, while some flexibility is proposed, height up to 35' is not recommended.
Michael	6/5/2024	Konveio	6. Use Standards	6.6.2(A)7 ADUs	Height limits need an exemption when increased freeboard is necessary for sea level rise and climate change resiliency.	This is addressed within the CFROZ.
Peter Dydo	7/19/24	Konveio	6. Use Standards	6.6.2(A)7 ADUs	This seems to be a bit limiting if it only applies to existing structures. The height limits applied to existing and proposed ADUs above garages should be the same.	This language will be revised to apply to new garage construction as well.
Portland Regional Chamber of Commerce	8/2/24	Email	6. Use Standards	6.6.2(A)7 ADUs	We believe a better approach to limiting the height of detached ADUs constructed as a vertical addition to an existing garage would be to cap it at the height of the principal structure. The current proposed limit of 25' is needlessly restrictive, while capping it at the height of the principal structure would allow for more ADUs to be added to existing garages without altering the overall character of the existing structure.	Detached garages tend to be located to the side and rear of properties, and in many zones are often nonconforming with respect to setbacks. For this reason, while some flexibility is proposed, height up to 35' is not recommended.
Jeff Sherman	5/3/2024	Konveio	6. Use Standards	6.6.2(A)9 ADUs	This section should be changed to the following: Detached ADUs shall not be permitted between a principal structure and a front lot line, unless the area between the principal structure and the front lot line is the only area on the property where a detached ADU would fit.	As accessory structures, ADUs should be secondary to the principal structure on the lot. There are other ways proposed within the code to get more units on a lot in residential use.
WB	5/27/2024	Konveio	6. Use Standards	6.6.2(A)9 ADUs	I agree with Jeff's statement, please rewrite that language as he stated.	As accessory structures, ADUs should be secondary to the principal structure on the lot. There are other ways proposed within the code to get more units on a lot in residential use.
Liz trice	7/1/24	Konveio	6. Use Standards	6.6.2(A)9 ADUs	I would remove this completely, there's no reason to not have front yard adus.	As accessory structures, ADUs should be secondary to the principal structure on the lot. There are other ways proposed within the code to get more units on a lot in residential use.

NAME	DATE	SOURCE	ARTICLE	TOPIC	COMMENT	RESPONSE
Jeff Sherman	5/13/2024	Konveio	6. Use Standards	6.6.2(E)1 Home occupations	This subsection should be eliminated.	This language is central to the concept of home occupation as accessory to the principal residential use.
Jeff Sherman	5/3/2024	Konveio	6. Use Standards	6.6.2(E)13 Home occupations	This restriction should be eliminated	This language will be removed in the final draft.
Jeff Sherman	5/3/2024	Konveio	6. Use Standards	6.6.2(E)14 Home occupations	The restrictions in this subsection feel arbitrary. This restriction should be eliminated.	This language will be revised in the final draft.
mako bates	8/2/24	Konveio	6. Use Standards	6.6.2(E)14 Home occupations	I'm not sure actually; childcare as a home occupation is an especially important phenomenon in our society, and this clause exempts it from some other limitations. The overall affect may be over-restrictive, but I don't think we should simply delete this clause.	This language is based on the state's definition of 'family child care provider'
Portland Regional Chamber of Commerce	8/2/24	Email	6. Use Standards	6.6.2(E)14 Home occupations	We suggest aligning this use standard for family childcare providers with the existing definition of family childcare in state law, which currently allows a family childcare provider to care for up to 12 children. We face a severe shortage of childcare facilities in our region, and the city should not place an arbitrary limit on family childcare provider's capacity that is below their allowed capacity under state law.	This language will be revised in the final draft.
Jeff Sherman	5/3/2024	Konveio	6. Use Standards	6.6.2(E)2 Home occupations	This section should be eliminated	This language is central to the concept of home occupation as accessory to the principal residential use.
Jeff Sherman	5/13/2024	Konveio	6. Use Standards	6.6.2(E)4 Home occupations	This subsection should be eliminated. The city's goals are met by restrictions on what types of home occupations are allowed. This restriction is superfluous.	This language is central to the concept of home occupation as accessory to the principal residential use.
Jeff Sherman	5/3/2024	Konveio	6. Use Standards	6.6.2(E)6 Home occupations	This restriction should be eliminated.	This language will be maintained in the final draft.
Jeff Sherman	5/10/2024	Konveio	6. Use Standards	6.6.2(G)1 Tasting rooms in industrial zones	This restriction should be eliminated.	This restriction is meant to prevent restaurants from operating as tasting rooms within industrial zones.
Jeff Sherman	5/8/2024	Konveio	6. Use Standards	6.6.2(G)2 Tasting rooms in industrial zones	This restriction should be eliminated. How is this even enforced and why do we care? If we are going to allow tasting rooms, we should allow business owners to do whatever they need to do to make them profitable.	The concept is to generally limit 'tasting' to food or drink produced on site, which is in keeping with the idea of an industrial tasting room.
Jeff Sherman	5/14/2024	Konveio	6. Use Standards	6.7.2(A)5 Farmstand	The requirement that farmstands be set back 15 feet is overly restrictive and should be removed.	This language will be modified in the final draft.

NAME	DATE	SOURCE	ARTICLE	TOPIC	COMMENT	RESPONSE
Robert Bergeron	4/23/24	Form	6. Use Standards	6.8.10 Smoke and dust	I have a property on Presumpscot Street and have been here for over 40 years, over the last few years a new business has moved into the old railroad location and has changed the use to a lay down area for all kinds of different materials from asphalt debris to loam and stone. we have been in communication with the permitting department as well as the DEP regarding copious amount of uncontrolled dust blowing all over my property and employees vehicles, its become so bad that we can't open our windows during the summer. I would request that there be wording inserted in the new code requiring these types of locations monitor and control their emissions so as not to affect surrounding properties.	This performance standard has been simplified from an existing standard, which applies only to "smoke," to include dust, to provide a simple means of objective measurement, to apply a universal standard across zones, and to refer to the DEP.
Robert Bergeron	4/26/24	Email	6. Use Standards	6.8.10 Smoke and dust	Thank you for getting g back to me. Yes I have seen that and I just don't see it as being strong enough and I'll tell you why. Over the last 2-3 years we have been having issues with our next door neighbor, who just starting using the sight as a lay down area for all sorts of debris, they very seldom, if at all , use dust control. We can't open window all my employees cars are covered with a layer of dust at the end of the day and we need to replace HVAC filters way more often then we have ever had too. If the dust we are experiencing were blowing 180 degrees it would be covering the Presumpscot street School and there would be no way the City of Portland would allow it, so why allow it for us? Any more strength to the emissions section would be greatly appreciated.	This performance standard has been simplified from an existing standard, which applies only to "smoke," to include dust, to provide a simple means of objective measurement, to apply a universal standard across zones, and to refer to the DEP.
Jeff Sherman	5/14/2024	Konveio	6. Use Standards	6.8.6(B) Noise	This should be Table 6-H rather than Table 6-I	This change will be reflected in the final draft.
Jeff Sherman	5/3/2024	Konveio	6. Use Standards	6.8.8 Exterior stairways	This entire section should be eliminated. This restriction is essentially an aesthetic preference and is incredibly subjective. Apartments in Montreal are known for having exterior stairs and many residents prefer it because it gives them the feeling of independence from others in the building. Additionally, it can create small areas of outdoor space for people who would not have it otherwise.	This language will be modified in the final draft to be more permissive with respect to exterior stairs.
Emma Morse	5/19/2024	Konveio	6. Use Standards	6.8.8 Exterior stairways	It would be great to know why this is in the code. Exterior stairs could be a great alternative to having more than 1 stairway inside the building. From experience, having 2 stairways seems like a waste of space that could be used for shared space, bike storage or storage units.	This language will be modified in the final draft to be more permissive with respect to exterior stairs.
Charlotte R	6/4/2024	Konveio	6. Use Standards	6.8.8 Exterior stairways	Yes, I agree that the restrictions on exterior staircases are unjustified and subjective. Like another commenter I would point to Montreal as an example where exterior staircases are considered attractive and beneficial to neighborhood character. They are space efficient and create outdoor space for upstairs residents (not to mention the safety benefits of fire escapes).	This language will be modified in the final draft to be more permissive with respect to exterior stairs.
Portland Regional Chamber of Commerce	8/2/24	Email	6. Use Standards	6.8.8 Exterior stairways	We agree with other public comments that this restriction on outdoor stairways makes little sense. As others have pointed out, allowing egress requirements to be met partially through outdoor staircases has the potential to unlock additional living space on infill lots, which is particularly important for encouraging larger family sized units. Additionally, these areas can potentially provide valuable outdoor spaces for units that would otherwise not have them.	This language will be modified in the final draft to be more permissive with respect to exterior stairs.

NAME	DATE	SOURCE	ARTICLE	TOPIC	COMMENT	RESPONSE
Edward Ezzard	4/10/24	Email	6. Use Standards	Table 6-A: Uses in Residential Zones	Can you give any example of what might be a Select nonresidential uses may also be permitted in the RN-2 zone? Or, must a non residential use first be requested before it could be considered?	A neighborhood nonresidential reuse can be one of the following or a combination: General offices <5,000 square feet General services <5,000 square feet Restaurants Retail <5,000 square feet Speciality food services Studios for artists and craftspeople
Sara Coupe	5/1/24	Form	6. Use Standards	Table 6-A: Uses in Residential Zones	Good Evening, I would like to comment that where appropriate, the city should allow conditional new construction multi family as a permitted use on parcels that are large enough. Conditional use gives the city the veto power to not approve a project if they don't feel it's appropriate.	Under ReCode, "multi-family" is proposed to include all building with 5 or more dwelling units, as opposed to the current definition, which qualifies buildings with 3 or more units as multi-family. In the RN-2 (now proposed as the RN-1), which represents the current R-3, this type of housing is currently only allowed as adaptive reuse. That use permission is proposed to remain. In addition, up to four units would be allowed in one building (including new construction) under the ReCode proposal within the RN-2 (now RN-1). Given that this zone has over 8,000 lots, this change has the potential to create significant new housing opportunities.
Francis Oboy	5/1/24	Form	6. Use Standards	Table 6-A: Uses in Residential Zones	There is a huge shortage of multi family properties in Portland. Any changes in zoning should allow more multi -family properties as a condition	Significant changes are proposed through ReCode to allow more multi-family building. Many of these changes are focused on encouraging this type of housing along transit corridors and near existing infrastructure, in alignment with the City's and region's smart growth goals. However, additional use permissions are also proposed within the residential zone context to allow incremental increases in housing in these areas as well.
Philip Coupe	5/1/2024	GIS Map Viewer	6. Use Standards	Table 6-A: Uses in Residential Zones	NEW multi family should be allowed as a conditional use	Under ReCode, "multi-family" is proposed to include all building with 5 or more dwelling units, as opposed to the current definition, which qualifies buildings with 3 or more units as multi-family. In the RN-2 (now proposed as the RN-1), which represents the current R-3, this type of housing is currently only allowed as adaptive reuse. That use permission is proposed to remain. In addition, up to four units would be allowed in one building (including new construction) under the ReCode proposal within the RN-2 (now RN-1). Given that this zone has over 8,000 lots, this change has the potential to create significant new housing opportunities.

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Dimitri Coupe	5/1/2024	GIS Map Viewer	6. Use Standards	Table 6-A: Uses in Residential Zones	NEW multifamily should be used as a conditional use	Under ReCode, "multi-family" is proposed to include all building with 5 or more dwelling units, as opposed to the current definition, which qualifies buildings with 3 or more units as multi-family. In the RN-2 (now proposed as the RN-1), which represents the current R-3, this type of housing is currently only allowed as adaptive reuse. That use permission is proposed to remain. In addition, up to four units would be allowed in one building (including new construction) under the ReCode proposal within the RN-2 (now RN-1). Given that this zone has over 8,000 lots, this change has the potential to create significant new housing opportunities.
Shane Burns	5/2/2024	GIS Map Viewer	6. Use Standards	Table 6-A: Uses in Residential Zones	NEW multi family should be allowed as a conditional use	Under ReCode, "multi-family" is proposed to include all building with 5 or more dwelling units, as opposed to the current definition, which qualifies buildings with 3 or more units as multi-family. In the RN-2 (now proposed as the RN-1), which represents the current R-3, this type of housing is currently only allowed as adaptive reuse. That use permission is proposed to remain. In addition, up to four units would be allowed in one building (including new construction) under the ReCode proposal within the RN-2 (now RN-1). Given that this zone has over 8,000 lots, this change has the potential to create significant new housing opportunities.
Ryan Petit	5/2/2024	GIS Map Viewer	6. Use Standards	Table 6-A: Uses in Residential Zones	For a larger vacant parcel like this, new multi family isn't an option, only existing. I feel like having new multi family as a conditional or approved use would be appropriate to help address the housing shortage and the looming renter nation. A parcel that's this large could potentially have 50 rental units, whether they become workforce or market is up to the conditional use. Thank you	Under ReCode, "multi-family" is proposed to include all building with 5 or more dwelling units, as opposed to the current definition, which qualifies buildings with 3 or more units as multi-family. In the RN-2 (now proposed as the RN-1), which represents the current R-3, this type of housing is currently only allowed as adaptive reuse. That use permission is proposed to remain. In addition, up to four units would be allowed in one building (including new construction) under the ReCode proposal within the RN-2 (now RN-1). Given that this zone has over 8,000 lots, this change has the potential to create significant new housing opportunities.

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Owen	5/2/2024	GIS Map Viewer	6. Use Standards	Table 6-A: Uses in Residential Zones	New multi family should be allowed as a conditional use.	Under ReCode, "multi-family" is proposed to include all building with 5 or more dwelling units, as opposed to the current definition, which qualifies buildings with 3 or more units as multi-family. In the RN-2 (now proposed as the RN-1), which represents the current R-3, this type of housing is currently only allowed as adaptive reuse. That use permission is proposed to remain. In addition, up to four units would be allowed in one building (including new construction) under the ReCode proposal within the RN-2 (now RN-1). Given that this zone has over 8,000 lots, this change has the potential to create significant new housing opportunities.
Nick Laughlin	5/2/2024	GIS Map Viewer	6. Use Standards	Table 6-A: Uses in Residential Zones	NEW multi family should be allowed as a conditional use.	Under ReCode, "multi-family" is proposed to include all building with 5 or more dwelling units, as opposed to the current definition, which qualifies buildings with 3 or more units as multi-family. In the RN-2 (now proposed as the RN-1), which represents the current R-3, this type of housing is currently only allowed as adaptive reuse. That use permission is proposed to remain. In addition, up to four units would be allowed in one building (including new construction) under the ReCode proposal within the RN-2 (now RN-1). Given that this zone has over 8,000 lots, this change has the potential to create significant new housing opportunities.
Jack Carignan	5/2/2024	GIS Map Viewer	6. Use Standards	Table 6-A: Uses in Residential Zones	NEW multi family should be allowed as a conditional use!	Under ReCode, "multi-family" is proposed to include all building with 5 or more dwelling units, as opposed to the current definition, which qualifies buildings with 3 or more units as multi-family. In the RN-2 (now proposed as the RN-1), which represents the current R-3, this type of housing is currently only allowed as adaptive reuse. That use permission is proposed to remain. In addition, up to four units would be allowed in one building (including new construction) under the ReCode proposal within the RN-2 (now RN-1). Given that this zone has over 8,000 lots, this change has the potential to create significant new housing opportunities.

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Eduardo Caldera	5/2/2024	GIS Map Viewer	6. Use Standards	Table 6-A: Uses in Residential Zones	NEW multi family should be allowed as a conditional use	Under ReCode, "multi-family" is proposed to include all building with 5 or more dwelling units, as opposed to the current definition, which qualifies buildings with 3 or more units as multi-family. In the RN-2 (now proposed as the RN-1), which represents the current R-3, this type of housing is currently only allowed as adaptive reuse. That use permission is proposed to remain. In addition, up to four units would be allowed in one building (including new construction) under the ReCode proposal within the RN-2 (now RN-1). Given that this zone has over 8,000 lots, this change has the potential to create significant new housing opportunities.
Cameron Carey	5/2/2024	GIS Map Viewer	6. Use Standards	Table 6-A: Uses in Residential Zones	NEW multi family should be allowed as a conditional use.	Under ReCode, "multi-family" is proposed to include all building with 5 or more dwelling units, as opposed to the current definition, which qualifies buildings with 3 or more units as multi-family. In the RN-2 (now proposed as the RN-1), which represents the current R-3, this type of housing is currently only allowed as adaptive reuse. That use permission is proposed to remain. In addition, up to four units would be allowed in one building (including new construction) under the ReCode proposal within the RN-2 (now RN-1). Given that this zone has over 8,000 lots, this change has the potential to create significant new housing opportunities.
Brennan Barlage	5/2/2024	GIS Map Viewer	6. Use Standards	Table 6-A: Uses in Residential Zones	NEW multi family should be allowed as a conditional use	Under ReCode, "multi-family" is proposed to include all building with 5 or more dwelling units, as opposed to the current definition, which qualifies buildings with 3 or more units as multi-family. In the RN-2 (now proposed as the RN-1), which represents the current R-3, this type of housing is currently only allowed as adaptive reuse. That use permission is proposed to remain. In addition, up to four units would be allowed in one building (including new construction) under the ReCode proposal within the RN-2 (now RN-1). Given that this zone has over 8,000 lots, this change has the potential to create significant new housing opportunities.
Jeff Sherman	5/3/2024	Konveio	6. Use Standards	Table 6-A: Uses in Residential Zones	There needs to be more commercial uses allowed in the RN-2, RN-3, RN-4, and RN-5 zones. Namely, coffee shops, cafes, grocery stores, and retail stores.	New neighborhood businesses are not currently allowed within residential areas. ReCode advances a planned approach to new neighborhood commercial and complete neighborhoods. The neighborhood nonresidential reuse category will help to address some need for neighborhood businesses. Other neighborhood business needs are addressed within the B-1, B-2 or other zones located nearby to residential zones. See B-1 mapping.

NAME	DATE	SOURCE	ARTICLE	TOPIC	COMMENT	RESPONSE
Joseph O'Donnell	5/8/2024	GIS Map Viewer	6. Use Standards	Table 6-A: Uses in Residential Zones	This large parcel would be fitting for affordable housing along the corridor of Forest ave and near the B1 zone. Unfortunately the RN 2 zone doesn't propose new construction multi family, only existing is a conditional use. There aren't many large lots left in a location that abut a main corridor. A conditional allowed use of new multi family makes sense here, If an appropriate project came along. Maybe changing the zone to B1 or RN3 or RN4 makes sense.	Under ReCode, "multi-family" is proposed to include all building with 5 or more dwelling units, as opposed to the current definition, which qualifies buildings with 3 or more units as multi-family. In the RN-2 (now proposed as the RN-1), which represents the current R-3, this type of housing is currently only allowed as adaptive reuse. That use permission is proposed to remain. In addition, up to four units would be allowed in one building (including new construction) under the ReCode proposal within the RN-2 (now RN-1). Given that this zone has over 8,000 lots, this change has the potential to create significant new housing opportunities.
Cameron O'Donnell	5/8/2024	GIS Map Viewer	6. Use Standards	Table 6-A: Uses in Residential Zones	The RN2 zone should not close the door on conditional new multi family use for larger parcels like this one. 55 units could go here with the density proposed, however the zoning text doesn't allow new Units. New multi family makes sense due to the lack of units nationwide.	Under ReCode, "multi-family" is proposed to include all building with 5 or more dwelling units, as opposed to the current definition, which qualifies buildings with 3 or more units as multi-family. In the RN-2 (now proposed as the RN-1), which represents the current R-3, this type of housing is currently only allowed as adaptive reuse. That use permission is proposed to remain. In addition, up to four units would be allowed in one building (including new construction) under the ReCode proposal within the RN-2 (now RN-1). Given that this zone has over 8,000 lots, this change has the potential to create significant new housing opportunities.
Sam Lebel	5/16/2024	Konveio	6. Use Standards	Table 6-A: Uses in Residential Zones	Multifamily should be added as an allowable use for ground up construction as it is in the existing code.	Multi-family is currently allowed (as currently defined, 3+ family) in the present-day R-5 in adaptive reuse only.
Emma Rubin	5/18/2024	Konveio	6. Use Standards	Table 6-A: Uses in Residential Zones	Nonresidential use (not just reuse!) should be allowed in all residential neighborhoods with restrictions on scale and use type to encourage complete, walkable neighborhoods and lower dependence on car transit.	New neighborhood businesses are not currently allowed within residential areas. ReCode advances a planned approach to new neighborhood commercial and complete neighborhoods. The neighborhood nonresidential reuse category will help to address some need for neighborhood businesses. Other neighborhood business needs are addressed within the B-1, B-2 or other zones located nearby to residential zones. See B-1 mapping.
Robert Todd Morse	5/19/2024	Konveio	6. Use Standards	Table 6-A: Uses in Residential Zones	Separate uses for different numbers of units are unnecessarily complicated and restrictive. We should have a single "housing" use and control scale with dimensional standards.	While simplicity is a goal of ReCode, including the 3- and 4- family uses helps to explicitly acknowledge these residential uses that have existed in many residential zones for quite some time.

NAME	DATE	SOURCE	ARTICLE	TOPIC	COMMENT	RESPONSE
Urbanist Coalition	6/4/24	Email	6. Use Standards	Table 6-A: Uses in Residential Zones	Fully Embracing LD2003 and Maintaining Affordability Bonuses: At the outset, the Planning Department embraced the progressive vision adopted by the City Council in living up to the spirit of LD2003, a recently-passed state law designed to promote abundant housing construction. While the Planning Department supported a very narrow interpretation of the state law, amendments sponsored by Councilor Rodriguez in collaboration with the UCP were embraced by the City Council last December, allowing for up to four-unit housing construction across the mainland. This incorporation of amendments also maintains the expanded affordability bonuses the city has had since the LD2003 reforms. The Second Wave changes embrace and integrate this landmark pro-housing reform into the proposed changes, demonstrating wisdom, grace, and respect for the democratic process.	No response necessary.
Charlotte R	6/4/2024	Konveio	6. Use Standards	Table 6-A: Uses in Residential Zones	Also, I strongly support a baseline level of mixed use in residential zones. This would go such a long way to removing barriers for people without cars/allowing car owners to walk and bike more often. If we are planning for the future, businesses should not be limited to zones drawn around existing businesses and buildings that are already businesses. I would love to see all residential zones allow shops, restaurants, places of assembly, etc. This would create more accessible and pleasant neighborhoods across the city.	New neighborhood businesses are not currently allowed within residential areas. ReCode advances a planned approach to new neighborhood commercial and complete neighborhoods. The neighborhood nonresidential reuse category will help to address some need for neighborhood businesses. Other neighborhood business needs are addressed within the B-1, B-2 or other zones located nearby to residential zones. See B-1 mapping.
Charlotte R	6/4/2024	Konveio	6. Use Standards	Table 6-A: Uses in Residential Zones	I agree that nonresidential use should be allowed in all residential neighborhoods	New neighborhood businesses are not currently allowed within residential areas. ReCode advances a planned approach to new neighborhood commercial and complete neighborhoods. The neighborhood nonresidential reuse category will help to address some need for neighborhood businesses. Other neighborhood business needs are addressed within the B-1, B-2 or other zones located nearby to residential zones. See B-1 mapping.
Urbanist Coalition	6/8/24	Email	6. Use Standards	Table 6-A: Uses in Residential Zones	Division into More Residential Uses: In the current code, there are three basic types of residence: single-family, two-family, and multi-family. The proposed changes shift this to single-family, two-family, three-family, fourfamily, and then multi-family. Besides the obvious redundancy – there are no functional differences between three- and four-family use permissions, and single- and two-family exclusive zones have effectively been abolished – this also indicates a concerning motivation. Despite the pressure from the state and elsewhere to allow more multi-family development, carving out unique permissions for three- and four-member buildings may mean that middledensity buildings (such as the six- and eight-unit structures essential to organic affordability) will continue to be frozen out of Portland.	The structure proposed through ReCode is intended to acknowledge the smaller housing types that have historically existed within various neighborhoods in the city and that were addressed explicitly within the context of LD 2003.

NAME	DATE	SOURCE	ARTICLE	TOPIC	COMMENT	RESPONSE
Urbanist Coalition	6/9/24	Email	6. Use Standards	Table 6-A: Uses in Residential Zones	Not Allowing Neighborhood Businesses: Permitting low-impact neighborhood business (e.g. grocers, childcare, or clinics) is key to creating walkable neighborhoods, and this has been recognized throughout the ReCode process. However, while the second-wave changes include a measure clearly intended to give the impression of supporting these businesses, in fact virtually nothing would change. The "Neighborhood nonresidential reuse" proposed in Phase II is touted as a means to reintroduce such amenities, but by UCP analysis, this "reuse" has such strict requirements for application that no more than a handful of lots across the entire city would qualify. Despite the "reuse" receiving front-page billing from the ReCode Portland team, it would – more likely than not – result in zero new neighborhoods business openings. In response to concerns by the public that this "reuse" would do little (or nothing) to permit new neighborhood businesses, planning staff replied that "neighborhood business needs are addressed within the B-1, B-2 or other zones" dedicated to commercial uses. This confidence in the "B" zones to adequately serve neighborhood needs does raise the question of why the "reuse" was added at all, if it is both highly restricted and (apparently) unnecessary. This is precisely the sort of complex, flashy, but ultimately fruitless measure which should not be allowed to further litter the land use code.	The nonresidential neighborhood reuse classification will affect properties in residential zones with existing nonresidential principal uses or existing nonresidential structures. While some map changes are proposed to address the first of these situations, generally in areas where these uses can be found at intersections or existing nodes, map changes have not been suggested to address the latter. This leaves properties in residential zones that will benefit from this provision.
The Urbanist Coalition	7/29/24	Email	6. Use Standards	Table 6-A: Uses in Residential Zones	What's Good: Streamlined housing options added by LD2003: Allowing three and four unit housing types in all zones and approving them through the simpler minor site plan process maintains and streamlines the work that was done by LD2003 to increase housing options.	No response necessary.
Portland Regional Chamber of Commerce	8/2/24	Email	6. Use Standards	Table 6-A: Uses in Residential Zones	We are highly concerned about the removal of PRUDs from the residential zone use tables, as they have been a key driver of off-peninsula housing production in Portland over the last several years. To address this concern, we believe Table 6-A should be amended to allow ground-up new construction multifamily by right in the RN-4 zone reflecting the fact that its predecessor zone allowed for denser housing through the creation of PRUDs. This is particularly important for larger lots in the RN-4 zone, where the proposed Land Use Code would remove the tool of PRUDs and require development to be a series of sprawling 2–4-unit structures with meandering access drives and parking lots, and the natural resource destruction that would require.	As proposed, the code would allow up to four units by right on lots in the RN-4 zone, multi-family as adaptive reuse, and cottage court developments as an alternative to PRUDs. This creates multiple ways to provide significantly more housing within this zone, in ways that are more in keeping with the existing form than PRUDs, which in practice have often been isolated and car-centric.
Portland Regional Chamber of Commerce	8/2/24	Email	6. Use Standards	Table 6-A: Uses in Residential Zones	Additionally, we suggest allowing townhouse development by right in the RN-3 and RN-4 zones. The purpose statements and current built environment for both zones speak to moderate density zoning contexts, and townhouses are entirely consistent with that vision if they follow other dimensional requirements and the use standards in 6.4.13.	Townhouses are a type commonly found on narrow lots of 15-20 feet in width in an urban context. This narrow lot pattern is not commonly found at present within the R-5 zone. Townhouses will be added within the present-day R-4 in the final draft.

NAME	DATE	SOURCE	ARTICLE	TOPIC	COMMENT	RESPONSE
Alex Coupe	4/4/24	Email	6. Use Standards	Table 6-A: Uses in Residential Zones/RN-2	I would like to comment that multifamily construction should be considered in this zone (RN-2) on aconditional basis only. Rather than just existing buildings looking to convert. The need for housing is dire,and any lots close to a corridor and serviced by public water and sewer would not be able to be developed inalignment with the cities comprehensive plan. I have 1.5 acres behind Morans market with frontage onForest ave that I would like to develop into new construction multifamily….of course I suggest as aconditional use to allow the city to monitor the aspects of the project to make sure they meet the citiescomprehensive plan.	Under ReCode, "multi-family" is proposed to include all building with 5 or more dwelling units, as opposed to the current definition, which qualifies buildings with 3 or more units as multi-family. In the RN-2 (now proposed as the RN-1), which represents the current R-3, this type of housing is currently only allowed as adaptive reuse. That use permission is proposed to remain. In addition, up to four units would be allowed in one building (including new construction) under the ReCode proposal within the RN-2 (now RN-1). Given that this zone has over 8,000 lots, this change has the potential to create significant new housing opportunities.
S Preston	5/1/24	Form	6. Use Standards	Table 6-A: Uses in Residential Zones/RN-2	NEW multi family should be allowed as a conditional use In the rn2 zone	Under ReCode, "multi-family" is proposed to include all building with 5 or more dwelling units, as opposed to the current definition, which qualifies buildings with 3 or more units as multi-family. In the RN-2 (now proposed as the RN-1), which represents the current R-3, this type of housing is currently only allowed as adaptive reuse. That use permission is proposed to remain. In addition, up to four units would be allowed in one building (including new construction) under the ReCode proposal within the RN-2 (now RN-1). Given that this zone has over 8,000 lots, this change has the potential to create significant new housing opportunities.
Phil Coupe	5/1/24	Form	6. Use Standards	Table 6-A: Uses in Residential Zones/RN-2	In the RN2 Zone, multi family housing should be an allowed conditional use. Thank you for your hard work to make Portland the best it can be.	Under ReCode, "multi-family" is proposed to include all building with 5 or more dwelling units, as opposed to the current definition, which qualifies buildings with 3 or more units as multi-family. In the RN-2 (now proposed as the RN-1), which represents the current R-3, this type of housing is currently only allowed as adaptive reuse. That use permission is proposed to remain. In addition, up to four units would be allowed in one building (including new construction) under the ReCode proposal within the RN-2 (now RN-1). Given that this zone has over 8,000 lots, this change has the potential to create significant new housing opportunities.

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Paul M Waring	5/1/2024	Konveio	6. Use Standards	Table 6-A: Uses in Residential Zones/RN-2	New multi family units should be included for conditional use not just our existing in the R2 zone. It makes no sense not to Include them.	Under ReCode, "multi-family" is proposed to include all building with 5 or more dwelling units, as opposed to the current definition, which qualifies buildings with 3 or more units as multi-family. In the RN-2 (now proposed as the RN-1), which represents the current R-3, this type of housing is currently only allowed as adaptive reuse. That use permission is proposed to remain. In addition, up to four units would be allowed in one building (including new construction) under the ReCode proposal within the RN-2 (now RN-1). Given that this zone has over 8,000 lots, this change has the potential to create significant new housing opportunities.
Megan	5/1/2024	Konveio	6. Use Standards	Table 6-A: Uses in Residential Zones/RN-2	New multifamily should be allowed as conditional use in the rn2 zone	Under ReCode, "multi-family" is proposed to include all building with 5 or more dwelling units, as opposed to the current definition, which qualifies buildings with 3 or more units as multi-family. In the RN-2 (now proposed as the RN-1), which represents the current R-3, this type of housing is currently only allowed as adaptive reuse. That use permission is proposed to remain. In addition, up to four units would be allowed in one building (including new construction) under the ReCode proposal within the RN-2 (now RN-1). Given that this zone has over 8,000 lots, this change has the potential to create significant new housing opportunities.
Matthew Sherburne	5/1/24	Form	6. Use Standards	Table 6-A: Uses in Residential Zones/RN-2	NEW multi family should be allowed as a conditional use In the rn2 zone	Under ReCode, "multi-family" is proposed to include all building with 5 or more dwelling units, as opposed to the current definition, which qualifies buildings with 3 or more units as multi-family. In the RN-2 (now proposed as the RN-1), which represents the current R-3, this type of housing is currently only allowed as adaptive reuse. That use permission is proposed to remain. In addition, up to four units would be allowed in one building (including new construction) under the ReCode proposal within the RN-2 (now RN-1). Given that this zone has over 8,000 lots, this change has the potential to create significant new housing opportunities.

NAME	DATE	SOURCE	ARTICLE	TOPIC	COMMENT	RESPONSE
Killian O'Reilly	5/1/2024	Konveio	6. Use Standards	Table 6-A: Uses in Residential Zones/RN-2	New multi family should be allowed as a conditional use in the RN2 zone	Under ReCode, "multi-family" is proposed to include all building with 5 or more dwelling units, as opposed to the current definition, which qualifies buildings with 3 or more units as multi-family. In the RN-2 (now proposed as the RN-1), which represents the current R-3, this type of housing is currently only allowed as adaptive reuse. That use permission is proposed to remain. In addition, up to four units would be allowed in one building (including new construction) under the ReCode proposal within the RN-2 (now RN-1). Given that this zone has over 8,000 lots, this change has the potential to create significant new housing opportunities.
Gina Frustaci	5/1/24	Form	6. Use Standards	Table 6-A: Uses in Residential Zones/RN-2	Good Evening, I am coming on to comment that new construction multi family should also become a conditional use in the RN2 zone and other zones for that matter, not just existing multi family. For the larger parcels out there, the city should be able to approve a project on a conditional basis if it meets the cities comprehensive plan. We are headed for a renters nation, let's get multi family units added where appropriate	Under ReCode, "multi-family" is proposed to include all building with 5 or more dwelling units, as opposed to the current definition, which qualifies buildings with 3 or more units as multi-family. In the RN-2 (now proposed as the RN-1), which represents the current R-3, this type of housing is currently only allowed as adaptive reuse. That use permission is proposed to remain. In addition, up to four units would be allowed in one building (including new construction) under the ReCode proposal within the RN-2 (now RN-1). Given that this zone has over 8,000 lots, this change has the potential to create significant new housing opportunities.
David White	5/1/24	Form	6. Use Standards	Table 6-A: Uses in Residential Zones/RN-2	I would like to comment that new multifamily should be a conditional use in this zone.	Under ReCode, "multi-family" is proposed to include all building with 5 or more dwelling units, as opposed to the current definition, which qualifies buildings with 3 or more units as multi-family. In the RN-2 (now proposed as the RN-1), which represents the current R-3, this type of housing is currently only allowed as adaptive reuse. That use permission is proposed to remain. In addition, up to four units would be allowed in one building (including new construction) under the ReCode proposal within the RN-2 (now RN-1). Given that this zone has over 8,000 lots, this change has the potential to create significant new housing opportunities.

NAME	DATE	SOURCE	ARTICLE	TOPIC	COMMENT	RESPONSE
Conor Whiting	5/1/2024	Konveio	6. Use Standards	Table 6-A: Uses in Residential Zones/RN-2	I believe new multi families should be allowed for conditional use in the RN2 zone.	Under ReCode, "multi-family" is proposed to include all building with 5 or more dwelling units, as opposed to the current definition, which qualifies buildings with 3 or more units as multi-family. In the RN-2 (now proposed as the RN-1), which represents the current R-3, this type of housing is currently only allowed as adaptive reuse. That use permission is proposed to remain. In addition, up to four units would be allowed in one building (including new construction) under the ReCode proposal within the RN-2 (now RN-1). Given that this zone has over 8,000 lots, this change has the potential to create significant new housing opportunities.
Nicholas Nielsen	5/2/24	Form	6. Use Standards	Table 6-A: Uses in Residential Zones/RN-2	New Multi Family should be allowed as conditional use in the rn2 zone	Under ReCode, "multi-family" is proposed to include all building with 5 or more dwelling units, as opposed to the current definition, which qualifies buildings with 3 or more units as multi-family. In the RN-2 (now proposed as the RN-1), which represents the current R-3, this type of housing is currently only allowed as adaptive reuse. That use permission is proposed to remain. In addition, up to four units would be allowed in one building (including new construction) under the ReCode proposal within the RN-2 (now RN-1). Given that this zone has over 8,000 lots, this change has the potential to create significant new housing opportunities.
Mark Civiello	5/2/24	Form	6. Use Standards	Table 6-A: Uses in Residential Zones/RN-2	I think that this zone should allow new construction as a conditional use. Only allowing existing dwellings closes the door it a responsible project came along that brought more housing on the market.	Under ReCode, "multi-family" is proposed to include all building with 5 or more dwelling units, as opposed to the current definition, which qualifies buildings with 3 or more units as multi-family. In the RN-2 (now proposed as the RN-1), which represents the current R-3, this type of housing is currently only allowed as adaptive reuse. That use permission is proposed to remain. In addition, up to four units would be allowed in one building (including new construction) under the ReCode proposal within the RN-2 (now RN-1). Given that this zone has over 8,000 lots, this change has the potential to create significant new housing opportunities.

NAME	DATE	SOURCE	ARTICLE	TOPIC	COMMENT	RESPONSE
Lucia Anderson	5/2/24	Form	6. Use Standards	Table 6-A: Uses in Residential Zones/RN-2	NEW multi families should be allowed as a conditional use in the RN 2 zone. Thanks!	Under ReCode, "multi-family" is proposed to include all building with 5 or more dwelling units, as opposed to the current definition, which qualifies buildings with 3 or more units as multi-family. In the RN-2 (now proposed as the RN-1), which represents the current R-3, this type of housing is currently only allowed as adaptive reuse. That use permission is proposed to remain. In addition, up to four units would be allowed in one building (including new construction) under the ReCode proposal within the RN-2 (now RN-1). Given that this zone has over 8,000 lots, this change has the potential to create significant new housing opportunities.
Linda Coupe	5/2/24	Form	6. Use Standards	Table 6-A: Uses in Residential Zones/RN-2	Good Afternoon, I am curious why only existing multi family is a conditional use and not new multi family in the RN 2. I think it's important that we allow the opportunity for development of new units if the right project surfaces. Thank you	Under ReCode, "multi-family" is proposed to include all building with 5 or more dwelling units, as opposed to the current definition, which qualifies buildings with 3 or more units as multi-family. In the RN-2 (now proposed as the RN-1), which represents the current R-3, this type of housing is currently only allowed as adaptive reuse. That use permission is proposed to remain. In addition, up to four units would be allowed in one building (including new construction) under the ReCode proposal within the RN-2 (now RN-1). Given that this zone has over 8,000 lots, this change has the potential to create significant new housing opportunities.
Len anderson	5/3/2024	Konveio	6. Use Standards	Table 6-A: Uses in Residential Zones/RN-2	I think that NEW multi family units should be allowed as a conditional use In the rn2 zone.	Under ReCode, "multi-family" is proposed to include all building with 5 or more dwelling units, as opposed to the current definition, which qualifies buildings with 3 or more units as multi-family. In the RN-2 (now proposed as the RN-1), which represents the current R-3, this type of housing is currently only allowed as adaptive reuse. That use permission is proposed to remain. In addition, up to four units would be allowed in one building (including new construction) under the ReCode proposal within the RN-2 (now RN-1). Given that this zone has over 8,000 lots, this change has the potential to create significant new housing opportunities.
Jeff Sherman	5/6/2024	Konveio	6. Use Standards	Table 6-A: Uses in Residential Zones/RN-3	Townhouses should be allowed in the RN-3 Zone!	Townhouses are a type commonly found on narrow lots of 15-20 feet in width in an urban context. This narrow lot pattern is not commonly found at present within the R-5 zone. Townhouses will be added within the present-day R-4 in the final draft.
Jeff Sherman	5/3/2024	Konveio	6. Use Standards	Table 6-A: Uses in Residential Zones/RN-4	Add Townhouses to the RN-4 Zone!	Townhouses are a type commonly found on narrow lots of 15-20 feet in width in an urban context. This narrow lot pattern is not commonly found at present within this zone.

NAME	DATE	SOURCE	ARTICLE	TOPIC	COMMENT	RESPONSE
Jeff Sherman	5/3/2024	Konveio	6. Use Standards	Table 6-A: Uses in Residential Zones/RN-4	Townhouses should be allowed in the RN-4 Zone!	Townhouses are a type commonly found on narrow lots of 15-20 feet in width in an urban context. This narrow lot pattern is not commonly found at present within this zone.
Sam Lebel	5/16/2024	Konveio	6. Use Standards	Table 6-A: Uses in Residential Zones/RN-4	Strongly encourage that multifamily be a fully permitted use and not just a conditional use for conversion of existing structures. Under the existing code, the PRUD model allows for ground up multifamily construction in this zone. There will no longer be that option since the PRUD is being eliminated under ReCode. Not allowing new multifamily structures in the RN-4 is counterintuitive to addressing the housing shortage and is going backwards in comparison to the existing code.	Under proposed revisions and per recent changes under LD 2003, the RN-4 (now proposed as the RN-3) would newly permit 3- and 4-family as of right, and multi-family as adaptive reuse (as is currently the case). On almost 5,000 lots, this change has the potential to create a significant amount of new housing as drafted.
Jessi Denslow	5/17/2024	Konveio	6. Use Standards	Table 6-A: Uses in Residential Zones/RN-4	I second the suggestion that RN4 should allow for multifamily dwellings. Especially the one residential RN4 lot located on peninsula in Parkside and those close-by in Oakdale.	Under proposed revisions and per recent changes under LD 2003, the RN-4 (now proposed as the RN-3) would newly permit 3- and 4-family as of right, and multi-family as adaptive reuse (as is currently the case). On almost 5,000 lots, this change has the potential to create a significant amount of new housing as drafted.
Jessi Denslow	5/17/2024	Konveio	6. Use Standards	Table 6-A: Uses in Residential Zones/RN-4	*allow for NEW multifamily dwellings	Under proposed revisions and per recent changes under LD 2003, the RN-4 (now proposed as the RN-3) would newly permit 3- and 4-family as of right, and multi-family as adaptive reuse (as is currently the case). On almost 5,000 lots, this change has the potential to create a significant amount of new housing as drafted.
Charlotte R	6/4/2024	Konveio	6. Use Standards	Table 6-A: Uses in Residential Zones/RN-4	I agree that townhouses should be allowed in RN-4. Having all these complex zones seems to run counter to the goal of more housing and a simpler code. I'm in favor of fewer residential zone categories with fewer restrictions, more allowable housing types, and smaller minimum lot sizes	Townhouses are a type commonly found on narrow lots of 15-20 feet in width in an urban context. This narrow lot pattern is not commonly found at present within this zone.
Jeff Sherman	5/10/2024	Konveio	6. Use Standards	Table 6-A: Uses in Residential Zones/RN-5	There should be no new single family housing built in the RN-5 zone. This restriction could be waived with a fee.	Given the large number of existing single-family homes in this zone, this use permission is proposed to remain.
Jeff Sherman	5/6/2024	Konveio	6. Use Standards	Table 6-A: Uses in Residential Zones/RN-6	Townhouses should be allowed in the RN-6 zone!	Townhouses are a type commonly found on narrow lots of 15-20 feet in width in an urban context. This narrow lot pattern is not commonly found at present within this zone.
Jeff Sherman	5/10/2024	Konveio	6. Use Standards	Table 6-B: Uses in Island Zones	Townhouses should be allowed somewhere on the island, even if its only in the I-B zone.	Townhouses are not a form traditionally found on the islands.
PIC	5/18/24	Email	6. Use Standards	Table 6-B: Uses in Island Zones	Need for new category of business zone for "soft businesses" that don't have the potential to have a large impact on neighbors for example: that maintain the same setbacks as IR-2; that are 9:00-5:00 businesses such as galleries, antique shops, repair shops, shared office space - but not allowing hotels, restaurants, and such that have a big impact.	No new island business zones will be recommended in the revised draft. Some limited new uses are recommended in the I-B zone, and home occupation language is proposed for some revisions as well.
PIC Housing and Zoning Committee	8/2/24	Email	6. Use Standards	Table 6-B: Uses in Island Zones	Permitted number of dwellings on all formerly single-family lots. We support permitting up to 2 dwellings on any island lot, as enacted in LD 2003 by the Maine legislature. We strongly oppose permitting 3 dwellings on any island lot, as totally out of keeping with island character, and at odds with the expressed preferences of hundreds of islanders for when surveyed.	Three-family will be removed as a permitted use in the IR-1 and IR-2 in the revised draft.

NAME	DATE	SOURCE	ARTICLE	TOPIC	COMMENT	RESPONSE
Peaks Island Council	8/30/24	Email	6. Use Standards	Table 6-B: Uses in Island Zones	Permitted number of dwellings on all formerly single-family lots: We support permitting up to 2 dwellings on any island lot in IR-1 and IR-2, as enacted in LD 2003 by the Maine legislature. We oppose permitting 3 dwellings on lots in IR-1 and IR-2, as totally out of keeping with island character, and at odds with the expressed preferences of hundreds of islanders for when surveyed. We are supportive of allowing 3 dwellings on a lot in the IB-1 zone, in keeping with existing multi-unit construction.	Three-family will be removed as a permitted use in the IR-1 and IR-2 in the revised draft.
Jeff Sherman	5/8/2024	Konveio	6. Use Standards	Table 6-C: Uses in Mixed-Use Zones	Bars should be allowed in the B-1 zone	As a neighborhood business zone, bars have not traditionally been allowed in the B-1. Bars are allowed in many other mixed-use zones.
Jeff Sherman	5/13/2024	Konveio	6. Use Standards	Table 6-C: Uses in Mixed-Use Zones	Public restrooms should be permitted in all Mixed-Use zones.	Public restrooms are not addressed in the land use code.
Michael James	5/28/2024	Konveio	6. Use Standards	Table 6-C: Uses in Mixed-Use Zones	Recreation and amusement should be permitted in B-3 -- a downtown golf simulator/bar or pool tables should be allowed	Pool tables and similar would be allowed as part of many other uses permitted within the B-3.
Sam Lebel	6/12/2024	Konveio	6. Use Standards	Table 6-E: Uses in Office Park & Residence Professional Zones	I do not see this Zone referenced in 6.4.12	The R-P Zone will be eliminated in the final draft. All R-P parcels will be drafted for rezoning to B-1 or B-2.
Emma Rubin	5/18/2024	Konveio	6. Use Standards	Table 6-F: Uses in Industrial Zones	Permitted uses for industrial zones be expanded to allow for future development. For example, if a current industrial zone contains a sprawling self-storage facility and someone wants to develop it to a mixed-use commercial and residential area, that seems like a much better use of space for the community.	There continues to be significant demand for industrial space in Portland, and the industrial sector is a critical part of the City's economy, supported through the goals of *Portland's Plan.* As such, no significant changes to the uses permitted in industrial zones is proposed through ReCode.
Urbanist Coalition	6/14/24	Email	6. Use standards	Table 6-F: Uses in Industrial Zones	No Remedy for Languishing Industrial Land: Much land in Portland is zoned and regarded by Portland's planners as dedicated to industrial use. This practice is a relic of an older economy, no longer relevant to the needs of Portland as a whole, and it would be an ideal area of reform in ReCode. Much of this land is vacant or deeply underutilized, but could hold great potential for development into housing, commercial, and other business uses. Despite this clear opportunity, only vague and minor adjustments to the land in question are included in the proposals. While the restrictions may keep land prices artificially low for the favored businesses in this market, these minority interests should not prevail against the general good.	There continues to be significant demand for industrial space in Portland, and the industrial sector is a critical part of the City's economy, supported through the goals of *Portland's Plan.* As such, no significant changes to the uses permitted in industrial zones is proposed through ReCode.

NAME	DATE	SOURCE	ARTICLE	TOPIC	COMMENT	RESPONSE
Rachel Conly	7/18/24	Email	6. Use Standards	Table 6-F: Uses in Industrial Zones	I was recently reviewing the I-M and I-Mb zone for a client and was surprised to learn that residential use is not permitted in this zone. I then scrolled through all of the uses allowed in all of the zones and was surprised to see residential use completely absent from several zones. Given today's climate with housing shortages, record high rent burdens, and the trends for cities nationwide to be converting commercial spaces into housing due to high vacancy rates, to not include housing/mixed-use residential as a possible option in all zones seems like a lost opportunity. I can understand that an airport zone might be an exception, but low-moderate impact industrial zones, such as the I-M and I-Mb zones (or lighter buffer zones like I-L/I-Lb) seem like viable candidates for live/work spaces, especially on the peninsula. In addition to addressing housing needs, allowing mixed use can help address carbon emissions by reducing commuting. It also promotes the rehabilitation of existing building stock, another carbon reduction strategy. The height limits andgeneral dimensional standards of these zones suggest ample flexibility to provide mixed use in an appropriate manner. I found an article published by the White House which I think explains my position well. Please follow the link below. The article focuses on office to residential conversions, but it notes non-office commercial spaces as well. With the ReCode in the works to set the standard for decades to come, I think we are at a critical moment and should create, not limit, our communities ability to be flexible in meeting the needs of housing and climate change, and strongly advocate the inclusion of residential use in these zones. https://www.whitehouse.gov/cea/written-materials/2023/10/27/commercial-to-residential-conversion-addressing-office-vacancies/	There continues to be significant demand for industrial space in Portland, and the industrial sector is a critical part of the City's economy, supported through the goals of *Portland's Plan.* As such, no significant changes to the uses permitted in industrial zones is proposed through ReCode.
Tom Landry (Benchmark Real Estate)	7/25/24	Email	6. Use Standards	Table 6-F: Uses in Industrial Zones	Edit the IL (industrial light), IM, IMB and IH zones to IL/B5. By some estimates, as much as 90% of Portland's landmass and 70% of the peninsula isn't zoned for multi-family or mixed use. Areas like East Bayside where we now find coffee shops, breweries, and shops are zoned IL (Industrial Light) and don't allow for residential uses. Off peninsula there are hundreds of acres zoned for industrial uses that lay fallow. My proposal opens vast tracts of vacant and underutilized land that lays in waiting for industrial users that may never come. Beyond this, the idea that we must keep commercial and light industry away from residential areas is antiquated. This separation was valid, justified and prudent 50-100 years ago, but not in this time of quieter and cleaner industry. Besides, we are not in a warehouse or industrial space crisis. We are in a housing crisis. So, let's open this land to development.	There continues to be significant demand for industrial space in Portland, and the industrial sector is a critical part of the City's economy, supported through the goals of *Portland's Plan.* As such, no significant changes to the uses permitted in industrial zones is proposed through ReCode.
Susan Anspacher	7/27/24	Email	6. Use Standards	Table 6-F: Uses in Industrial Zones	Edit the IL (industrial light), IM, IMB, and IH zones to IL/B5. By some estimates, as much as 90% of Portland's landmass and 70% of the peninsula isn't zoned for multi-family or mixed use. Areas like East Bayside where we now find coffee shops, breweries, and shops are zoned IL (Industrial Light) and don't allow for residential uses. Off peninsula, there are hundreds of acres zoned for industrial uses that lay fallow. My proposal opens vast tracts of vacant and underutilized land that lays in waiting for industrial users that may never come. Beyond this, the idea that we must keep commercial and light industry away from residential areas is antiquated. This separation was valid, justified, and prudent 50-100 years ago, but not in this time of quieter and cleaner industry. Besides, we are not in a warehouse or industrial space crisis. We are in a housing crisis. So, let's open this land to development.	There continues to be significant demand for industrial space in Portland, and the industrial sector is a critical part of the City's economy, supported through the goals of *Portland's Plan.* As such, no significant changes to the uses permitted in industrial zones is proposed through ReCode.

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Jamie Wright (Gorham Bike and Ski)	7/27/24	Email	6. Use Standards	Table 6-F: Uses in Industrial Zones	Edit the IL (industrial light), IM, IMB, and IH zones to IL/B5. By some estimates, as much as 90% of Portland's landmass and 70% of the peninsula isn't zoned for multi-family or mixed use. Areas like East Bayside, where we now find coffee shops, breweries, and shops, are zoned IL (Industrial Light) and don't allow residential uses. Off the peninsula, hundreds of acres are zoned for industrial uses that lay fallow. My proposal opens vast tracts of vacant and underutilized land that lays in waiting for industrial users that may never come. Beyond this, the idea that we must keep commercial and light industry away from residential areas is antiquated. This separation was valid, justified, and prudent 50-100 years ago, but not in this time of quieter and cleaner industry. Besides, we are not in a warehouse or industrial space crisis. We are in a housing crisis. So, let's open this land to development.	There continues to be significant demand for industrial space in Portland, and the industrial sector is a critical part of the City's economy, supported through the goals of *Portland's Plan.* As such, no significant changes to the uses permitted in industrial zones is proposed through ReCode.
Craig Mathieson	7/28/24	Email	6. Use Standards	Table 6-F: Uses in Industrial Zones	Edit the IL (industrial light), IM, IMB, and IH zones to IL/B5. By some estimates, as much as 90% of Portland's landmass and 70% of the peninsula isn't zoned for multi-family or mixed use. Areas like East Bayside where we now find coffee shops, breweries, and shops are zoned IL (Industrial Light) and don't allow for residential uses. Off peninsula, there are hundreds of acres zoned for industrial uses that lay fallow. My proposal opens vast tracts of vacant and underutilized land that lays in waiting for industrial users that may never come. Beyond this, the idea that we must keep commercial and light industry away from residential areas is antiquated. This separation was valid, justified, and prudent 50-100 years ago, but not in this time of quieter and cleaner industry. Besides, we are not in a warehouse or industrial space crisis. We are in a housing crisis. So, let's open this land to development.	There continues to be significant demand for industrial space in Portland, and the industrial sector is a critical part of the City's economy, supported through the goals of *Portland's Plan.* As such, no significant changes to the uses permitted in industrial zones is proposed through ReCode.

NAME	DATE	SOURCE	ARTICLE	TOPIC	COMMENT	RESPONSE
Heather Thompson / Rachel Conly	8/14/24	Email	6. Use Standards	Table 6-F: Uses in Industrial Zones	I was recently reviewing the I-M and I-Mb zone for a client and was surprised to learn that residential use is not permitted in this zone. I then scrolled through all of the uses allowed in all of the zones and was surprised to see residential use completely absent from several zones. Given today's climate with housing shortages, record high rent burdens, and the trends for cities nationwide to be converting commercial spaces into housing due to high vacancy rates, to not include housing/mixed-use residential as a possible option in all zones seems like a lost opportunity. I can understand that an airport zone might be an exception, but low-moderate impact industrial zones, such as the I-M and I-Mb zones (or lighter buffer zones like I-L/I-Lb) seem like viable candidates for live/work spaces, especially on the peninsula. In addition to addressing housing needs, allowing mixed use can help address carbon emissions by reducing commuting. It also promotes the rehabilitation of existing building stock, another carbon reduction strategy. The height limits and general dimensional standards of these zones suggest ample flexibility to provide mixed use in an appropriate manner. I found an article published by the White House which I think explains my position well. Please follow the link below. The article focuses on office to residential conversions, but it notes non-office commercial spaces as well. With the ReCode in the works to set the standard for decades to come, I think we are at a critical moment and should create, not limit, our communities ability to be flexible in meeting the needs of housing and climate change, and strongly advocate the inclusion of residential use in these zones. https://www.whitehouse.gov/cea/written-materials/2023/10/27/commercial-to-residential-conversion-addressing-office-vacancies/ I agree with Rachel's comments, especially for the St John Street area. There are buildings in the I-MB zone on St John that currently have residences in them, 158 St John is a mixed use building with an apartment. I believe that areas on the peninsula that are so close to other amenities, neighborhoods etc. should be more flexible for live/work.	Generally, the idea behind restricting residential from industrial zones is not only to preserve some land area that might be free from the market pressures that residential uses bring, but also to ensure that there are spaces in the city where industrial uses can operate without running into conflicts with residential neighbors. There is long-standing policy guidance on this, so it's generally not an area where we're considering sweeping changes right now. If you're interested in reading more about the industrial zoning approach in ReCode, there is some background in the Planning Board report here: https://portlandme.portal.civicclerk.com/event/7301/files/report/3585.
Acorn Engineering	7/24/24	Email	6. Use Standards	6.4.12(A) Multi-family dwellings	RN-2 and RN-4 are no longer eligible for new multifamily construction (6.4.12.A). Strongly encourage adding multifamily as an allowable use for new ground-up construction in RN-2, or at least RN-4. Because the Planned Residential Unit Development (PRUD) housing option is being eliminated under ReCode, an RN-2 (previously R-3) or RN-4 (Previously R-5) lot that is 2+ acres in size that would be eligible for ground-up multifamily housing under today's existing zoning code will no longer be able to build new multifamily homes. Under the new code, a development would have to be a series of subdivided 1-4 unit buildings which creates sprawl and does not allow for a cluster development typology where natural resources can be preserved, and infrastructure is efficiently consolidated. Ultimately, this proposal represents fewer opportunities for housing by eliminating the PRUD and not allowing multifamily housing in at least the RN-4. This approach is counterintuitive to addressing the housing crisis.	Multi-family is currently allowed (as currently defined, 3+ family) in the R-3 and R-5 in adaptive reuse only. Under ReCode, these zones would maintain this adaptive reuse provision for multi-family, allow up to four-family by right, and allow for cottage court development.

NAME	DATE	SOURCE	ARTICLE	TOPIC	COMMENT	RESPONSE
Acorn Engineering	7/24/24	Email	6. Use Standards	6.4.21 Lodging houses	Lodging Houses are now only allowed as conversions in the RN-4 and RN-5 (6.4.21). Encourage adding Lodging Houses back as an allowable use for new ground-up construction in the RN-5 where car ownership is least relied upon. This land use is needed by the City and its residents and should be an available tool if a Developer chooses to pursue it. As proposed under the ReCode, new Lodging Houses would only be allowed by right in the RN-6 and RN-7, which only represent a handful of parcels in the City, most of which are already developed. As proposed, this land use is effectively being removed as a housing option.	Lodging houses would be allowed conditionally as conversions in both of these zones under ReCode. This is the existing policy within the RN-3 (R-5).
Dirigo Center Developers, LLC (Waterstone Properties Group, Inc.)	7/11/24	Email	6. Use Standards	Table 6-C: Uses in Mixed-Use Zones	Intermodal transportation facilities - This is listed as a permitted use in the B-4 District, but not in the two transit oriented districts. We suggest adding this use to the TOD-1 and TOD-2 districts, and adding a definition for this use. While the City may view this use as an industrial/commercial facility for shipping of goods and products via rail/ship/trailer, like Auburn's intermodal facility, we have in mind a use involving general public transportation modes - automobile, bus, future commuter rail, and trails. Therefore, we propose one of two approaches: 1) the City of Portland could adopt a definition for "Intermodal transportation facilities" similar to Westbrook's "Intermodal Passenger Transportation Facility for this use by the general public. Westbrook's definition is "a building, structure or location where two or more modes of transportation intersect, and passengers can transfer between modes." ; or 2) if the City prefers to focus the "Intermodal transportation facilities" use on industrial/commercial for shipping of goods and products via rail/ship/trailer, it could adopt a new use that focuses on the passenger transportation aspect - perhaps "Public Transportation Hub" - and define it similarly to Westbrook's definition of "Intermodal Passenger Transportation Facility"; this "Public Transportation Hub" use would be permitted in the TOD-1 and TOD-2 districts as well as in B-4.	The revised draft will include a definition for "intermodal transportation facility" and include this use within TOD and mixed-use zones where appropriate.
Tw	4/6/2024	Konveio	7. Dimensional Standards	7.2 Average grade	Why wouldn't the City plainly state that Average Grade is post-development grade. Could avoid problems and give clear guidance for lay-people what this means. It is also clear to judges trying to make decisions if people bring suit against the City to delay or stop housing from being built. It will stop non-sensical legal arguments that the City has not clearly stated the difference between height measurment on the Islands and the mainland. Clear, concise, simple language that leaves no room for interpretation or doubt is best. It avoids the City from having to expend time of city attorneys, planning staff and planning board and helps protect housing production.	The ReCode drafts generally maintain the existing approach to measuring height, but add some clarity around how to measure grade.
Jeff Sherman	5/3/2024	Konveio	7. Dimensional Standards	7.2 Average grade	Average grade should be changed to the grade at sidewalk level.	The ReCode drafts generally maintain the existing approach to measuring height, but add some clarity around how to measure grade.

NAME	DATE	SOURCE	ARTICLE	TOPIC	COMMENT	RESPONSE
Tim L	6/23/24	Konveio	7. Dimensional Standards	7.2 Average grade	This should add that it is post development grade. This whole definition could be deleted if the City adopted a more accurate and consistent methodology for measuring building height. Building height measurement can be greatly simplified and achieve better results in alignment with the City's Comprehensive Plan and help prevent misunderstandings, misinterpretation by citizens, developers, architects, City staff, lawyers and judges. It would greatly help avoid lawsuits and/or quickly resolve lawsuits eliminating costs to the City and in the building of homes.	The ReCode drafts generally maintain the existing approach to measuring height, but add some clarity around how to measure grade.
Portland Regional Chamber of Commerce	8/2/24	Email	7. Dimensional Standards	7.2 Average grade	We suggest that this section refer to post-development grade in the final sentence to clarify ongoing challenges in determining allowable heights. Post-development grade represents the pedestrian experience once the full building height is realized on the site, and thus is a better approach to clarifying the average grade calculation.	The ReCode drafts generally maintain the existing approach to measuring height, but add some clarity around how to measure grade.
Todd Morse	8/2/24	Konveio	7. Dimensional Standards	7.2 Build-to percentage	I like the motivation here but I think it is a bit too complicated and restrictive. It seems the thing we want to prevent with this is parking between the street and the building so maybe we could limit that more directly?	This rule of measurement is designed to help ensure that the mass of the building is located within the build-to-zone, helping to create a consistent street wall and pedestrian environment.
Portland Regional Chamber of Commerce	8/2/24	Email	7. Dimensional Standards	7.2 Building length	We seek clarification as to if this definition of building length precludes a structure from having mid-building permeability on the ground floor with a more recessive and set- back connection of the floors above, using this permeability to “reset” the building length calculation. As we will lay out below, we are highly concerned with the application of the building length standard in some zones, and if that is to be retained, we hope there are creative ways applicants can break up a building length without being required to build entirely separate structures.	As drafted, this rule of measurement would not allow a 'reset' on building length with the inclusion of a passage or breezeway.
Tim L	6/23/24	Konveio	7. Dimensional Standards	7.2 Height	This method has many faults. It doesn't provide consistency in actual building heights, neither insuring the quality of building necessary to produce high quality homes or to prevent gaming of the methodology. It allows too much variability in height from one parcel to the next and it fails to actually measure the true height of the building. It also promotes ineffective and inefficient use of land and eliminates the possibility of getting better use out of downward sloping lots that could produce more homes without utilizing more land or adding any height above sidewalk/streetlevel to buildings. This is a very suboptimal, inconsistent, complex and arbitrary methodology that does not allow reduction in variability. Measuring from the highest point along the sidewalk or 24" above the highest point of street, when sidewalks don't exist, along the perimeter of the parcel is the most consistent, fair, unambiguous, simple method to employ. However, it needs to be coupled with a measurement of the actual building height from the top of the 1st floor (measured from first floor above elevation established as highest point of sidewalk, etc. and for clarity, not including basements or subterranean parking or living spaces.) to the roof beam, etc. (same as exists today) Both measurements would have to be equal to or less than height allowances.	The ReCode drafts generally maintain the existing approach to measuring height, but add some clarity around how to measure grade.

NAME	DATE	SOURCE	ARTICLE	TOPIC	COMMENT	RESPONSE
Tim	7/22/24	Konveio	7. Dimensional Standards	7.2 Height	This should clearly state that it is finished average grade. There should be absolute clarity that the intent for calculating average grade on the mainland is finished grade and not pre-development grade. Ultimately the way we calculate height should be from 24" above the highest elevation of the sidewalk or from 36" above the street, where sidewalks don't exist. A definition for "Actual Building Height" should be added. This would be a measurement from FFE (Finished Floor Elevation) to the bottom of the Roof Beam. FFE and Roof Beam Elevation should be required on all elevations and stated on Site Plans along with Actual Building Height. Building Height above sidewalk would be the vertical height measured from the highest elevation along the sidewalk/street to the roof beam or other roof type measuring system currently utilized.	The ReCode drafts generally maintain the existing approach to measuring height, but add some clarity around how to measure grade.
Tim	7/22/24	Konveio	7. Dimensional Standards	7.2 Height	Many cities don't include measurements of elevation where a garage, door entry or entryway to the garage or door of a mostly subterranean level of a building exists. Penalizing a project that wants to make good use of subterranean space for storage, bikes, parking or other activities should not have to lower the height of the building and the floor to ceiling heights of the homes because they have underground parking or an exit door from the basement. This doesn't make sense. The City wants the best, most functional and safe homes to be built. To measure avg. grade and be forced to use points where the grade accomodates access to subterranean space is detrimental to the City and its' residents. It flies in the face of the Comprehensive Plan and the goals to achieve more density and more housing. There are better, more simple, repeatable, consistent ways to measure height that need to be explored and that will produce better results for Portland.	The ReCode drafts generally maintain the existing approach to measuring height, but add some clarity around how to measure grade.
Tim	7/23/24	Konveio	7. Dimensional Standards	7.2 Height	The definition of pre-development grade is not an average. It is simply the elevation existing as of October 1, 2000. Average grade can be calculated using pre-development grade or finished grade. It would be helpful to put a note in this definition that Pre-development grade is used on the Islands for the measurment of height but not on the mainland.	The ReCode drafts generally maintain the existing approach to measuring height, but add some clarity around how to measure grade.

NAME	DATE	SOURCE	ARTICLE	TOPIC	COMMENT	RESPONSE
					Modify how the City calculates height. The current process is inconsistent, is unrelated to a building's actual height, doesn't consider the bigger picture around what the City is trying to accomplish in terms of housing production, diversity of housing choices and decreasing housing costs. None of this is in the general interests of residents which is typically the reason for regulation. The current method is too subjective and arbitrary and is disconnected from the actual height of the building and therefore doesn't produce consistent results. Buildings are real. They are tangible objects that have pretty specific requirements to build. When one site allows a building to say it is 42' in height but is actually 49' in height and has 11' floor to ceiling heights versus another parcel where the height is expressed as 45' high but is actually 40' in height and can allow for 8' floor to ceiling heights the process is not working. This is not how the City gets good designs, high quality buildings that improve our housing stock. Actual building heights defined as FFE (Finished Floor Elevation) to Roof Beam need to be used to insure consistent excellent building design and quality. Height determination should be a two step process. So let's assume a building is being built in the R6 Zone and can be built to 45' height. First, the Allowable Building Base Plane (ABBP) would be established by choosing the highest elevation along the sidewalk (or street if no sidewalk exists) and then 24" would be added to the elevation (36" if measured from street). This would establish the ABBP. For example, if the highest elevation along the sidewalk is 92' ASL the ABBP would be 94' ASL. The Allowable Building Base Plane establishes the upper limits of allowable height of a flat roofed building to be 94' ASL plus 45' or 139' ASL. The second step of compliance would measure the Actual Building Height (ABH) which is the Finished Floor Elevation (FFE) to the roof beam. So, in this example, if the architects decide of an FFE of 93.5' ASL for some reason, the maximum height of the building at the roof beam would be 138.5'. This gives the architect and engineers a full 45' of building height to utilize. If they chose an FFE of 94.5' the building could not exceed the 139' ASL limitation imposed in the first step. They have the freedom to make this decision but would now only be able to utilize 44.5' of height in the design of the building. This caps the effects of height on neighboring buildings and yards and sets reasonable expectations on the impact on views, light and air. Our current system fails in this regard. In certain parts of the city, two buildings built across the street from one another may have a 20' variance in allowable height even though the street and sidewalk elevation are identical. This makes no sense. The house on the downward sloping lot would only be able to achieve 3 stories and the house on the upward sloping lot could build 4 with a daylight garage. Yet the purpose of the 45' height allowance is to allow a certain density within the prescribed zone to meet city housing needs. So why wouldn't the rules allow all buildings within that zone achieve this purpose? This system is much more predictable, consistent and simple. It is backwards compatible and will create large problems with non-compliance. It allows all building the same amount of feet for design from the first floor to the measurement at the roof. It is not arbitrary and will greatly help designers and engineers understand what is allowed to be built in Portland. The current system is too general and doesn't adequately think through different terrain situations and match that with the purpose of height regulations. It produces very different outcomes based on different terrain. It often demands significant costs and unnecessary compromising design choices to meet the requirements of a poorly formulated height measurement regulation.	

NAME	DATE	SOURCE	ARTICLE	TOPIC	COMMENT	RESPONSE
The Urbanist Coalition	7/29/24	Email	7. Dimensional Standards	7.2 Height	Rules around height are inconsistent and do not take modern building practices into account.	The ReCode drafts generally maintain the existing approach to measuring height, but add some clarity around how to measure grade.
Roger Trettel	07/29/2024	Konveio	7. Dimensional Standards	7.2 Height	This definition does not address the issue that has come up repeatedly on new projects on the peninsula with an uneven pre-construction grade - resulting in appeals and lawsuits. Measuring at 3-10 intervals is correct, but it should be done around the perimeter of a PROPOSED building footprint, NOT around the post-construction footprint. By measuring the post construction grade, it makes the whole issue of a height limit consistent with the surrounding neighborhood moot as it enables development to be as high as a developer is able to create a level foundation (by bringing in fill, building a tall foundation, etc.). This issue has been a long standing problem with the code and has created much confusion. It is critical that this is clearly addressed in this version of the code. The same methodology for establishing building height should be the used on the mainland as on the islands. There are substantial grade changes and sloped sites on the mainland and the beginning grade of a project should be calculated based on the existing condition of the site, not after it has been leveled, filled or otherwise elevated. There is no reasonable logic to having a different methodology when the intent is to have new construction be in general conformance with the building heights of the surrounding neighborhood. Measuring points around the perimeter of a building - post construction - will result in all the points being equal if the contractor has built the foundation level. There is no "averaging" here. In order to establish an average grade, the points should be measured at 3-10 foot intervals around the perimeter of the proposed building footprint before construction and then averaged. This is the only way to establish finished building heights that are in conformance with the intended limits of a particular zone.	The ReCode drafts generally maintain the existing approach to measuring height, but add some clarity around how to measure grade.
Greater Portland Landmarks	8/2/24	Email	7. Dimensional Standards	7.2 Height	We also urge that the dimensional standards measure building height from the predevelopment grade throughout the city, and in determining front setbacks in neighborhood zones, that new regulations do not lead to new construction vastly differing from or breaking the general pattern along a street. For example, the proposed front setback language of “average of adjacent front yards, +/- 5 feet”, in some cases would allow new buildings to be at or near the sidewalk, which along with extra height allowances has the potential to exacerbate the feeling of a new dwelling being out of context.	The ReCode drafts generally maintain the existing approach to measuring height, but add some clarity around how to measure grade.
Portland Regional Chamber of Commerce	8/2/24	Email	7. Dimensional Standards	7.2 Landscaped open space ratio	We suggest allowing green roofs to count towards the landscaped open space ratio, if they are accessible to occupants of the building. Lot coverage is still in place in many zones to retain the character of the built environment, but if an applicant wants to meet their landscaped open space ratio by creating an accessible green space, while also meeting their lot coverage requirements, that should be permissible to control for difficult urban infill sites where landscaped open space may eat into otherwise developable footprint that could be dedicated to housing and other necessary impervious infrastructure.	This standard is meant to support goals within the comprehensive plan around landscape, heat island, and to some extent, stormwater by addressing impervious surfaces at ground level. For these purposes, green roofs and structured engineered surfaces are not included.

NAME	DATE	SOURCE	ARTICLE	TOPIC	COMMENT	RESPONSE
Dirigo Center Developers, LLC (Waterstone Properties Group, Inc.)	7/11/24	Email	7. Dimensional Standards	7.2 Setbacks	Lot Lines and Setbacks from City boundary. Under the Dimensional Standards provisions, "setbacks" are measured from "lot lines." We are concerned that the Portland/Westbrook City boundary might be considered a lot line, even though the bounds of a lot in the deed may cross the City line, which would prevent development of a lot that crosses the City line. Simply adding "A municipal boundary is not considered a lot line" to the end of the definition of "lot line" would be helpful to avoid this potential issue.	The rule of measurement for "lot line" should resolve this concern.
Acorn Engineering	7/24/24	Email	7. Dimensional Standards	7.4.1 Conservation residential development	Street frontage from private ways. While we acknowledge that Conservation Subdivisions can now obtain their legal street frontage from a private way, this development approach represents a small fraction of proposed developments, especially because Conservation Subdivisions appear to only be permitted within the RN-1 and RN-2 zones. We see a mutual benefit from a project being able to utilize private ways as their legal street frontage because it adds flexibility in a development proposal while not requiring the City to take over the street which includes road and utility maintenance, snowplowing, and garbage collection. We would encourage private ways to be eligible for legal street frontage across all residential zones, which is common practice in many municipalities across the State with the formation of a private road or homeowner's association.	Generally, the approach in Portland has been to require street frontage on accepted City streets, except in circumstances like the alternative development options proposed through ReCode.
Rachel Conly	5/9/24	Email	7. Dimensional Standards	7.4.2 Cottage court development	Can you please let me know where I can find a definition of a "cottage court development"? I could not find a definition.	There is no definition in Article 3. The meaning is generally embedded in Section 7.4.2.
Jeff Sherman	5/6/2024	Konveio	7. Dimensional Standards	7.4.2(D)1 Cottage court development	This restriction should be eliminated if the properties meet the Small Unit bonus described below. Alternatively, cottage court residential developments should allow up to three-family dwellings by right.	The cottage court type is meant to allow a denser pattern of development with smaller structures. As such, single- and a limited amount of two-family is appropriate.
Liz trice	7/2/24	Konveio	7. Dimensional Standards	7.4.2(D)1 Cottage court development	Eliminate these first two limitations. Why not allow a 4 unit rowhome?	The cottage court language has been drafted to allow for the types of housing that exists within these low-density residential zones in a different form. Rowhouses/townhouses are not a traditional form in many of these zones.
Portland Regional Chamber of Commerce	8/2/24	Email	7. Dimensional Standards	7.4.2(D)2 Cottage court development	We are encouraged to see the introduction of cottage court style developments to the Land Use Code, as these are a great tool to permit dense single family and duplex developments. With that said, the requirement in this subsection that limits duplexes to no more than 25% of the units in a development seems arbitrary given that duplexes are allowed by right in all of these zones, albeit with different dimensional standards. We recommend removing this limitation, thus allowing cottage court developments to be composed of any mix of single family and duplex units.	The cottage court type is meant to allow a denser pattern of development with smaller, stand alone structures on conforming lots within residential zones. As such, these could occur on lots as small as 5,000 SF. Given the number of structures permitted, single- and a limited amount of two-family is appropriate in this context.
Jeff Sherman	5/6/2024	Konveio	7. Dimensional Standards	7.4.2(D)3 Cottage court development	This requirement should be eliminated. Accessory dwelling units should be allowed on all properties.	Under base zoning and dimensional standards, lots in these zones are permitted to have up to four units as required under LD 2003. Cottage courts are elective; they are simply another form that development may take within the zones where they are permitted. As such, the base use permissions are changed in cottage court to reflect the differing form.
Liz trice	7/2/24	Konveio	7. Dimensional Standards	7.4.2(E)1 Development standards	Why be restrictive here? It will likely have 4 for financial reasons, but no reason to be restrictive.	4 structures is sufficient to meet the intent of this development type organized around a common open space.

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Jeff Sherman	5/3/2024	Konveio	7. Dimensional Standards	7.4.2(E)2 Development standards	Why is there a maximum number? If these are popular, why not let them flourish?	The maximum number of structures permitted in a cottage court reflects the context in which these development types are allowed, where lots may be small.
Liz trice	7/2/24	Konveio	7. Dimensional Standards	7.4.2(E)2 Development standards	Delete these restrictions as well.	The maximum number of structures permitted in a cottage court reflects the context in which these development types are allowed, where lots may be small.
Jeff Sherman	5/3/2024	Konveio	7. Dimensional Standards	7.4.2(E)3 Development standards	Cottage Courts should be added as a permitted use in all residential areas.	Cottage courts are proposed for traditionally lower density residential zones, as a way to create opportunities for additional density in these areas.
Liz trice	7/1/24	Konveio	7. Dimensional Standards	7.4.2(E)3 Development standards	why would you create a separate note here for a specific zone? Put it in the dimensions chart.	Cottage courts have been addressed within the text, since they are a deviation from the base standards of the zoning.
Liz trice	7/2/24	Konveio	7. Dimensional Standards	7.4.2(E)3 Development standards	Simplify to " in all zones, cottage court developments may have 2x the allowed units/lot area." Fewer words. Also, no reason to not allow in what might happen to be a TOD or B zone.	This is another way to say what the standard is currently proposed to say.
Liz trice	7/2/24	Konveio	7. Dimensional Standards	7.4.2(E)3 Development standards	does it really need to be different for the islands?	Yes, the islands are a different context with different capacity concerns.
Liz trice	7/2/24	Konveio	7. Dimensional Standards	7.4.2(E)3 Development standards	This doesn't seem to take into account LD 2003, and needs to be completely rethought. Ld 2003 allows a base of 4 units + 2 adus, and up to 23 units with affordability bonuses. So at minimum that should be allowed, and ask multiunit structures. Then, if you want to have small sizes (under 900 or under 550 sf), then you could double the number of units beyond that.	Under base zoning and dimensional standards, lots in these zones are permitted to have up to four units as required under LD 2003. Cottage courts are elective; they are simply another form that development may take within the zones where they are permitted. As such, the base use permissions are changed in cottage court to reflect the differing form.
Liz trice	7/2/24	Konveio	7. Dimensional Standards	7.4.2(E)3 Development standards	correction; up to 10 units + 2 adus with affordability bonuses, so at minimum that should be allowed and allow multiunit structures....	Under base zoning and dimensional standards, lots in these zones are permitted to have up to four units as required under LD 2003. Cottage courts are elective; they are simply another form that development may take within the zones where they are permitted. As such, the base use permissions are changed in cottage court to reflect the differing form.
Liz trice	7/1/24	Konveio	7. Dimensional Standards	7.4.2(E)4 Development standards	this is unnessary, it wouldn't make sense to do otherwise from a design perspective, and isn't something that should be defined by law	See above comment.
Portland Regional Chamber of Commerce	8/2/24	Email	7. Dimensional Standards	7.4.2(E)4 Development standards	We question whether the requirement that all units face a common open space or street would preclude developments from facing a private way or shared driveway in a long and deep lot. We recommend that units be allowed to be oriented in this more permissive manner.	As opposed to the current PRUD model, the concept is for this development type to be integrated within a neighborhood street and parcel pattern. Thus the requirement to face a public street or common open space.
Jeff Sherman	5/3/2024	Konveio	7. Dimensional Standards	7.4.2(E)5 Development standards	A minimum of 3,000 square feet feels like it is too much. This will ensure that developers can only build these on multiple lots. Therefore, this section should be rewritten to only include the 300 square feet per unit	It is also significant given lot sizes. This change will be reflected in the final draft.

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Jeff Sherman	5/14/2024	Konveio	7. Dimensional Standards	7.4.2(E)5 Development standards	This restriction is vague and unclear. It is also unnecessary because the residential zones already have lot coverage requirements. At a minimum the word "hardscape" should be replaced with "impermeable"	This language is meant to address the quality of the common open space.
Liz trice	7/1/24	Konveio	7. Dimensional Standards	7.4.2(E)5 Development standards	3,000 is too big if you have a smaller development with only 4 units. Just leave it at 300 sf/ unit	It is also significant given lot sizes. This change will be reflected in the final draft.
Liz trice	7/1/24	Konveio	7. Dimensional Standards	7.4.2(E)5 Development standards	i would remove "front on a public street", and reduce to 20'. First, you might choose to put an extra cottage on the street so that the opening on the street might only be 10' or so, and second, on a 60' lot, you will have a 5' setback minimum on one side, and often it works nicely to have buildings that are 25-30' deep, leaving less than 30' as a shared space. 20' is sufficient to have some mature trees and a nice walkway with gardens.	The concept is to provide a common space that provides a passage into the development from the street. This also has the advantage of helping to avoid front yard/back yard issues.
Liz trice	7/1/24	Konveio	7. Dimensional Standards	7.4.2(E)5 Development standards	might want to be clear here that no parking is required for the first 4 units.	No parking would be required under Article 18 as proposed. This language will be revised in the final draft.
Liz trice	7/2/24	Konveio	7. Dimensional Standards	7.4.2(E)5 Development standards	Off street parking is going to be really hard for cottage court developments. It might make sense to reduce parking requirements, and didn't we already remove parking requirements for small developments? How about "no off-street parking required for the first 12 units, then either .5 spaces/ unit or a TDM plan required after that."	No parking would be required under Article 18 as proposed. This language will be revised in the final draft.
Portland Regional Chamber of Commerce	8/2/24	Email	7. Dimensional Standards	7.4.2(E)5.b Development standards	We agree with other comments that the required width of the open space should be reduced or eliminated. Given the proposed requirement of 300 square feet of open space per unit and the requirement that the open space for the development be contiguous, further controls on the geometry of the open space are needlessly restrictive to achieve the goal of sufficient and usable open space for residents.	The 3,000 SF requirement will be removed in the final draft.
Portland Regional Chamber of Commerce	8/2/24	Email	7. Dimensional Standards	7.4.2(E)5.b Development standards	For similar reasons, we suggest removing the requirement that the open space face a public street. On long shallow lots this would require the open space be placed in front of the units, potentially risking the development not meeting front setback maximums. Similarly, as long as easements allow all residents to access it, there should be no reason that the open space cannot occur in the rear of the lot where occupants would be free from vehicle interference and potentially adjacent to OS-P and OS-R open spaces and their attendant trail networks.	The concept is to provide a common space that provides a passage into the development from the street. This also has the advantage of helping to avoid front yard/back yard issues.
Jeff Sherman	5/14/2024	Konveio	7. Dimensional Standards	7.4.2(F) Development standards	In addition to the small unit bonus, there should be a bonus if the cottage court "provides mid-block permeability with public access in the form of a continuous path of travel with a minimum clear width of 10 feet between two streets."	As drafted, access and permeability for these types of projects would be handled through the site plan process.
Jeff Sherman	5/14/2024	Konveio	7. Dimensional Standards	7.4.2(F) Development standards	The bonus should be 35% and the bonus should not be capped at three. This is unnecessarily confusing and goes against the goals of the cottage court development.	The maximum number of structures proposed in a cottage court is 12. 3 additional units is equivalent to a 25% bonus, which is reasonable given the total number of structures allowed.
Liz trice	7/2/24	Konveio	7. Dimensional Standards	7.4.2(F) Development standards	Make it simpler, just say," if all units are under 800 sf (I would say 900 sf), then the number of units may be doubled." Also, "residential structures" here is confusing, because isn't a duplex one residential structure? I don't think you need paragraphs B or C.	The limits in this language are placed on 'structures,' rather than units, as a way to manage overall bulk and mass.

NAME	DATE	SOURCE	ARTICLE	TOPIC	COMMENT	RESPONSE
Liz trice	7/2/24	Konveio	7. Dimensional Standards	7.4.2(F) Development standards	It might make sense to take the time to take 3 sample lots and calculate what the maximum # of units and a possible layout might look like. I'm happy to help with that.	This work has been done.
Liz trice	7/2/24	Konveio	7. Dimensional Standards	7.4.2(F) Development standards	It's unclear what the goal is here. If the bonus is for tiny homes, make really tiny, like under 550 sf. If the goal is more moderate size homes, then the numbers could be 900 which allows for a two story townhome with 2-3 bedrooms, and then you'll want to make sure you allow multi-unit structures.	This requirement is that units be 800 SF or less to qualify for the small unit bonus.
Liz trice	7/2/24	Konveio	7. Dimensional Standards	7.4.2(F) Development standards	If you really want this type of development, it's important to reduce the the setbacks in all the residential zones. I suggest 5' for all setbacks, and perhaps allow 10' from an existing structure on an abutting lot.	The goal, based on the principles of *Portland's Plan,* is to continue to allow for different types of physical residential environments, but allow additional housing across all of these contexts. For this reason, some variation in dimensional standards is retained across residential zones.
Jeff Sherman	5/9/2024	Konveio	7. Dimensional Standards	7.5.2 Pedestrian passage required	Passages should be allowed to accommodate cyclist in addition to pedestrians if the developers want. Therefore, the following language should be added to the end of this section: "Passages may, but are not required to, be designed to accommodate cyclists in addition to pedestrians."	This change will be reflected in the final draft.
Jeff Sherman	5/14/2024	Konveio	7. Dimensional Standards	7.6.1 Exceptions to minimum height	New parking garages should not be exempt from the minimum height requirements.	Generally speaking, the intent is not to make people build more parking, which could be the effect of minimum height requirements.
Rachel Conly	5/9/24	Email	7. Dimensional Standards	7.6.3(A) Small island lots	In Section 7.6.3 (A)4 Small Island Lots, it notes "New small island lots may only be created by a single lot division of an existing lot, with the remaining developed portion meeting the standard dimensional requirements of the IR-2 zone. Further division of the remaining lot to create additional small island lots is prohibited." Does the "standard" dimensional requirement referenced include "small lots" 3,000 SF and greater? For instance, some properties consist of two or more small adjacent lots. I am wondering, as an example, if a property owner can divide two adjacent lots that are 3,000 SF? Or does the split have to result in one of the lots being 20,000 SF? Related to the above, I am also assuming that the reference to "a single lot division" means this is a one-time division opportunity? Related to above, can you still split a lot if it results in an increase in the nonconformity of dimensional standards, such as setbacks and lot coverage, of any home/structure remaining? I assume the answer is "no", but want to confirm.	"Standard" in this context is intended to mean the 'base' dimensional standards of the IR-2, not the small island lot standards. The intent is to allow one division, but no more. Generally speaking, zoning does not allow one to increase any existing non-conformity or create a new one.
PIC	5/18/24	Email	7. Dimensional Standards	7.6.3(A) Small island lots	Many questions about the proposed limit on lot division that requires the primary lot to maintain 20,000 sq. ft., so a lot would need to be 23,000 sf to carve off 3,000 sf.	This is correct.
PIC	5/18/24	Email	7. Dimensional Standards	7.6.3(A) Small island lots	Interest in exploring a system where a land owner can divide their property and maintain the setbacks and lot size requirement of IR-2/Small Lot. Such as from a 6,000 sf lot making two small island lots of 3,000 (provided that the original lot/structure can maintain the Small Island lot setbacks and lot coverage).	Given feedback on these provisions and concerns about growth, the proposed single lot division language has been maintained.
PIC	5/18/24	Email	7. Dimensional Standards	7.6.3(A) Small island lots	Concern about the business of short term rentals on Small Island Lots.	Short term rentals are regulated under Chapter 6 of the City's Code of Ordinances. Any short-term rental restrictions should be addressed there.

NAME	DATE	SOURCE	ARTICLE	TOPIC	COMMENT	RESPONSE
Alicia Kershaw	6/26/24	Form	7. Dimensional Standards	7.6.3(A) Small island lots	I support greater density bit 3000 sf is too small for a buildable lot.	3,000 is proposed to be retained as the small island lot size, based on an analysis of existing lot sizes within the IR-2 on Peaks Island.
PIC Housing and Zoning Committee	8/2/24	Email	7. Dimensional Standards	7.6.3(A) Small island lots	Small Island Lot Allowance: 3,000 square feet: we continue to support this number as compatible with many already built island lots in IR-2 We support the Small Island Lot allowance only with Island specific limits on short-term rentals (as the PIC voted for at their recent meeting), having been put in place prior to the city council approval of new land use code.	3,000 SF is proposed as the minimum lot size for small lots in the IR-2.
PIC Housing and Zoning Committee	8/2/24	Email	7. Dimensional Standards	7.6.3(A) Small island lots	Creating a Small Island Lot from a larger existing lot: The second draft allows owners of lots of at least 23,000 sq feet to separate off one 3000 sq ft small lot, leaving the primary lot at 20,000 (the general standard for IR-2). We recommend that in IR-2 consideration be given to allowing any occupied lot of at least 10,000 sq. ft. to separate off 3,000 for a Small Island Lot – leaving at least 7,000 for the primary lot (as long as that lot maintains all the setback requirements of IR-2).	Given feedback on these provisions and concerns about growth, the proposed single lot division language has been maintained.
Peaks Island Council	8/30/24	Email	7. Dimensional Standards	7.6.3(A) Small island lots	Creating a Small Island Lot from a larger existing lot: The second draft allows owners of lots of at least 23,000 sq feet to separate off one 3000 sq ft small lot, leaving the primary lot at 20,000 (the general standard for IR-2). We recommend that in IR-2 consideration be given to allowing any occupied lot of at least 10,000 sq. ft. to separate off 3,000 for a Small Island Lot – leaving at least 7,000 for the primary lot (as long as that lot maintains all the setback requirements of IR-2).	Given feedback on these provisions and concerns about growth, the proposed single lot division language has been maintained.
Jeff Sherman	5/3/2024	Konveio	7. Dimensional Standards	7.6.4(A) Permitted encroachments into setback areas	The restrictions that the porch may not exceed 50 square feet nor the projection from the building exceed six feet are arbitrary and do not serve the goals of the city. Neighborhoods with active front porches create a greater sense of community and make people feel safer when walking past at night. Additionally, a frequently used front porch is often a much better use of space than a grass lawn. Consider changing this section as follows: Any setback may be occupied by an entrance porch, with or without a roof, as long as the entrance porch does is setback 5 feet	Porches are generally encouraged in the residential context through design standards. Porches have bulk like other structures, and as such, they are generally subject to setbacks, which are being reformed through ReCode to allow greater flexibility. This exception for small porches has existed in the code for quite some time, but is not appropriate for larger porch structures.
Jeff Sherman	5/13/2024	Konveio	7. Dimensional Standards	7.6.4(B)3 Build-to zone exceptions	2 Suggestions: (1) "may" should be changed to "shall" or "must." (2) "provided the front setback or build-to zone is met to the maximum extent practicable" should be changed to "provided the front setback or build-to zone is met to the extent reasonably practicable."	This is longstanding language from the existing code.
Jeff Sherman	5/8/2024	Konveio	7. Dimensional Standards	7.6.5(B) Stepbacks	There should be a similar exception for existing properties adding external insulation	External insulation is generally added to existing buildings and is not interpreted to exacerbate any existing nonconformities with respect to setbacks.

NAME	DATE	SOURCE	ARTICLE	TOPIC	COMMENT	RESPONSE
Liz Trice	7/30/24	Email	7. Dimensional Standards	Density	We need to allow more gentle density in our neighborhoods. The easiest way to do that is to fully embrace LD 2003, accept that homes will slowly densify to be up to 4 units. To do that we need to combine all housing types up to 4 units (for some reason this draft of recode created more housing types), reduce back setbacks in R3 from 25 feet to 5', Combine R1-2-3. Get rid of minimum lot size, minimum lot width, minimum street frontage. We have side setbacks, front setbacks, and height limits: that's enough. Adding ADUs to 50% of our houselots would be an easy step in the right direction that won't threaten the niceness of our neighborhoods. Even with full legality, it will take a while.	The approach proposed in ReCode is generally to support significantly more housing (height and density) along major corridors, while allowing an increment of additional housing, maintaining existing scale and pattern, within the residential zones that abut these corridors. This approach is based on smart growth principles and the principles of the comprehensive plan.
Josh M.	7/30/24	Email	7. Dimensional Standards	Density	I am hoping you would consider a more iterative approach to ReCode before making sweeping changes across all zones. I am a bit concerned there's not more focus on current zones that do allow for more dense housing. Current zoning up and down our transit corridors allows for large, multi-family residential buildings, however these aren't being built in sufficient numbers. Why? Perhaps answering this question and adjusting to encourage the patterns you are hoping for, before potentially disrupting current residential neighborhood feel in an iterative approach would be better. I live on a street that has two houses, with more than six adults living in each one, and there are some negative effects on quality of life: Lots of cars on the streets and disruptions to snow clearing. Lots of cars coming and going at all hours - dangerous to kids on the street, and disruptive at late hours. Too many trash bags to fit in cans, that then get torn up by animals overnight. These two hours are very different in their patterns of life as compared to the others on our small street. I hope to see ReCode focused on getting large, multi-story buildings up and down Forest, Brighton, and Congress before disrupting my neighborhood further. Incentivize the large, single story strip malls to go, and be replaced by large apartment buildings before allowing mutli-unit apartments to go up in R3 and similar zones.	The approach proposed in ReCode is generally to support significantly more housing (height and density) along major corridors, while allowing an increment of additional housing, maintaining existing scale and pattern, within the residential zones that abut these corridors. This approach is based on smart growth principles and the principles of the comprehensive plan.

NAME	DATE	SOURCE	ARTICLE	TOPIC	COMMENT	RESPONSE
MEREDA	7/30/0204	Email	7. Dimensional Standards	Height	As a general matter, MEREDA believes the proposed changes will help produce more housing by allowing greater flexibility in building. However, one area where we feel the City could go further is with respect to building height in the residential zones. Wave II proposes no change to the current 35-foot maximum height in the RN-1, RN-2, RN-3, and RN-4 zones. As we work to modernize the way we build, it is important to provide enough space for both current and future needs. For example, today's multifamily buildings must account for the current and future HVAC and energy needs. In addition to needing space to accommodate the ductwork for HVAC, the thicker insulation is now recommended or required to achieve climate control standards. Additionally, newer buildings may employ thicker insulation or other methodologies for sound control. In future, buildings wishing to accommodate a passive house model, for example, will need 6-12 inches of rigid insulation on all exteriors – adding almost a foot in height. Maine is on the verge of adopting the statewide MUBEC updates, which will bring all building codes up to the 2021 International Energy Conservation Code (IECC) – Portland is already on this code but will be moved up to the 2024 "stretch" code per City Ordinance. The 2024 IECC is largely considered an improvement over the 2021, because inflexible and rigid standards in the 2021 have contributed to less overall housing stock creation and ultimately less energy efficiency and sustainable building. However, the new IECC codes will continue to roll out every three years, and Portland will be ahead of the State by three years as long as it insists on imposing a stretch code. We recognize that the current Recode process cannot affect the role of the stretch code but encourage the City to take steps to accommodate the needs for building under the code. We believe height is one area where the Planning Department could be more aggressive in allowing flexibility to incentivize the right types of buildings by encouraging climate readiness and the uptake of efficiency and sustainability measures. We recommend the City consider implementing an incremental height standard that would permit either a maximum height, or the height of the adjacent property plus five feet, whichever is greater. This would also embed longevity in the code by reflecting the ongoing size and space needs discussed above.	No increases to residential zone height standards are proposed within ReCode.

NAME	DATE	SOURCE	ARTICLE	TOPIC	COMMENT	RESPONSE
Zdenka Griswold	6/11/24	Email	7. Dimensional Standards	Height	I've looked at the ReCode proposal online and I agree that we need more flexible zoning and denser, multi-family housing throughout the city. I have one major objection, however, and that is to changing the height limits in the various zones. I firmly believe that Portland is and should remain a low-rise city, and that this will only enhance the city's appeal and livability. Tall buildings block out the sun. Streets can seem more like tunnels rather than open, welcoming spaces. In Portland, tall buildings will be dramatically out of proportion to the residences and businesses around them, looming over them, overshadowing neighborhoods and appropriating their sense of place. In the heart of most of the world's beautiful cities I've seen, it is not possible to build to great heights and this has made them the wonderful places they are. In the city centers of Paris or Prague, there are almost no tall buildings. Even notable exceptions such as New York, a grand metropolis whose neighborhoods are the high-rises, have large swathes of lowrise residential areas which are subject to strict landmark protections - think Brownstone Brooklyn. Here we can achieve housing density and affordability by allowing denser, multi-family buildings throughout the city without ruining the friendly, neighborhood appeal of Portland by building too high.	Additional height is proposed through ReCode within downtown and in major nodes and corridors, the areas of the city that are poised for significant more growth as supported by the comprehensive plan.
Jonathan Peter Monro	8/1/24	Email	7. Dimensional Standards	Height	If heights in excess of 180 feet are still being proposed in ReCode, I am opposed, as its being not simply unneeded but detrimental to the city and its residents and visitors. Unneeded because the city could add 10,000 to its population with buildings of 8 stories or less, built primarily on surface parking lots. Detrimental to those of us outside of these buildings as anyone who has spent any considerable length of time near the exterior of these buildings, during windy or cold weather—as I have. Try it near Franklin Towers, 340 Eastern Prom, or Portland House. Why do you think the approach to Portland House is inside a plastic tube? A full recital of reasons for prohibiting such tall structures can be found in Christopher Alexander's Pattern Language, Jane Jacob's Death and Life of Great American Coties, and Jan Gehl's Cities for People. Perhaps not least, such buildings not only cut upper-story residents off from the ground, but also from the civic life of the city around them. The overall organization of height on the Portland peninsula should be what it was into at least the 1990s —low by the harbor and Back Cove and rising steadily to the spine of Congress Street on its ridge not only maximizes visual access to our greatest asset – the ocean – but will also make our buildings as resilient as possible in the face of ever rising winds. It will also define our central commercial corridor. (Midtown's disruption of this primal pattern was one of the reasons I so adamantly opposed it.) Some increased height—to say, six stories —should be allowed along major arterials, but not to the unneeded and detrimental heights of 165 feet currently permitted along Franklin Street.	Additional height is proposed through ReCode within downtown and in major nodes and corridors, the areas of the city that are poised for significant more growth as supported by the comprehensive plan.

NAME	DATE	SOURCE	ARTICLE	TOPIC	COMMENT	RESPONSE
Drew Sigfridson	8/2/24	Email	7. Dimensional Standards	Height	Good morning. I'm a Portland resident and business owner in Portland. As someone who works every day in the real estate realm and in development, I would like to express my support and thanks to the Planning department for this effort. I am strongly in favor of the proposed changes underway, especially the increased height changes throughout the city. I am even in support of additional height in places like Bayside.	No response necessary.
Crystal Redfield	6/20/24	Form	7. Dimensional Standards	Height and density	Higher buildings would be great to allow to utilize footprint to its highest and best potential. Make it easier for shipping containers to be used as homes-also tiny homes and more homes per lot even for tiny lots!	The proposed changes under ReCode include increases in height in key areas to support additional housing and mixed use.
The Urbanist Coalition	7/29/24	Email	7. Dimensional Standards	Height and density	In addition to our concerns about the map requiring immediate action, we have identified the following additional concerns with the ReCode proposal: Portland's housing potential is limited by restrictions on density, minimum lot size, height, and minimum setbacks in residential areas that were left in place in the majority of the residential land in Portland. There will still be neighborhoods that could not be rebuilt today under this ReCode proposal.	ReCode includes proposals to modify uses, lot area, and setbacks within residential zones.
Jacqueline Cohen	8/2/24	Email	7. Dimensional Standards	Height and density	I am a Portland resident living on Ocean Avenue for almost 60 years and have observed many changes over the years. I agree that we need more affordable housing and that increasing density, in general, is a good idea. However, I believe the proposal goes too far and that the end result of the proposal will create a city of asphalt and a decrease in school age population and will not guarantee that the proposed increased density will create affordable housing. I am supportive of increased density in transportation corridors and I am supportive of one accessory unit on a single family lot. However, I am opposed to the proposal to permit at least 4 units on a small lot with little or no parking required. The idea that everyone will give up their cars so we do not have to provide for parking is unrealistic . How many of you are carless? Do you have an off site parking space? Do you live within a quarter mile of public transportation? Are you able to walk to the bus in snowy and icy conditions? How will you or your disabled friends, family and neighbors cope? How will you accommodate them in this scenario? How will you guarantee that the new units on a single family lot will be affordable? Will you limit the rents charged? Will you prohibit their changing from rental to condo? Will you prohibit their use as air b&b's? Not every lot in this city needs to be built out to the max . We can comply with state density regulations without creating an asphalt city. We have spent millions on Stormwater control to improve the water quality of Casco Bay. Increased impervious surface is not included in the Stormwater management plans of the City. We will be in conflict with state and federal water quality requirements if we eliminate the green spaces . Please reconsider what is proposed here and think ahead with reasonable recommendations.	The four units/lot standard reflects changes adopted by the City Council in response to LD 2003.

NAME	DATE	SOURCE	ARTICLE	TOPIC	COMMENT	RESPONSE
Robert Kahn	4/18/24	Email	7. Dimensional Standards	Table 7-A: RN Zone Dimensional Standards	If I understand the ReCode Wave2 correctly, the physical and visual implications to off-peninsula residential neighborhoods would be major to extreme. The density and reduced setbacks would look like the multi-family units on Park Ave. across from Deering Oaks. These multi-family units are so close together, that on side elevations they are looking into each other's windows. And think about building fire codes and the cost of fire protection to build so close together (masonry construction, only). Also, can the fire department maneuver fire trucks around this density of buildings? Bring the Portland Fire Dept. into this review before passing the changes. I suggest that computer generated examples of what is being proposed in the new code be compared to the multi-family buildings on Park Ave., and other neighborhoods, that way citizens can visualize what the physical impact of these changes would mean. These design ideas seem to be imported from other places to achieve more housing at any cost. But the cost to build this way could be expensive, visually out of place and should be discussed.	Visualizations can be found within the materials for the ReCode Studio, which are posted online here.
Harris Van Pate, Maine Policy Institute	5/29/24	Email	7. Dimensional Standards	Table 7-A: RN Zone Dimensional Standards	RN-6 and RN-7 are both zones that encourage many high-density residential uses, and some of the reforms here are good in reducing minimum lot area and encouraging variable uses. However, these zones cover a tiny number of parcels throughout the city, and thus, the flexibility these zones and their reforms allow will have limited effects.	These zones could be applied more expansively in the future.
Harris Van Pate, Maine Policy Institute	5/29/24	Email	7. Dimensional Standards	Table 7-A: RN Zone Dimensional Standards	The solitary reforms that occur in some zones without bigger changes will not significantly improve Portland's housing market. In RN-1, multi-family units and increased uses areallowed, but setbacks are changed only slightly, and the maximum height is still only 35 feet. In RN-2, increased uses are allowed and setbacks are reduced, but the same 35-foot maximum applies. Both of these reforms make small changes but fail to meaningfully change minimum lot size, maximum height, or setbacks. Thus, all these reforms do is let Portlanders build smaller residential buildings rather than larger ones, which is what multifamily properties truly need. Allowing multifamily uses on paper while making it incredibly difficult to build them will not effectively combat Portland's housing crisis. These zone reforms are two clear examples of how Portland's reforms are well intended but do very little in isolation from more impactful policies. When facing a housing crisis of this magnitude, Portland should be building up but it is still refusing to do so.	Significant changes are proposed through ReCode to allow more multi-family building. Many of these changes are focused on encouraging large amounts of this type of housing in mixed-use zones along transit corridors and near existing infrastructure, in alignment with the City's and region's smart growth goals. However, additional use permissions are also proposed within the residential zone context to allow incremental increases in housing in these areas as well.
William Dowd	6/5/24	Form	7. Dimensional Standards	Table 7-A: RN Zone Dimensional Standards	Can existing lots be subdivided if they meet the new RN4 code. We own a property at 35 Bolton Street that is a 3 unit building on a 14,025 sf lot. Provided we meet frontage and side set backs, can we subdivide the lot? We went down to 1 Canal Plaza today and it was extremely informative. Chris did a great job explaining the potential changes. We think that the Recode will be great for the City of Portland.	Existing lots in any zone could be split, assuming that the split creates lots that meet all lot-based dimensional requirements (see minimum lot size, street frontage, etc.) of the applicable zone, and one is not creating a new nonconformity with respect to a building (see setbacks, lot coverage, etc.).
Publius	07/24/2024	Konveio	7. Dimensional Standards	Table 7-A: RN Zone Dimensional Standards	A response that "stepbacks are good at reducing mass" is non-responsive to the wave 1 comment. There should be an avenue for the board to consider, on a case-specific basis, the ability to build without a stepback. There are locations (Danforth and State St come to mind) where there are existing buildings without stepbacks >35ft. tall and in-fill lots in the area that could utilize denser housing development in keeping with the architectural standards of the area.	Stepbacks are designed to apply only in situations where stepbacks are an appropriate means of mitigating height and mass.

NAME	DATE	SOURCE	ARTICLE	TOPIC	COMMENT	RESPONSE
The Urbanist Coalition	7/29/24	Email	7. Dimensional Standards	Table 7-A: RN Zone Dimensional Standards	What's missing: Removing barriers to housing: Setbacks, density limits, height restrictions, and minimum lot size reductions are needed to create walkable neighborhoods.	ReCode includes proposals to modify uses, lot area, and setbacks within residential zones.
Jeff Sherman	5/3/2024	Konveio	7. Dimensional Standards	Table 7-A: RN Zone Dimensional Standards/Accessory structure setbacks	[Response to Damon Yakovleff] Agreed. This should be standard across all zones	Accessory structure setbacks will be revised in the final draft in smaller lot residential zones where principal structure setbacks are proposed at 5'.
Damon Yakovleff	5/3/2024	Konveio	7. Dimensional Standards	Table 7-A: RN Zone Dimensional Standards/Accessory structure setbacks	Side and rear setbacks for <250 sf accessory structures should be reduced to 3' for all zones - especially RN-3 and higher.	Accessory structure setbacks will be revised in the final draft in smaller lot residential zones where principal structure setbacks are proposed at 5'.
Cameron Thompson	5/31/2024	Konveio	7. Dimensional Standards	Table 7-A: RN Zone Dimensional Standards/Accessory structure setbacks	[Response to Damon Yakovleff] Many current accessory structures are in violation of the 5' setback as well.	Accessory structure setbacks will be revised in the final draft in smaller lot residential zones where principal structure setbacks are proposed at 5'.
Sam Lebel	5/16/24	Konveio	7. Dimensional Standards	Table 7-A: RN Zone Dimensional Standards/Building length	This is a brand new requirement for this zone and will cause issues with the viability of projects. There are a number of successful projects built in this zone with facades longer than 60' due to the lot geometry. This new requirement represents a barrier to the creation of new housing. If a project is still able to work on a larger lot by creating multiple buildings then it means less units/amenity space and higher construction costs per SF which ultimately get passed on to the future residents. Please consider eliminating this new requirement, or at least significantly increasing the dimension of 60'.	The building length standard has been introduced to help manage the scale of potential new development, particularly in areas where lot consolidation has resulted in large buildings. This standard will be revised in the final draft.
Charlotte R	6/4/2024	Konveio	7. Dimensional Standards	Table 7-A: RN Zone Dimensional Standards/Building length	I strongly agree that this restrictive length maximum is a huge problem for density and multifamily housing. This will prevent a lot of multifamily housing when it is supposed to be allowed in RN-5. Multifamily buildings are key to achieving so much of what the city wants in terms of affordability, accessibility, sustainability, etc.	The building length standard has been introduced to help manage the scale of potential new development, particularly in areas where lot consolidation has resulted in large buildings. This standard will be revised in the final draft.
Charlotte R	6/4/2024	Konveio	7. Dimensional Standards	Table 7-A: RN Zone Dimensional Standards/Building length	Editing to clarify that I'm referring to the 60 ft max length in RN-5	The building length standard has been introduced to help manage the scale of potential new development, particularly in areas where lot consolidation has resulted in large buildings. This standard will be revised in the final draft.
Amy Oberlin	6/4/2024	Konveio	7. Dimensional Standards	Table 7-A: RN Zone Dimensional Standards/Building length	This brand-new dimensional standard is SO restrictive and will needlessly rule out so many good projects. This needs to go.	The building length standard has been introduced to help manage the scale of potential new development, particularly in areas where lot consolidation has resulted in large buildings. This standard will be revised in the final draft.

NAME	DATE	SOURCE	ARTICLE	TOPIC	COMMENT	RESPONSE
Tim Wells	6/19/2024	Konveio	7. Dimensional Standards	Table 7-A: RN Zone Dimensional Standards/Building length	Where did the 60' number come from? It is a simply an arbitrary number that put forth by people wanting to stop multi-home projects in the only residential zone that allows them. The 60' number would make hundreds of current buildings in the RN-5 non-conforming. It will stop all Affordable Housing projects in the RN-5 zone and will only allow3-4 unit projects to be built. Now this is the purpose of the rule but considering that we are in an acute housing shortage this doesn't seem to be very smart. Considering that we should be trying to use land more effectively and promoting development patterns that reduce fossil fuel usage, promote public transportation and walkability, the ability to support local businesses sprinkled through neighborhoods and current demographic trends means that the only way to achieve the density needed to support neighborhood businesses is to build more homes on less land it would seem this is very counter to these goals or meeting these pressing challenges. 60' limitation will make it very difficult, if not impossible, to get proper separation of stairwells and egress points in 4 story buildings or to achieve net to gross sf designs that actually pencil financially. So this rule will basically stop most multi-unit buildings from being built in the zone that traditionally/historically has housed the greatest portion of Portland's population. This flies in the face of history, or the City's needs and against the Comp Plan. This should just be scrapped. If a limit is needed it should be no less than 85' but best to let architects, engineers and developers decide on building designs.	The building length standard has been introduced to help manage the scale of potential new development, particularly in areas where lot consolidation has resulted in large buildings. This standard as drafted is based on a sample of existing building lengths. However, it will be revised in the final draft.
Sam Lebel	7/8/24	Konveio	7. Dimensional Standards	Table 7-A: RN Zone Dimensional Standards/Building length	This brand new dimensional standard will negatively affect housing projects, or not allow them to happen in the first place. Recommend that the Design Manual and existing space and bulk standards continue to govern scale and mass in what is supposed to be the densest, most flexible residential zone in the City.	The building length standard has been introduced to help manage the scale of potential new development, particularly in areas where lot consolidation has resulted in large buildings. This standard will be revised in the final draft.

NAME	DATE	SOURCE	ARTICLE	TOPIC	COMMENT	RESPONSE
Acorn Engineering	7/24/24	Email	7. Dimensional Standards	Table 7-A: RN Zone Dimensional Standards/Building length	New regulation for maximum building length of 60' implemented in RN-5. (Table 7-A). A new dimensional standard has been added to RN-5 (formerly R-6). The maximum building length is proposed to be 60' which would have negative consequences to certain projects' viability, especially if the parcel happens to have a high ratio of street frontage to lot depth. By enacting this standard, if a project is still able to be financially viable then either parking is going to be incentivized on the Peninsula and/or multiple buildings will be incentivized meaning at a minimum: • Twice as many elevators, stairwells, sprinkler/mechanical rooms, and circulation area which will result in a lower unit count and less residential amenities. • Twice as many utility runs and trenches in the street. • More expensive construction which gets passed onto the end users if the project is able to proceed. A prime example of a successful project in the RN-5 with a façade longer than 60' is 104 Grant Street (the Goodwin). This project provided 23 units, 8 of which are deed restricted for affordability. Given the lot geometry which features a high street frontage to depth ratio, the façade along Grant Street is 117' long across a 4-story building. The project Architect used multiple techniques to break down the scale and mass of the building including projected vertical bay windows creating visual interest and shadow lines, a purposeful window pattern, punched openings, and a variety of tasteful siding materials. The Architect responded to Staff's design review comments and the design was positively received by Staff and the Board, receiving final approval at its first meeting with the Planning Board, without the need for a workshop. In fact, this building is used as an example in the Draft R-6 Design Manual to demonstrate a building with varied massing. If this project was required to be split into two buildings, at a minimum it would have provided less total housing stock, including less affordable homes. It's possible the project may not have happened at all due to the added costs and lower unit count that would have resulted from a maximum façade length of 60'. The building was completed in 2022, seamlessly incorporated into the neighborhood with full occupancy of 23 new homes. Additionally, several years ago there was a multidisciplinary working group formed between the public and City staff to overhaul the Design Manual. During this process, façade composition was discussed; however, a maximum façade length was not. We would encourage Planning Staff to review these meeting minutes, recommendations, and overall progress that went into the overhaul from qualified professionals and City staff, prior to the second phase of the ReCode process. In conclusion, in the City's densest residential zone on either side of the State's largest and most productive downtown hub, we see this new proposed regulation as prohibitive and atypical. If adopted as drafted, this requirement is undoubtedly going to sacrifice residential amenity space and/or overall unit count, potentially making a housing project financially unfeasible. We strongly urge you to reconsider this prohibitive dimensional standard, or at the very least, significantly increasing it to allow flexibility in design, programming, and proforma. In addition to the Design Manual, the other existing space and bulk standards play a role in controlling the mass and scale of a structure, such as height, setbacks, stepbacks, and lot coverage. We think the Architect and design team should be responsible for providing a high-quality design that conforms to the Design Manual and existing space and bulk standards without being capped at 60' for a façade length.	The building length standard has been introduced to help manage the scale of potential new development, particularly in areas where lot consolidation has resulted in large buildings. This standard will be revised in the final draft.

NAME	DATE	SOURCE	ARTICLE	TOPIC	COMMENT	RESPONSE
The Urbanist Coalition	7/29/24	Email	7. Dimensional Standards	Table 7-A: RN Zone Dimensional Standards/Building length	New limits on building length have been proposed that limit housing in the few places that allow multi-family housing today and limit the potential of the new transit oriented development zones.	The building length standard has been introduced to help manage the scale of potential new development, particularly in areas where lot consolidation has resulted in large buildings. This standard will be revised in the final draft.
The Urbanist Coalition	7/29/24	Email	7. Dimensional Standards	Table 7-A: RN Zone Dimensional Standards/Building length	New length maximums limit multi-family housing: The new building length maximums will make multi-family housing more difficult to build in areas where it is currently allowed because these limits will make it difficult to fit more units alongside multiple staircases and elevators.	The building length standard has been introduced to help manage the scale of potential new development, particularly in areas where lot consolidation has resulted in large buildings. This standard will be revised in the final draft.
Liz Trice	7/30/24	Email	7. Dimensional Standards	Table 7-A: RN Zone Dimensional Standards/Building length	We need to allow Taller Buildings in more places - it seems that most people agree on this downtown at least, but we need to be able to have taller buildings the length of our arterials and in order to do that, we need to have buildings longer than 60' - the Park Danforth on Steven's Ave, a very nice retirement home - and we are going to have a lot more older people - is 250' just on one side! And we need to allow taller buildings not just on peninsula, which brings me to:	The building length standard has been introduced to help manage the scale of potential new development, particularly in areas where lot consolidation has resulted in large buildings. This standard will be revised in the final draft.
Todd Morse	8/2/24	Konveio	7. Dimensional Standards	Table 7-A: RN Zone Dimensional Standards/Building length	This will make it extremely difficult to build apartment buildings in one of the few zones in the city they are currently allowed. 60 ft is extremely narrow and it will be difficult to fit multiple stairways and an elevator. This is a new restriction that will make housing even harder to build, when we are looking	The building length standard has been introduced to help manage the scale of potential new development, particularly in areas where lot consolidation has resulted in large buildings. This
Portland Regional Chamber of Commerce	8/2/24	Email	7. Dimensional Standards	Table 7-A: RN Zone Dimensional Standards/Building length	We share the strong concerns with other members of the public that the introduction of a building length maximum in the RN-5, especially one of 60 feet, is overly restrictive in this area. The Design Manual and the RN-5 dimensional standards already address this issue in a less restrictive manner, through design requirements and blank facade restrictions. Eliminating this new building length maximum will still allow the built pattern of the neighborhoods in the RN-5 to match the surrounding neighborhood, without requiring separate buildings, elevators, stairwells, and mechanical systems. This standard would also mean that, within individual buildings, more area would have to be devoted to egress, taking away space that could otherwise be habitable space. The current approach will drive per square foot construction costs higher, leading to more expensive housing in neighborhoods that are prime for housing affordable to the peninsula workforce. Additionally, this would introduce significant nonconformities due to projects successfully built in the existing R-6 that are longer than 60 feet. We suggest this provision be removed, given that building length maximums will needlessly harm the development of multifamily housing and they are not present in any other RN zone except for the much smaller RN-6 zone (at 180').	The building length standard has been introduced to help manage the scale of potential new development, particularly in areas where lot consolidation has resulted in large buildings. This standard will be revised in the final draft.
Emma Morse	5/19/2024	Konveio	7. Dimensional Standards	Table 7-A: RN Zone Dimensional Standards/Corner side setback	What is the purpose of having a different setback for corners. It would be simpler for any street side be considered front so that the buildable areas are more generalized and not dependent on what is considered "front".	The corner side setback is a convention of the existing code used in residential zones.

NAME	DATE	SOURCE	ARTICLE	TOPIC	COMMENT	RESPONSE
MEREDA	7/30/0204	Email	7. Dimensional Standards	Table 7-A: RN Zone Dimensional Standards/Front setbacks	Front Setbacks in the RN- 1, 2, 3, 4, and 5. We recommend providing additional clarity with respect to the minimum front setback for these zones. The current proposal states that the setback will be the average of the adjacent front yards minus five feet. MEREDA would recommend that the City set a baseline and allow flexibility to apply the smaller of the two. We echo comments made in the online draft which note that the new setback could inflate the front yard setback or could lead to confusion when there are not abutting properties. We believe the intent of the City is to allow an appropriate but relatively small setback standard and suggest revisiting the language in this section to ensure the intent will be effectuated.	The procedures for averaging are contained in the front setback rule of measurement in Section 7.2. Where no abutting buildings are available for averaging, the standards are based on the existing dimensional regulations for these residential zones, in the interest of maintaining the existing form and pattern. These cases are likely to be rare.
Jeff Sherman	5/8/2024	Konveio	7. Dimensional Standards	Table 7-A: RN Zone Dimensional Standards/Front setbacks	The RN1 zone should also have the incremental language of the other zones. So it should be: 20 ft, or the average of the adjacent front yards minus 5 feet, whichever is less.	The RN-1 and RN-2 will be merged in the final draft, using the RN-2 dimensional standards.
Emma Morse	5/19/2024	Konveio	7. Dimensional Standards	Table 7-A: RN Zone Dimensional Standards/Front setbacks	It would be great if this zone matches all other zones and also had a front setback of 5 ft	The RN-1 and RN-2 will be merged in the final draft, using the RN-2 dimensional standards.
Amy Oberlin	6/4/2024	Konveio	7. Dimensional Standards	Table 7-A: RN Zone Dimensional Standards/Front setbacks	Why is this so much higher than the others? Seems like if 5 ft is fine for the other R zones it should be fine for this one too.	The RN-1 and RN-2 will be merged in the final draft, using the RN-2 dimensional standards.
Urbanist Coalition	6/10/24	Email	7. Dimensional Standards	Table 7-A: RN Zone Dimensional Standards/Front setbacks	Need for More Setback Reductions: Setbacks are how far a building can be built from the property line. There are some improvements here – e.g. instead of having side setbacks increase in relation to building height, they stay static – but we still have front and rear setbacks in R3 and other zones that are 20-25 feet. This makes it functionally impractical to build a backyard Accessory Dwelling unit, and has no evident utility. Walkable neighborhoods, communities where households can thrive with little-to-no driving necessary, have become a central plank for Portland's urban politicians. The UCP strongly believes that legalizing the development of such neighborhoods can save Portlanders money, make our city more beautiful, and alleviate the effects of climate change. To do this, one need only look at Portland's most delightfully walkable districts which exist now, such as those in downtown Portland, on Munjoy Hill, or in the West End. One of the key features of these neighborhoods is a dynamic streetscape with building fronts close to the street and building sides close to one another. Enabling this requires a substantial reduction in setback minimums, which have not been adequately addressed in these draft changes.	Establishing front setbacks based on the average of abutting lots helps to maintain a consistent form and pattern along a street edge. While this may result in deep front setbacks in some locations (and limited to none in others), this is consistent with ReCode's broader approach of recognizing that neighborhoods in the city should vary in scale and form.
Sam Lebel	7/8/24	Konveio	7. Dimensional Standards	Table 7-A: RN Zone Dimensional Standards/Front setbacks	Is this meant to read as "Average of abutters minus five feet"? If so, recommend implementing a default baseline and taking the smaller of the two. Otherwise this new setback could either inflate the front yard setback (potentially not allowing a housing project to work), or in the absence of abutting properties there is going to be a grey area and a lot of questions. Recommend: "Average of abutting properties minus five feet, or five feet, whichever is less".	Article 7 addresses situations where there may not be buildings on adjacent lots.

NAME	DATE	SOURCE	ARTICLE	TOPIC	COMMENT	RESPONSE
Acorn Engineering	7/24/24	Email	7. Dimensional Standards	Table 7-A: RN Zone Dimensional Standards/Front setbacks	Increased front setbacks for certain lots within residential districts. (Table 7-A). Residential Space & Bulk Standards call for the front yard setback to be equal to the average of abutters minus 5'. We believe there will be unintended consequences with this proposed change due to certain parcels either lacking direct abutters, or having abutters with large front yard setbacks that are not representative of the neighborhood. Similar to how it's structured in the RN-1, we strongly encourage including an OR statement to include a default minimum setback (5' in the RN-5 for example), otherwise, there will be conditions where the site either won't have abutting properties to calculate setbacks from, or the front setback is going to be prohibitively large to allow a housing project to work. Recommend altering this standard to "the average of the abutting properties minus five feet, or five feet, whichever is less", which is a similar approach to the existing standard.	Article 7 addresses situations where there may not be buildings on adjacent lots.
Jeff Sherman	5/3/2024	Konveio	7. Dimensional Standards	Table 7-A: RN Zone Dimensional Standards/Height	Detached accessory structure height should be changed to 20 feet or 3/5th the height of the principal structure, whichever is greater.	18' is a typical accessory structure height.
Jeff Sherman	5/8/2024	Konveio	7. Dimensional Standards	Table 7-A: RN Zone Dimensional Standards/Height	Like the setback requirements, structure height should be set up to encourage incremental growth. Therefore, the max structure height could be something like: 35 ft., or the height of an adjacent property plus 5 feet, whichever is greater.	35' is a typical residential zone height limit, and (as can be seen in examples across the city), currently allows for a range of housing types.
Charlotte R	6/4/2024	Konveio	7. Dimensional Standards	Table 7-A: RN Zone Dimensional Standards/Height	I also like the idea of allowing height to grow incrementally to encourage gradual infill as the city's needs change over time. This seems like a great way to accommodate future growth within the bounds of people's worries about neighborhood character changing quickly	If heights need to change in the future, they could.
Urbanist Coalition	6/7/24	Email	7. Dimensional Standards	Table 7-A: RN Zone Dimensional Standards/Height	Reduction in Allowed Building Heights: Several elements of the new changes, however, raise alarm bells at the UCP. As a prime example, one of the few notable revisions made to the first wave changes (now reflected in the second wave) was a walking-back of height increases in several zones across the city. The current height restrictions in Portland's Land Use Code are quite limiting for a city of our character, and the moderate increases proposed in the first wave changes were very nearly the sensible minimum to raise them. Despite this, the height increases apparently alarmed those segments of the public concerned about such things enough that they convinced the Planning Department to, essentially, return to the restrictive status quo. This is a doubly concerning move, not only are the stricter height limits bad for working Portlanders, but this may also indicate an unwillingness on the part of planning staff to stand by their own proposals in the face of a small minority's criticisms. Raising height limits is far from the most important part of the ReCode process, but we encourage the city to stand by their original, data-driven assessment and proposals in this case.	It is unclear what this comment is referring to. There are significant height increases proposed for downtown and within some of the City's mixed-use zones.
Andrew Schiller	07/26/2024	Konveio	7. Dimensional Standards	Table 7-A: RN Zone Dimensional Standards/Height	Height should reflect height needed to build the number of floors considered. For example, 35' may be too little for a 3 story residential building. And 45' may be too little f a 4 story residential building. What is the practical height needed for the number of stories foreseen on the property? For example, would 3 floors necessitate 40' minimum height, and 4 floors necessitate 50' minimum height? I am attempting to bring practical considerations to the requirements, based on the envisioned use.	35' is a typical residential zone height limit, and (as can be seen in examples across the city), currently allows for a range of housing types.

NAME	DATE	SOURCE	ARTICLE	TOPIC	COMMENT	RESPONSE
Portland Regional Chamber of Commerce	8/2/24	Email	7. Dimensional Standards	Table 7-A: RN Zone Dimensional Standards/Height	RN-2: Additionally, we recommend introducing a bifurcated height allowance like the proposal in the RN-5 which allows 3- and 4-unit developments to be built to 45'. This change, largely imperceptible to the average pedestrian, would go a long way towards realizing the missing middle development potential unlocked through the LD 2003 amendments.	35' is a typical residential zone height limit, and (as can be seen in examples across the city), currently allows for a range of housing types.
Portland Regional Chamber of Commerce	8/2/24	Email	7. Dimensional Standards	Table 7-A: RN Zone Dimensional Standards/Height	RN-3: Additionally, like in the above zone, we recommend introducing a bifurcated height allowance as noted above that would allow 3- and 4-unit developments to be built to 45'.	35' is a typical residential zone height limit, and (as can be seen in examples across the city), currently allows for a range of housing types.
Portland Regional Chamber of Commerce	8/2/24	Email	7. Dimensional Standards	Table 7-A: RN Zone Dimensional Standards/Height	RN-4: Additionally, like in the above zones, we recommend introducing a bifurcated height allowance that would allow 3- and 4-unit developments to be built to 45'.	35' is a typical residential zone height limit, and (as can be seen in examples across the city), currently allows for a range of housing types.
Portland Regional Chamber of Commerce	8/2/24	Email	7. Dimensional Standards	Table 7-A: RN Zone Dimensional Standards/Height	RN-5: We appreciate the bifurcation of heights that we have encouraged in the zones above, however we would note that while we are not concerned about single family homes in this zone, this height change does result in a downzoning for duplex projects, which will make developing infill duplexes with family sized units potentially difficult.	35' is a typical residential zone height limit, and (as can be seen in examples across the city), currently allows for a range of housing types.
Sam Lebel	5/16/2024	Konveio	7. Dimensional Standards	Table 7-A: RN Zone Dimensional Standards/Landscaped open space	This is an increase from 20% under the existing code and represents additional challenges in creating housing. Recommend maintaining the current 20% open space requirement for residential uses.	Lot coverage, which is the more restrictive standard in the case of building footprint, is not proposed to change in the RN-4 (R-6) under ReCode. Increasing landscaped open space ratio simply ensures that more open space is used for green, rather than impervious, purposes.
Acorn Engineering	7/24/24	Email	7. Dimensional Standards	Table 7-A: RN Zone Dimensional Standards/Landscaped open space	Increased open space requirements in RN-5. (Table 7-A). The RN-5 (formerly R-6) Space & Bulk standards propose an increase from 20% open space to 30%. The existing 20% standard is already difficult to make work on many infill projects. We strongly encourage maintaining 20% as the minimum requirement. The majority of recently permitted R-6 infill projects are close to, or at the 20% limit due to site constraints. Implementing an increase to 30% would not only result in these lots becoming nonconforming, but it will create less flexibility for housing projects, including the potential for loss of habitable floor area which generally translates to units or bedrooms.	Lot coverage, which is the more restrictive standard in the case of building footprint, is not proposed to change in the RN-4 (R-6) under ReCode. Increasing landscaped open space ratio simply ensures that more open space is used for green, rather than impervious, purposes.
Portland Regional Chamber of Commerce	8/2/24	Email	7. Dimensional Standards	Table 7-A: RN Zone Dimensional Standards/Landscaped open space	Finally, we also agree with public comments that the increase to the landscaped open space ratio in the RN-5 is a barrier to multifamily development in what is supposed to be the densest residential zone in the city. RN-5 parcels are all proximate to the crown jewels of our city's public park system (Deering Oaks, Western Prom, and Eastern Prom). Increasing this ratio is a surefire way to reduce the number of dense infill projects we see on the peninsula.	Lot coverage, which is the more restrictive standard in the case of building footprint, is not proposed to change in the RN-4 (R-6) under ReCode. Increasing landscaped open space ratio simply ensures that more open space is used for green, rather than impervious, purposes.
MEREDA	7/30/0204	Email	7. Dimensional Standards	Table 7-A: RN Zone Dimensional Standards/Lot area	Lot Area for Multifamily Housing in the RN - 2, 3, 4 and 5. The proposed minimum lot area for multifamily housing in these zones should be reduced. This would allow multifamily housing development by permitting smaller dwelling units. This is in line with current housing trends, as renters and buyers seek to impart a smaller carbon footprint and are willing to trade space for attainability. For example, lots in the RN-5 are too small to accommodate more than four dwelling units if the minimum lot size is 725 square feet. To promote multifamily housing, we recommend the minimum lot size be reduced.	The way that these standards work is that they require larger lot sizes as the number of units increases, which is a fairly common way to apply density standards through zoning. In the RN-4 as proposed, property owners would get a pass on density up to four units, with the ability to do up to four-family on 2,000 SF. For five units, they would need to have a larger lot area.

NAME	DATE	SOURCE	ARTICLE	TOPIC	COMMENT	RESPONSE
Emma M	5/19/2024	Konveio	7. Dimensional Standards	Table 7-A: RN Zone Dimensional Standards/Lot area	This minimum lot size [RN-1] is far too large. I agree with the other comments.	In the final draft, the RN-1 and the RN-2 will be combined, using the standards of the RN-2.
Emma Morse	5/19/2024	Konveio	7. Dimensional Standards	Table 7-A: RN Zone Dimensional Standards/Lot area	RN-2, RN-3, RN-4 all have really large SQ/unit. 1200 SF is the area of a large 2 unit apartment. This seems larger than necessary.	This standard is applied on the total lot size. So a lot of 6,000 SF could have five multi-family units.
Charlotte Rutty	6/4/2024	Konveio	7. Dimensional Standards	Table 7-A: RN Zone Dimensional Standards/Lot area	I completely agree with the other commenters who say this minimum lot size [RN-1] is way too big considering our urgent need for more housing units.	In the final draft, the RN-1 and the RN-2 will be combined, using the standards of the RN-2.
Charlotte R	6/4/2024	Konveio	7. Dimensional Standards	Table 7-A: RN Zone Dimensional Standards/Lot area	This minimum square footage could be smaller to accommodate more units. Plus, in the current housing landscape, large units like this are going to be unaffordable for a lot of people. Setting 1200 SF as the minimum for new units makes it harder for people to find housing that fits their needs and budget.	This is not a minimum unit size.
Cameron Thompson	6/5/2024	Konveio	7. Dimensional Standards	Table 7-A: RN Zone Dimensional Standards/Lot area	There are plenty of current single family homes in these zones that are less than 1200 sqft. There are also units in multi-family buildings less than 1200 sqft. This requirement is too restrictive and does not align well with the current situation.	No response necessary.
Cameron Thompson	6/5/2024	Konveio	7. Dimensional Standards	Table 7-A: RN Zone Dimensional Standards/Lot area	Oops, I misread this as a sqft minimum for the unit not the lot. I retract my statement.	No response necessary.
John McGovern	6/7/2024	GIS Map Viewer	7. Dimensional Standards	Table 7-A: RN Zone Dimensional Standards/Lot area	I have one simple question . Why would you set the minimum lot size in a R3 area at 6500 square feet when many of these lots are 3000 square foot lots of record? In doing so you are creating a hardship for someone who may have two lots equaling 6000 square feet which in other areas of the city such as R5 meet the standard. In a time when there is an extreme shortage of housing units and the state and city say we need more density it makes no sense not to make use of such lots that meet a standard allowed in other areas of the city.	Analysis conducted as part of the land use code evaluation shows that 76% of existing parcels in the R-3 conform to the 6,500 SF minimum lot size. In addition, ReCode proposes a number of map changes from RN-1 (R-3) to RN-3 (R-5) where the lot pattern suggests a great degree of conformity with the 5,000 SF minimum lot size proposed for that zone.
Tim	7/22/2024	Konveio	7. Dimensional Standards	Table 7-A: RN Zone Dimensional Standards/Lot area	This should be reduced to 680 sf/du. The typical lot on MH and throughout much of RN-5 is 3400 sf or 40' x 80'. As household size is decreasing and people are choosing to live in smaller homes it makes sense to allow 5 homes (du's) per lot. This gives greater flexibility in design, creates more homes, uses land more efficiently and will help make more ideas and construction viable.	1/725 is the existing lot area per dwelling unit standard in this zone, which has been successful in producing housing.
Tim Wells	7/29/24	Email	7. Dimensional Standards	Table 7-A: RN Zone Dimensional Standards/Lot area	RN-5 (current R6) – Modify density from 725sf/du to 640sf/du. The most common lot size in R6 is 40’ x 80’ or 3200sf. By reducing the square footage requirement to 640sf/du this allow 5 units on most lots. As household size has greatly decreased over the last 50 years many more homes are needed to accommodate changing lifestyles. Currently Munjoy Hill has only 20-25%of the population it had in 1950. To be able to support walkable neighborhoods we need more housing to create enough density to support local businesses and public transportation options. Additionally, because so many households are 1 or 2 persons, and the cost of construction and homes is so high, homes are getting smaller. 5 homes is easily accommodated on a typical RN-5 parcel. Another solution is to eliminate the density requirement in RN-5 an RN-4.	1/725 is the existing lot area per dwelling unit standard in this zone, which has been successful in producing housing.

NAME	DATE	SOURCE	ARTICLE	TOPIC	COMMENT	RESPONSE
Portland Regional Chamber of Commerce	8/2/24	Email	7. Dimensional Standards	Table 7-A: RN Zone Dimensional Standards/Lot area	RN-4: Again, we recommend a reduction in the minimum lot size requirement. The existing R-5 zone is one of the more egregious examples of the underlying zoning not matching the built environment. We are glad to see a slight reduction in the minimum lot size requirement, but evaluation should occur to determine the percentage of non-conforming lots if the 5,000 square feet standard were to go into place. Consistent with our recommended approach in other RN zones, we recommend tying the new minimum lot size to a size that ensures that no less than 95% of the existing lots in the RN-5 come into conformance.	This analysis of existing lot size was completed as part of the land use code evaluation. This analysis found that 75% of parcels would conform to the new lot area standard proposed for the RN-3, an increase of over 25% from the existing code. Where lots are nonconforming, some building would continue to be allowed.
Portland Regional Chamber of Commerce	8/2/24	Email	7. Dimensional Standards	Table 7-A: RN Zone Dimensional Standards/Lot area	RN-3: Again, we recommend a reduction in the minimum lot size requirement. Especially given that the Land Use Code Evaluation noted that “the (minimum lot size) standard is high for an urban residential zone.” Like in other RN zones, we recommend tying the new minimum lot size to a size that ensures that no less than 95% of the existing lots in the RN-3 come into conformance. This should be one of the easier zones for 3- 4-unit developments to occur under the expanded use provisions.	The analysis within the land use code evaluation shows that there is currently a high degree of conformity with minimum lot area standards within this zone, which features a median parcel area of over 10,000 SF. ReCode proposes to allow multi-family as a permitted use within this zone, which is a change from the existing zoning.
Jeff Sherman	5/3/2024	Konveio	7. Dimensional Standards	Table 7-A: RN Zone Dimensional Standards/Lot area	Minimum lot area on RN-2, RN-3, and RN-4 should all be 5,000 square feet. At a minimum both RN-2 and RN-3 should be 6,000. This small variation between the zones is very arbitrary and creates confusion and limits development for no reason.	The concept in ReCode is to allow more housing, but to maintain the existing form and scale in residential neighborhoods. This is a way of providing for incremental changes in density. Thus, proposed dimensional standards within these zones are based on the existing standards and lot and building pattern in these areas.
Charlotte R	6/4/2024	Konveio	7. Dimensional Standards	Table 7-A: RN Zone Dimensional Standards/Lot area	I feel these minimums are absurdly large and are counterproductive to building more housing that is affordable and environmentally friendly. I agree with the other commenter that these should be lowered to 5000 in RN-1, RN-2, and RN-3.	The concept in ReCode is to allow more housing, but to maintain the existing form and scale in residential neighborhoods. This is a way of providing for incremental changes in density. Thus, proposed dimensional standards within these zones are based on the existing standards and lot and building pattern in these areas.
Tim	7/22/2024	Konveio	7. Dimensional Standards	Table 7-A: RN Zone Dimensional Standards/Lot area	RN-3: Reduce to 5000 sf	The concept in ReCode is to allow more housing, but to maintain the existing form and scale in residential neighborhoods. This is a way of providing for incremental changes in density. Thus, proposed dimensional standards within the RN-2 are generlly based on the existing standards and lot and building pattern in these areas.
Tim	7/22/2024	Konveio	7. Dimensional Standards	Table 7-A: RN Zone Dimensional Standards/Lot area	RN-2: Reduce to 5000 sf	The concept in ReCode is to allow more housing, but to maintain the existing form and scale in residential neighborhoods. This is a way of providing for incremental changes in density. Thus, proposed dimensional standards within the RN-2 (now proposed as the RN-1) are generally based on the existing standards and lot and building pattern in these areas.

NAME	DATE	SOURCE	ARTICLE	TOPIC	COMMENT	RESPONSE
Tim	7/22/2024	Konveio	7. Dimensional Standards	Table 7-A: RN Zone Dimensional Standards/Lot area	RN-4: Reduce to 4000 sf	The concept in ReCode is to allow more housing, but to maintain the existing form and scale in residential neighborhoods. This is a way of providing for incremental changes in density. Thus, proposed dimensional standards within the RN-4 (now proposed as the RN-3) are generally based on the existing standards and lot and building pattern in these areas.
Tim	7/22/2024	Konveio	7. Dimensional Standards	Table 7-A: RN Zone Dimensional Standards/Lot area	RN-1: Reduce to 5000 sf. Portland is a city not a suburb	In the final draft, the RN-1 and the RN-2 will be combined, using the standards of the RN-2.
Jeff Sherman	5/8/2024	Konveio	7. Dimensional Standards	Table 7-A: RN Zone Dimensional Standards/Lot coverage	Lot coverage should be the same for residential and nonresidential uses	Nonresidential uses in the zones include schools, places of assembly, and residential care facilities, many of which customarily require larger lots. In these cases, a smaller lot coverage standard makes sense.
Emma Morse	5/19/2024	Konveio	7. Dimensional Standards	Table 7-A: RN Zone Dimensional Standards/Lot coverage	For RN-3/4/5/6 60% is far too low.	60% is 3,000 of footprint on a 5,000 SF lot.
Jeff Sherman	5/13/2024	Konveio	7. Dimensional Standards	Table 7-A: RN Zone Dimensional Standards/Rear setbacks	Rear setbacks in RN-3 and RN-4 should be changed to 10 ft.	Rear setbacks have been maintained in keeping with existing patterns.
Scott Hastings	5/28/2024	Konveio	7. Dimensional Standards	Table 7-A: RN Zone Dimensional Standards/Rear setbacks	If anything I would like to see larger rear setbacks (25' or 30') for principle and/or multistory structures in the RN-4 (and maybe RN-3) zone balanced by smaller front set backs (10' default instead of the 20' proposed). This would keep the development focused on the street. It would also continue the traditional street car suburb layout of contiguous back yards which allows for more trees and a sort of shared air space that helps the yards feel bigger, even with more units on the fronts of the lots. I don't have any issues with the accessory structure setback.	Front setbacks have generally been flexible in the code, allowing for averaging based on abutting properties, for quite some time. Large rear setbacks have been maintained, in the interest of pushing buildings to the street and creating space between buildings' rears.
Harris Van Pate, Maine Policy Institute	5/29/24	Email	7. Dimensional Standards	Table 7-A: RN Zone Dimensional Standards/RN-1	The shift in regulation from the current R-1 and R-2 zones to the new RN-1 zone allows low-density residential neighborhoods to take advantage of reduced setbacks and, for ex-R-2 properties, a minimum lot size reduction from 15,000 square feet to the new zone's 10,000 minimum. However, the zone's height, use, and lot size regulations remain unchanged, which will impact development and housing regulation in this zone. Allowing multifamily dwellings might encourage a housing supply shift, but failing to enable innovation in these other categories will reduce the impact of this change.	RN-1 and RN-2 will be combined in the final draft.
Portland Regional Chamber of Commerce	8/2/24	Email	7. Dimensional Standards	Table 7-A: RN Zone Dimensional Standards/RN-1	Should the RN-1 be adopted as currently proposed, we suggest reductions to the minimum lot size. This zone incorporates the existing R-2 zone, and the Land Use Code Evaluation suggested that the R-2 should consider "reductions in minimum lot size to encourage a more efficient pattern of single-family development". While the use restrictions do facilitate new opportunities in this zone for 2–4-unit developments, the minimum lot size remains unchanged from the R-2 to the RN-2, and thus new development opportunities on some of the larger parcels in this zone are needlessly restricted. If the RN-1 is not combined with the RN-2 as suggested, we recommend reducing the minimum lot size in this zone to ensure that no less than 95% of the existing lots in the R-2 come into conformance with the new lot area minimum.	The RN-1 and RN-2 will be merged in the final draft, using the RN-2 dimensional standards.

NAME	DATE	SOURCE	ARTICLE	TOPIC	COMMENT	RESPONSE
Harris Van Pate, Maine Policy Institute	5/29/24	Email	7. Dimensional Standards	Table 7-A: RN Zone Dimensional Standards/RN-2	The new RN-2 zone allows more flexibility than RN-1, but this is largely a result of preexisting zoning rules rather than current reform. Reducing frontage requirements from 25 feet to a five-foot average with adjacent yards is a great reform. Still, without significant change in other categories, this change and the increased allowed property uses will also have a reduced impact.	The concept here is to allow more housing, but to maintain the existing form and scale in residential neighborhoods. This is a way of providing for incremental changes in density. Thus, proposed dimensional standards within the RN-2 (now proposed as the RN-1) are based on the existing standards and lot and building pattern in these areas.
Portland Regional Chamber of Commerce	8/2/24	Email	7. Dimensional Standards	Table 7-A: RN Zone Dimensional Standards/RN-2	Should the RN-2 not be combined with the RN-1 as suggested; we recommend reducing the minimum lot size requirement such that no less than 95% of the existing lots in the R-3 come into conformance. This would acknowledge that the Land Use Code Evaluation found nearly 25% of the existing lots are not conforming to the current standard, concluding that the current minimum lot size is "an issue of need to reorient the zone standards to better acknowledge the existing lot pattern."	RN-1 and RN-2 will be combined in the final draft, and the dimensional standards of the RN-2 will apply for all of these lots.
Harris Van Pate, Maine Policy Institute	5/29/24	Email	7. Dimensional Standards	Table 7-A: RN Zone Dimensional Standards/RN-3	RN-3, similar to RN-2, only reforms regulations on setbacks and property usage, leaving other regulatory factors the same. Like the above categories, this change may have some positive effects. Still, it does not go far enough to remove the regulations that substantially contribute to Portland's housing crisis.	See above. The concept here is to allow more housing, but to maintain the existing form and scale in residential neighborhoods. This is a way of providing for incremental changes in density. Thus, proposed dimensional standards within the RN-3 (now proposed as the RN-2) are based on the existing standards and lot and building pattern in these areas.
Harris Van Pate, Maine Policy Institute	5/29/24	Email	7. Dimensional Standards	Table 7-A: RN Zone Dimensional Standards/RN-4	The draft rules reform RN-4 far more than the above zones, likely because the city is attempting to focus regulatory reform around transit corridors. These reforms would reduce minimum lot sizes from 6,000 square feet to 5,000, as well as lowering setbacks significantly but keeping the maximum height at 35 feet. While most of these changes increase the flexibility of the use of these parcels, the refusal to change the height maximum will mean that multifamily residences will have to get narrower without getting taller, thus reducing the efficiency of this reform.	35' has historically been the maximum height in Portland's off-peninsula residential neighborhoods, and is proposed to remain. Additional height is proposed off-peninsula in the B-1 zone and B-2 zones.
Harris Van Pate, Maine Policy Institute	5/29/24	Email	7. Dimensional Standards	Table 7-A: RN Zone Dimensional Standards/RN-5	RN-5 is one of the zones with the most disappointing changes. The draft rules' reduced setback regulations are a good improvement, and the preexisting restrictions were quite flexible. However, the changes to this zone are almost nonexistent, and the new rules reduce the maximum height for 1-2 unit properties from 45 feet to 35. Additionally, this more permissive zone is not expanded at all in the new map, and many zone borders throughout the city remain unchanged.	The RN-5 (R-6, now proposed as the RN-4)) is the residential zone that has generally been most productive in terms of housing creation. As such, this zone has not been a focus in terms of creating more opportunity for housing.
Portland Regional Chamber of Commerce	8/2/24	Email	7. Dimensional Standards	Table 7-A: RN Zone Dimensional Standards/RN-5	The RN-5 zone is one of the densest residential zones in the city, yet this proposed draft seems to take a step backward on dimensional standards at a time when for our housing, transportation, and sustainability goals, these neighborhoods are the best target for infill housing. Additionally, much of this zone is mapped into historic districts, significantly limiting infill potential. The trade for locking a neighborhood in amber under historic designation must be that the remaining noncontributing lots be allowed to shoulder the burden of housing production for the neighborhood.	The RN-5 (R-6, now proposed as the RN-4)) is the residential zone that has generally been most productive in terms of housing creation. As such, this zone has not been a focus in terms of creating more opportunity for housing.
MEREDA	7/30/0204	Email	7. Dimensional Standards	Table 7-A: RN Zone Dimensional Standards/Setbacks	RN-6 Dimensional standards. Currently, the current minimum setbacks are too restrictive to incentivize multifamily housing. MEREDA recommends that the appropriate restrictions for the property could be determined by the design team on the project within flexible parameters set by the City.	The RN-6 (now proposed as the RN-5) is designed for much larger lots and taller building heights. In the revised draft, side setbacks will be reduced to better match the existing standards of the R-5a.

NAME	DATE	SOURCE	ARTICLE	TOPIC	COMMENT	RESPONSE
Portland Housing Development Corporation	7/19/24	Email	7. Dimensional Standards	Table 7-A: RN Zone Dimensional Standards/Setbacks	Recommendation #6 – Reduce RN-6 Side Setbacks to 10' and Front/Rear Setbacks to 15' Justification for reducing RN-6 setbacks: • To realize RN-6 goals of a residential neighborhood characterized by "multifamily dwellings at relatively high density", all setbacks should be reduced. 25' setbacks in all directions are excessive and will crimp housing production in RN-6 zones over the long-term. • Under current R-5a and R-6a zoning, minimum side setbacks are only 10' and 16', respectively; and minimum front and rear setbacks are 10' and 25', respectively. We encourage lowering RN-6 setbacks to match existing R-5a setbacks of 10'. • Reducing setbacks will help create more flexibility in housing types and increase housing production, in alignment with Portland's Plan 2030.	The RN-6 (now proposed as the RN-5) is designed for much larger lots and taller building heights. In the revised draft, side setbacks will be reduced to better match the existing standards of the R-5a.
David Boneparth	4/8/24	Email	7. Dimensional Standards	Table 7-A: RN Zone Dimensional Standards/Side setbacks	The issue that I saw was the infographic is showing 8ft setback for rn-4 for the updated version which was just posted. I sent the email prior to reading through the doc, which I did last night, and found the details you posted below. Thanks so much for the quick response and clarification. We need as much housing as possible and this is a small, yet needed, step in the right direction. I do believe all setbacks should be removed so we can increase the quantity of housing and the tax base.	Setbacks are a long-standing element of the code. The approach through ReCode is to reduce setbacks where possible to match the current pattern of development.
Emma Morse	5/19/2024	Konveio	7. Dimensional Standards	Table 7-A: RN Zone Dimensional Standards/Side setbacks	Curious why the RN-6 side setback is much higher than the other zones	The RN-6 (now proposed as the RN-5) is designed for much larger lots and taller building heights.
WB	5/27/2024	Konveio	7. Dimensional Standards	Table 7-A: RN Zone Dimensional Standards/Side setbacks	RN-4: This should be 5 feet, regardless of the cumulative side yard distance.	All side setback provisions have been drafted the same way for the sake of consistency.
Cameron Thompson	5/28/2024	Konveio	7. Dimensional Standards	Table 7-A: RN Zone Dimensional Standards/Side setbacks	RN-4: This is now slightly more restrictive than the current setback rules for R-5 small lots: "The width of one side setback may be reduced 1 ft. for every foot that the other side yard is correspondingly increased, but no side yard shall be less than 4 ft. in width." I believe there are many residences in the proposed R-4 zone which would violate the proposed side setback rule. I would propose rules that reflect current situation and represents a more even progression from R-3 to R-6. 6ft except that a setback may be reduced to 3 feet provided that the cumulative side yard is not less than 12 feet	This language will be revised to match the existing code for small lots.
Peter Dydo	7/19/24	Konveio	7. Dimensional Standards	Table 7-A: RN Zone Dimensional Standards/Side setbacks	These set back requirements seem to continue to make row houses illegal. I think there should be an option to allow for no side setbacks to allow for this type of housing.	In Section 7.2, the rule of measurement for side setbacks addresses townhouse situations.

NAME	DATE	SOURCE	ARTICLE	TOPIC	COMMENT	RESPONSE
Tom Landry (Benchmark Real Estate)	7/25/24	Email	7. Dimensional Standards	Table 7-A: RN Zone Dimensional Standards/Side setbacks, lot coverage, etc.	RN5 (formerly R6) is too restrictive! For context, this zone is in the most populated part of the peninsula and was intended to be the area where most of the residential real estate development and housing would be. In the last decade, what can be built in R6 was modified and made more restrictive. Beyond this, the majority of R6 was placed under historic preservation. This eliminated the ability to demolish neglected 1-2-3 families and replace them with larger buildings. It also added a level of complexity, expense, delays and oversight. Those seeking to build in these areas today, even on a vacant lot, must navigate the historic preservation board, which can take up to six months and cost developers tens of thousands of dollars. In fact, the current R6 is so limiting that many of the historic homes we all love could not be constructed today. The proposed RN5 down zones these urban residential areas and needs to be edited. Edits to RN5 (formerly R6): 1. Reduce side setbacks to 10' total with 2' required on one side and 8' on the other. This allows for a buffer on one side and a drive aisle on the other. This is the rhythm/layout of most of the current neighborhoods. 2. Reduce rear setback to 5'. 3. Allow 80% lot coverage that would include the primary structure and outbuildings and eliminate any reference to maximum building lengths. 4. Allow structures to be built to 60'. The current allowed height is 45'. This will allow for four stories and offset efforts underway to adjust/lower how we determine average grade. This also increases the likelihood of occupants in spaces with greater volume and those high ceilings we all love. 5. Allow 10' for roof appurtenances. The current and proposed zoning does not address this and it's a big miss. Past changes eliminated the ability to create activated, livable roofs with amenities like rooftop gardens with elevator and stairwell access.	The RN-5 (R-6, now proposed as the RN-4) is the residential zone that has generally been most productive in terms of housing creation. As such, this zone has not been a focus in terms of creating more opportunity for housing.

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Susan Anspacher	7/27/24	Email	7. Dimensional Standards	Table 7-A: RN Zone Dimensional Standards/Side setbacks, lot coverage, etc.	The proposed RN5 (formerly R6) is too restrictive! For context, this zone is in the most populated part of the peninsula and was intended to be the area where most of the residential real estate development and housing would be. In the last decade, what can be built in R6 was modified and made more restrictive. Beyond this, the majority of R6 was placed under historic preservation. This eliminated the ability to demolish neglected 1-2- 3 families and replace them with larger buildings. It also added a level of complexity, expense, delays, and oversight. Those seeking to build in these areas today, even on a vacant lot, must navigate the historic preservation board, which can take up to six months and cost developers tens of thousands of dollars. In fact, the current R6 is so limiting that many of the historic homes we all love could not be constructed today. The proposed RN5 down zones these urban residential areas and needs to be edited. Edits to RN5 (formerly R6): 1. Reduce side setbacks to 10' total with 2' required on one side and 8' on the other. This allows for a buffer on one side and a drive aisle on the other. This is the rhythm/layout of most of the current neighborhoods. 2. Reduce rear setback to 5'. 3. Allow 80% lot coverage that would include the primary structure and outbuildings and eliminate any reference to maximum building lengths. 4. Allow structures to be built to 60'. The current allowed height is 45'. This will allow for four stories and offset efforts underway to adjust/lower how we determine average grade. This also increases the likelihood of occupants in spaces with greater volume and those high ceilings we all love. 5. Allow 10' for roof appurtenances. The current and proposed zoning does not address this and it's a big miss. Past changes eliminated the ability to create activated, livable roofs with amenities like rooftop gardens with elevator and stairwell access.	The RN-5 (R-6, now proposed as the RN-4) is the residential zone that has generally been most productive in terms of housing creation. As such, this zone has not been a focus in terms of creating more opportunity for housing.

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Jamie Wright (Gorham Bike and Ski)	7/27/24	Email	7. Dimensional Standards	Table 7-A: RN Zone Dimensional Standards/Side setbacks, lot coverage, etc.	The proposed RN5 (formerly R6) is too restrictive! For context, this zone is in the most populated part of the peninsula and was intended to be the area where most of the residential real estate development and housing would be. In the last decade, what can be built in R6 was modified and made more restrictive. Beyond this, the majority of R6 was placed under historic preservation. This eliminated the ability to demolish neglected 1-2- 3 families and replace them with larger buildings. It also added a level of complexity, expense, delays, and oversight. Those seeking to build in these areas today, even on a vacant lot, must navigate the historic preservation board, which can take up to six months and cost developers tens of thousands of dollars. In fact, the current R6 is so limiting that many of the historic homes we all love could not be constructed today. The proposed RN5 down zones in these urban residential areas need to be edited. Edits to RN5 (formerly R6): - Reduce side setbacks to 10' total, with 2' required on one side and 8' on the other. This allows for a buffer on one side and a drive aisle on the other. This is the rhythm/layout of most current neighborhoods. - Reduce rear setback to 5'. - Allow 80% lot coverage, including the primary structure and outbuildings, and eliminate any reference to maximum building lengths. - Allow structures to be built to 60'. The currently allowed height is 45'. This will allow for four stories and offset efforts underway to adjust/lower how we determine an average grade. This also increases the likelihood of occupants in spaces with greater volume and those high ceilings we all love. - Allow 10' for roof appurtenances. The current and proposed zoning does not address this, and it's a big miss. Past changes eliminated the ability to create activated, livable roofs with amenities like rooftop gardens with elevator and stairwell access.	The RN-5 (R-6, now proposed as the RN-4) is the residential zone that has generally been most productive in terms of housing creation. As such, this zone has not been a focus in terms of creating more opportunity for housing.

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Craig Mathieson	7/28/24	Email	7. Dimensional Standards	Table 7-A: RN Zone Dimensional Standards/Side setbacks, lot coverage, etc.	The proposed RN5 (formerly R6) is too restrictive! For context, this zone is in the most populated part of the peninsula and was intended to be the area where most of the residential real estate development and housing would be. In the last decade, what can be built in R6 was modified and made more restrictive. Beyond this, the majority of R6 was placed under historic preservation. This eliminated the ability to demolish neglected 1-2- 3 families and replace them with larger buildings. It also added a level of complexity, expense, delays, and oversight. Those seeking to build in these areas today, even on a vacant lot, must navigate the historic preservation board, which can take up to six months and cost developers tens of thousands of dollars. In fact, the current R6 is so limiting that many of the historic homes we all love could not be constructed today. The proposed RN5 down zones these urban residential areas and needs to be edited. Edits to RN5 (formerly R6): 1. Reduce side setbacks to 10' total with 2' required on one side and 8' on the other. This allows for a buffer on one side and a drive aisle on the other. This is the rhythm/layout of most of the current neighborhoods. 2. Reduce rear setback to 5'. 3. Allow 80% lot coverage that would include the primary structure and outbuildings and eliminate any reference to maximum building lengths. 4. Allow structures to be built to 60'. The current allowed height is 45'. This will allow for four stories and offset efforts underway to adjust/lower how we determine average grade. This also increases the likelihood of occupants in spaces with greater volume and those high ceilings we all love. 5. Allow 10' for roof appurtenances. The current and proposed zoning does not address this and it's a big miss. Past changes eliminated the ability to create activated, livable roofs with amenities like rooftop gardens with elevator and stairwell access.	The RN-5 (R-6, now proposed as the RN-4) is the residential zone that has generally been most productive in terms of housing creation. As such, this zone has not been a focus in terms of creating more opportunity for housing.

NAME	DATE	SOURCE	ARTICLE	TOPIC	COMMENT	RESPONSE
Portland Housing Development Corporation	7/18/24	Email	7. Dimensional Standards	Table 7-A: RN Zone Dimensional Standards/Stepbacks	Recommendation #4 – Eliminate Height Stepbacks for Affordable Projects above 45' in RN-7 to Increase Homes Per Project Justification for eliminating height stepback: • Stepback requirement above 45' in RN-7 will harm the financial feasibility of 4-story or taller affordable buildings by significantly raising the cost of mid-rise multifamily development. The result of this regulation would be fewer affordable homes built in the RN-7 districts. Efficient multifamily construction depends on "stacking" units so floor plans are consistent vertically throughout building, as well as minimizing unnecessary envelope detailing. Typical affordable multifamily construction targets 3-6 story buildings for cost and construction efficiency reasons. This change to height stepbacks would interrupt "stacking" on mid-rise buildings, thereby complicating simple building envelopes and increasing design and construction costs at a time when affordable housing resources are scarce and construction costs are rising rapidly. • PHA's Bayside Anchor (4-stories) and Solterra Apartments (6-stories) were only financially feasible because there were no required stepbacks. • Eliminating stepbacks for affordable projects above 45' will materially increase the quantity of affordable homes that are built in the RN-5 and RN-7 districts, which aligns with Portland's Plan's 2030 housing goals to "Increase, preserve, and modify the overall supply of housing citywide", to "Encourage additional contextually appropriate housing density in and proximate to neighborhood centers", and Future Strategy #3 to "Remove Housing Barriers". These stepbacks, as proposed, conflict with City affordable housing production goals. Alternative recommendation: • If not feasible to eliminate height stepbacks for affordable projects, significantly increase the height at which the stepback standard is triggered in RN-7 and/or create a stepback waiver process for affordable housing projects that can justify hardship.	Stepbacks are designed to apply only in situations where stepbacks are an appropriate means of mitigating height and mass. Stepbacks will be revised in the final draft.
Portland Regional Chamber of Commerce	8/2/24	Email	7. Dimensional Standards	Table 7-A: RN Zone Dimensional Standards/Stepbacks	RN-5: Additionally, we are discouraged to see stepbacks retained in this zone for properties exceeding 35 feet. Diminishing the buildable envelope in this way has negative impacts on the ability to build multifamily projects in this zone. Many of the existing multifamily buildings in this zone accommodate four stories through a mansard roof or other design conditions on the fourth floor. The recessive nature of a mansard roof allows for a nearly full envelope on the fourth floor without creating a negative environment for pedestrians and abutters. Some accommodation should be allowed to permit this type of historic building pattern in the RN-5 zone up to the full 45-foot height limit.	Stepbacks are designed to apply only in situations where stepbacks are an appropriate means of mitigating height and mass. Stepbacks will be revised in the final draft.
Jeff Sherman	5/13/2024	Konveio	7. Dimensional Standards	Table 7-A: RN Zone Dimensional Standards/Street frontage	Street frontage minimums should be eliminated in the RN-7, RN-6, RN-5, and RN-4 zones. In all other zones the street frontage minimums should promote incremental growth and infill development. Consider changing the minimum frontages to 20-25 feet in all other zones (RN-1 - RN-3) to encourage more flag lots.	Street frontages have been reduced where necessary to match existing patterns of development.
Jeff Sherman	5/14/2024	Konveio	7. Dimensional Standards	Table 7-A: RN Zone Dimensional Standards/Street frontage	Additionally, street frontage requirements should be waived if the property owner acquires an easement to access the property.	Street frontages have been reduced where necessary to match existing patterns of development.

NAME	DATE	SOURCE	ARTICLE	TOPIC	COMMENT	RESPONSE
John P. McVeigh	6/10/24	Email	7. Dimensional Standards	Table 7-A: RN Zone Dimensional Standards/Street frontage	The old Rosemont farm was subdivided circa 1900. The lots were give 55ft of road frontage. When Portland adopted zoning, it made frontage to be 60 ft. All the lots in the subdivision thus became nonconforming. This is all of Columbia Rd Makes it impossible to expand the footprint of existing buildings. This will hinder expansion of housing here and elsewhere where historical lots became nonconforming. Please address this if possible.	Street frontages have been reduced within the RN-4 (R-5, now proposed as the RN-3) zone to 40' reflect the existing lot pattern.
Bob Harville	4/24/24	Email	7. Dimensional Standards	Table 7-B: Island Zone Dimensional Standards	My name is Bob Harville. I am a retired Landscape Architect/Land Planner living at 43 Willow St., Peaks Island. I have been following the City's Re-Code process with great interest. Looking at the proposed revisions, I find a lot to like but also areas of concern. My apologies in advance regarding the length of this email. The issues are complex and hit close to home. Positives: Reducing the setbacks and allowing Small Island Lots (3,000s.f. min.) in the IR-2 Zoning District better reflect the Island's historical development pattern. This initiative will also help address housing affordability by creating new opportunities for residential construction.	No response necessary.
PIC	5/18/24	Email	7. Dimensional Standards	Table 7-B: Island Zone Dimensional Standards/Lot coverage	Lot coverage going from 20% to 60% a concern - would 40% be enough?	In the revised draft, 60% will be maintained for small island lots, where the lot size is small. 20%, the pre-LD 2003 standard, will be proposed for standard lots in the IR-1 and 40% will be proposed in the IR-2. Both zones have significant minimum lot sizes of 20,000 SF - 40,000 SF.
Peaks Island Council	8/30/24	Email	7. Dimensional Standards	Table 7-B: Island Zone Dimensional Standards/Lot coverage	40% lot coverage for all Island lots (except IB-1): We strongly oppose the proposed 60% permitted coverage for all lots in IR-1 and IR-2. We recommend 40% for residential lots, which represents a doubling of current coverage, would allow flexibility for improving existing properties as well as building new dwellings, but still be in keeping with the character of existing neighborhoods.	In the revised draft, 60% will be maintained for small island lots, where the lot size is small. 20%, the pre-LD 2003 standard, will be proposed for standard lots in the IR-1 and 40% will be proposed in the IR-2. Both zones have significant minimum lot sizes of 20,000 SF - 40,000 SF.
PIC Housing and Zoning Committee		Email	7. Dimensional Standards	Table 7-B: Island Zone Dimensional Standards/Lot coverage	40% lot coverage for all Island lots except IB-1 (50%): We strongly oppose the proposed 60% permitted coverage for all lots. We recommend 40% for residential lots, which represents a doubling of current coverage, would allow flexibility for improving existing properties as well as building new dwellings, but still be in keeping with the character of existing neighborhoods.	In the revised draft, 60% will be maintained for small island lots, where the lot size is small. 20%, the pre-LD 2003 standard, will be proposed for standard lots in the IR-1 and 40% will be proposed in the IR-2. Both zones have significant minimum lot sizes of 20,000 SF - 40,000 SF.
Peaks Island Council	8/30/24	Email	7. Dimensional Standards	Table 7-B: Island Zone Dimensional Standards/Lot size	Small Island Lot Allowance: 3,000 square feet: we continue to support this number as compatible with many already built island lots in IR-2.	3,000 SF is proposed as the minimum lot size for small lots in the IR-2.

NAME	DATE	SOURCE	ARTICLE	TOPIC	COMMENT	RESPONSE
Tanya Seredin	4/24/24	Email	7. Dimensional Standards	Table 7-B: Island Zone Dimensional Standards/Side setbacks	I have a concern about the proposed 3' side setback in the R2 zone that is proposed in the second wave of the ReCodedraft. While I applaud the reduced setbacks, I feel that the 3' dimension is too close to abutting properties and, based ona brief exploration of property dimensions on the tax map, I don't believe that a larger setback (6' or 8') will adverselyaffect the buildability of the lot. The ReCode draft allows encroachments up to 2' into the setback by chimneys, bay windows, eaves, etc., and this wouldmean that structures would be allowed 1' away from the property line. This means that roof drainage and snow dumpingcould be on the abutter's property. Most Peaks Island lots are 50' wide; very few are narrower. However, even a 40' wide lot would allow a house that's 28'wide with 6' side setbacks, and a 24' wide house at 8' setbacks. My preference would be to require an 8' side setback. This would provide adequate space for roof overhangs, doorways with steps, and drainage, and it would provide enoughspace for maintenance and construction without disturbing the abutting property.	These setbacks were modified in the second wave based on feedback from island residents. They will be further refined in the final draft.
PIC	5/18/24	Email	7. Dimensional Standards	Table 7-B: Island Zone Dimensional Standards/Side setbacks	Concern about 5 ft. side setbacks in IR-2 Small Lot that also allow for encroachment of 2 ft.	These setbacks were modified in the second wave based on feedback from island residents. They will be further refined in the final draft.
PIC	5/18/24	Email	7. Dimensional Standards	Table 7-B: Island Zone Dimensional Standards/Side setbacks	Support for reduced setback to allow additions.	These setbacks were modified in the second wave based on feedback from island residents. They will be further refined in the final draft.
PIC Housing and Zoning Committee	8/2/24	Email	7. Dimensional Standards	Table 7-B: Island Zone Dimensional Standards/Side setbacks	Dimensional standards on Small Island Lots: We recommend 10' for each side (vs 5' in second draft) and 15' rear (vs. 10' in second draft). A primary consideration is ensuring safe access by emergency personnel and vehicles, especially in case of fire.	These setbacks were modified in the second wave based on feedback from island residents. They will be further refined in the final draft.
Peaks Island Council	8/30/24	Email	7. Dimensional Standards	Table 7-B: Island Zone Dimensional Standards/Side setbacks	Dimensional standards on Small Island Lots: We recommend 10' for each side (vs 5' in second draft) and 15' rear (vs. 10' in second draft). A primary consideration is ensuring safe access by emergency personnel and vehicles, especially in case of fire.	These setbacks were modified in the second wave based on feedback from island residents. They will be further refined in the final draft.
Harris Van Pate, Maine Policy Institute	5/29/24	Email	7. Dimensional Standards	Table 7-C: Mixed-Use Zone Dimensional Standards	B-4 is a zone where allowing more variable uses and reducing setbacks are helpful, pro-market reforms. However, while the zone's preexisting 65-foot max height allows for flexible development, the same can not be said for the 10,000-square-foot lot minimum and 60-foot street frontage minimum. As stated earlier, altering one or two factors in a zone without a change in a variety of regulations will significantly chill the effects of zoning reform.	ReCode proposed to change use permissions and dimensional standards within the B-4 zone to more closely resemble the rest of the City's mixed-use zones and be more urban in character. Together, these changes open up significant opportunities for development in these areas.
Jeff Sherman	5/14/2024	Konveio	7. Dimensional Standards	Table 7-C: Mixed-use Zone Dimensional Standards/Gross floor area	Maximum gross floor area should be eliminated	This standard exists in the code to encourage small scall commercial, in keeping with this zone's purpose statement. It has been effective in encouraging small, local businesses within the B-1 zone.

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Markos Miller	6/23/24	Email	7. Dimensional Standards	Table 7-C: Mixed-Use Zone Dimensional Standards/Height	Thanks for all your work on ReCode. This is important work and it is moving things in the right direction- denser, more diverse development, reducing accommodations for automobiles. I want to follow up on the conversation I had with Kevin at the Recode studio about zoning along the arterial corridors; I had asked why these were designated as B2b zones, not TOD zones. Kevin explained that the proposed zoning would meet or exceed the TOD allowances when affordable housing bonuses were considered. That made some sense at the time, and got me thinking a little more. I see some potential problems here. 1. I'm concerned that this makes desired density along transit corridors dependent on affordable housing. We need affordable housing and transit-supportive density, but we should not be making one dependent on the other. We need dense housing for all income levels to make transit work; and to support neighborhood businesses needed for a walkable neighborhood (rezoning for mixed use alone is not enough- we need enough households to support a neighborhood business district). This level of build-out should not be dependent on affordable housing.	The permitted height within the B-2 and B-2b zones is proposed to increase under ReCode, with additional revisions in the final draft in this area. Existing density standards are also proposed to be eliminated. These dimensional changes are designed to open up new opportunities for both affordable and market rate housing in these zones and obviate the need for affordable housing bonuses. Additional TOD zones will be proposed in the final draft zoning map.
Tim L	6/23/24	Konveio	7. Dimensional Standards	Table 7-C: Mixed-Use Zone Dimensional Standards/Height	The height allowance should only be restricted to 50' if abutting RN1 or RN2 Zones.	In the final draft, height allowances in areas proximate to residential zones will be revised.
Markos Miller	6/23/24	Email	7. Dimensional Standards	Table 7-C: Mixed-Use Zone Dimensional Standards/Height	I recently met with some members of the affordable housing community to discuss housing on Franklin Street. One thing they shared is that they are almost never building anything more than 6 stories due to the costs of concrete and steel. I believe Kevin said the B2b zones along the transit corridors allowed 6 story heights, and then 2 more with an affordable housing bonus. If that is the case, under current market conditions, affordable housing developers are not going to be building the 8 story buildings that we are proposing to offer them as a bonus. That seems to render much of the affordable housing bonus meaningless for some time to come; those 6+2 story buildings will not be built.	The affordable housing height bonuses will be eliminated in the final draft, as these bonuses were developed as a means of addressing existing, more limited height standards. As height allowances increase, bonuses should become less necessary.
Cheryl Leeman	7/17/24	Note	7. Dimensional Standards	Table 7-C: Mixed-Use Zone Dimensional Standards/Height	B2B increase in height from 45 ft to 65 ft (locations additional bonuses to increase height and no set backs)	No response necessary.
Tom Landry (Benchmark Real Estate)	7/25/24	Email	7. Dimensional Standards	Table 7-C: Mixed-Use Zone Dimensional Standards/Height	More height and density should be allowed along all major corridors and neighborhood centers. The current ReCode proposal calls for skyscrapers downtown. This is great but doesn't go far enough. And, only a few will ever be built. I suggest converting all current business B1-B4 zones to a new B5B zone. This would allow all B5 uses but provide a boost in height to 80' with 10' of allowable appurtenance. These activated roofs are perfect for residential use, solar panels, and more. This new zone simplifies an overly complex patchwork of business zones and allows for more height in existing commercial areas. Even in the proposed ReCode, sections of streets, very similar in nature, have a piecemeal of allowable uses. For example, inner Washington Ave between Congress and I-295 has four different B zones and a sliver of residential. This should all be B5B with an additional height bonus. My proposal incentivizes development in existing urban and busy locations and relives the demand to develop in residential zones.	The ReCode draft includes additional height within existing mixed-use zones. In addition, more TOD zones will be proposed in the final draft zoning map where appropriate.

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					The purpose of this written testimony is to examine the impact of Portland Recode recommendations on ROS zones. Phase II of Recode does not address the impact of increased zone height recommendations on Portland's signature parks, which were designed to showcase and protect the quintessential scenic vistas that define landscape of the city. Portland 2030 identifies Parks and Open Space as a one eight key policy guidelines. What follows is a case study analysis of a designated section of the Eastern Promenade Park, which will be significantly impacted by proposed zoning changes on Washington Avenue. [...] Summary of Analysis: This analysis is organized as follows: • Overview of current zoning around Eastern Promenade-Washington Avenue • Historical Significance of the Eastern Promenade Park • Analysis of Recreation & Open Space Policy Guidelines • Case Study of Impact of Recode Zone Change on Eastern Promenade-Washington Avenue Section of Eastern Promenade Park-including shadow analysis and view corridor analysis • Recommendation for a proposed Eastern Promenade-Washington Avenue Height Overlay • Petition in progress in support of a proposed Eastern Promenade-Washington Avenue Height Overlay Zoning changes proposed as part of Portland Recode will negatively impact the western end of the Eastern Promenade Park (Recreation & Open Space Zone ROS), which includes the southwestern facing slope between North Street and Washington Avenue. The proposed zoning changes in Recode will increase height and density guidelines for those lots abutting and adjacent to this section of the Eastern Promenade. Specifically, the 9 lots directly across Washington Avenue, which are currently zoned Bl-b (45 foot height limit) will be rezoned to B2-b (65 foot height limit); and the lot that abuts the end of the park next to the Mt. Joy Orchard will be rezoned from Bl (45 foot height limit) to B2-b (65 foot height limit). Note that these height limits do not take into account Workforce Housing height bonuses, which will allow building heights of 75 feet with 25% workforce housing (WFH) and 90 feet with 75% or more workforce housing (WFH). These zoning changes will not only obstruct the expansive views from the park, but they will also negatively impact the experience of the park and the physical landscape. Phase II of Portland ReCode does not address the impact it will have on properties throughout the city zoned ROS. Recreation & Open Space Policy Analysis Increased housing density goals of Recode make Recreation & Open Space zones (ROS) all the more important, given that most of the new housing units will be multifamily without private yard space. The purpose of the Recreation & Open Space zone is: "To preserve and protect open space as a limited invaluable resource; to permit the reasonable use of open space, while simultaneously preserving and protecting its inherent open space characteristics to assure its continued availability for public use as a scenic, recreation, and conservation or natural resource area .... and to develop an open space system throughout the city, which provides the highest quality parks, plazas, and pedestrian environment." (Portland Land Use Code Table 5-G: Open Space Zone Purpose Statement). The parks and open spaces protected in the ROS zone serve as public backyards where residents and visitors have access to greenspace, sunlight,	

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Susan Anspacher	7/27/24	Email	7. Dimensional Standards	Table 7-C: Mixed-Use Zone Dimensional Standards/Height	More height and density should be allowed along all major corridors and neighborhood centers. The current ReCode proposal calls for skyscrapers downtown. This is great but doesn't go far enough. And, only a few will ever be built. I suggest converting all current business B1-B4 zones to a new B5B zone. This would allow all B5 uses but provide a boost in height to 80' with 10' of allowable appurtenance. These activated roofs are perfect for residential use, solar panels, and more. This new zone simplifies an overly complex patchwork of business zones and allows for more height in existing commercial areas. Even in the proposed ReCode, sections of streets, very similar in nature, have a piecemeal of allowable uses. For example, inner Washington Ave between Congress and I-295 has four different B zones and a sliver of residential. This should all be B5B with an additional height bonus. My proposal incentivizes development in existing urban and busy locations and relieves the demand to develop in residential zones.	The ReCode draft includes additional height within existing mixed-use zones. In addition, more TOD zones will be proposed in the final draft zoning map where appropriate.
Jamie Wright (Gorham Bike and Ski)	7/27/24	Email	7. Dimensional Standards	Table 7-C: Mixed-Use Zone Dimensional Standards/Height	More height and density should be allowed along all major corridors and neighborhood centers. The current ReCode proposal calls for skyscrapers downtown. This is great but doesn't go far enough. And only a few will ever be built. I suggest converting all current business B1-B4 zones to a new B5B zone. This would allow all B5 uses but provide a boost in height to 80' with 10' of allowable appurtenance. These activated roofs are perfect for residential use, solar panels, and more. This new zone simplifies an overly complex patchwork of business zones and allows for more height in existing commercial areas. Even in the proposed ReCode, sections of streets, very similar in nature, have a piecemeal of allowable uses. For example, inner Washington Ave between Congress and I-295 has four different B zones and a sliver of residential. This should all be B5B with an additional height bonus. My proposal incentivizes development in existing urban and busy locations and relieves the demand to develop in residential zones.	The ReCode draft includes additional height within existing mixed-use zones. In addition, more TOD zones will be proposed in the final draft zoning map where appropriate.
Craig Mathieson	7/28/24	Email	7. Dimensional Standards	Table 7-C: Mixed-Use Zone Dimensional Standards/Height	More height and density should be allowed along all major corridors and neighborhood centers. The current ReCode proposal calls for skyscrapers downtown. This is great but doesn't go far enough. And, only a few will ever be built. I suggest converting all current business B1-B4 zones to a new B5B zone. This would allow all B5 uses but provide a boost in height to 80' with 10' of allowable appurtenance. These activated roofs are perfect for residential use, solar panels, and more. This new zone simplifies an overly complex patchwork of business zones and allows for more height in existing commercial areas. Even in the proposed ReCode, sections of streets, very similar in nature, have a piecemeal of allowable uses. For example, inner Washington Ave between Congress and I-295 has four different B zones and a sliver of residential. This should all be B5B with an additional height bonus. My proposal incentivizes development in existing urban and busy locations and relieves the demand to develop in residential zones.	The ReCode draft includes additional height within existing mixed-use zones. In addition, more TOD zones will be proposed in the final draft zoning map where appropriate.

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					The purpose of this written testimony is to consider the proposed height, density, and area standards in Re-Code, in combination with housing height bonuses, and the likely and potential impacts on existing streetscapes and neighborhoods in Portland. The unintended consequences of ReCode's proposed zoning limits when combined with housing height bonuses will break the desirable urban design characteristics for which Portland is justifiably admired—a walkable, livable, human-scaled city. Reasonable limits should be applied to encourage growth but not lopsided development out-of-scale with humans, and out-of-scale with existing contexts. Numerical abstractions, divorced from the reality of existing streetscapes and neighborhoods, are misleading. Planning staff should look objectively at what actually exists, what is presently desirable, and what would be boldly compatible in the future. A basic predicate of this analysis is that there are objective differences between buildings that top out at 45' vs. 65' vs. 95', and it is the job of planning staff to understand these differences and interpret them appropriately in advocating for changes to zoning via ReCode. [...] Much of the language of our guiding 2030 Comprehensive Plan, our Land Use Plan, and Technical Guides resonate admirably with New Urbanism. To summarize briefly, Portland's Plan 2030 calls for future land use around five key principles: • spreading the benefits and challenges of sustainable growth fairly across the community; • improving livability while retaining the key characteristics that make neighborhoods unique; • recognizing that downtown Portland remains a predominant locus of arts and culture, economic, and civic health; • connecting and strengthening our open space and transportation networks; • identifying the waterfront as a resource central to the identity, economy, ecology, and recreational life of Portland. The plan states "this does not imply freezing neighborhoods as they are, but allowing change that is compatible with current development patterns." The idea behind building upon what is already right about Portland's current patterns continues in the plan with this important statement: "Thoughtful and good quality design is achieved through attention to quality of space and placemaking, the relationship of buildings to the streets and built context, durability and integrity of materials, and a pleasing and timeless quality of architecture - these must be held to the highest possible standards. Practicing and incentivizing contextual principles of urban design are central to the health and well-being of the City of Portland." I want now to focus carefully on the idea of "thoughtful and good quality design" with respect to the "the relationship of buildings to the streets and built context." [...] Not only does our comprehensive Portland's Plan 2030 make much of the notion of how buildings shape streets, and that this is important, but so too does Portland's code, our code of legal, if not spiritual, agreements.	

NAME	DATE	SOURCE	ARTICLE	TOPIC	COMMENT	RESPONSE
Herb Adams	7/29/24	Email	7. Dimensional Standards	Table 7-C: Mixed-Use Zone Dimensional Standards/Height	As one who has written extensively about Portland City Parks and worked to expand them (e.g. Noyes Park and Thomas Park, etc.) I think the concerns about loosening height restrictions in the proposed city Recode, especially in re: The Eastern Prom , are very valid concerns. Density of housing can be achieved without diminishing quality of life. The open vistas from our Proms, or Ft. Sumner Park, belong to us all, and enhance our city's liveability and unique quality beyond price.. These views do not cost Portland a cent. Nature gave Portland a priceless gift. We could never replace or improve it. It is beyond what mankind can do. Taller buildings alone, claiming the views, do not mean better buildings, or better quality of Portland life. They benefit only those who can afford to live there. Such views should not belong only to those who can afford them. Portland's views and skyline should never be for sale.	The ReCode draft includes additional height within existing mixed-use zones to support the opportunity for more housing and jobs along walkable corridors served by transit. View corridors are protected where they have been identified under Article 13. In addition, stepbacks have been revised to apply in contexts adjacent to zones with lesser height maximums.
Elizabeth Owens	7/29/24	Email	7. Dimensional Standards	Table 7-C: Mixed-Use Zone Dimensional Standards/Height	Phase II of ReCode does not address the impact of increased zone height recommendations on Portland's signature parks, which were designed to showcase and protect the quintessential scenic vistas that define landscape of the city. Portland 2030 identifies Parks and Open Space as a one eight key policy guidelines. As the city works to increase density and create more multifamily housing on the peninsula, it is more important than ever to provide breathing space and a shared backyard for the public. As such, it is essential that policies designed to address the housing crisis must simultaneously preserve, protect, and expand our signature parks, notably the Eastern Promenade. Zoning changes proposed as part of Portland ReCode will negatively impact the western end of the Eastern Promenade Park, which include the southwestern facing slope between North Street and Washington Avenue. This section of the park offers expansive views of the city skyline, Back Cove, and Mt. Washington, similar to the views protected by the Fort Sumner Park Height Overlay. It is also home to the North Street Community Gardens, the East End School Community Garden and Outdoor classroom, the Mt. Joy Orchard, and Jack Path. The proposed zoning changes in ReCode will increase height and density guidelines for those lots abutting and adjacent to this section of the Eastern Promenade. Specifically, the 9 lots directly across Washington Avenue, which are currently zoned B1-b (45 foot height limit) will be rezoned to B2-b (65 foot height limit); and the lot that abuts the end of the park next to the Mt. Joy Orchard will be rezoned from B1 (45 foot height limit) to B2-b (65 foot height limit). These zoning changes will not only obstruct the expansive views from the park, but they will also negatively impact the experience of the park and the physical landscape.	The ReCode draft includes additional height within existing mixed-use zones to support the opportunity for more housing and jobs along walkable corridors served by transit. View corridors are protected where they have been identified under Article 13. In addition, stepbacks have been revised to apply in contexts adjacent to zones with lesser height maximums.

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Jean McManamy	7/30/24	Email	7. Dimensional Standards	Table 7-C: Mixed-Use Zone Dimensional Standards/Height	Restore trust in planning process by honestly stating true height limits and parking impacts and avoiding spot zoning Public sees clearly that 45 foot limit is a red herring and heights up to 70 feet can be bought with in-lieu of payments and use of elevator shafts to provide access to rooftop living spaces. Eliminate this option with firm 45 height limit in B2 adjacent to residential zones.	The affordable housing height bonuses will be eliminated in the final draft, as these bonuses were developed as a means of addressing existing, more limited height standards. As height allowances increase, bonuses should become less necessary.
Jeff Sherman	5/13/2024	Konveio	7. Dimensional Standards	Table 7-C: Mixed-use Zone Dimensional Standards/Lot area	There should be no minimum lot size in the B-4 zone.	This minimum reflects the existing lot pattern in the B-4 zone, and the desire to maintain some large lot, mixed-use zoning to ensure that uses requiring larger lot areas can be sited within the city.
Liv Chase	5/20/24	Email	7. Dimensional Standards	Table 7-C: Mixed-Use Zone Dimensional Standards/Stepbacks	Does the height stepback for building heights over 45' apply to lots abutting a residential zone? OR any zone? OR does it apply in general to the lot lines of the parcel? My understanding is that under the current code, the stepback just applies to abutting a residential zone and this stepback is lessor (5' side, 15' rear)	This language will be clarified, as the draft includes two overlapping schemes for managing height in the transition from a residential zone.
Liv Chase	5/21/24	Email	7. Dimensional Standards	Table 7-C: Mixed-Use Zone Dimensional Standards/Stepbacks	Why does it then say if above 45’ there is a step back? Is this pertaining to a step back if not abutting a residential zone? If you could further clarify then that would be helpful.	This language will be clarified, as the draft includes two overlapping schemes for managing height in the transition from a residential zone.
Tim	7/22/24	Konveio	7. Dimensional Standards	Table 7-C: Mixed-Use Zone Dimensional Standards/Stepbacks	Height stepbacks should be eliminated or start at 55' not 45'. The rear setback of 25' is excessive. It should be reduced from 25' to 10'. Stepbacks can add significant cost to construction.	Stepbacks will be revised in the final draft.
Todd Morse	8/2/24	Konveio	7. Dimensional Standards	Table 7-D: TOD Zone Dimensional Standards	I like the idea of buildings up against the street but a lot of this is overly complicated and specific. We should be limiting parking in front of buildings so we have green space and buildings up against the street with parking behind, inside, or underneath, but I worry that in practice this will make it tough to build a building that fits; especially if the lot is oddly shaped. We need to be more flexible.	The build-to percentage and building length as a percentage of street frontage requirements are designed to require a relatively continuous building wall along the street frontage where a walkable, urban form is the goal, but also to allow some flexibility for sites that may need it. Design review and site plan review will also come into play in the case of any new development.
Todd Morse	8/2/24	Konveio	7. Dimensional Standards	Table 7-D: TOD Zone Dimensional Standards/Building length	This building length limit really hamstrings this promising new zone. The TOD zone is supposed to allow for genuine density near transit and this may make it challenging to build apartment buildings with multiple staircases and an elevator. There are rules elsewhere in the code to ensure buildings stay below 300 ft for pedestrian permeability and that seems like plenty without adding this additional standard.	Maximum building length will be eliminated as a dimensional standard in the final draft.
Jeff Sherman	5/8/2024	Konveio	7. Dimensional Standards	Table 7-D: TOD Zone Dimensional Standards/Height	Minimum 35 feet should be added to TOD1	This change will be made in the revised draft.
Markos Miller	6/23/24	Konveio	7. Dimensional Standards	Table 7-D: TOD Zone Dimensional Standards/Height	How many floors does 85' allow? Is this really only a gain of 1 flr more than the 65' limit of B2b?	Heights assume a 15' first floor + 12' subsequent floors for mixed use zones. Heights will be revised in final drafts.
Markos Miller	6/23/24	Email	7. DImensional Standards	Table 7-D: TOD Zone Dimensional Standards/Height	2. The TOD-1 height limit of 80' at least offers a guaranteed max of 7 floors of development, over the 65' (6 floors?) of B2-b. Are these heights being set based on development targets or geometries and scale of development along these lots	Heights assume a 15' first floor + 12' subsequent floors for mixed use zones, based on best practice. Heights will be revised in final drafts.

NAME	DATE	SOURCE	ARTICLE	TOPIC	COMMENT	RESPONSE
Peggy Shaffer	8/27/24	Email	7. Dimensional Standards	Table 7-E: Mixed-Use Zone Dimensional Standards	Proposed Amendment: Side Setback B-1/B-1b Principal: None, except 5 ft. if abuting residential zone. Except as provided under the Eastern Promenade-Washington Avenue Park Height Overlay (Table 7. E. Mixed Use Dimensional Standards)	The final draft map will continue to show B-2b along Washington Avenue, with some expansion of this zone. This zoning designation reflects the corridor's urban location and addresses the goals of *Portland's Plan,* which supports density and walkability where there is transportation and other types of infrastructure that can support it. In the final draft text, dimensional standards will be modified in the B-2/B-2b to address adjacencies to open space zones.
Peggy Shaffer	8/27/24	Email	7. Dimensional Standards	Table 7-E: Mixed-Use Zone Dimensional Standards	Proposed Amendment: Structure Height (max) B-1/B-1b On-Peninsula: 45 ft. except 50 ft. along Congress Street commercial first floor and residential above. Except as provided under the Eastern Promenade-Washington Avenue Park Height Overlay (Section 7.E. Mixed Use Zone Dimensional Standards)	The final draft map will continue to show B-2b along Washington Avenue, with some expansion of this zone. This zoning designation reflects the corridor's urban location and addresses the goals of *Portland's Plan,* which supports density and walkability where there is transportation and other types of infrastructure that can support it. In the final draft text, dimensional standards will be modified in the B-2/B-2b to address adjacencies to open space zones.
Beverly Bookin	8/28/24	Email	7. Dimensional Standards	Table 7-E: Mixed-Use Zone Dimensional Standards	With regard to maximum height in the B-2/B-2b zones (current Table 7-E/proposed Table 7-C), it states: "65 ft [...] except 50 ft. of any portion of a structure within 25 ft. of the RN-1, RN-2, RN-3 or RN-4 zone." Discussion - The obvious question is why this setback standard, designed to ameliorate the impact of the height/bulk of new buildings in the B-2/B-2b zone upon immediately-adjacent residential neighborhoods applies only to in the current R-1 through R-5 zones, but conspicuously leaves out R-6 (the proposed RN-5)? --This is a matter of consequence as on the east side of the Washington Avenue Corridor, all of the existing and proposed B-2 parcels abut the western edge of the Munjoy Heights Neighborhood that was rezoned to R-6 as part of the 2016 Munjoy HIll Neighborhood Overlay. The current maximum density in the R-6 zone is 60 DUs/Net Acre. Munjoy Heights Condominums is build out at 20 DUs/NA. By removing the maximum density requirement as part of ReCode, the Redfern project is proposing 213 DUs/NA, more three times the R-6 density. Doesn't this disparity warrant a mitigating height standard within 25' of the property line? -- It is noteworthy that in its application, Redfern's concept plan shows a four-story module on the southern end of project adjacent to the shared property line with the Munjoy Heights development (see attached drawing). I know that the concept plan is illustrative not legally-binding. Nevertheless, at the mandatroy neighborhood meeting in early July, Redfern's representative, Jonathan Culley, noted that this design reflects the proposals for the B-2 zones in the Second Wave recommendations. In fact, that apparently is not the case. What is the rationale for not including abutting R-6/RN-5 properties for this height setback provision?	The final draft map will continue to show B-2b along Washington Avenue, with some expansion of this zone. This zoning designation reflects the corridor's urban location and addresses the goals of *Portland's Plan,* which supports density and walkability where there is transportation and other types of infrastructure that can support it. In the final draft text, dimensional standards will be modified in the B-2/B-2b to address adjacencies to open space zones.

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Ruth Freeman	9/10/24	Email	7. Dimensional Standards	Table 7-E: Mixed-Use Zone Dimensional Standards	I'm writing to urge you to reject the proposal to increase building heights to 75 ft. along Washington Avenue. I have lived on Munjoy Hill for ten years and walk in the park almost every day. Just as it is for many residents, it is my beautiful back yard and, whatever the weather, I am in awe of the views in almost every direction. Please support the Eastern Promenade—Washington Avenue Height Overlay and include it in the final version of the ReCode Portland text and map amendments forwarded to City Council. Portland is one of the most livable and beautiful cities in the U.S. Please work to keep it that way now and for the future.	The ReCode draft includes additional height within existing mixed-use zones to support the opportunity for more housing and jobs along walkable corridors served by transit. In addition, stepbacks have been revised to apply in contexts adjacent to zones with lesser height maximums.
Sandy Johnson	9/10/24	Email	7. Dimensional Standards	Table 7-E: Mixed-Use Zone Dimensional Standards	I cannot imagine buildings 75 feet tall in that section of Portland-especially with limited parking. Completely inappropriate and counter productive in terms of both scale and utility. There are parts of Portland where that would be workable. Please consider the long term effects and protect the views and park.	The ReCode draft includes additional height within existing mixed-use zones to support the opportunity for more housing and jobs along walkable corridors served by transit. In addition, stepbacks have been revised to apply in contexts adjacent to zones with lesser height maximums.
Jean McManamy	7/30/24	Email	8. Overlay Zones	8.1 CFROZ	On a separate topic, choose retreat rather than elevated building structures for floodzones. The roadways will be impassable at high water making even elevated buildings inaccessible, to say nothing of creating huge cleanup issues from for example parked vehicles under flooded buildings, and elevated buildings are a nonsensical option.	ReCode includes several changes designed to address heat island effect, informed by our climate resilience zoning effort. These include landscaping standards that prioritize shade over other landscaping benefits, new non-vehicular hardscape solar reflective index standards, and cool roof standards (in 13.6.4(A)).
Jeff Sherman	5/10/2024	Konveio	8. Overlay Zones	8.3.6(G)2 Parking requirements	This should be changed from "the amount of parking required" to "the maximum amount of parking allowed."	The parking study requirement, when paired with a TDM requirement, has generally been a successful, flexible appproach to parking standards for these types of large institutions.
Jeff Sherman	5/10/2024	Konveio	8. Overlay Zones	8.3.7(D)6 Publicly accessible corridors	Publicly accessible corridors should also include bicycle infrastructure.	This change will be reflected in the final draft.
Jeff Sherman	5/3/2024	Konveio	8. Overlay Zones	8.5.2(12) Use restrictions	This should say: Other uses may be allowed, provided the applicant can demonstrate to the Building Authority that the proposed use is substantially similar to a use listed above OR will generate pedestrian interest and activity	This change would have no significant impact on the application of this standard.
mako bates	8/2/24	Konveio	8. Overlay Zones	8.6 University of Southern Maine Overlay	Does this really need to be different from the Institutional Overlay Zones?	USM is operating under an overlay that existed prior to the creation of the IOZ framework.
Jeff Sherman	5/10/2024	Konveio	8. Overlay Zones	8.6.5(E) Dimensional requirements	This should be changed to 60% to reflect the changes to the residential zones.	This is a dimensional standard for USM, which represents a different use and dimensional context than a residential zone.
Jeff Sherman	5/10/2024	Konveio	8. Overlay Zones	8.6.6 Parking requirements	This should be changed from "the amount of parking required" to "the maximum amount of parking allowed."	The parking study requirement, when paired with a TDM requirement, has generally been a successful, flexible appproach to parking standards for these types of large institutions.
Jeff Sherman	5/10/2024	Konveio	8. Overlay Zones	8.7.8 Parking requirements	This should be changed from "the amount of parking required" to "the maximum amount of parking allowed."	The parking study requirement, when paired with a TDM requirement, has generally been a successful, flexible appproach to parking standards for these types of large institutions.

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Jeff Sherman	5/10/2024	Konveio	8. Overlay Zones	8.7.8(C)Parking requirements	This requirement should be eliminated. On-street parking should be permitted if it reduces the overall number of parking needed.	This provision, much like similar provisions for other institutions, is intended to help mitigate the impacts of large institutions on the on-street supply, particulary in areas that are heavily residential.
Tom Landry (Benchmark Real Estate)	7/25/24	Email	8. Overlay zones		Establish Prosperity Overlays along specific sections of our most traveled corridors and neighborhood nodes/centers where infrastructure and public transportation exist. The city wants to create complete neighborhoods where residents can walk to all they need for daily life. For centuries this is how we lived, before the automobile and subsequent suburban sprawl. Numerous public policy research studies shows that complete neighborhoods are good for local businesses, public health, and the environment. We need to get back to the walkable, bikeable neighborhood centers our city enjoyed 100 years ago. And we can if we establish prosperity overlays. While ReCode does include some, these areas need to be expanded, the allowable heights increased, density improved, and the process for permitting streamlined. I would refer to these areas as B5BPO with all the allowable uses of the B5B above and additional bonuses of 100' with 10' overrides on roofs. Streets to include: • Forest Ave – from Congress to Warren Ave • Washington Ave – from Congress to Veranda • Washington Ave / Auburn St from Gertrude Ave to Lyseth Moore Dr • Allen Ave from Forest Ave to Northport Dr • Congress St – from Munjoy Street to the city limits • Veranda St – from Baxter Boulevard to the city limits • Presumpscot St – in its entirety • Areas / Neighborhood Centers / Nodes • ILB Zones – on the peninsula (a large portion of East Bayside) • Approximately 400' along any major road off the following intersections: Woodfords Corner, Morrill's Corner, Bradley's Corner, Lunt's Corner, Brighton Corner and Nason's Corner Note – many of these areas are historic districts, giving them additional protections. So, existing buildings in these historic areas would be protected, like most of Congress Street.	In addition to changes in the mixed-use zoning, the final draft zoning map will include additional TOD zones in many of these areas.

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Susan Anspacher	7/27/24	Email	8. Overlay Zones		Establish Prosperity Overlays along specific sections of our most traveled corridors and neighborhood nodes/centers where infrastructure and public transportation exist. The city wants to create complete neighborhoods where residents can walk to all they need for daily life. For centuries this is how we lived, before the automobile and subsequent suburban sprawl. Numerous public policy research studies show that complete neighborhoods are good for local businesses, public health, and the environment. We need to get back to the walkable, bikeable neighborhood centers our city enjoyed 100 years ago. And we can if we establish prosperity overlays. While ReCode does include some, these areas need to be expanded, the allowable heights increased, density improved, and the process for permitting streamlined. I would refer to these areas as B5BPO with all the allowable uses of the B5B above and additional bonuses of 100' with 10' overrides on roofs. Streets to include: - Forest Ave – from Congress to Warren Ave - Washington Ave – from Congress to Veranda - Washington Ave / Auburn St from Gertrude Ave to Lyseth Moore Dr - Allen Ave from Forest Ave to Northport Dr - Congress St – from Munjoy Street to the city limits - Veranda St – from Baxter Boulevard to the city limits - Presumpscot St – in its entirety - Areas / Neighborhood Centers / Nodes - LB Zones – on the peninsula (a large portion of East Bayside) - Approximately 400' along any major road off the following intersections: Woodfords Corner, Morrill's Corner, Bradley's Corner, Lunt's Corner, Brighton Corner, and Nason's Corner Note – many of these areas are historic districts, giving them additional protections. So, existing buildings in these historic areas would be protected, like most of Congress Street.	In addition to changes in the mixed-use zoning, the final draft zoning map will include additional TOD zones in many of these areas.
Jamie Wright (Gorham Bike and Ski)	7/27/24	Email	8. Overlay Zones		Establish Prosperity Overlays along specific sections of our most traveled corridors and neighborhood nodes/centers where infrastructure and public transportation exist. The city wants to create complete neighborhoods where residents can walk to all they need for daily life. For centuries this is how we lived, before the automobile and subsequent suburban sprawl. Numerous public policy research studies show that complete neighborhoods are good for local businesses, public health, and the environment. We need to get back to the walkable, bikeable neighborhood centers our city enjoyed 100 years ago. And we can if we establish prosperity overlays. While ReCode does include some, these areas need to be expanded, the allowable heights increased, density improved, and the process for permitting streamlined. I would refer to these areas as B5BPO with all the allowable uses of the B5B above and additional bonuses of 100' with 10' overrides on roofs. Streets to include: - Forest Ave – from Congress to Warren Ave - Washington Ave – from Congress to Veranda - Washington Ave / Auburn St from Gertrude Ave to Lyseth Moore Dr - Allen Ave from Forest Ave to Northport Dr - Congress St – from Munjoy Street to the city limits - Veranda St – from Baxter Boulevard to the city limits - Presumpscot St – in its entirety - Areas / Neighborhood Centers / Nodes - LB Zones – on the peninsula (a large portion of East Bayside) - Approximately 400' along any major road off the following intersections: Woodfords Corner, Morrill's Corner, Bradley's Corner, Lunt's Corner, Brighton Corner, and Nason's Corner Note – many of these areas are historic districts, giving them additional protections. So, existing buildings in these historic areas would be protected, like most of Congress Street.	In addition to changes in the mixed-use zoning, the final draft zoning map will include additional TOD zones in many of these areas.

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Craig Mathieson	7/28/24	Email	8. Overlay Zones		Establish Prosperity Overlays along specific sections of our most traveled corridors and neighborhood nodes/centers where infrastructure and public transportation exist. The city wants to create complete neighborhoods where residents can walk to all they need for daily life. For centuries this is how we lived, before the automobile and subsequent suburban sprawl. Numerous public policy research studies show that complete neighborhoods are good for local businesses, public health, and the environment. We need to get back to the walkable, bikeable neighborhood centers our city enjoyed 100 years ago. And we can if we establish prosperity overlays. While ReCode does include some, these areas need to be expanded, the allowable heights increased, density improved, and the process for permitting streamlined. I would refer to these areas as B5BPO with all the allowable uses of the B5B above and additional bonuses of 100' with 10' overrides on roofs. Streets to include: - Forest Ave – from Congress to Warren Ave - Washington Ave – from Congress to Veranda - Washington Ave / Auburn St from Gertrude Ave to Lyseth Moore Dr - Allen Ave from Forest Ave to Northport Dr - Congress St – from Munjoy Street to the city limits - Veranda St – from Baxter Boulevard to the city limits - Presumpscot St – in its entirety - Areas / Neighborhood Centers / Nodes - LB Zones – on the peninsula (a large portion of East Bayside) - Approximately 400' along any major road off the following intersections: Woodfords Corner, Morrill's Corner, Bradley's Corner, Lunt's Corner, Brighton Corner, and Nason's Corner Note – many of these areas are historic districts, giving them additional protections. So, existing buildings in these historic areas would be protected, like most of Congress Street.	In addition to changes in the mixed-use zoning, the final draft zoning map will include additional TOD zones in many of these areas.

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Peggy Shaffer	8/27/24	Email	8. Overlay Zones		Amend Section 8 by adding 8.11 - B-1/B-1b Height Overlay Ordinance Amendment (Eastern Promenade-Washington Avenue Park) 8.11.1 Applicability Eastern Promenade-Washington Avenue Park Overlay: This overlay is established to protect the public interest by limiting the impact of development on the quintessential views of natural resources and the changing Portland skyline from the Eastern Promenade-Washington Avenue section of the Eastern Promenade Park. There is established a key apex point in the Eastern Promenade-Washington Avenue section of the Eastern Promenade Park at 43°40'12.85"N 70° 15'13.72"W. The Eastern Promenade-Washington Avenue Park Overlay includes all land within 500 feet, or the B-1/B-1b boundary, whichever is closer, of this key apex point. 8.11.2 Standards Notwithstanding any other section of this Ordinance, development in the Overlay shall be subject to the following additional provisions: • The top of structures, including rooftop appurtenances, within the overlay shall not exceed the baseline vertical height of the apex point 120 ft. For each 25 ft. radially away from the apex point, the vertical height permitted in the Overlay is reduced by 1 foot (see figure below). • The minimum building setback from the park property shall be 15 ft. 8.11.3 Review Process Any project within this Overlay shall go to the Parks Commission for a recommendation to the Planning Board regarding potential impacts on the Eastern Promenade-Washington Avenue Section of the Eastern Promenade Park.	The final draft map will continue to show B-2b along Washington Avenue, with some expansion of this zone. This zoning designation reflects the corridor's urban location and addresses the goals of *Portland's Plan,* which supports density and walkability where there is transportation and other types of infrastructure that can support it. In the final draft text, dimensional standards will be modified in the B-2/B-2b to address adjacencies to open space zones. No new overlay zones will be proposed.
Betty Lorber	9/10/24	Email	8. Overlay Zones		I request that the Planning Board recommend that the Eastern Promenade/Washington Avenue height overlay, the request for which has been submitted as written testimony, be included in the final version of the ReCode Portland text and map amendments forwarded to City Council.	The final draft map will continue to show B-2b along Washington Avenue, with some expansion of this zone. This zoning designation reflects the corridor's urban location and addresses the goals of *Portland's Plan,* which supports density and walkability where there is transportation and other types of infrastructure that can support it. In the final draft text, dimensional standards will be modified in the B-2/B-2b to address adjacencies to open space zones. No new overlay zones will be proposed.

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Elizabeth Owens & Douglass Faherty	9/10/24	Email	8. Overlay Zones		We request that the Planning Board recommend that the Eastern Promenade/Washington Avenue height overlay, the request for which has been submitted as written testimony, be included in the final version of the ReCode Portland text and map amendments forwarded to City Council. For all the reasons previously stated regarding environmental issues, loss of green space and views for all Portlanders, as well as the congestion and parking problems along the Washington corridor, we respectfully make this request.	The final draft map will continue to show B-2b along Washington Avenue, with some expansion of this zone. This zoning designation reflects the corridor's urban location and addresses the goals of *Portland's Plan,* which supports density and walkability where there is transportation and other types of infrastructure that can support it. In the final draft text, dimensional standards will be modified in the B-2/B-2b to address adjacencies to open space zones. No new overlay zones will be proposed.
Chris Stewart	9/10/24	Email	8. Overlay Zones		Let's preserve the views from the Eastern Prom. I request that the Planning Board recommend that the Eastern Promenade/Washington Avenue height overlay, the request for which has been submitted as written testimony, be included in the final version of the ReCode Portland text and map amendments forwarded to City Council.	The final draft map will continue to show B-2b along Washington Avenue, with some expansion of this zone. This zoning designation reflects the corridor's urban location and addresses the goals of *Portland's Plan,* which supports density and walkability where there is transportation and other types of infrastructure that can support it. In the final draft text, dimensional standards will be modified in the B-2/B-2b to address adjacencies to open space zones. No new overlay zones will be proposed.
Adinah Barnett	9/10/24	Email	8. Overlay Zones		I request that the Planning Board recommend that the Eastern Promenade/Washington Avenue height overlay, the request for which has been submitted as written testimony, be included in the final version of the ReCode Portland text and map amendments forwarded to City Council. I really hope you are beholden more to the will of the public than the lucrative incentives of the landlords/real estate/developers and will not sacrifice the very few areas in Portland that offer open space and non-private views. We desperately NEED buildings that offer 75-100% of the units to be truly affordable (rent and/or mortgage coming to no more than 30% of net wages for those who live and work in Portland) housing, but this development is not one of those. I am disgusted by the endless catering to developers and the real estate sector. It is bad governance that the city council has allowed air b n b's and rent control and the condo-ification of Portland over. In my 31 years in the area I have seen Portland go from a funky little forgotten waterfront town to a place in which prices for housing and food are beyond what anyone but the wealthy can afford and it makes me very sad. Too many people hang on by a thread and one medical or other disaster could result in them being homeless. Please do the right thing, not the thing that wins you the most favor from developers and real estate.	The final draft map will continue to show B-2b along Washington Avenue, with some expansion of this zone. This zoning designation reflects the corridor's urban location and addresses the goals of *Portland's Plan,* which supports density and walkability where there is transportation and other types of infrastructure that can support it. In the final draft text, dimensional standards will be modified in the B-2/B-2b to address adjacencies to open space zones. No new overlay zones will be proposed.

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Marianna Pratt	9/10/24	Email	8. Overlay Zones		I request that the Planning Board recommend that the Eastern Promenade/Washington Avenue height overlay, the request for which has been submitted as written testimony, be included in the final version of the ReCode Portland text and map amendments forwarded to City Council.	The final draft map will continue to show B-2b along Washington Avenue, with some expansion of this zone. This zoning designation reflects the corridor's urban location and addresses the goals of *Portland's Plan,* which supports density and walkability where there is transportation and other types of infrastructure that can support it. In the final draft text, dimensional standards will be modified in the B-2/B-2b to address adjacencies to open space zones. No new overlay zones will be proposed.
Shawnee Sax	9/10/24	Email	8. Overlay Zones		I request that the Planning Board recommend that the Eastern Promenade/Washington Avenue height overlay, the request for which has been submitted as written testimony, be included in the final version of the ReCode Portland text and map amendments forwarded to City Council.	The final draft map will continue to show B-2b along Washington Avenue, with some expansion of this zone. This zoning designation reflects the corridor's urban location and addresses the goals of *Portland's Plan,* which supports density and walkability where there is transportation and other types of infrastructure that can support it. In the final draft text, dimensional standards will be modified in the B-2/B-2b to address adjacencies to open space zones. No new overlay zones will be proposed.
Bobbi Keppel	9/10/24	Email	8. Overlay Zones		I request that the Planning Board recommend that the Eastern Promenade/Washington Avenue height overlay, the request for which has been submitted as written testimony, be included in the final version of the ReCode Portland text and map amendments forwarded to City Council. The views from the park are some of the treasures of Portland. Blocking them would be mistake that couldn't be undone and greatly detract from this area of our city. Don't allow it.	The final draft map will continue to show B-2b along Washington Avenue, with some expansion of this zone. This zoning designation reflects the corridor's urban location and addresses the goals of *Portland's Plan,* which supports density and walkability where there is transportation and other types of infrastructure that can support it. In the final draft text, dimensional standards will be modified in the B-2/B-2b to address adjacencies to open space zones. No new overlay zones will be proposed.
Doug Sax	9/10/24	Email	8. Overlay Zones		I request that the Planning Board recommend that the Eastern Promenade/Washington Avenue height overlay, the request for which has been submitted as written testimony, be included in the final version of the ReCode Portland text and map amendments forwarded to City Council.	The final draft map will continue to show B-2b along Washington Avenue, with some expansion of this zone. This zoning designation reflects the corridor's urban location and addresses the goals of *Portland's Plan,* which supports density and walkability where there is transportation and other types of infrastructure that can support it. In the final draft text, dimensional standards will be modified in the B-2/B-2b to address adjacencies to open space zones. No new overlay zones will be proposed.

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Janet Greenfield	9/10/24	Email	8. Overlay Zones		I request that the Planning Board recommend that the Eastern Promenade/Washington Avenue height overlay, the request for which has been submitted as written testimony, be included in the final version of the ReCode Portland text and map amendments forwarded to City Council.	The final draft map will continue to show B-2b along Washington Avenue, with some expansion of this zone. This zoning designation reflects the corridor's urban location and addresses the goals of *Portland's Plan,* which supports density and walkability where there is transportation and other types of infrastructure that can support it. In the final draft text, dimensional standards will be modified in the B-2/B-2b to address adjacencies to open space zones. No new overlay zones will be proposed.
Jeff Sherman	5/3/2024	Konveio	9. Form-Based Zones	9.1.4(C)1 Mid-block permeability	Incentives like this that create more pedestrian path should exist in other parts of the code. For example, in the RN-2 or RN-3 zone.	Generally, these types of standards are used in mixed-use zones with larger buildings, not in the smaller residential context.
Kate Hambley	5/28/2024	Konveio	9. Form-Based Zones	9.1.7(A) Subdistrict dimensional requirements/UN	I'd like to see these side setbacks reduced. Townhome/party wall style development is entirely consistent with the historic character of this area, and is currently not allowed given these setbacks. There are also a number of very narrow lots that cannot feasibly/economically be developed due to these side setbacks, and it would open up housing/development opportunities on these lots.	Townhouses are currently allowed in this subdistrict, with provisions to allow for exceptions on side setbacks.
Jeff Sherman	5/3/2024	Konveio	9. Form-Based Zones	In general	The India Street Form Based Zone should extend (or should be allowed to extend) to Cumberland Avenue. Additionally, this zone would work great on Inner Washington and East Bayside. There should be a way for this zone to grow naturally overtime.	No expansion of the IS-FBC is proposed at this time. The existing boundary was based on an analysis that was completed at the time of the zone's creation.
Jeff Sherman	5/3/2024	Konveio	9. Form-Based Zones	In general	Form based zones should be added to other parts of Portland including parts of the West End.	No other strictly form-based zoned are proposed at this time.
Liz Trice	7/30/24	Email	General	Arterials	Have a beautiful vision. I know it can be hard to envision something really different, so I'm attaching a visualization I made of how our arterials could be beautiful places to live. Most of our new housing will probably be along arterials, so it's important that they be nice places to live.	The vision advanced through ReCode is absolutely for our mixed-use zones to be engaging, safe, walkable places to live and work.
Liz Trice	7/30/24	Email	General	Arterials	In 2019, I worked with designer Tilman Reitzle, migratory bird expert Charles Duncan, and forester Rene Noel to make a poster envisioning Portland as a City of Birds and Birdsong: a pathway for Portland to embrace its potential as a vibrant, green paradise. Making our cities and arterials more peaceful, desirable places to live is key if we want families of all economic levels to choose to live in buildings along our corridors, and to reduce the noise pollution, inequities, financial burdens and dangers caused by reliance on cars as our dominant transportation. The poster won a Portland Society for Architecture award, and one result was the recent Bird-safe ordinance enacted by the city council earlier this year. MaineBiz Article here. I'm attaching the poster from 2018 below. I'm also providing a link to an animated vision of what our arterials could look like if we prioritized trees, habitat, and active and equitable transportation in our main arterials. It's a 3D virtual reality video, which means while watching it on your computer you can drag the perspective around to look in all directions, and there's a version that works with 3d goggles. Hans Breax and I worked to create the video with the Complete City prize money from the bird poster.	The vision advanced through ReCode is absolutely for our mixed-use zones to be engaging, safe, walkable places to live and work.

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					I would like to thank the Planning Department for all the work that has gone into the Recode process. I support the vision to increase density in Portland with the goal of enhancing neighborhoods and creating a resilient city for the 21st century. The Eastern promenade park is a unique and valuable asset that defines the Munjoy Hill neighborhood and the Portland Peninsula. In considering the proposed Recode recommendations, I would like to ask the Planning Board to honor established zoning precedents and protect the human scale and pedestrian experience that attracts residents and visitors to this quintessential Portland landscape. In talking with planning department staff during the public comment sessions, I learned that there is only one property on the peninsula, which is being rezoned from B1 to B2b, and that is the Northern Burner Supply Site at 165 Washington Ave. Redfern Properties has already proposed a 75 ft. building for the site. Yet, this property abuts the western end of the Eastern Promenade Park. This Recode graphic depicts the view of the Portland skyline from the western end of the Eastern Promenade Park on Washington Avenue. This rendering depicts the western façade of Redfern's proposed building abutting the Eastern Promenade Park on Washington Avenue. This section of Washington Avenue, which encompasses Jack Path and the Mt. Joy Orchard, East End School Outdoor Classroom Garden, and the North Street Community Garden, serves to connect the commercial and residential sections on the south side of Munjoy Hill to the paths and green spaces of the Eastern Promenade. This is a highly valued and used pedestrian space that knits together the green spaces that exemplify the core of the Munjoy Hill neighborhood and the Eastern Prom. It is a critical link that defines how residents and visitors use the neighborhood. There is no reasonable justification for this particular property to be rezoned. There are no other B2 zoning designations that abut the Eastern Promenade; the properties across the street from the park are zoned B1 (one property has already been developed under B1 guidelines); and the properties next to 165 Washington Ave on Cove street are zoned B1. That makes this property an anomaly—an anomaly that will become a vastly out of scale building in this pedestrian street scape. Frankly, it appears that the rezoning of this particular property is spot zoning for the benefit of a particular developer. I heard today that the planning department will propose rezoning the buildings across the street from the park from B1 to B2 in order to deflect this charge of spot zoning, with the potential of further marring the human scale and pedestrian landscape of the park. I ask the planning board to request an amendment to the Recode Proposal to maintain the B1 zoning on 165 Washington Avenue on those properties that line the Eastern Promenade Park in order to preserve the human scale and pedestrian experience of the park and the streetscape. This shows the scale of Redfern Properties' proposed building in relation to the streetscape and the park. A single 75-foot building on this one particular site will not solve Portland's housing problem. The building would be vastly out of proportion with the park. It will increase vehicular traffic and parking congestion in and around	

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Greater Portland Landmarks	8/2/24	Email	General	Design	We urge that the Land Use plan provide guidance for new construction in older neighborhoods that not just fill the permitted building envelope, but integrate into the existing fabric and street patterns, even if it is larger in height or mass. We agree with the goals of encouraging "compatibility and context sensitivity" referenced in the draft residential neighborhoods' purpose statements, and the statement in Camiros' Recode Phase II Land Use Code Evaluation Report that, "it can include thinking carefully about the design and context of development in Portland, helping to ensure that the essential historic fabric of the city remains intact and that — though architectural styles may vary — new development remains authentic to the local character and complementary to the Portland vernacular." We find that that those concepts are only partially operationalized in the current draft and note that they are particularly absent in the proposed RN-5 zone. The design manual, with its focus on the examination of context, will be crucial to facilitating the successful integration of new development into existing neighborhoods. We look forward to seeing the updated design manual and hope it will be brought forth for adoption in tandem with the land use code. Referencing the design standards explicitly within the dimensional standards section will be important.	No response necessary.
Greater Portland Landmarks	8/2/24	Email	General	Dimensional Standards	Dimensional Standards, Neighborhood Zones, and Transit Oriented Zones We support proposed changes that would permit commercial uses at strategic locations in residential neighborhoods and recreate the historic mix of uses that developed in many of Portland's historic neighborhoods. We support proposed dimensional changes that build upon the characteristics of older neighborhoods that were of necessity built close to a variety of destinations, including public transit, and believe examples like those off Brighton, Washington, and Forest Avenues are good models for a more transit-oriented city. These contain examples of multi-family and mixed-use buildings that support the city's goals to create opportunities for a variety of housing types and denser neighborhoods.	No response necessary.
Myles Smith	6/7/24	Form	General	Form-based code	Thanks for your hard work on this complicated stuff. Unfortunately, I feel many changes have made things more complicated, not less. We need form-based code that actually allow for reasonably gentle development to mimic what we already have - more Oakdale-like density, neighborhood businesses, and mixed use larger buildings downtown.	Many of the proposed changes are meant to simplilfy the code and open up uses in favor of form and scale as controls (see B-1 and B-2)
PIC	5/18/24	Email	General	Growth and capacity	Concern about additional building where there is no city water and sewer.	This is a concern specific to Peaks Island and the islands more generally, where there is limited capacity in many ways. The goal with the residential zoning in these areas is to allow more flexibility for property owners with respect to existing buildings and to allow some limited opportunities for new infill development as well.
PIC	5/18/24	Email	General	Growth and capacity	Concern about building where there is city water and sewer, but the present system seems to be at capacity.	This is a concern specific to Peaks Island and the islands more generally, where there is limited capacity in many ways. The goal with the residential zoning in these areas is to allow more flexibility for property owners with respect to existing buildings and to allow some limited opportunities for new infill development as well.

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Susan Kayar	7/27/24	Email	General	Growth and capacity	I do not like what I am reading about the Recode Portland initiative. Yes, we need more housing for all people of all income levels. But shoving us all into higher density places with no parking for cars and no setbacks for gardens or patios is not the solution. We do not want to be Manhattan. If population increases, there must necessarily be some balance between single family homes with gardens, high-rise towers of many small units, and extension of the urban area beyond current residential neighborhoods. There is no single model of housing that will suit everyone. The late 1800s neighborhoods built of single-family mansions have in many cases already had these mansions subdivided into condos and apartments for multiple families, while retaining gardens and charm. I would not like to see zoning permitting the demolition of such beautiful old homes to replace them with modern high-density highrise buildings with no parking and no recreational or decorative outdoor space. The Portland peninsula is a physically limited space. A clash between more people wanting to live in this beautiful city and space to put them here is inevitable. Making it ugly with nothing but highrises is hardly a good solution. Forbidding them from extending the urban areas beyond the peninsula is also not a good idea. The few new highrises that have been popping up in recent years here are welcome additions to the housing market and skyline. Restoring the old Time and Temperature building to housing is a great idea. But zoning such that all new construction consists of highrises inches from the street and inches from the next highrise is a terrible idea. If you force too many rats to live in one cage, they turn on each other. This is a quality of life issue, and there is no cookie-cutter answer to solving it. Please do not enact Portland laws that dumb this whole housing issue down to "build highrises with not an inch of land that does not pack in people." You will ruin our city.	Significant changes are proposed through ReCode to allow more housing. Many of these changes are focused on encouraging housing along transit corridors and near existing infrastructure, in alignment with the City's and region's smart growth goals. However, additional use permissions are also proposed within the residential zone context to allow incremental increases in housing in these areas as well. The goal in these areas is not to radically reshape the way these neighborhoods look and feel, but to allow more housing within the existing built context.

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Rosanne Graef	7/27/24	Email	General	Growth and capacity	I am writing regarding the short-sightedness of some of the ReCode ideas. Namely those that have to do with set-backs and excessive infilling of green space—especially on the peninsula, but undoubtedly off-peninsula as well as the drive for growth and population density continues to dominate some influential people's vision for Portland. The City of Portland partnered with South Portland in developing the One Climate Future (OCF) Plan for locally addressing climate change. Too many developers, business boosters and self-appointed experts are disregarding this commitment to creating a livable and sustainable city, both now and in the future. An over-enthusiastic emphasis on population and economic growth to be made possible by ignoring the strategies and recommendations of OCF is irresponsible and unprincipled. I urge both the Planning Board and the Planning Department to take more time on meaningful public engagement and to re-examine the strategies and goals of OCF and other programs the City has signed on to, such as Age-Friendly Cities, Project Canopy, etc. Some aspects of ReCode are fine. However, with the urge to pack as many people as possible on the peninsula and along main transit corridors without recognizing the lower quality of livability those areas will offer, the current language of ReCode will create a sorry, undesirable Portland. Thank you for your dedication and time spent in serving the City of Portland.	Significant changes are proposed through ReCode to allow more housing. Many of these changes are focused on encouraging housing along transit corridors and near existing infrastructure, in alignment with the City's and region's smart growth goals. However, additional use permissions are also proposed within the residential zone context to allow incremental increases in housing in these areas as well. The goal in these areas is not to radically reshape the way these neighborhoods look and feel, but to allow more housing within the existing built context.
Karen Snyder	7/29/24	Email	General	Growth and capacity	This ReCode Phase 2 proposal from the City of Portland Planning Dept appears to be going down the same path as what was proposed for R-6 Zoning Changes that were proposed and adopted in 2015. Basically, experience has shown us that more housing density by reducing setbacks and going higher does NOT equate to more long-term residents rather more property investment housing units for developers and the wealthy to purchase and trade while simultaneously making it more expensive for existing long term residents to stay in Portland and pay accelerating property taxes. This can be proven by example of what has happened on Munjoy Hill. Yes, there is more housing density, but now there are less long term residents and a loss of immense value that our unique neighborhoods add to our community. As such there are some basic questions that need to be asked and answered regarding the ReCode 2 proposals.	Significant changes are proposed through ReCode to allow more housing. Many of these changes are focused on encouraging housing along transit corridors and near existing infrastructure, in alignment with the City's and region's smart growth goals. However, additional use permissions are also proposed within the residential zone context to allow incremental increases in housing in these areas as well. The goal in these areas is not to radically reshape the way these neighborhoods look and feel, but to allow more housing within the existing built context.

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John Funk	7/29/24	Email	General	Growth and capacity	My wife and I live on 4 Orchard Street in Portland. We have watched with concern the various proposals the administration has put forward to expand affordable housing in Portland - increase building heights, reduce setbacks, eliminate parking requirements, allow for the destruction of historic properties, encourage ADUs throughout the city, and so on - basically use every square inch for housing and obliterate the character of neighborhoods. It seems to be ignoring the effects of these changes on the quality of life in the city and is giving little attention to the long-term effects on infrastructure (water, sewer, electrical grid), schools, parking, transportation and so forth. It's hard for a resident to keep track of the proposed changes, but the administration appears to be rushing forward to pursue a radical agenda to change what we love about Portland - except for its business core, a low-rise city with open spaces, breathing room between buildings and distinctive neighborhoods reflecting periods of its growth over the years. To us, it's reminiscent of the 1950's and 60's when cities destroyed their beautiful historic buildings in the name of urban renewal and constructed soulless shopping centers and boring nondescript residential apartment buildings. What we need is balance. Yes, let's provide more opportunity for affordable housing, but let's not destroy the unique character of our city in the course of pursuing this goal. There are reasons for the lack of affordable housing that are unrelated to the availability of land for development. A huge housing shortage of all types of property across the country, an increase in the cost of construction materials, an influx of immigrants and displaced persons, among others. The effects of these factors will diminish in importance in time as we respond to their effects. As an urban center, Portland experiences the immediate effects faster than other locations. Let's be thoughtful how we proceed and avoid succumbing to the agendas of interest groups that have narrow self-serving objectives with little regard for the effect on the rest of us. Let's move incrementally rather than radically to address the issues.	Significant changes are proposed through ReCode to allow more housing. Many of these changes are focused on encouraging housing along transit corridors and near existing infrastructure, in alignment with the City's and region's smart growth goals. However, additional use permissions are also proposed within the residential zone context to allow incremental increases in housing in these areas as well. The goal in these areas is not to radically reshape the way these neighborhoods look and feel, but to allow more housing within the existing built context.

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Enoch Wenstrom	7/29/24	Email	General	Growth and capacity	I hope Portland does not create new residential code based on what developers and special interest groups want.. vs. what is reasonable and sensible for a truly liveable city. One example would be basing code off the myth that more density is going to protect the climate. farmlands and rural areas while also stopping urban sprawl. This is a lie that developers want to relay as a perk for building and cramming more people into dense housing. To me it is a pure misleading tactic to increase developer's profits. In fact there are really two kinds of people in regards to renting or owning property. These are city dwellers and rural dwellers. Building high density spaces in Portland may draw more people here that want to live packed into cramped spaces but it will also create a bigger market for urban sprawl as their suburban friends and families take notice and relocate here. Many people will leave Portland as it becomes more congested.. crime ridden and a bad place to live if those wanting high density get their way, just like most us cities.This alone will create urban sprawl. Common sense says that if portland gets more known as the place to be, many will want to live in the Portland "area" but not in the crowded city. Urban sprawl has arrived in Maine and is not going to stop if Portland becomes more densely populated. The opposite will happen. It is completely contradictory to over build Portland into an urban nightmare like so many other cities and then claim that will prevent sprawl. Don't people come here for a city like experience without all the drawbacks? More density will make Portland less liveable and appealing and that will be what gets rid of our rural areas and farms. I am not sure what the real reason is for the push to overbuild Portland but the false rhetoric of it would protect rural areas and farmland is not a valid reason. We need code to keep portland liveable and not code to try to emulate Boston or NYC and their urban sprawl. You know.. the cities everyone escapes from only to move here for a more relaxed feel.	Significant changes are proposed through ReCode to allow more housing. Many of these changes are focused on encouraging housing along transit corridors and near existing infrastructure, in alignment with the City's and region's smart growth goals. However, additional use permissions are also proposed within the residential zone context to allow incremental increases in housing in these areas as well. The goal in these areas is not to radically reshape the way these neighborhoods look and feel, but to allow more housing within the existing built context.

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Mary Polito	7/29/24	Email	General	Growth and capacity	I write to express my concern regarding the City of Portland's Recode overhaul. I am discouraged by the obvious insertion of developers into the shaping of Recode agendas, process and ultimately its outcome. I am not aware of focus groups where residents (the key stakeholders) of the neighborhoods are represented, and I am increasingly frustrated by the barrage of unsolicited materials supplied by realtors and developers claiming to understand and reflect what represents my neighborhood and community. When I purchased my home over thirty-five years ago , I chose to live in the neighborhood because of its unique neighborhood characteristics . I did not choose this neighborhood because I wanted it to become more "urban " and ripe for development. I suspect other residents and homeowners chose similarly. On my street alone there are presently no fewer than four residential construction projects ongoing with seemingly little attention to height or setback requirements. I can only imagine what a developer-centered Recode environment will allow. There is so much traffic on Edgeworth Avenue (including school buses, construction vehicles , and automobiles) because of a multi-business use office building located at 619 Brighton Avenue (at the corner of Edgeworth Avenue), and there is so much construction and remodeling work ongoing that we residents often cannot park our own vehicles, nor can we have necessary maintenance performed at our homes without negotiating significant parking challenges. I challenge an emergency vehicle (fire or police) to navigate its way up or down the street! Check the scene out in trash pick up day and it's a congestion of vehicles dodging one another. Try to politely request a patron or employee of the office building to relocate their vehicle and one is often met with abrupt responses or blatantly ignored. I recently attempted to walk my dog on the side of Edgeworth Avenue that houses sidewalks, and I simply could not because multiple construction vehicles were occupying not only the road but the sidewalk! (So much for a walking neighborhood.) Our neighborhoods are no longer residential neighborhoods and any shred of uniqueness and a community vibe are rapidly diminishing. I find the trajectory of the City of Portland 's Recode overreaching and deviating far from the residents (we, the taxpayers) desires and best interests .	Significant changes are proposed through ReCode to allow more housing. Many of these changes are focused on encouraging housing along transit corridors and near existing infrastructure, in alignment with the City's and region's smart growth goals. However, additional use permissions are also proposed within the residential zone context to allow incremental increases in housing in these areas as well.
W. Fluce	7/30/24	Email	General	Growth and capacity	I would rather not live in more of a city than I do now. While I don't have the answer to gross maldistribution of wealth in our society, I do know that judging by other cities, larger and denser does not seem to do much for affordability. In the human body, something that grows continuously beyond replacement is generally called a cancer. It doesn't hurt to keep that in mind.	Significant changes are proposed through ReCode to allow more housing. Many of these changes are focused on encouraging housing along transit corridors and near existing infrastructure, in alignment with the City's and region's smart growth goals. However, additional use permissions are also proposed within the residential zone context to allow incremental increases in housing in these areas as well. The goal in these areas is not to radically reshape the way these neighborhoods look and feel, but to allow more housing within the existing built context.

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Eliav Bitan	5/29/24	Form	General	Housing	My wife and I are Mainers who left and came back. We have great jobs and good incomes. We got priced out of living in Portland because there is not enough housing. Please increase housing supply so we can afford to move back! We want to live someplace walkable. We think there are too many restrictions and limits to building in Portland. The current plan is a step in the right direction but needs to go further	Significant changes are proposed through ReCode to allow more housing. Many of these changes are focused on encouraging housing along transit corridors and near existing infrastructure, in alignment with the City's and region's smart growth goals. However, additional use permissions are also proposed within the residential zone context to allow incremental increases in housing in these areas as well.
WB	6/9/2024	Konveio	General	Housing	Thank you for having the open house. My questions which were not answered are as follows: 1) How many new units need to be built for ReCode to be considered a success? if yes, what is the number? 2) Is there a timeframe for these new units to be built for ReCode to be considered a success? if yes, what is the timeframe? 3) Is there a new unit goal per zone and what's that number? 4) Has ReCode had any conversations with builders, architects, bankers, etc., about costs and how those costs would translate to rent amounts for future tenants and landlords?	*Portland's Plan* includes a housing production goal, which the City tracks in an annual housing report. Data shows that the city is exceeding that goal; the goal will be reconsidered under the next comprehensive plan.
Acorn Engineering	7/24/24	Email	General	Housing	While we are not trained planners, we are land development professionals who reference and study zoning codes across the State on a consistent basis. We have been involved as the engineer of record and permitting lead in dozens of multifamily and commercial projects in Portland, including the construction of over 1,000 new residential units, many of which are affordable housing projects funded by the Maine State Housing Authority who has additional standards and regulations on top of local zoning and building codes. As site engineers and permitting liaisons, we have a unique perspective seeing a project come together from early conceptual stages in a private setting, onto the public permitting process, and through construction. Based on this experience and our review of the draft code, we strongly urge the Planning Department and Board to consider our comments, which are grounded in Smart Growth principles, to allow for more flexibility and opportunities for the creation of housing.	Significant changes are proposed through ReCode to allow more housing. Many of these changes are focused on encouraging housing along transit corridors and near existing infrastructure, in alignment with the City's and region's smart growth goals. However, additional use permissions are also proposed within the residential zone context to allow incremental increases in housing in these areas as well.

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Tom Landry (Benchmark Real Estate)	7/25/24	Email	General	Housing	Thank you for your efforts to improve our city through zoning simplification and improvements. The current proposal is a terrific start and meets the moment in many ways. That said, it falls short as a forward-thinking roadmap to manage growth in a rapidly evolving city. Over the last decade Portland has felt the impact of in-immigration and re-urbanization. Coupled with increases in inclusionary housing requirements, rent control, anti-development/developer sentiments, a complicated and costly permitting process, large swaths of the city deemed historic, higher cost to borrow and build, and antiquated zoning, we find ourselves in a housing crisis of epic proportions. To solve this, we must look for ways to immediately and dramatically increase housing supply, of all types and at all levels, to meet the demand of today and tomorrow. To do this, we must up-zone urban areas and transportation corridors and simplify and streamline the permitting process. The suggestions below come from a place of deep understanding and experience as a local developer, real estate agent, and student of land use and zoning. Through these lenses, I've taken a deep dive into the proposed changes under ReCode and offer the following improvements.	Significant changes are proposed through ReCode to allow more housing. Many of these changes are focused on encouraging housing along transit corridors and near existing infrastructure, in alignment with the City's and region's smart growth goals. However, additional use permissions are also proposed within the residential zone context to allow incremental increases in housing in these areas as well.
Jamie Wright (Gorham Bike and Ski)	7/27/24	Email	General	Housing	Thank you for your efforts to improve our city through zoning simplification and improvements. The current proposal is a terrific start and meets the moment in many ways. It falls short of a forward-thinking roadmap to manage growth in a rapidly evolving city. Over the last decade, Portland has felt the impact of immigration and re-urbanization. Coupled with increases in inclusionary housing requirements, rent control, anti-development/developer sentiments, a complicated and costly permitting process, large swaths of the city deemed historic, higher cost to borrow and build, and antiquated zoning, we find ourselves in a housing crisis of epic proportions. To solve this, we must look for ways to immediately and dramatically increase the housing supply of all types and levels to meet today's and tomorrow's demands. To do this, we must up-zone urban areas and transportation corridors and simplify and streamline the permitting process. The suggestions below come from a place of deep understanding and experience as a local developer, real estate agent, and student of land use and zoning. Through these lenses, I've taken a deep dive into the proposed changes under ReCode and offer the following improvements.	Significant changes are proposed through ReCode to allow more housing. Many of these changes are focused on encouraging housing along transit corridors and near existing infrastructure, in alignment with the City's and region's smart growth goals. However, additional use permissions are also proposed within the residential zone context to allow incremental increases in housing in these areas as well.

NAME	DATE	SOURCE	ARTICLE	TOPIC	COMMENT	RESPONSE
Susan Anspacher	7/27/24	Email	General	Housing	Thank you for your efforts to improve our city through zoning simplification and improvements. The current proposal is a terrific start and meets the moment in many ways. That said, it falls short as a forward-thinking roadmap to manage growth in a rapidly evolving city. Over the last decade, Portland has felt the impact of in-immigration and re-urbanization. Coupled with increases in inclusionary housing requirements, rent control, anti-development/developer sentiments, a complicated and costly permitting process, large swaths of the city deemed historic, higher cost to borrow and build, and antiquated zoning, we find ourselves in a housing crisis of epic proportions. To solve this, we must look for ways to immediately and dramatically increase housing supply, of all types and at all levels, to meet the demand of today and tomorrow. To do this, we must up-zone urban areas and transportation corridors and simplify and streamline the permitting process. The suggestions below come from a place of deep understanding and experience as a local developer, real estate agent, and student of land use and zoning. Through these lenses, I've taken a deep dive into the proposed changes under ReCode and offer the following improvements.	Significant changes are proposed through ReCode to allow more housing. Many of these changes are focused on encouraging housing along transit corridors and near existing infrastructure, in alignment with the City's and region's smart growth goals. However, additional use permissions are also proposed within the residential zone context to allow incremental increases in housing in these areas as well.
Karen Snyder	7/29/24	Email	General	Housing	Where is the study/supporting data that these ReCode proposals are going to increase affordable working and middle class housing?	While the land use code can't compel housing to be built, significant changes are proposed through ReCode to allow more housing.
Tim Wells	7/29/24	Email	General	Housing	Portland's Recode effort is the most important activity the City is undertaking. It influences and impacts every aspect of how people live their lives, how the City looks and works, what jobs are available, how much they pay, what new businesses open and if they survive. Land Use Code is the primary tool the City can use to reduce emissions, protect air, water and soil and establish a responsible level of consumption and emissions for a City of Portland's size. Considering the lack of housing and the expensive nature of the housing in Portland, it seems that the current proposal is not ambitious enough and in some places does not get some of the details and nuance required to have the positive effects our Comprehensive Plan envisages or that current and future residents need. There are several excellent changes proposed in Phase II. I would like to suggest a few things:	Significant changes are proposed through ReCode to allow more housing. Many of these changes are focused on encouraging housing along transit corridors and near existing infrastructure, in alignment with the City's and region's smart growth goals. However, additional use permissions are also proposed within the residential zone context to allow incremental increases in housing in these areas as well.
Tim Wells	7/29/24	Email	General	Housing	Portland needs to build 10-15,000 homes in the next 7-10 years. The current version of Recode will not accomplish this level of building. We need to make sure that Portland's Land Use Code isn't the reason for failure.	Significant changes are proposed through ReCode to allow more housing. Many of these changes are focused on encouraging housing along transit corridors and near existing infrastructure, in alignment with the City's and region's smart growth goals. However, additional use permissions are also proposed within the residential zone context to allow incremental increases in housing in these areas as well.

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Liz Trice	7/30/24	Email	General	Housing	I agree with George, the gentleman from Cape Elizabeth, Tom Landry, John Voltz, John Kachmar, and everything from Urbanist Coalition members have said: that this proposed recode does not go nearly far enough to allow more housing, and it's urgently important for the entire state of Maine. People are not going to stop moving to Maine, and we are the largest city in the state. What's at stake is everything in Maine that we love: we could lose Farms, forests, walkable villages, our communities, decent jobs, a place where everyone, no matter what the income, has a chance at a decent quality of life. That highway being proposed to Gorham that might kill Smiling Hill Farm, is because our restaurant workers have to live in Standish. We just lost a farm in Cape Elizabeth, and the owners cited lack of workforce housing. Businesses need people and people need housing. I have a vision of a walkable, inclusive Portland that anyone would love to live in. Here a few major strategies:	Significant changes are proposed through ReCode to allow more housing. Many of these changes are focused on encouraging housing along transit corridors and near existing infrastructure, in alignment with the City's and region's smart growth goals. However, additional use permissions are also proposed within the residential zone context to allow incremental increases in housing in these areas as well.
PIC Housing and Zoning Committee	8/2/24	Email	General	Housing	Need for zoning that supports: • Sustainable year-round community. • Working waterfront, and traditions and rural culture unique to Maine island living. • Healthy and well maintained systems – ecosystems, sewer systems, road use safety.	While the land use code can't compel housing to be built and does not address the distinction between year-round and seasonal housing, the goal with the residential zoning in the IR-2 is to allow more flexibility for property owners with respect to existing buildings and to allow some limited opportunities for new infill development as well. In addition, proposed changes in the I-B support additional opportunities for housing.
Peaks Island Council	8/30/24	Email	General	Housing	Need for zoning that supports: - Sustainable year-round community. - Working waterfront, and traditions and rural culture unique to Maine island living. - Healthy and well maintained systems – ecosystems, sewer systems, road use safety.	While the land use code can't compel housing to be built and does not address the distinction between year-round and seasonal housing, the goal with the residential zoning in the IR-2 is to allow more flexibility for property owners with respect to existing buildings and to allow some limited opportunities for new infill development as well. In addition, proposed changes in the I-B support additional opportunities for housing.
PIC	5/18/24	Email	General	I-B Peaks Island	What happens when a newly proposed business zone abuts residential lots. Are there ways to reduce or remedy the impact?	The uses allowed within the I-B are limited in scope, as a means of managing impacts.

NAME	DATE	SOURCE	ARTICLE	TOPIC	COMMENT	RESPONSE
Maclean Mini	6/25/24	Email	General	I-R zones	I am writing to you as I have some issues with the wave 2 of zoning concerning where I live, Peaks Island. First though I want to explain why I have issues with the zoning. Peaks Island was hit incredibly hard by the surge in real estate prices during the pandemic. For instance, our family bought our current house on peaks for $400K in 2017, and as of today it is worth $1.3M. Housing is so astronomically unaffordable on Peaks that so many people who would love to live here and would greatly contribute to the community and economy simply cannot afford to do so, and I know quite a few people who fit this description. Let's go back to zoning. Virtually nothing has been changed about zoning on Peaks in the new wave of changes, which considering it's been 50 years since zoning was last changed in Portland it is quite frankly appalling. On Peaks density is impossible to build even though the demand is there. What I'm proposing is a bit of a baby step towards reducing housing prices on Peaks to affordable levels. [MAP IMAGE INSERTED HERE] These are some of the changes I suggest. For some reason many new developments have been built right in this area in the past few years, and being close to the backshore but also being sheltered enough from storms to not receive damage is also a benefit of this location. By updating the zoning in this area we can reduce housing costs, bring more people out to Peaks and create a denser community while also expanding recreational land area. Such a plan would most likely require extending the city's public septic line, but that is something that should have been done long ago anyway. Paving the current roads here is another good idea considering the current dirt and gravel roads are very prone to potholes.	The proposed changes focus on the existing IR-2 zone on the west side of Peaks Island, since parts of this area already have water, sewer, and street connections, and they're easily walkable to the ferry. As proposed, building would be allowed on smaller lots (and on newly created small lots) that generally match the pattern of existing development.
Urbanist Coalition	6/12/24	Email	General	Organization	It's Still Too Long & Complicated: Beyond the changes which have been proposed, both for better and for worse, there are also those changes which haven't been proposed – or seemingly even addressed. As has already been made clear, despite one of the original goals laid out for ReCode being to simplify the very complex code, relatively few opportunities have been taken to attempt this. While at several points redundant or overly specific language has been streamlined, the overall character of the code remains much the same. There are still dozens of zones, the maps still look astonishingly complicated, and the number of conditional and provisional uses still leave homeowners, tenants, builders, and others guessing as to what is allowed and what isn't. Cities should be walkable, and land use codes should be readable.	The ReCode drafts attempt to strike a balance between maintaining some necessary nuance in regulation and standardizing and streamlining regulation in the interest of legibility and ease of administration.
The Urbanist Coalition	7/29/24	Email	General	Organization	Overall code simplification: The code remains complex and difficult to navigate.	The ReCode drafts attempt to strike a balance between maintaining some necessary nuance in regulation and standardizing and streamlining regulation in the interest of legibility and ease of administration.

NAME	DATE	SOURCE	ARTICLE	TOPIC	COMMENT	RESPONSE
Greater Portland Landmarks	8/2/24	Email	General	Preservation of existing buildings	While many of the proposed changes in the ReCode draft focus on catalyzing new construction, also important to Greater Portland Landmarks is how the new rules will 'legalize' non-conforming historic buildings, especially in older neighborhoods off the peninsula, many of which have been determined eligible for listing in the National Register. The land use code should incentivize retention of existing residential structures to the degree possible, furthering sustainability goals and protection of local fabric and character, including diverse affordable housing options in the city's residential neighborhoods. Teardowns have adverse environmental effects, including increased solid waste and energy impacts that do not support the City's sustainability goals.	
Cheryl Leeman	4/8/24	Email	General	Process	It appears that the current R-5 (RN-4) has been expanded into some of the current R-3 (RN-2) zones. If so, will those residents be notified of the zone change? Please provide a list of streets by neighborhood affected by theproposed map changes and locations for other map changes. Thank you! Tried to submit this comment in the Map Text box and got an "Error Code 400 – failed…"	City-wide noticing will occur prior to Planning Board hearing.
Sara McKee	4/17/24	Email	General	Process	Just checking in on when we could expect to see Recode show up on an agenda for a meeting?	Meetings are posted on the ReCode website (www.recodeportland.me) as well as on the City's agenda center.
Robert Kahn	7/27/24	Email	General	Process	For some parts of ReCode I would consider worth addressing in more detail as to the FULL implications of the results. These would include areas like Forest Ave. and Washington where infill projects would increase density in these transportation corridors. Other ideas are frightening in their potential to totally change the Portland we know. At a minimum, there should be visualisations, graphic images, that depict the visual impacts (density, height, adjacency dimensions) that these proposed changes would make. This must be provided if we are to 'see' what is being presented.	Visualizations can be found within the materials for the ReCode Studio, which are posted online here.

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Janet M LaMoria	7/28/24	Email	General	Process	You all need to slow down & be more transparent about the Recode process, Your plan will ultimately take away private property rights of homeowners & potential future homeowners. Don't try to convince me that this isn't the plan or this is not the outcome that will be. When you are taking properties with one home & turning them into 4+ units dwelling & "no more single-family zoning, who do you think is going to own them? Of course this is a developers dream come true. I attended a community outreach meeting with these proposals in 2023. During the question & answer portion, the general public asked to be kept abreast of the process going forward. This was agreed upon. But of course has not been enacted on. If there is anything on the City website, it is very hard to find. How come no more public forums? I have to thank Connect Portland for keeping me apprised of what you are trying to sneak through. If the citizens of Portland that currently live in the neighborhoods, you are seeking to take over & destroy, wanted to live in a "urban setting" with high rises & multifamily dwellings, than we would have purchased such property on the peninsula. We chose to live in the neighborhoods, away from all of that & enjoy our little piece of property, neighbors on a quiet street in a quaint neighborhood. Please slow down, & included us neighborhood dwellers that will be most impacted if this rezoning goes through. Developers come & go, we live here.	This phase of ReCode has been underway for over three years, including many ways for citizens to get involved. For more on the process, visit www.recodeportland.me.
Karen Snyder	7/29/24	Email	General	Process	Why didn't Planning Dept hold neighborhood meetings in EVERY district rather than fancy email blitzes and a ReCode studio during the middle of the day in downtown Portland when they promised to reach out to neighborhoods?	Throughout the Phase II process, meetings have been offered widely and held with many organizations, including neighborhood associations, upon request.

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Donna Williams	7/29/24	Email	General	Process	I am writing to the Planning Board re the proposed zoning amendments generally described as “Recode”. I am a former member of the Portland Planning Board, so I can concretely attest to the fact that there has been little review in the community, which would have been insisted upon in the past. I object strenuously to the proposals for two reasons: 1)I object to several of the concrete proposals to rezone significant parts of Portland, and 2)I object to the process used (during the pandemic) to collect and rewrite the land use code, essentially cutting out public involvement in the process. Most of the discussions were amongst the planning professionals, inside and out of city hall. When I retired and sold my business, I looked for volunteer opportunities when this initiative was first proposed and received the first contact, after the work was done and presented to the public in 2023. During the first real public rollout of some of these ideas, in the summer of 2023, I attended a community meeting at Lyseth Elementary School and when I asked then planning director, Christine Grimaldi to present their ideas to the various neighborhood groups for feedback, she ignored my question and continued the meeting—whereupon another meeting attendee yelled across the room, “I guess the answer is “no”. I am confident if a poll was done in Portland, around 97% of the public would have no idea that there is a plan to dramatically change the landscape/hardscape of the city of Portland. [...] I strongly suggest you postpone action on any of these proposals and direct the planning staff to go out into the community, each neighborhood, and explain in understandable language, how this may impact each area, and allow for discussion, give and take. What I have observed is that there have been virtually no community conversations, and while I appreciate the fact that the Board and the Staff don’t want BIG voices to dominate discussions, I know there are techniques available to control for that..	This phase of ReCode has been underway for over three years, including many ways for citizens to get involved. For more on the process, visit www.recodeportland.me.
Jean McManamy	7/30/24	Email	General	Process	End practice of continual rezoning to cater to individual developer proposals. Public views zoning process as an agent of developer profit when it should be promoter of residents’ quality of life. Avoid camel’s nose under the tent actions like the premature implementation of the new B2 zone for a single development along Washington Avenue.	The wide-ranging changes proposed under ReCode should reduce the need for minor adjustments in the future.

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Greater Portland Landmarks	8/2/24	Email	General	Process	Greater Portland Landmarks supports a comprehensive update to the City's Land Use Code to make it more user-friendly while advancing goals of the city's comprehensive plan, including promoting more equitable housing production and transit-oriented development, fostering resilience in the face of climate change and supporting the working waterfront, and of course, promoting historic preservation as well as good new design in Portland. Landmarks has carefully reviewed the draft ReCode Phase I and II, submitted comments, and worked with staff. We greatly appreciate your time and responses to our comments and concerns. As the Phase II Draft is being finalized, we would like to reiterate our primary recommendations, in particular to support the effectiveness and accessibility of the historic preservation ordinance, and the City's ability to retain its Certified Local Government status.	No response necessary.
Greater Portland Landmarks	8/6/24	Email	General	Process	Greater Portland Landmarks would like to thank the Board and planning staff for addressing many of our previous comments in the revised chapters. Several of the revisions address one of our major concerns, that the previous draft did not meet Certified Local Government standards. We appreciate the communications between the City and the Maine Historic Preservation Commission this summer towards addressing those provisions that were left out or significantly altered in the previous draft. We greatly appreciate the staff's goal of ensuring that Portland retains its CLG status by making these revisions.	No response necessary.
Liz Trice	7/30/24	Email	General	TOD Zones	We need to redesign our arterials with slower traffic, multiuse paths, tree canopy, and dedicated bus lanes and allow 5+ story residential buildings the whole length of Brighton, Forest, Washington, Forest, so that a middle class family with kids will be delighted to live there, have one car or no car and let their 6 year old bike to school. The current plan doesn't go nearly far enough designating TOD zones. This level of density also means investing in trails connections and green spaces. I'm very happy to be able to walk from Nason's Corner to Smiling Hill Farm on trails, but our trails are too much an after thought. We need a green space & trails plan.	In addition to changes in the mixed-use zoning, the final draft zoning map will include additional TOD zones in many of these areas.
Markos Miller	6/23/24	Email	General	TOD Zones; Height; Density	Finally, I'm a little concerned/confused about the proposed height allowances along Franklin St. The B3 zone description on the ReCode site references the City Height Map; is that this: https://content.civicplus.com/api/assets/a82366ca-9734-4937-a5a2-60074442125c?cache=1800 ? If so, the 65' limit for B3 and B5 does not go far enough along a major thoroughfare with huge development opportunities so close to jobs, schools, services, transit, and walkable, to boot! Even more so if those affordable housing bonuses don't result in more housing. If I'm missing something, please let me know. Talk to the affordable housing community about the effectiveness of that proposed bonus. Aim higher and cast a wider net for denser housing close to transit and neighborhood business districts. I know you are trying to strike a balance for the city as a whole. I appreciate your efforts.	This link is referring to the incorrect height map. The proposed height map changes under ReCode can be found in Article 7 of the draft land use code changes.

NAME	DATE	SOURCE	ARTICLE	TOPIC	COMMENT	RESPONSE
MEREDA	7/30/0204	Email	General		On behalf of the Maine Real Estate and Development Association (MEREDA), I am pleased to submit the following comments and considerations as part of the City of Portland's Recode process – specifically, the following comments address the changes recommended by the Planning Department in Recode Wave II. MEREDA supports real estate development policies that are fair, practical, and predictable. These pillars ensure that housing is attainable, community growth is planned, and the playing field is level. We believe the changes recommend in ReCode Wave II largely reflect these principles, and we applaud the work done to modernize the Land Use Code. MEREDA also believes the proposed changes to Wave II represent a better alignment between the aspirations in the comprehensive Portland's Plan 2030, and the legal requirements of the ordinance. Specifically, MEREDA believes the Wave II changes make great strides in promoting complete neighborhoods, reinforcing the downtown center, and encouraging growth in priority nodes and corridors. We also believe the changes incentivize growth in the right places by reducing dimensional standards in common sense zones to promote housing construction. Portland is Maine's economic powerhouse, its cultural hub, and the gateway to the State for thousands of tourists coming both on and off the water. The proposed changes in Wave II respect the community and cultural heritage that characterizes the City. They also propose a future for development in Portland that will create housing, promote economic innovation, and catalyze climate resilience. While MEREDA offers its support for the overall changes made in Wave II, we offer a few recommendations to further capitalize on the opportunity to create housing and return Portland to a work + live community where it is now too expensive for many who wish to do so. The following recommendations reflect the work of MEREDA's Local Issues Committee and its members. We hope they provide insight into priority issues for the real estate and development community.	No response necessary.
Marion Snyder	4/5/24	Form	General		Very confusing. What is the re-code for Nason's Corner? And what actually does it mean to re-code the area? Please be specific in the answers and don't direct us back to the map.	Changes in the Nason's Corner area include some proposed changes to the zoning map (generally to convert existing RP zoning to B-1) and changes to the uses and dimensional standards within the RN-1 and RN-3 zones.
Sam Lebel	4/30/24	Email	General		I just wanted to drop a quick note to say this story map is brilliant! Super impressive how slick it is to visually understand the What and Why. Really well done.	No response necessary.
Bruce Sterling	4/30/24	Form	General		I am a property owner on Peaks Island thinking to build a one family residence. A builder I spoke with needed to know whether the property is determined to be a 'lot of record'. Both my property surveyor and my professional Appraiser are sure my lot should be considered a 'lot of record'. I would like to know how to get that determination settled. Thanks for your help, Bruce	The lot of record provisions in the existing land use code are under the Nonconformities article in Section 4.3.

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Marion Snyder	5/13/24	Form	General		What exactly is re-code? Is that a zoning change? Please don't refer me to the websites or maps too confusing. How does this affect Nason's Corner and other neighborhoods? Did someone go around from your dept. and put up small orange plastic banner indicating what home zoning changes? Please let us know. Thank you.	ReCode is a comprehensive effort to rewrite the land use code to help the City achieve the goals and objectives of our comprehensive plan, *Portland's Plan.*
Harris Van Pate, Maine Policy Institute	5/29/24	Email	General		Generally, Maine Policy Institute has several recommendations on how to improve these draft rules. First, reductions in only one or two regulatory factors in a zone are highly ineffective, and reforms in height restrictions or setback requirements should be paired with reducing other regulations in the same zones. Second, greater shifting of zone borders should occur, as the reforms focus too much on transit corridors which will reduce the overall impact the reforms will have on housing quantity and pricing. Lastly, these zoning reforms should be paired with the removal of rent control and inclusionary zoning throughout the city.	Height and setback modifications have been paired with changes in density standards to induce significantly more housing within mixed-use zones. Within the residential setting, incremental housing production is encouraged through changes in uses and modest changes in dimensional standards that reflect the existing lot and building pattern. While there has been some adjustment in zone boundaries, generally speaking, mixed-use zones are proposed to remain focused on areas where transportation and other supporting infrastructure alreaady exists. Inclusionary zoning is proposed to remain with small changes to address administrative issues that have developed in practice.
Urbanist Coalition	6/16/24	Email	General		Transparency and Elegance: Lastly, the most important omission from ReCode is any commitment towards transparency. Why are the lots on one street zoned for low-density residential, while another similar street's lots are for dense mixed-use? Why are the borders where they are, and why are the zones restricted in the ways which they are? Even when planning staff do make attempts to explain the rationales behind their decisions, they tend to leave many assumptions unexamined. What's more, planning has consistently played catch-up with the city, only latently approving uses for which there is already great demand. While it's easy to forget, the very term "planning" necessitates a focus on the future: future needs, future demand, future growth. For too long, planning in Portland has been focused on, at best, the present – and often it's been stuck in the past. Portland's land use code and zoning map ought to be based on concrete, rational decisions motivated by data. If zoning restrictions cannot be justified by solid material concerns, then they ought not be applied. Any sufficiently-motivated resident – with no advanced degrees or experience – ought to be able to look at the zoning map and understand why the zones of Portland are where they are, and why they are how they are, right across the city. A natural corollary to this is that the zoning map should not look like a Jackson Pollock painting. When an individual lot is classified as a unique zone from all the land which immediately surrounds it, can that really be justified by reason? Maybe sometimes – but typically, "spotzoning" and similar practices ought to be avoided at all costs. Zoning should not be a shadowy court of appeals where land use is decided by arbitrary boundaries, special interests, unspoken motivations, and unpredictable administrators. It should be a clear-cut, sensible process with which any homeowner can become comfortable. So far, Phase II looks to continue, and in some ways even worsen, the status quo of complexity and opacity.	There are many ways to plan for the future with respect to zoning, through not only the zoning map, but also through the zoning text. The proposed zoning map includes many changes designed to address not only inconsistencies between zoning designations and conditions on the ground, but also to set the stage for the future (e.g. TOD zones, B-1 zone expansions, B-2 zone expansions, B-3 expansion). Maybe more signfiicantly, however, the changes proposed in base zoning, when coupled with the zoning map, create significant opportunities in alignment with the patterns of the existing map. For instance, the B-2 zone on Forest Avenue is not proposed to change significantly in shape or extent, but the text changes within this zone will create significantly more opportunity in the future.

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Cheryl Leeman	7/17/24	Note	General		Demolition of existing buildings in residential zones?	There is no prohbition on the demolition of existing buildings in residential zones, except in the case where historic preservation regulations apply.
Craig Mathieson	7/28/24	Email	General		Thank you for your efforts to improve our city through zoning simplification and improvements. The current proposal is a terrific start and meets the moment in many ways. That said, it falls short as a forward-thinking roadmap to manage growth in a rapidly evolving city. Over the last decade, Portland has felt the impact of in-immigration and re-urbanization. Coupled with increases in inclusionary housing requirements, rent control, anti-development/developer sentiments, a complicated and costly permitting process, large swaths of the city deemed historic, higher cost to borrow and build, and antiquated zoning, we find ourselves in a housing crisis of epic proportions. To solve this, we must look for ways to immediately and dramatically increase housing supply, of all types and at all levels, to meet the demand of today and tomorrow. To do this, we must up-zone urban areas and transportation corridors and simplify and streamline the permitting process. The suggestions below come with a deep understanding and experience from a local developer, real estate agent, and student of land use and zoning. Through these lenses, I've been made educated about the proposed changes under ReCode and offer the following improvement suggestions.	Significant changes are proposed through ReCode to allow more housing. Many of these changes are focused on encouraging housing along transit corridors and near existing infrastructure, in alignment with the City's and region's smart growth goals. However, additional use permissions are also proposed within the residential zone context to allow incremental increases in housing in these areas as well.
The Urbanist Coalition	7/29/24	Email	General		The Urbanist Coalition of Portland (UCP) supports efforts to modernize Portland's land use code (ReCode). However, we feel the current proposal is insufficient to address the needs of our city today and into the future. The current proposal does not adequately remove barriers to addressing our housing crisis and building the walkable, bikeable, transit-accessible neighborhoods that we need to address our climate crisis. Below is a summary of our analysis of the Portland Planning Department's proposed Phase II ReCode changes.	Significant changes are proposed through ReCode to allow more housing. Many of these changes are focused on encouraging housing along transit corridors and near existing infrastructure, in alignment with the City's and region's smart growth goals. However, additional use permissions are also proposed within the residential zone context to allow incremental increases in housing in these areas as well.
The Urbanist Coalition	7/29/24	Email	General		Future-oriented planning: Zoning should be based on data and future needs, not just catching up with current demand.	ReCode proposes significant changes in use and dimensional standards across the City of Portland.
The Urbanist Coalition	7/29/24	Email	General		Portland deserves better than the status quo. ReCode should deliver meaningful change for a more affordable, livable, and sustainable city. The UCP urges city officials push for a ReCode that includes: ● Housing: Reduce barriers to building more housing such as building length, setbacks, and minimum lot size. ● Transit: Allow for transit oriented development along all of Portland's major transit corridors ● Simplicity: Further simplify the land use code by combining more residential zones and allowing more small multi-family projects to be considered minor site plans ● Complete Neighborhoods: Allow a neighborhood-scale mixture of uses in all residential zones	Significant changes are proposed through ReCode to allow more housing. Many of these changes are focused on encouraging housing along transit corridors and near existing infrastructure, in alignment with the City's and region's smart growth goals. However, additional use permissions are also proposed within the residential zone context to allow incremental increases in housing in these areas as well.

NAME	DATE	SOURCE	ARTICLE	TOPIC	COMMENT	RESPONSE
Markos Miller	7/29/24	Email	General		I fear the maximums ReCode is calling for barely reach what is needed for the vibrant transit and 15-minute neighborhoods the Comp Plan calls for. We must aim higher than the bare minimum if we are to achieve our goals.	Revisions have been made in the final draft to add TOD zones, add B-1 zones, and increase height to better reflect current floor-to-floor height trends and support densification along transit corridors and in walkable neighborhoods.
Karen Snyder	7/29/24	Email	General		Studies have shown that “urbanization” can widen the gap between the rich and the poor, exacerbate environmental degradation, increase costs associated with infrastructure and services, and contribute to economic & social disparities. Where is the data to prove otherwise with these ReCode Phase 2 proposals?	ReCode is a comprehensive effort to rewrite the land use code to help the City achieve the goals and objectives of our comprehensive plan, *Portland's Plan.*
Karen Snyder	7/29/24	Email	General		Who is really benefitting from these ReCode Planning Dept proposals?	The changes proposed in ReCode align with the City Council's adopted comprehensive plan.
Karen Snyder	7/29/24	Email	General		How will these ReCode proposals decrease the urban sprawl and massing morning commute made by working and middle class people that either: A.) Can not live in Portland because of the price of housing or B.) Do NOT want to live in Portland because Portland is becoming unlivable- too small and expensive of place to live, not enough trees, too much asphalt and concrete, too dense, too many homeless and needles, etc etc.	Many of the ReCode changes are focused on encouraging housing along transit corridors and near existing infrastructure, in alignment with the City's and region's smart growth goals.
Karen Snyder	7/29/24	Email	General		Why hasn't City of Portland Planning Dept learned from the mistakes Boston, NYC, LA has done (too high of rents because the oligarchs and massive morning commutes of the working and middle class that either can't afford or don't want to live in urban grit?) but instead they are using these unlivable cities as basically a blueprint to copy?	ReCode is a comprehensive effort to rewrite the land use code to help the City achieve the goals and objectives of our comprehensive plan, *Portland's Plan.*
Jean McManamy	7/30/24	Email	General		Stop radical social engineering promoted by developers and “new urbanists” and replace with gradual change in successive approximations better understood by public, most of whom have not moved to Portland from large urban areas. The continual pushback is tremendously wasteful of public resources.	The approach in residential neighborhorhoods is designed around incremental growth and change.

NAME	DATE	SOURCE	ARTICLE	TOPIC	COMMENT	RESPONSE
Portland Regional Chamber of Commerce	8/2/24	Email	General		We appreciate the work city staff and the Planning Board have put into this draft since the 2017 adoption of Portland's Plan 2030. This proposal builds on strong past efforts of the City to make progress on housing production, economic development, and quality of life for all who choose to live and do business here. From the amendments in the first wave of ReCode in 2020 to the ambitious approach to LD 2003, our city has repeatedly demonstrated a commitment to grow and invest in the future through embracing change and development. This is moving us towards achieving state and local housing production and economic growth targets, representing a strong foundation on which to build further action. However, we face significant challenges in meeting these ambitious goals of our city and state. Some of these are beyond the control of municipal leadership, and some are self-imposed. Nationally, the cost of capital, commodities, and labor have slowed development, pausing near-record housing starts and exacerbating stresses exposed by the pandemic in many commercial real estate asset classes. At the same time, we have adopted policies at the local level that further add to these challenges. Housing feasibility has been significantly hampered by the voters' decision in 2020 to increase the tax on multifamily housing to a punishing 25%. Similarly, we have adopted other bespoke local requirements that increase the cost of construction, while at the same time neglecting speed and commonsense in our approach to permitting and legislating. To counteract these challenges, we must focus on improving our regulatory strategy on land use and development. The ReCode amendments make significant strides in this area by streamlining the code, clarifying and simplifying procedures, and removing outdated practices. On the dimensional front, ReCode demonstrates its promise with incremental growth across most areas of the city, increasing heights, removing many density restrictions, and reducing minimum lot sizes. On a mapping front, the draft makes important updates that recognize the cornerstone of our comprehensive plan: unleashing growth in the priority nodes and corridors of the city. We strongly believe these changes will lead to positive changes to our neighborhoods, making it more possible for many to live, work, and raise a family in Portland. What follows are a series of detailed comments broken down by their relevant article in the draft Land Use Code. While we believe the current draft is a strong improvement over the status quo, consideration of the following comments will improve it further to ensure it meets the ReCode project's goals of making the code more user friendly while advancing the goals of Portland's Plan 2030. We thank you for your consideration of our comments and your commitment to public service in the City of Portland.	No response necessary
Donato Giovine	8/21/24	Email	General		Let's do ReCode Right!	No response necessary.
James Wolf	9/4/24	Email	General		I own land at the end of Tucker Avenue. Can you tell me what the new zone is proposed to be?	No response necessary.
Clair Richardson	9/6/24	Email	General		I just wanted to confirm the proposed zone per the latest draft of the recode for the following address: 951 Washington Ave., Portland, ME	No response necessary.

NAME	DATE	SOURCE	ARTICLE	TOPIC	COMMENT	RESPONSE
Jean Russo	6/5/24	Form	General	Growth and capacity	As a Portland native and a long time Realtor in Portland, I have several concerns about the proposed rezoning. Over the past 40 years, most of my clients have purchased property and put their life savings into that property knowing they would be protected by the zoning restrictions. Now those zoning restrictions are being tossed aside to cram more housing into already dense areas. New height restrictions will mean goodbye to backyard privacy and to any sunny yards with gardens! Removing the requirement of off-street parking and no boundary setbacks will create huge problems. Where do tenants in a multi-unit put their cars when it snows in areas like Stroudwater, Capisic, Rosemont and Deering Center? There are no public places to park and little public transportation. Please add the requirement of at least one off street parking spot for each apartment. Also, allowing no side setbacks is wrong! How do you repair the side of your home without encroaching on your neighbor's property? I know of at least one lawsuit where the neighbor would not let the new owner of an in-town building access the side of his building to work on it. I think the case is still pending. We need at least 10 feet for side boundaries in every zone so that property owners can access the side of their home or building without encroaching on neighbors' land. Finally, what about the impact on our local schools with all of these added apartments? I understand that everyone wants to live in Portland, but that is not possible. Maine is a big state with tons of land and it's time to start moving some of these developments to outlying areas; most are less than 20 minutes away so let's work on improving public transportation to those locations. Let's keep some green space in Portland and stop increasing the density. To do otherwise is going to destroy our beautiful City and will decrease property values.	The changes proposed through ReCode will create more opportunities for housing city-wide, and particularly in places connected to transit and infrastructure, while balancing other goals of *Portland's Plan 2030*.

NAME	DATE	SOURCE	ARTICLE	TOPIC	COMMENT	RESPONSE
Barbara Carter	6/17/24	Letter	General	Growth and capacity	When you think about increasing density out here with more housing... - Do you think about the fact that most of the roads we drive on are Paper Roads (we have 102 of them) that are not very well maintained, and that the city does not want to accept roads out here as official streets because they don't want the liability or responsibility for them? - Do you think about the fact that residents have difficulty getting cars on and off the island year-round because there's not enough spaceon the ferry, and that we have cars lined up down the street in our business district for six months out of the year that causes terrible congestion, and creates a dangerous situation - Do you think about the fact that we have a small parking lot on the island for commuters that is full to overflowing most of the time? - Do you think about the fire risk out here, and that because of that risk, it is very difficult to get homeowners insurance here, that there are many insurance companies that will not insure properties on Peaks Island. And do you think about how that fire risk will increase when setbacks can be as small as 6 feet between houses? - Do you think about the fact that PORTLAND provides the absolute minimum services out here, and that they barely respond when there's a problem, and that it is very difficult for the police out here to enforcelaws because the city thwarts them at every turn. - Do you think about the fact that our infrastructure may not be able to handle many more houses? That our sewer treatment is already at capacity? I fail to understand the purpose the city has in increasing housing density out here. I do believe we need some additional housing here on Peaks Island, especially affordable housing, which is important in keeping our diverse community, but if the city is looking at it as a way to solve their housing problem, Peaks Island is not the place to be developed. The city would have to step up and consider us like any other neighborhood of Portland, and provide far more to us, before it makes sense to build any significant amount of housing out here.	ReCode proposes changes within the existing IR-2 zone on the west side of Peaks Island, since parts of this area already have water, sewer, and street connections, and they're easily walkable to the ferry. As proposed, building would be allowed on smaller lots (and on newly created small lots) that generally match the pattern of existing development.
Sandra Knakal	7/29/24	Email	General	Growth and capacity	I support a requirement that the Planning Board hold meetings specifically targeting residents in their neighborhoods to educate and explain the impacts of the proposed code changes. It appears that developers are more skilled and knowledgeable in the process and have been able to lobby for what is best for them, leaving residents concerned and sometimes confused. I'm particularly concerned about the city's ability to provide good infrastructure support for all of the development that would be allowed. Are developers of big buildings going to be required to pay a fair share of fees and taxes to support the necessary infrastructure? Continued increases in our already very high property taxes are driving current homeowners out.	The changes proposed through ReCode will create more opportunities for housing city-wide, and particularly in places connected to transit and infrastructure, while balancing other goals of *Portland's Plan 2030.*
The Urbanist Coalition	7/29/24	Email	General	Process	Lack of Transparency and Predictability: Zoning decisions lack clear justification and create confusion.	The work of ReCode is based on the city's comprehensive plan, *Portland's Plan.*
Ron Smalley	7/29/24	Email	General	Process	Abstract ideas from council members to the planning board and via versa to be vetted now. Not after the fact. NO to RE-CODE	The changes proposed through ReCode will create more opportunities for housing city-wide, and particularly in places connected to transit and infrastructure, while balancing other goals of *Portland's Plan 2030.*

NAME	DATE	SOURCE	ARTICLE	TOPIC	COMMENT	RESPONSE
Melinda	7/29/24	Email	General	Process	I am deeply concerned that the project ReCode has reached so late in the game with little effort to gather input from the residents of Portland. I've heard almost nothing about this project until recently, yet reading the projected impact is very disturbing. It has been driven mostly by a consultant who specializes in large cities and developers focused on maximizing their own profit. Input from the actual residents who will be living with the results has been minimal. We are not New York. We are not Chicago. We do not wish to become them. The planning board needs to step back and incorporate feedback of residents and keep changes in line with the city's culture and history. The developers will walk away with as much money as they can. They do not have to live with the impact of the rezoning. We do.	This phase of ReCode has been underway for over three years, including many ways for citizens to get involved. For more on the process, visit www.recodeportland.me.
Markos Miller	7/29/24	Email	General	Process	Finally on this matter, I know politics and public input are important parts of our process. However, it is a mistake to cast ReCode as a largely political and public input process. That work already took place when we developed the Comprehensive Plan- Portland 2030. ReCode must be about how we achieve the goals outlined in the Comp Plan, not if we are going to achieve those goals. We must focus on what are the most effective strategies to achieve the Comp Plan goals and resist calls to relitigate our Comp Plan goals.	No response necessary.
Karen Snyder	7/29/24	Email	General	Process	Questions #3: Why were the Planning Department ReCode stakeholders mainly developers and real estate rather than actual long term residents from the various districts?	This phase of ReCode has been underway for over three years, including many ways for citizens to get involved. For more on the process, visit www.recodeportland.me.
Joan & Roger Gildart	7/30/24	Email	General	Process	We wish to inform you that we do NOT support your urbanization approach to zoning our neighborhoods. It will not make Portland more livable. There has been very little outreach to the residents of our Portland neighborhoods and no serious, convenient ,organized public engagement in our specific neighborhoods. Neighborhood residents have not been included in these discussions. It's as if the effects of this over reaching ,far beyond any state recommendations, recode plan is designed to do away with single resident housing in every neighborhood and adding unacceptable height & setbacks. Communication needs to be greatly improved and a much better process in place to clearly explain the dramatic alterations to Portland's unique neighborhoods. It is way past time for neighborhood forums for residents' input.	This phase of ReCode has been underway for over three years, including many ways for citizens to get involved. For more on the process, visit www.recodeportland.me.
Greater Portland Landmarks	8/2/24	Email	General	Process	The zoning guides and additional graphics in the proposed sections are very useful and we recommend modeling the proposed changes in various zones as well so that the public will understand what is permissible.	Visualizations can be found within the materials for the ReCode Studio, which are posted online here.

NAME	DATE	SOURCE	ARTICLE	TOPIC	COMMENT	RESPONSE
Peter Ferrante	6/5/24	Email	General		I am a 76 year old former real estate broker born and raised on the Portland peninsula who lives at the base of Munjoy Hill. As I stated in a letter to the editor of the Press Herald on 1/4/22, Portland could use modern rooming houses to alleviate housing shortages and high rental prices especially for people in the service industries. I missed your 2 public feedback sessions on 6/4 and 6/5 at Canal Bank. I disagree with the the public comments I read today about buildings too high, densities too high, parking scarcity, and massive projects. Too many NIMBYs. Portland is not a quaint little town anymore. We desperately need new housing.	The changes proposed through ReCode will create more opportunities for housing city-wide, and particularly in places connected to transit and infrastructure.
Priscilla Doucette	6/6/24	Form	General		I visited your space at 1 Canal Plaza yesterday. I received some information from several helpful people. I still have very strong concerns. Since I have lived, worked, and paid taxes in Portland all my life, I feel quite qualified to understand our problems and enjoy our successes. Briefly stated, I am perplexed at why Portland needs to be infilled and crowed with housing, which will be totally out of the economic reach of those people you claim to be helping. The changes will simply give developers more space to squeeze in more expensive homes. Once your proposed zoning takes place and the beauty and character of Portland is gone, then yes, you will have affordable housing. Affordable apartments can be built in large spaces which exist, such as Morrils Corner or Canco Road. But simply crowding and changing neighborhoods is not he answer. And as an aside, once the unique view of Portland from the water is lost to tall buildings, another aspect of our desirability will be gone. Please continue with your work to keep Portland vibrant and livable.	While additional height is proposed along the city's major corridors and in downtown, the scale and form of development in much of the city's residential neighborhoods is intended to be maintained. Additional housing would be allowed under ReCode in both of these contexts.
Kathryn Jordan	5/6/2024	GIS Map Viewer	Map	1582 Forest Ave	For a larger parcel that is vacant and has frontage on a city corridor with bus access, can there be a way to allow new multifamily in this zone.	Under ReCode, "multi-family" is proposed to include all building with 5 or more dwelling units, as opposed to the current definition, which qualifies buildings with 3 or more units as multi-family. In the RN-2 (now proposed as the RN-1), which represents the current R-3, this type of housing is currently only allowed as adaptive reuse. That use permission is proposed to remain. In addition, up to four units would be allowed in one building (including new construction) under the ReCode proposal within the RN-2 (now proposed as RN-1). Given that this zone has over 8,000 lots, this change has the potential to create significant new housing opportunities.
Cynthia Beattie	5/25/2024	GIS Map Viewer	Map	160 New Island Ave	There are paper rows like this one that really dont exist-they are not even passable by walking and are landscaped areas of properties now. One the map you should consider using a dashed or different outline	Though streets are not built out here, these are rights-of-way, which are shown as distinct from parcels.

NAME	DATE	SOURCE	ARTICLE	TOPIC	COMMENT	RESPONSE
Danielle Foisy	8/2/24	Email	Map	176 Seashore Ave	Writing regarding the draft zoning map. For the area at 176 Seashore Ave on Peaks Island, the proposed rezoning means lots with single-family homes that are currently partially considered “IR-2” would change to "OS-P”. It is unclear what this change in designation would mean for these lots. Attached are screenshots of the existing and proposed. 176 Seashore has had a single family structure on its lot since 1925. Was the change from IR-2 to OS-P for these portions of the lots an error? Attached are screenshots from the existing zoning map and proposed. It looks like this is one of the few lots with existing structures on it proposed to be OS-P. Also attached is an aerial view of the two single-family structures that are currently in the IR-2 zone and the proposed change would mean they are in the OS-P Zone. [images included]	This was an error in the zoning map, which will be rectified in the final draft.
Michael Cardente	7/30/24	Email	Map	34 Diamond Street/265 Marginal Way	Thank you very much for taking the time to visit 34 Diamond/265 Marginal Way yesterday and condisering the impact the current ILb zoning is having on the ability to make the highest and best use of buildings in the Franklin/Diamond/Fox St. quadrant. Despite strong and consistent marketing efforts, the 265 Marginal Way building has been vacant for over two years. The Cardente family has received multiple serious inquiries from prospective lessees. While the uses that have been put forward by prospective tenants are consistent with both the nature of the property and the pattern of development in the area, they are not unfortunately permissible in the ILb zone. This includes neighborhood-scale grocery, entertainment venue, amusement with onsite food/drink, and other similar uses that would work well for this very large building with well over 100 parking spaces. We have seen little to no interest from tenants seeing the type of industrial and manufacturing uses the ILb zone is intended to promote, because the spaces are too large for the type of industrial/manufacturing uses that are seeking to locate on the peninsula. The Cardente family understands the importance of retaining commercial and industrial opportunities in downtown Portland, and has no current interest in residential or mixed-use development. We do want to promote and enhance the commercial feasability of the properties in the quadrant between Franklin, Diamond, and Fox Streets and Marginal Way. To do so, we propose one of the two following options: Option 1: Rezone these lots to B-5, with the restriction that no residential use be permitted. Option 2: Create a new zone for these lots, recognizing their unique positioning with access to Marginal Way and abundance of parking, and allow for a wider range of commercial uses that bridge the gap between B5 and ILb, to include but not be limited to retail, clinic, restaurant (at least in conjunction with another permitted use), place of assembly, performancy space, and grocery. We feel this wider range of uses will better assure the ability to make adaptive reuse of these properties, attract new tenants, and maintain the vibrancy, utility, and job creation opportunities for these properties.	The revised map will show lots between North Boyd Street and Diamond Street in the B-5 zone.

NAME	DATE	SOURCE	ARTICLE	TOPIC	COMMENT	RESPONSE
Tyler Holbrook	5/28/2024	GIS Map Viewer	Map	6 View Street	There are paper rows like this one that really dont exist-they are not even passable by walking and are landscaped areas of properties now. One the map you should consider using a dashed or different outline	Though streets are not built out here, these are rights-of-way, which are shown as distinct from parcels.
Jeff Sherman	5/13/2024	GIS Map Viewer	Map	72 Tide Mill Road	The area around the Jetport should be upzoned. Because of the jetport, this area could support more frequent transportation. If this area was a mixed use zone, public transportation could serve the jetport, the mixed-use zone, and the Maine Mall. This zone being RN-1 is a missed opportunity.	Generally, *Portland's Plan* supports more jobs and people near downtown and in a nodal fashion along corridors. In the long-term, there could be more density around the Jetport, but at present, it is not the area of focus.
Jeff Sherman	5/14/2024	GIS Map Viewer	Map	83 College Street	This parcel should be zoned RN4 or B2.	The majority of this parcel is currently zoned R-3, so it is proposed to retain the equivalent zoning classification.
Tom Lane	7/24/2024	GIS Map Viewer	Map	Allen Ave/ Summit Street	Must slow auto traffic in this area for pedestrian/bike saftey	This is largely beyond the scope of the land use code, but bike and pedestrian safety is a goal of the city more broadly.
Tom Lane	7/24/2024	GIS Map Viewer	Map	Allen Ave/ Washington Ave	Improve intersection for pedestrians and bikes.	This is largely beyond the scope of the land use code, but bike and pedestrian safety is a goal of the city more broadly.
Thomas Bander	8/2/24	Form	Map	B-1 zone	Expand B-1 zones to allow for neighborhood businesses in more neighborhoods! Even off peninsula, its important to have more mixed use zoning to allow people to walk to local business	Additional B-1 zones will be represented on the final draft zoning map.
Portland Regional Chamber of Commerce	8/2/24	Email	Map	B-1 zone	As an alternative to expanding the definition and uses allowed under the neighborhood nonresidential use provision, and in conjunction with our recommendation to fold the R-P zone into the B1 zone, we recommend expanding the mapping of the B1 zone along more priority nodes and corridors that are currently mapped as RN zones. This would include more portions of Congress Street on Munjoy Hill, more of Congress between I-295 and Westbrook Street, more portions of Washington Avenue from Presumpscot Street to Allen Avenue, more portions of Forest Avenue from Allen Avenue to I-295, more portions of Stevens Avenue in its entirety, and more portions of Brighton Avenue from Falmouth Street to Montrose Street. While the built form in some of these areas may not match the B1 zone description today, we do believe this will provide incremental opportunities for residential growth and retail uses near established neighborhoods and along the routes identified for transit and bike/ped investments in the coming years	Additional B-1 zones will be represented on the final draft zoning map.
Harris Van Pate, Maine Policy Institute	5/29/24	Email	Map	B-1, B-2/B-2b zones	B-1, B-2, and B-2b are all zones in the mixed-use category, and the ReCode Portland Second Wave removes a lot of regulatory restrictions, such as minimum lot area and an increase in maximum height for specific properties. While these deregulations, coupled with an increase in allowed uses and a reduction in setbacks, combine to encourage property development effectively, these parcels are few and far between. Portland's emphasis on transit corridors means that only a narrow portion of the city will be affected by these reforms, reducing the efficacy of any proposed rules. This is where something good occurred, but the impact area is too small. These zones should be expanded.	Collectively, a significant amount of land area in the City is covered by the B-1, B-2, and B-2b. ReCode proposes some expansion of these zones, but as they stand today, they are under-developed, and could support significant amounts of new development. These areas are generally concentrated around major nodes and corridors, to align with existing utility and transportation infrastructure.
Jeff Sherman	5/8/2024	GIS Map Viewer	Map	B-2 1060 Forest Ave	(1) In the existing zoning map this area along Forest Ave is zoned as B2. This area should remain zoned as B2. (2) There should not be any residential zoning along Forest Avenue, especially in this part of Forest Ave. This is precisely the area where the city should encourage mixed use zoning.	No response necessary.

NAME	DATE	SOURCE	ARTICLE	TOPIC	COMMENT	RESPONSE
bah	6/4/2024	GIS Map Viewer	Map	B-2 91 Auburn Street	How can we incentivize infill housing along the street frontage within these large shopping centers' parking lots such as this B2 zone (Northgate Plaza)?	The proposed changes in the B-2 zone, including changes to density and height, are intended to encourage infill in these areas.
Portland Housing Development Corporation	7/17/24	Email	Map	B-2 Brighton Avenue	Recommendation #3 – Rezone a Portion of Sagamore Village Parcel (274-G-1) to B-2 Justification for rezoning: • This parcel has an irregular shape with two vastly different contexts: busy Brighton Ave on its south side and suburban Sagamore Village to the north. • Adjacent corners of Brighton/Cabot/Rand intersection are all B-2. • Parcel to its east is B-1. • Across the street from proposed TOD-1. • See Exhibit B for a proposed zoning map showing where the Brighton Ave portion of this parcel would be rezoned to B-2, while the rest of the parcel remains RN-4.	This change will be represented on the final draft zoning map.
Liv Chase	6/25/2024	GIS Map Viewer	Map	B-2 Wilmont Street/Cumberland Ave/ Chestnut Street/ Oxford Street	Recommending B2 for the block bordered by- Wilmot Street/ Cumberland Avenue/ Chestnut Street/ Oxford Street. This is an extremely walkable location that is only 3 blocks from the Downtown District and the Old Port. B2 is the recommended zoning instead of RN5/ RN7 to allow for higher density and more apartments to be built which will address the ongoing housing crisis. Additionally, this neighborhood would benefit from first floor business as development in the East Bayside District continues to grow.	This area has a small lot, residential pattern. As such, the residential zoning designation will be maintained.
Jeffrey Curran	4/11/24	Form	Map	B-2b Washington Avenue	I Jeffrey a Curran, owner of 163 Washington Ave., would like to be included in the B2-B zone change that isproposed at the adjacent property located at 165 Washington Ave..	The final draft map will continue to show B-2b along Washington Avenue, with some expansion of this zone. This zoning designation reflects the corridor's urban location and addresses the goals of *Portland's Plan,* which supports density and walkability where there is transportation and other types of infrastructure that can support it.

NAME	DATE	SOURCE	ARTICLE	TOPIC	COMMENT	RESPONSE
Travis Letellier (GreenMars)	5/16/24	Email	Map	B-2b Washington Avenue	We recently concluded a pre-application meeting regarding our project at 221 Congress Street. The decision reached was to pursue a map amendment for the property, transitioning it from its current IS-FBC zoning to B-2b. Its not so much a dimensional issue, in a way it is, but we are looking to gain additional height within the building which will facilitate more units. In the current zoning we are limited to 62 feet with the bonus 5th level, however the top floor is severely limited by the 35-foot Washington Ave stepback. The B-2b, which runs up and down both sides of Washinton would give us the flexibility to go higher and ultimately add more units and more affordable units to this property. We would appreciate the opportunity to make our case in a meeting if you had the time over the next week, we certainly want to get this change into the re-code process as quickly as possible, please let us know the best way to make that possible. I have attached two documents that illustrate our re-zoning goals for the property. The first document shows historic, current and our proposed zoning of the property along with some arguments from Portland Comprehensive plan. The second document establishes some dimensional restraints of the current zoning in comparison to what we would be able to accomplish with a zone change in terms of height, setbacks, and unit counts. This document was shared at the pre-app meeting we had last week. We believe a change to b-2b would an overall benefit to the city in its goal for providing affordable and workforce housing. A portion of the property used to be in the b-2b before a previous zone change and would unite the western side of Washington Ave within the same zone.	This change will be represented on the final draft zoning map.

NAME	DATE	SOURCE	ARTICLE	TOPIC	COMMENT	RESPONSE
Liv Chase	5/28/24	Email	Map	B-2b Washington Avenue	Washington Avenue is defined in Portland's Plan 2030 as a priority corridor (Future Land Use, page 86) It is a very dynamic street with many businesses already in place. It is extremely walkable which makes it very desirable. It is well suited for high density. "Priority corridors are major arterials that often see heavy vehicular traffic, but also have the capacity to improve mobility by capitalizing on their potential for increased walking, bicycling, and transit use. Priority corridors can also serve as areas of additional mixeduse, higher density growth to take advantage of the transit benefits and services that well-designed, diverse corridors can offer." (Portland's Plan 2030, pg. 84) Almost all of the land bordering Washington Avenue is in the B2-b district. Our proposal is that all of the land boarding Washington Avenue should be B2-b to encourage the area to grow at higher density as defined below. B-2b To provide neighborhood and community retail, business and service establishments that are oriented to and built close to the street. The B-2b zone is suitable in areas where a more compact urban development pattern exists or where a neighborhood-compatible commercial district is established which exhibits a pedestrian scale and character. Such locations may include the peninsula and other arterials and intersections with an existing urban or neighborhood-oriented building pattern. The B-2b zone encourages mixed-use development, and provides locations for moderate to high-density housing in urban neighborhoods along arterials.	The final draft map will continue to show B-2b along Washington Avenue, with some expansion of this zone. This zoning designation reflects the corridor's urban location and addresses the goals of *Portland's Plan,* which supports density and walkability where there is transportation and other types of infrastructure that can support it.
Peggy Shaffer	6/1/2024	GIS Map Viewer	Map	B-2b Washington Avenue	The proposed zoning change from B1 to B2b for 165 Washington Ave, which boarders the northern end of the Eastern Promenade Park, is inappropriate given its impact on the Park. Graphics for the Recode project uses this exact view from the Park back to the city skyline, as a key image for Portland Recode. While increasing the housing supply, especially the affordable housing supply, is an important goal for Recode, this site does not need to carry the whole burden, especially when it has such deleterious impacts on surrounding properties and the public park due to height, scale, shading, traffic and parking. Given that the adjacent properties on Cove St. will retain B1 zoning status, this particular zoning change appears to be spot zoning to favor Redfern Properties, LLC at the expense of the public. There are no other B2b zoning changes proposed along the Eastern Promenade. As Recode graphics suggest the expansive Park vista should be protected by retaining the B1 zone.	The final draft map will continue to show B-2b along Washington Avenue, with some expansion of this zone. This zoning designation reflects the corridor's urban location and addresses the goals of *Portland's Plan,* which supports density and walkability where there is transportation and other types of infrastructure that can support it. In the final draft text, dimensional standards will be modified in the B-2/B-2b to address adjacencies to open space zones.
Jeffery A. Curran	6/6/2024	GIS Map Viewer	Map	B-2b Washington Avenue	Please included my property located at 163 Washington Ave., in the proposed zoning map amendment from B-1 to B-2b for the property located at 165 Washington Ave,. my property located at 163 Washington Ave. abuts this property.	The final draft map will continue to show B-2b along Washington Avenue, with some expansion of this zone. This zoning designation reflects the corridor's urban location and addresses the goals of *Portland's Plan,* which supports density and walkability where there is transportation and other types of infrastructure that can support it.
Liv Chase	6/24/2024	GIS Map Viewer	Map	B-2b Washington Avenue	Recommending B2b for all land along Washington Avenue that is on the Portland peninsula. Currently, there are only a few remaining lots which are B1. This is a transportation corridor as identified by the City of Portland. We should be encouraging growth and high density at this location. Keeping the zoning consistent allows for equal development throughout this dramatic gateway to Portland.	The final draft map will continue to show B-2b along Washington Avenue, with some expansion of this zone. This zoning designation reflects the corridor's urban location and addresses the goals of *Portland's Plan,* which supports density and walkability where there is transportation and other types of infrastructure that can support it.

NAME	DATE	SOURCE	ARTICLE	TOPIC	COMMENT	RESPONSE
Patrick Boothe	6/25/2024	GIS Map Viewer	Map	B-2b Washington Avenue	I am a local architect and resident of Portland. I have studied this site at the corner of Washington Ave and Congress Street extensively since 2017 when the current property owner hired us to prepare feasibility studies and building designs. Several attempts to provide mixed-use housing here has failed financially due to a combination of tricky site constraints, construction costs and a limitation in number of residential units. In a recent review of the property against Recode Phase 2, if these 3 contiguous lots under common ownership at the corner were changed from IS-FBC to match the adjacent B2b zone (both to the north and immediately across the street) it would appear that the property would allow approximately double the amount of housing units by allowing additional height. This minor map amendment could open the property to finally be within striking distance to be redeveloped. Thanks for the consideration! Patrick	This change will be represented on the final draft zoning map.
Eric Pierpont	6/25/2024	GIS Map Viewer	Map	B-2b Washington Avenue	I believe that all B1B peninsula parcels on Washington should be B2B. We are in a transportation corridor and are going through a housing crisis. More density is required.	The final draft map will continue to show B-2b along Washington Avenue, with some expansion of this zone. This zoning designation reflects the corridor's urban location and addresses the goals of *Portland's Plan,* which supports density and walkability where there is transportation and other types of infrastructure that can support it.
Donna Williams	7/29/24	Email	Map	B-2b Washington Avenue	The proposal presented for 165 Washington Ave. gives us some sense of what Recode could mean for not just Washington Avenue, but for some of the other so called “transit corridors” in the city of Portland. During “urban renewal” we got the Franklin St arterial and we got Spring St arterial, bisecting neighborhoods, etc. These transit corridor proposals will be just as disastrous for the city and encourage suburban sprawl. These multistory studio and 1 bedroom apartments will push families to the suburbs and they will want multi lane quick rides (in their own cars) to their homes and to their offices in Portland. Some of the family housing on our “arterials” is the last vestige of “affordable family housing” in the city of Portland, and through amendment to the city codes, this city now allows tear downs of some of these houses, so developers can eventually replace them with 10-20 small units on a parcel of land. These new units will most likely be transitional housing for people who will have little stake in the future of their short term neighborhood.	The final draft map will continue to show B-2b along Washington Avenue, with some expansion of this zone. This zoning designation reflects the corridor's urban location and addresses the goals of *Portland's Plan,* which supports density and walkability where there is transportation and other types of infrastructure that can support it.

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Leslie Hart	7/29/24	Email	Map	B-2b Washington Avenue	I would like to express opposition to the proposed change from B1 to B2 along Washington Ave. for the following reasons. Recode assumes development along Washington Ave is transit-oriented development. There is some bus service along Washington Ave. currently, but not nearly enough to support the requirements of higher density development. The planning board has no control over increasing transit. That has to be done by the state DOT. There is an assumption that increased demand will eventually result in increased service. But there is no actual plan or budget to make that happen. Any zoning changes must be made in cooperation with the DOT now, not years from now, so there is a concrete plan in place to accommodate increased demand, rather than playing catch up years later. In the meantime, nightmare traffic congestion will deteriorate the quality of life in Portland. Increased density without adequate public transportation means more cars on our roads, adding to greenhouse gases and resulting in a negative environmental impact. Second, the B1-B2 change contradicts the Portland 2030 Plan that acknowledges that “continuing to preserve and develop open spaces, and improve connections between them, is integral to the health and well-being of Portland’s residents, visitors, and ecology. The City’s public spaces are central to its ability to foster neighborhood vitality, sense of community, recreational opportunities, environmental health, arts and cultural programming, economic development, and local mobility. A walkable, bikeable, and accessible network of open spaces is an invaluable and necessary element of an equitable, healthy, and vibrant future." Yet the proposed zoning change would do just the opposite. Permitting taller buildings along Washington Ave. will negatively impact the western end of the Eastern Promenade Park, obstruct the expansive views from the park, and diminish the experience of the park and the physical landscape. A recent NIH (National Institutes of Health) study found that "Green spaces provide vital health services as well as environmental services... reducing socioeconomic health inequalities, facilitating activity and promoting better mental health and well-being.” It called green spaces "a cost-effective public health intervention.” Recode should not rob our citizens of this essential element of health and wellbeing.	The final draft map will continue to show B-2b along Washington Avenue, with some expansion of this zone. This zoning designation reflects the corridor's urban location and addresses the goals of *Portland's Plan,* which supports density and walkability where there is transportation and other types of infrastructure that can support it. In the final draft text, dimensional standards will be modified in the B-2/B-2b to address adjacencies to open space zones.

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Jean McManamy	7/30/24	Email	Map	B-2b Washington Avenue	Feedback on Recode with specific applications to proposed B2 on Washington Avenue Protect feeling and reality of pedestrian safety by providing five foot setback from sidewalk and wind mitigating stepbacks for every two stories above ground level in proposed B2 and R6. 1. Doors and garage entries recently permitted on sidewalks in R6 are dangerous and feel threatening which cause pedestrians to walk on street in winter and at night. 2. Sidewalks on peninsula, including Washington Avenue at Northern Burner site, are already too narrow and snow and ice covered from high speed plows in winter. Provide esplanade to allow tree canopy and safer pedestrian walkway. Trees cannot grow in undersized tree boxes, and have died and are dying on Washington Avenue. See sustainability proposals below. 3. Current tree boxes leave sidewalk width too narrow for code and impassable for wheelchairs. Ensure ADA requirements met.	These issues are typical of concerns generally addressed under site plan review.
Jean McManamy	7/30/24	Email	Map	B-2b Washington Avenue	Preserve landmark views from public parks and key roadways and protect public use. 1. 214 Washington Avenue should never have been permitted. It was a mistake and has no public support. The loss of the public working harbor view from upper Fore St. likewise was a great error. Proposed rezone on Washington Ave would block view of Cathedral spire and scope of city view from promenade. Reduce heights to protect city parks. 2. Proposed rezone may interfere with Fort Sumner overlook. Recode group has presented no data showing impact of proposed true height on park views, including bonus heights and elevator shafts as well as rooftop recreation. True proposed B2 height will interfere with current agricultural uses in Mount Joy Orchard. Ensure height regulations set firm 45 foot limit. Provide survey showing actual permitted true building height, including rooftop uses.	The final draft map will continue to show B-2b along Washington Avenue, with some expansion of this zone. This zoning designation reflects the corridor's urban location and addresses the goals of *Portland's Plan,* which supports density and walkability where there is transportation and other types of infrastructure that can support it. In the final draft text, dimensional standards will be modified in the B-2/B-2b to address adjacencies to open space zones.
Portland Regional Chamber of Commerce	8/2/24	Email	Map	B-2b Washington Avenue	Given the recent discussions surrounding the application of the B2b zone to the peninsular side of the Washington Avenue corridor, and the associated accusation that this is “spot zoning”, we would find it clearer for B2b to be mapped to the entirety of the peninsular side of this corridor, except for the OS-R zoned parcel on the northern end. This is a vibrant corridor at the base of a large elevation gain and is perfectly aligned with the B2b zone’s purpose statement. While B1 has its place on collector streets and within dense neighborhoods, a corridor with this level of transit service and pedestrian connectivity should be zoned more intensely.	The final draft map will continue to show B-2b along Washington Avenue, with some expansion of this zone. This zoning designation reflects the corridor's urban location and addresses the goals of *Portland's Plan,* which supports density and walkability where there is transportation and other types of infrastructure that can support it.

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					I. Introduction The northwestern end of the Eastern Promenade Park embodies Portland's Plan 2030's vision for an "active city" that "provides access to the city's waterways, forests, and play spaces, as well as supporting transportation, food production, public health, cultural events, plant and animal habitat." (Page 54) [...] Portland's Plan 2030 is about balancing diverse and sometimes competing goals to create a resilient, livable, equitable city for all. Specifically, it offers a roadmap to balance development with the need for open space. ReCode Portland's process has not addressed this critical need for balance in its focus on increasing density, augmenting transportation corridors, and addressing the housing crisis. This application for a height overlay for the northwestern end of the Eastern Promenade Park [170 North St. Parcel # 008 A007001] seeks to address this imbalance following the precedent established by the Fort Sumner Park Overlay that protects the same values and policy goals. ...IV. Analysis Current development/redevelopment and ongoing development pressure are already affecting the integrity of the northwestern end of the Eastern Promenade Park (Recreation & Open Space Zone ROS) negatively, which includes the northern, western, and southern facing slopes between North Street and Washington Avenue. Zoning map amendments proposed as part of ReCode Portland also will have a negative impact upon this section of the park, by increasing maximum height and density allowances for those lots abuting and adjacent to this secJon of the Eastern Promenade Park. Specifically, the nine lots directly across Washington Avenue, which are currently zoned B-1b (45 ft. height limit) will be rezoned to B2-b (65 ft. height limit); and the lot that abuts the end of the park next to the Mt. Joy Orchard will be rezoned from B-1 to B2-b. Note that this maximum height limit does not take into account workforce housing height (WFH) bonuses, which will allow building heights of 75 ft. with provision of 25% of units and 90 ft. with 75% or more of these units. These changes will not only obstruct the expansive views from the park but also will negatively impact patrons' experience of the historic park design and physical landscape. Existing and proposed buildings on the up-zoned parcels within the park's vicinity will negatively impact the integrity of the park landscape, its historic design, the park trails that support connectivity, and existing view corridors. Specifically, sunlight hours in the park will be affected throughout the year, Jack Path will be walled in, and the majesJc and expansive views, for which the park was originally designed, will be significantly altered. Most notably, the views of Back Cove and the city skyline enhanced by the 1905 Olmsted design will be substantially obstructed. Shadow Impact Analysis An analysis of the shadow impact of adjacent lots developed to the proposed maximum density and scale including a complement of 25% WFH shows that 20% or more of the park area occupied by the Mt. Joy Orchard will be in shadow for over 42% of the total daylight hours from October through February. (See representative shade graphics below).	

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Rhonda Green	9/10/24	Email	Map	B-2b Washington Avenue	We are totally against the proposed zoning change on Inner Washington Ave that would allow 75 ft heights for buildings along this road. We are not against affordable housing / reasonable housing but we Are Against this way too high building height- it is not beneficial . Build proper housing that fits the space as defined and this will be the best solution.	The final draft map will continue to show B-2b along Washington Avenue, with some expansion of this zone. This zoning designation reflects the corridor's urban location and addresses the goals of *Portland's Plan,* which supports density and walkability where there is transportation and other types of infrastructure that can support it. In the final draft text, dimensional standards will be modified in the B-2/B-2b to address adjacencies to open space zones.
Lynne Howard	9/10/24	Email	Map	B-2b Washington Avenue	I realize that homes are needed for the growing number of people who have chosen Portland Maine as their home. But one must ask why people have chosen. It's because Portland is a beautiful city that has maintained its beauty through the parks that can be visited, and from where residents and visitors alike can look out at the majestic views of the city. If you continue to re-zone for higher buildings, you will take away that beauty, and ultimately the city of Portland will be just another ordinary city. Portland Planning Board must balance this need for homes with keeping the city as natural as it can be. By allowing 4 stories, you allow for new homes to be built yet maintain the look and feel of the city at its best. By allowing more stories, all that goes away. PLEASE DON'T DO THIS. PLEASE LEAVE THE CURRENT ZONING INTACT.	The final draft map will continue to show B-2b along Washington Avenue, with some expansion of this zone. This zoning designation reflects the corridor's urban location and addresses the goals of *Portland's Plan,* which supports density and walkability where there is transportation and other types of infrastructure that can support it. In the final draft text, dimensional standards will be modified in the B-2/B-2b to address adjacencies to open space zones.

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Liv Chase	5/28/24	Email	Map	B-3 zone	The area comprised of Lancaster Street to the north, Wilmot Street to the east, Cumberland Avenue to the south, and Elm Street to the west is defined in Portland's Plan 2030 as a priority node area to enhance (page 86) "Priority nodes and corridors indicate areas that would be appropriate for new development to provide needed housing, businesses, and services proximate to transit, or areas that otherwise warrant some examination of potential for positive change in form and/or function." (Portland's Plan 2030, pg. 82) This is a very small cluster of RN5, B2b, and R7 that is completely surrounded by B3. The location of this district is within walking distance of the downtown district. There is alot of undeveloped land to the north (Bayside) and looking at growth patterns and development, this will likely be the next area to see substantial growth. It is on 1 block away from Congress Street (a priority corridor) which means it could benefit from high density and mixed-use that is only possible in a business district. Our proposal is that this area become a B-3 zone. It is closer in proximity to the downtown than it's neighborhood to the North, Bayside Neighborhood and therefore it creates a closer link to the downtown. It is one of the most walkable locations in Portland and it would only benefit from a zone with higher density. B-3 To maintain and enhance the role of the downtown as the business and commercial center of the region, and to enhance and promote the orderly expansion of retail and service businesses downtown, satisfying the related needs of the city's resident, working, and visitor populations. The B-3 zone encourages increased housing opportunities downtown, including three-family, four-family, townhouse, and multi-family structures to accommodate Portland's diverse residential population, and supports an active, walkable pedestrian environment through the encouragement of intensive mixed-use activities, enhancement and maintenance of public and private open space, and the enlivenment and increased attractiveness of the street environment. Standards of the B-3 zone require excellence in urban design, to preserve and capitalize on the unique character and historic fabric of downtown Portland by encouraging reuse of significant existing structures and providing opportunities for an enhanced presence and integration of arts and cultural activities. The zone reinforces the role of downtown as a meeting place for community residents and visitors alike from all walks of life and all socio- economic groups by prioritizing access via multiple modes of transportation and enhancing and protecting the pedestrian environment.	This area has a small lot, residential pattern. As such, the residential zoning designation will be maintained.
Harris Van Pate, Maine Policy Institute	5/29/24	Email	Map	B-3 zone	B-3 is similar in its light-handed approach to building regulation. While the above zones are focused on transit corridors, B3 is focused on the downtown area. Besides increased allowance of various high-density residential uses, very little reform happened in this zone though. The impact this zone has on Portland's housing crisis would be larger if the zone were larger as well.	The B-3 zone is proposed to be expanded to the area that is currently zoned B-7. In addition, heights are proposed to be increased within much of the B-3 area.
MEREDA	7/30/0204	Email	Map	B-5 zone	Expand the B-5 Zone. The current proposed B-5 could be expanded to bring more land into the zone. MEREDA would note that there is currently industrial land that has long been vacant, which could be used for housing. The flexibility established for uses and dimensional standards in the proposed B-5 would allow for changes in use of the property and incentivize creative housing solutions.	B-5 expansions will be shown on the revised zoning map.

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Harris Van Pate, Maine Policy Institute	5/29/24	Email	Map	B-5 zone	For B-5 and B-6, the increased number of residential uses and low building height, setback, and area restrictions are preferable. While the purpose of these zones is to encourage urban development near the downtown waterfront, large parts of the downtown area would benefit from similar mixed-use and market-driven zoning.	The downtown zoning proposed through ReCode is flexible in terms of use and dimensional standards.
Tom Landry (Benchmark Real Estate)	7/25/24	Email	Map	City-owned parcels	Re-zone and sell city owned land for mixed use development. The city owns two golf courses. These could be used for more uses. There could be a RFT to establish a new community in this area with parks, playgrounds, trails, river access, housing, retail space and more.	*Portland's Plan* does not support the rezoning of existing open spaces.
Susan Anspacher	7/27/24	Email	Map	City-owned parcels	Re-zone and sell city-owned land for mixed-use development. The city owns two golf courses and many parcels that would be ideal for residential and mixed-use development. Identify parcels to sell and put out an RFP (request for proposal), award the sale based on the establishment of a mixed-use development with a variety of residential living options and price points. For larger parcels (like these golf courses) award are based on the developer who proposes the establishment of a new complete community with parks, playgrounds, trails, housing (rental and for sale), retail space, and more.	*Portland's Plan* does not support the rezoning of existing open spaces.
Jamie Wright (Gorham Bike and Ski)	7/27/24	Email	Map	City-owned parcels	Re-zone and sell city-owned land for mixed-use development. The city owns two golf courses and many parcels that would be ideal for residential and mixed-use development. Identify parcels to sell and put out an RFP (request for proposal), award the sale based on establishing a mixed-use development with various residential living options and price points. For larger parcels (like these golf courses), the award are based on the developer who proposes the establishment of a new complete community with parks, playgrounds, trails, housing (rental and for sale), retail space, and more.	*Portland's Plan* does not support the rezoning of existing open spaces.
Craig Mathieson	7/28/24	Email	Map	City-owned parcels	Re-zone and sell city-owned land for mixed-use development. The city owns two golf courses and many parcels that would be ideal for residential and mixed-use development. Identify parcels to sell and put out an RFP (request for proposal), award the sale based on the establishment of a mixed-use development with a variety of residential living options and price points. For larger parcels (like these golf courses) award are based on the developer who proposes the establishment of a new complete community with parks, playgrounds, trails, housing (rental and for sale), retail space, and more.	*Portland's Plan* does not support the rezoning of existing open spaces.
Kenneth Capron	7/12/2024	GIS Map Viewer	Map	EWPZ	Regardless of your opinion, I am proceeding to lease an 880' x 155' rectangle for placement of a cruise ship affixed to shore and aligned with India Street. The lease from the State is limited to 30 years at a time. The use of the site will be 33%+ maritime uses, 33% educational and commercial and 33% residential dormitory style. This ship will counter sea-level rise and will have numerous climate and energy friendly features. It will contain parking. Has a 500-seat amphitheater. The uniqueness of this project will require a specialty zone for this section of EWPZ.	Any necessary zone change here could be considered at such time as the project is more fully developed.
Jeff Sherman	5/13/2024	GIS Map Viewer	Map	Forest Avenue	All the properties along Forest Avenue should be zoned mixed use.	Most properties on Forest Avenue south of Morrill's Corner are zoned for mixed use.
Luke Mello	5/2/2024	GIS Map Viewer	Map	General	Very useful in determining the zones in Portland. Would prefer more industrial building areas along the coast.	While the value of industrially-zoned land is recognized in *Portland's Plan*, no additional industrial zoning is proposed.

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Liz Trice	7/2/2024	GIS Map Viewer	Map	General	So confusing that we 're still keeping so many zones! It would make so much sense to roll both R1 and R2 into the existing R3. It doesn't make sense to have an office zone at all, that should just be allowed use in residential zone and/or a B2 zone. Also, TOD zones should be the entire length of all arterials : Brighton, Forest, Congress, Washington. Also, not sure why we need TOD zones, could just lump them with the equivalent B zone.	This residential zone grouping will be reflected in the final draft, and additional TOD zones will appear in the final draft zoning map.
Portland Regional Chamber of Commerce	8/2/24	Email	Map	General	City staff have rightly sought to eliminate intra-parcel zoning conflicts by drawing zone map lines to parcel lines. This is a largely successful approach, but it does leave several high value sites unmapped. This includes land adjacent to city and state right of ways that could be subdivided in the future to create prime development sites, along with some open space and surface parking lots near Thompson's Point. Creative approaches should be sought to map these parcels in a manner that unlocks future development potential should property owners want to pursue that opportunity in the near future.	5.2.2 provides that zone boundaries extend to the center lines unless otherwise indicated, which would apply in the case of abandonment of any ROW.
Peter Markoe	4/18/24	Email	Map	Hanover Street	Neighbor to the below mentioned property [on Hanover Street]. Interested in what changes are planned here.	No response necessary.

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					2. Expansion of the I-B Zoning District - I am very concerned about the proposed significant expansion of the I-B Zoning District. The current I-B district generally runs along Island Avenue, which corresponds with the area of highest pedestrian/vehicular traffic. The proposed change extends the I-B district down Central Ave., Willow St., Epps St., Brackett Ave., Welsh St. and Adams St. This is a very significant expansion of I-B zoning into areas into residential areas. The proposed modification greatly increases the potential for land-use conflicts. It results in peninsulas of I-B zoning projecting into IR-2(residential) areas. There is no demonstrable demand for additional I-B zoning. Much of the land in the current I-B district is underutilized and would allow for re purposing or redevelopment to address any emerging uses allowed under the I-B district into the foreseeable future. One of the stated objectives of the redrawing of the zoning lines is to align district lines with parcel lines. In theory this sounds logical but in practice doesn't recognize the implications on the ground. I live on Willow St, which serves as a perfect example. #5 Willow St has a 32.05' frontage on Island Ave. and extends 502.28' down Willow St. The existing I-B district on #5 extends from Island Ave. about 100' along Willow. This depth generally matches the depth of 79 Island Ave., the lot that contains Baba's Cafe (an existing business establishment). The remaining 400' of #5 Willow is currently zoned IR-2 and adjoins IR-2 zoned lots. Willow St is a very narrow gravel drive and is an iconic island residential street. The proposed I-B zoning expansion would extend business zoning from Island Ave 502' up Willow St, which is 2/3 of its total length. This would be a 5 fold expansion of business zoning on Willow St. The effect could irreparable alter the residential character of the street. The only benifit of the proposed aligning of the I-B district with the lot lines of #5 Willow St is make the zoning line easier to administrate. The result would be to significantly increase the likelihood of land-use conflicts and to irreparably harm the residential character of the street. An identical argument can be made about Epps St. Lot #14 on Epps St has only about 20' of frontage on Island Ave and 246' of frontage on Epps St. #14 is essentially a flag lot. The existing I-B zoning overlays the flag portion of the lot and roughly corresponding to the depth of #79 Island Ave, the lot containing the existing retail establishment Baba's Cafe to the north and the Richard Boyd Gallery to the south on the opposite side of Epps St. Both Baba's and the Boyde Gallery have frontage on Island Ave. By revising the I-B zoning limits to correspond to the lot lines of #14 Epps St, business zoning would be projected down a residential street. There is no need for additional I-B zoning in this area. The modification is being proposed for primarily "administrative purposes". In order to be fully transparent, I have had an issue with Island Zoning in the past. I had extensive communication with Ann Machado (Zoning Administrator, Permitting and Inspections Dept.) regarding a land-use issue adjoining my lot. My issue revolved around what is an allowable use within IR-2 Residential District. The owner of Mike's Carts was using the rear of #5 Willow St as a staging and storage area for his rental golf carts. This resulted in golf carts comming and going for hours at a time every morning and evening, infringing on our peaceful enjoyment of our porch and yard. Working with Ms. Machado, it was determined that rental golf carts could only be stored on property zoned for business. Rental carts could not be staged/stored on residentially zoned land. After a great deal of anguish and time, Mike's Carts are no longer staged/stored at the rear of #5 Willow St. This issue unfortunately had a negatives effect on neighborly relations. Under the law of unintended consequences, the owner of #5 Willow is now using the rear of the lot as a storage yard for an assortment stuff, including 4 boats (belonging to the lot owner as well as others), a truck, camper van, a retail oyster sales cart, and other assorted stuff. We are concerned that if the I-B zoning line is shifted to include all of #5 Willow, we will soon see rental golf carts once again staged/stored up against our residential lot. Please reconsider the expansion of the I-B district. The proposed modification does	

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Robert Harville	5/6/2024	GIS Map Viewer	Map	I-B Peaks Island	My comment is regarding the expansion of the I-B zoning classification on Peaks Island. One of the stated objectives is to align zoning lines with property lines. This goal has merit in the broad context of the City but its application to Peaks is problematic. The current I-B district runs along Island Ave., which is the area of highest foot/vehicle traffic. Expanding the I-B zone on the east side of Island Ave to correspond to parcel lines results in peninsulas of I-B zoning projecting into residential areas. The proposed modification will greatly increase the potential for land-use conflicts. I live on Willow St, which is a good example. Willow is a very narrow dead end gravel drive. I-B currently extends 100+- ft down the St. The proposed modification extends I-B 502' up Willow which is 2/3 of its total length. This is a 5 fold expansion of I-B on Willow. The result could irreparably alter the residential character of the neighborhood. The same argument applies to Epps St.	The final draft map will retain the existing split lot zoning pattern in this area.
Robert Harville	5/6/2024	GIS Map Viewer	Map	I-B Peaks Island	Regarding the expansion of I-B zoning on Peaks Island-One of the stated goals is to promote "complete neighborhoods". The Down Front area of Peaks is a prime example of a "complete neighborhood", with a sustainable blend of neighborhood serving businesses in close proximity to thriving residential neighborhoods. There is no need for additional I-B zoning. The existing I-B district is underutilized, allowing for repurposing to address any emerging neighborhood serving business needs into the foreseeable future. Existing Island businesses are neighborhood serving but also rely on summer day-trippers to be economically sustainable. The proposed significant expansion of the I-B zone sends the signal that we want to encourage tourism business at the expense of preserving an existing "complete neighborhood". This is an inflection point to decide if Peaks shall remain a residential island with a sustainable tourism component or a tourism based island with a secondary residential component.	Proposed expansion of the I-B zone is generally limited to lots that are presently in noncoforming use or could support addition small business opportunities around the ferry landing, where there is existing infrastructure.
Lani Remick	5/6/24	Email	Map	I-B Peaks Island	I am a year-round resident of Peaks and own the property at 173 Island Avenue. Since I purchased the property and continuing to the present, the front part of the property is in the I-B zone, as with most properties on this side of Island Avenue in this area. In the latest draft of the Recode map, it seems like for other properties on this side of Island Avenue you extended the I-B zone to cover the entire property if it had only previously covered part of the property. For example, this appears to be the suggested approach as to the property of my immediate neighbor at 165 Island Avenue. In the case of my property, however, instead of extending the I-B designation to cover the entire property, on the Interactive Draft Zoning map it seems like the I-B designation is removed, and the proposed zoning for the property is showing as entirely IR-2. (The Interactive Draft Zoning map also shows the "existing" zoning as IR-2, which is incorrect and perhaps this is the source of the error as to the proposed zoning?). Can you please clarify the intent as to the proposed zoning of my property? I would oppose any change that would remove the existing I-B designation.	The final draft map will retain the existing split lot zoning pattern in this area.

NAME	DATE	SOURCE	ARTICLE	TOPIC	COMMENT	RESPONSE
Thaea Lloyd	5/9/2024	GIS Map Viewer	Map	I-B Peaks Island	My name is Thaea Lloyd. I live at 43 Willow St. I am NOT in favor of expanding the IB zoning district. Changing the zoning would bring commercial development directly into my neighborhood without any transition to protect residents from clashing land uses. This bucolic residential street would be completely degraded. I see no need for additional commercial zoning as some buildings remain unused and empty and only a few are sustainable year round. There is not enough demand. My neighbors on Epps St. and Brackett St. would suffer the same degradations. We are already a complete, sustainable neighborhood. We do not need additional commercial endeavors oozing down our narrow gravel streets flooding our tranquil environment. This is what we love. It is why we live here. It is why visitors and tourists come to the island; to see how differently we live. What is actually needed is space away from residential properties for the storage of large equipment, boats, etc.	The final draft map will retain the existing split lot zoning pattern in this area.
PIC	5/18/24	Email	Map	I-B Peaks Island	Can there be an additional measurement or percentage taken into account when remedying the split lots. Such as it can't extend more than 25% or 50% of the norm?	The final draft map will retain the existing split lot zoning pattern on deeper lots on the east side of Island Avenue.
PIC	5/18/24	Email	Map	I-B Peaks Island	Should the depth of the business zone be maintained equally on the east side of Island Avenue?	The final draft map will retain the existing split lot zoning pattern on deeper lots on the east side of Island Avenue.
Alicia Kershaw	5/21/24	Form	Map	I-B Peaks Island	I'm writing to support the expanded business district on Peaks Island, Local businesses need space for trucks and equipment and this will help keep large vehicles off street parking. I'm not commenting on the proposed location because I am concerned about the effect on residents there. But we do need more areas zoned for business	Proposed expansion of the I-B zone is generally limited to lots that are presently in noncoforming use or could support addition small business opportunities around the ferry landing, where there is existing infrastructure.
Lani Remick	5/29/24	Email	Map	I-B Peaks Island	The 1-B designation is an important part of the value of the property -- generally, the more potential uses a property has, the more valuable it is. It would be a detriment to the value of my property to remove the ability to use the property for business purposes that has long run with the property. Your explanation does not seem to match with my review: - While many properties have had the 1-B designation extended to cover the entire legal parcel, I do not see any properties other than mine from which the 1-B designation has been entirely removed due to residential being the "predominant zoning designation." - Several residential properties which previously had no 1-B designation are now designated 1-B. - Many properties on the opposite side of Island Ave from mine have maintained their 1-B designation even though, like mine, their "current use of record is residential." - The property directly across the street from mine maintains the 1-B designation, raising the possibility of that property being used for some commercial purpose while mine could not be if the 1-B designation is removed. Accordingly, I ask that you please alter your draft plan to maintain or extend the current 1-B designation on my property at 173 Island Avenue, thank you.	The final draft map will retain the existing split lot zoning pattern in this area.

NAME	DATE	SOURCE	ARTICLE	TOPIC	COMMENT	RESPONSE
Laura Glendening	7/6/24	Email	Map	I-B Peaks Island	I write concerning my property at 11 Sterling Street on Peaks Island and the proposal in the Second Wave of ReCode to put the properties along its southern (8 Central Ave) and western (119 Island Ave) borders completely in the business zone. In this case I would like to request that my lot at 11 Sterling St also be put in the business zone as this seems like a logical extension of I-B. This would then maintain equitably the same business zone depth on the block along Island Ave from Central to Sterling. (I have previously asked that 18 Central be removed from the proposed extension to the business zone.)	This change will be reflected in the final draft map.
Bill Oliver	4/6/24	Email	Map	I-B Peaks Island (18 Central Avenue)	Hello. My name is Bill Oliver and I live at 8 Central Ave. on Peaks island. My wifeand I have lived on the island for 37 years. I am writing in regard to the rezone of 18Central Ave. into a business zone. Although this change could benefit my wife and I inregard to our property by expanding our business zone area (we are currently zonedfor commercial although we choose to keep our home a residence) we would like torequest that this change be dropped. If you visit our street you will see that it is a quietresidential neighborhood. The commercial buildings are located along Island avenue.Our island has a great need for affordable housing. We would very much ;like to seethis street kept as a residential neighborhood. Thank you for considering my thoughts.	In final draft map, this site will maintain the existing IR-2 zoning.

NAME	DATE	SOURCE	ARTICLE	TOPIC	COMMENT	RESPONSE
Laura Glendening	4/16/24	Email	Map	I-B Peaks Island (18 Central Avenue)	I write today as the neighbor directly north of the building at 18 Central Ave on Peaks Island. I noticed that in the SecondWave draft map the business zone has been extended to include 18 Central Ave. I have concerns about this. The Catholic Church got a variance to build 18 Central Ave with significantly reduced setbacks. I read the text in theSecond Wave stating that the business zone has been increased to reflect the built environment, but in this case avariance was granted for 18 Central to exist in an established one family neighborhood. Now a few years down the roadCity Planning is proposing that now that 18 Central Ave looks like a business zone, because of the setback variancegranted by City Planning, it should be. This seems contrary to good policy and a corruption of the methodology of zoning. A variance should be a variance -- something that is different but exists in the present environment. It should not besomething that is granted to then allow a property to begin a process to become something that is drastically inconsistent with the neighborhood. Is there a reason other than the built environment that City Planning granted a variance for, that has resulted in 18 CentralAve now being proposed as a business zone? I also noticed in the Second Wave draft map that Central Ave is the only street where City Planning has proposed extending the business zone with the sole purpose to include a property that is a distance from the present business zone. This seems out of alignment with the criteria used on other streets running off of Island Ave. For example the proposed new business zone is not extended further east on other side streets (other than to include a whole lot wherethe lot was only partially in the present business zone). There are no proposed business zone extensions on Epps, Willow, Lower A, Sterling, Luther, or Elizabeth. The same criteria should apply equitably to all side streets. Because of the variance for 18 Central Ave that allowed for the significantly reduced setbacks my property would beadversely affected by it being in the business zone including a reduction of my property value. Therefore I ask you toremove 18 Central Ave from the proposed business zone as shown in the Second Wave ReCode map.	In final draft map, this site will maintain the existing IR-2 zoning.
Betsey Remage-Healey	4/29/24	Email	Map	I-B Peaks Island (18 Central Avenue)	My particular concern is about the proposed zoning change to business for 18 Central Ave. on Peaks Island. Originally it was offered by the City to my organization, Home Start, to develop 3 much needed units of affordable housing. Then at the last minute we were derailed by a US Supreme Court decision mandating that owners of property lost to back taxes must be given the option to request the property be sold on the open market. And there it sits waiting for the listing and we sit with fingers crossed that we can manage to be the high bidder. I worry that a well heeled developer will note the prospect of it becoming zoned for business and plunk down $500k to hold it until that comes to pass. Which rules us out, and kills the prospect of affordable housing.	In final draft map, this site will maintain the existing IR-2 zoning.
Mary Anne Mitchell	5/10/24	Email	Map	I-B Peaks Island (18 Central Avenue)	I live on Central Ave. and I am next to 18 Central. Our street is a residential street with a lot of pedestrian traffic and car traffic. I am opposed to changing 18 Central to be in the business district. Please consider what people on the street want for this propert	In final draft map, this site will maintain the existing IR-2 zoning.
Will Crosby	5/13/24	Email	Map	I-B Peaks Island (18 Central Avenue)		In final draft map, this site will maintain the existing IR-2 zoning.

NAME	DATE	SOURCE	ARTICLE	TOPIC	COMMENT	RESPONSE
Betsey Remage-Healey	6/5/24	Email	Map	I-B Peaks Island (18 Central Avenue)	The City awarded Home Start the bid for 18 Central, hooray ! It is currently zoned to become a business zone under the ReCode. There will be 3 units of affordable housing there, god willin and the creek don't rise. My question is whether we could add a 4th unit under the ReCode. The developer says it is possible on a second (under the roof) level and the community has strongly urged a one bedroom unit. It isn't possible now because it is a non-confroming lot, regardless of LD2003 . We should have the cash to do so (the City accepted our low bid). Is this a possibility under the ReCode ?	In final draft map, this site will maintain the existing IR-2 zoning.
Douglas Cardente	7/9/24	Form	Map	IL-b zone	I have been trying to have a direct meeting with someone from Recode. I am strongly of the opinion that the IL-b zone in downtown Portland is mislabeled. Those years are behind us. In that the recode process is to bring the zones up to date, the entire Il-b zone should be changed to a B-5 zone. This still would allow for light industrial uses while removing the stigma of being in an industrial zone that doesn't really exist. I have a significant stake in this issue as being the largest land owner in this zone. Yet, I have not received even one notice that I am aware of. In fact, I believe one of my properties at 126 N. Boyd has now become a B-5. I am delighted, however I have two adjacent properties, one with direct Marginal access, that has had a 26,000sf vacancy for almost two years as we can't find any industrial user to occupy it! Please let my attorney and I meet with you to more fully express my situation.	The IL-b zone in East Bayside is generally proposed to remain on the zoning map. However, the revised map will show lots between North Boyd Street and Diamond Street in the B-5 zone
The Urbanist Coalition	7/29/24	Email	Map	Industrial zones	Industrial zones were left in place, limiting potential for housing and mixed-use development while defaulting to what made sense for industrial land decades ago.	There continues to be significant demand for industrial space in Portland, and the industrial sector is a critical part of the City's economy, supported through the goals of Portland's Plan. As such, no significant changes to the uses permitted in industrial zones is proposed through ReCode.
The Urbanist Coalition	7/29/24	Email	Map	Industrial zones	Industrial land reform: Underutilized industrial land could be revitalized with mixed-use development.	There continues to be significant demand for industrial space in Portland, and the industrial sector is a critical part of the City's economy, supported through the goals of Portland's Plan. As such, no significant changes to the uses permitted in industrial zones is proposed through ReCode.
David Bateman	4/30/24	GIS Viewer	Map	IR-3 zone	Hello, Why is the current IR3 areas at Diamond Cove being proposed to change to IR1 as these zones are drastically different. Thank you. david@batemanpartnersllc.com	The intent is not to fundamentally change the layers of existing regulation that apply in the IR-3 area around Diamond Cove. As proposed, the critical aspects of the IR-3 zoning would be adopted with an amendment to the existing conditional zoning agreement for Diamond Cove. The CZA would be shown on the revised zoning map.

NAME	DATE	SOURCE	ARTICLE	TOPIC	COMMENT	RESPONSE
David Bateman	4/30/2024	GIS Map Viewer	Map	IR-3 zone	Hello, Why is the current IR3 areas at Diamond Cove being proposed to change to IR1 as these zones are drastically different. Thank you.	The intent is not to fundamentally change the layers of existing regulation that apply in the IR-3 area around Diamond Cove. As proposed, the critical aspects of the IR-3 zoning would be adopted with an amendment to the existing conditional zoning agreement for Diamond Cove. The CZA would be shown on the revised zoning map.

NAME	DATE	SOURCE	ARTICLE	TOPIC	COMMENT	RESPONSE
David Bateman	5/7/24	Email	Map	IR-3 zone	As you know Diamond Cove was (and still might be) the most highly regulated residential subdivision approved at the local, state, and federal levels in the State of Maine. The current zoning is also keyed to the two (2) phases that the project was divided into, both with very different restrictions and uses. The Declaration of Covenants and Restrictions provide an avenue for modifications within the IR-3 zone but require a 100% affirmative vote by IR-1 residents for changes within that zone (single family only). Since its inception in 1986 the IR-3 zone has had several amendments, all voted on by association members and then approved by the City. This process has worked very well and given a sense of security and control to the membership (which is predominately seasonal). My initial concerns with the proposed merger and additional uses as drafted are as follows: - Impacts to the Current IR-3 Zone a.) Currently there are four (4) multi-family buildings which contain eight (8) residential units each. It appears that the proposed IR-1 zone (if it replaces the current IR-3 zone) would render these buildings non-conforming. b.) All of the structures within the current IR-3 zone are within a National Register Historic District. With the exception of specific commercial properties located separately from the "parade ground" area, all uses are residential and in keeping with the nature of this protected area. Including other uses such as agriculture, childcare centers, campgrounds, solar energy systems and accessory dwelling units would be totally incongruous. I also believe if changed as proposed it could create a situation in which members may claim a diminishment of property value. In short the existing IR-3 zone was created for the purpose of preserving the historic nature of both the buildings and the environment in which they exist and should remain as currently regulated. - Impacts to the IR-1 Zone The current D.E.P. site location permit for Phase II of the Diamond Cove development has a limitation of 39 single family homes. The inclusion of three family, two family, and neighborhood non-residential use would be completely at odds with the underlying land use approvals. Given the substantial investments made by the current residents within the existing IR-1 zone the likelihood of legal action, again based on diminishment of property values, increase exponentially. In summary, the uses as proposed and merger of the current IR-3 and IR-1 zones makes no sense given the historic use, and existing state and federal regulations which govern this development. I applaud the City's initiative to simplify current zones but in this case I believe the proposed zone changes will further complicate a very unique development.	The intent is not to fundamentally change the layers of existing regulation that apply in the IR-3 area around Diamond Cove. As proposed, the critical aspects of the IR-3 zoning would be adopted with an amendment to the existing conditional zoning agreement for Diamond Cove. The CZA would be shown on the revised zoning map.

NAME	DATE	SOURCE	ARTICLE	TOPIC	COMMENT	RESPONSE
Richard Molyneux	5/12/24	Email	Map	IR-3 zone	I am the current president of the Diamond Cove Homeowners Association, and have reviewed the City's new zoning outline. I also have shared it with the rest of the board members, and have to say that we are in total agreement with the comments that the original developer of Diamond Cove, David Bateman, made to you earlier. Our existing IR-3 zone has been designed and managed to protect the National Historic Register components of Ft. McKinley, which was built approximately 120 years ago. We have very strict rules that apply to that area, controlled by our Declaration of Covenants, to insure that it will be properly preserved. Our IR-1 zone properties, which we refer to as Phase II properties, are all single family homes, which is the way it was designed, including related infrastructure. For example, Diamond Cove does not utilize the Portland sewer system; it operates its own, which has great limitations and cannot support more houses/units than we presently have. The bottom line is, while we understand the wisdom and motivation of the proposed zoning simplifications, there will be some entities that won't fit into that general mould. Diamond Cove is one of those. Thus we would very much like to get this corrected before it gets too far along and lawsuits start flying. We have 142 units at Diamond Cove, and I'm sure 99% of them will go ballistic if this is forced upon them, and for good reason, as it will have a very negative impact on our community, its residences, and property values. We sincerely hope this will not be the case. Please advise if you need anything more from us, including responses from the individual homeowners.	The intent is not to fundamentally change the layers of existing regulation that apply in the IR-3 area around Diamond Cove. As proposed, the critical aspects of the IR-3 zoning would be adopted with an amendment to the existing conditional zoning agreement for Diamond Cove. The CZA would be shown on the revised zoning map.

NAME	DATE	SOURCE	ARTICLE	TOPIC	COMMENT	RESPONSE
MaryEllen FitzGerald	5/14/24	Email	Map	IR-3 zone	I would like to register my concern at the proposed change in zoning categorization for Diamond Cove. As a former president of the Diamond Cove Homeowners Board, I urge you to reconsider this ill-advised revision, which will almost certainly result in swift and immediate resistance from our homeowner population. As you know, Diamond Cove is essentially a gated seasonal community on Great Diamond Island. Although we have a small cadre of hardy year-round residents, fully 80% of our homeowners are seasonal residents who purchased or (in the case of Phase 2 owners) built their homes with the guarantee of very limited development on an island with tremendous historic significance. A major part of the appeal of Diamond Cove is the limited scope of residential development, and the presence of very limited commercial properties: The Inn at Diamond Cove, Diamond's Edge Restaurant and Marina, and the Crown Jewel. The only motorized vehicles allowed for homeowners at Diamond Cove are golf carts. This contributes to a tremendous sense of detachment from more congested, urban environments and allows homeowners to appreciate the historical significance and natural simplicity of our island community. The existing IR3 zoning is the critical underpinning for this community, and has been relied upon by homeowners since Diamond Cove's inception. Rezoning to allow for a more simplified code throughout the city is an understandable and commendable effort. However, there will be situations in which the rezoning effort (such as that proposed for Diamond Cove) will not be a good fit, or in fact, will effectively destroy a community that has operated efficiently and effectively within heavily prescribed historic preservation restrictions. I urge you to reconsider this ill-advised rezoning effort. Allowing broader uses such as accessory dwelling units, campgrounds and similar incongruous developments will result in a huge degree of backlash from homeowners who will find the value of their island homes diminished and their experience of the siland negatively impacted.	The intent is not to fundamentally change the layers of existing regulation that apply in the IR-3 area around Diamond Cove. As proposed, the critical aspects of the IR-3 zoning would be adopted with an amendment to the existing conditional zoning agreement for Diamond Cove. The CZA would be shown on the revised zoning map.
Jeff Sherman	5/3/2024	GIS Map Viewer	Map	IS-FBC	The IS-FBC should extend through the backcove and onto inner-Washington Avenue	No expansions to the IS-FBC are being considered at this time.
Kellan	7/5/2024	GIS Map Viewer	Map	Mixed-use zones	This recode effort seems to be completely missing the opportunity to define low impact commercial spaces (small markets (bodega), coffee shops, etc.) and allowing them to be in more areas throughout the city to encourage walkability and complete neighborhoods. I used Ocean ave as an example in this map. By this new re-code effort all of the great businesses that help make the area special would not be allowed under the new code if they hadn't been grandfathered in. This is a massive oversight that is overly restrictive and will continue to force car dependency and sprawl. The neighborhood needs low impact commercial spaces to be permitted, especially on a corridor like Ocean.	Some map changes are proposed to address areas of the city with existing nonconforming nonresidential uses in residential zones, generally in areas where these uses can be found at intersections or existing nodes. These map changes will create new opportunities for new businesses accessible to residential neighborhoods, and more of them will appear on the final draft map. Beyond those map changes, the nonresidential neighborhood reuse classification will allow for new nonresidential uses to be established where other nonconforming uses exist, or in nonresidential structures in residential zones, such as churches, etc.

NAME	DATE	SOURCE	ARTICLE	TOPIC	COMMENT	RESPONSE
Jim DeCamillis	7/27/24	Email	Map	Ocean Avenue	Rezoning of the neighborhoods around the Ocean Avenue is a serious mistake. These neighborhoods are vital for families that live in this area. These very neighborhoods raised over $450,000 to preserve woodland that would have been developed for additional housing. This infringement on our community would defeat all the efforts and hard work that was done to protect our neighborhoods. There is an abundance of land in Portland to change the Rezoning. Our neighborhood is critical component to insuring a quality of life that we live in. Therefore I urge you to save our neighborhoods by voting not to change the zoning. Your consideration in this endeavor would be greatly appreciated by all of us who live here.	Under ReCode, we have proposed several zoning map changes in Back Cove from the existing R-3 zone to RN-4 (which is the equivalent of the existing R-5). These are areas where there are a large number of existing nonconforming lots with respect to minimum lot size. (In the R-3, or what is being called the RN-2 under ReCode, the minimum lot size is 6,500 SF. In the R-5/RN-4, the minimum under ReCode is 5,000 SF.) The idea is to bring these lots into conformity. You can learn more about this mapping approach here: https://storymaps.arcgis.com/stories/b818a90868ed441388224d9a321662d1

NAME	DATE	SOURCE	ARTICLE	TOPIC	COMMENT	RESPONSE
Gretchen Greenberg	7/8/24	Email	Map	OS-P zone	I attended the information session in May about the Recode Process. Thank you for hosting this meeting. I appreciate all the time, effort, and thoughtfulness that has gone into this process. It was helpful to review all the posters and talk to many of the city planning staff. I have several thoughts to share but will write about just one concern in this email regarding zoning for preservation areas. I would strongly encourage that area behind Casco Bay High School and PATHS be designated as an OSP area, where it is now R2, and proposed to be RN2. This is a field that hosts wildlife and wetlands. It has walking/bike paths developed by Portland Trails that are used for walking, biking, dog walking, cross country skiing and snowshoeing. This open space fits within the goals of "supporting the city's ecological systems through prioritization of native species and planting for pollinators." This field supports the need for open space and "prevents or reduces greenhouse gas emissions that are worsening climate change." It seems that preserving this area as open space would add to the city goal of climate resilience zoning. It is also an area that offers walking and biking within a reasonable distance from one's home. I am personally invested since I live close to this area and walk there regularly, so I guess that makes me a NIMBY. My neighbors would be considered NIMBY's too. Allow me to introduce you to some of them: - Deer - particularly the resilient three-legged deer. I don't know what happened to her leg but she hobbles around on 3 1/2 legs, and has produced a litter of fawns yearly. - The buck - although more elusive, he has been seen in the early morning hours on the west side of the field. - Fox - A neighbor (a human neighbor) noticed a sick fox last fall. Animal control caught it and brought it to a vet where it was treated (for a flu, of all things.) Once healed, animal control personnel returned the fox to the field where it quickly ran back to its familiar home. - Turkey who strut and fly around our neighborhood, oblivious to Thanksgiving. - Opossums that seem to hibernate under condominium decks, and waddle out to the field where they are likely to find ticks to feed upon. - Owls that helped to reduce the mice population that seem to migrate indoors each winter. - Bats and a host of birds - Wildflowers and other pollinators that contribute to bee dwellers and food in the ecological chain. My wildlife friends would not like their homes removed. They cannot speak up, so as a neighbor, I will speak for them as well as myself. Please consider this request.	OS-R zoning will be shown in this area on the final draft zoning map.

NAME	DATE	SOURCE	ARTICLE	TOPIC	COMMENT	RESPONSE
Tom Landry (Benchmark Real Estate)	7/25/24	Email	Map	Portland Technology Park	Further develop the Portland technology park. Located off Rand Road, this 26-acre site was intended to lure businesses in the states growing life sciences industry. To date, only one of the seven sites has closed with two others under contract. Clearly this site, which has been underutilized over the last 13 years, should be put to its highest and best use. Let's turn this into a mixed-use development of housing, office, warehouse, and what I'm calling IL/B5. This would be the perfect place for people to live, work, and play, just what residents and businesses want.	As an isolated site on a large arterial street with industrial adjacent, it is not particularly suitable for significant residential development. This area will be rezoned to I-M in the final draft map, which aligns with the zoning across Rand Road.
Susan Anspacher	7/27/24	Email	Map	Portland Technology Park	Further develop the Portland technology park. Located off Rand Road, this 26-acre site was intended to lure businesses into the state's growing life sciences industry. To date, only one of the seven sites has closed with two others under contract. Clearly, this site, which has been underutilized over the last 13 years, should be put to its highest and best use. Let's turn this into a mixed-use development of housing, office, warehouse, retail, and what I'm calling IL/B5. This would be the perfect place for people to live, work, and play, just what residents and businesses want.	As an isolated site on a large arterial street with industrial adjacent, it is not particularly suitable for significant residential development. This area will be rezoned to I-M in the final draft map, which aligns with the zoning across Rand Road.
Jamie Wright (Gorham Bike and Ski)	7/27/24	Email	Map	Portland Technology Park	Further, develop the Portland Technology Park. Located off Rand Road, this 26-acre site was intended to lure businesses into the state's growing life sciences industry. Only one of the seven sites has closed with two others under contract. Clearly, this site, which has been underutilized over the last 13 years, should be put to its highest and best use. Let's turn this into a mixed-use development of housing, office, warehouse, retail, and what I'm calling IL/B5. This would be the perfect place for people to live, work, and play, just what residents and businesses want.	As an isolated site on a large arterial street with industrial adjacent, it is not particularly suitable for significant residential development. This area will be rezoned to I-M in the final draft map, which aligns with the zoning across Rand Road.
Craig Mathieson	7/28/24	Email	Map	Portland Technology Park	Further develop the Portland technology park.Located off Rand Road, this 26-acre site was intended to lure businesses into the state's growing life sciences industry. To date, only one of the seven sites has closed with two others under contract. Clearly, this site, which has been underutilized over the last 13 years, should be put to its highest and best use. Let's turn this into a mixed-use development of housing, office, warehouse, retail, and what I'm calling IL/B5. This would be the perfect place for people to live, work, and play, just what residents and businesses want.	As an isolated site on a large arterial street with industrial adjacent, it is not particularly suitable for significant residential development. This area will be rezoned to I-M in the final draft map, which aligns with the zoning across Rand Road.
Martha Taimuty	5/28/2024	GIS Map Viewer	Map	Process	Please provide a legend with a useful description of the codes. The associated legend on this map just says 'B2'. I'm not a planning expert so I have no idea what that means. A link would work too. But if you want useful feedback, you have to give us useful information.	Links to the draft zoning text can be found on the ReCode website, where the draft map is located.
Karen Snyder	6/5/2024	GIS Map Viewer	Map	Process	Comments: 1) The interactive zoning map on this itty bitty laptop is very difficult to navigate and makes it hard for the public to leave electronic comments. 2) TOD and B2B are high enough and is creating only incentives for developers and not relatives. 3) Historic Preservation proposed changes are very concerning. 4) The public feedback is NOT conducive for residents that work during the day. 5) Providing public comment is very difficult and unsure if is captured correctly. 6) There should have been neighborhood meetings on this very complicated Recode changes that will impact all residents. 7) Still no protection of mature trees. 8) The grade slope height calculation is confusing and non-existent. It needs to be simliar to the Island building height calculation which is more clear.	The current ReCode process has spanned 4 years and provided ample opportunities for residents to engage. The drafts respond to publci comments around historic preservation, environmental resources, and height.

NAME	DATE	SOURCE	ARTICLE	TOPIC	COMMENT	RESPONSE
Laura Reiter	6/18/2024	GIS Map Viewer	Map	Process	It would be helpful to have historic distracts as an overlay on the zoning map	No response necessary.
Sylvanus Doughty	7/25/24	Form	Map	RN-2	[...] I have reviewed much of the commentary and have a comment about R-3 zoning. The area around Maine Avenue and Virginia Street (The Pines) or the State named streets, was platted 100 years ago as 30 foot increments (40 feet at corners) of frontage with 100 feet of depth. This in many cases resulted in 60 foot frontage lots of 6,000 Sq ft. While existing lots were grandfathered, with the arrival of zoning, R-3 imposed 65 foot frontages with 6,500 sq ft which obviously ignored the existing use pattern. It can be noted that that area more resembles R-5 zoning with its 6,000 foot lots.	Based on an analysis of nonconforming parcels, some of this area will be proposed for rezoning in the revised map.
Max Civiello	5/8/2024	GIS Map Viewer	Map	RN-2 1582 Forest Ave	new multi family should be an option in all large parcels that have street frontage, abut business zones, schools, and city corridors.	Under ReCode, "multi-family" is proposed to include all building with 5 or more dwelling units, as opposed to the current definition, which qualifies buildings with 3 or more units as multi-family. In the RN-2 (now proposed as RN-1), which represents the current R-3, this type of housing is currently only allowed as adaptive reuse. That use permission is proposed to remain. In addition, up to four units would be allowed in one building (including new construction) under the ReCode proposal within the RN-2. Given that this zone has over 8,000 lots, this change has the potential to create significant new housing opportunities.
Jim wolf	5/2/2024	GIS Map Viewer	Map	RN-2 85 Beal Street	There is only one area on outer Forest Avenue zoned RN1 and that is at the bottom of Tucker Avenue, etc. Why is this area different from the rest of the area. To be consistent it should be RN2	RN-1 and RN-2 will be combined in the final draft zoning map.
Amy + Ben Johnson	4/6/24	Form	Map	RN-2 Auburn Street	In the second wave of changes, you proposed a boundary change that will negatively affect our plans to build housing on a prime lot in a growth area. Parcels 379 F010001 and 379 F011001 (291 Auburn St and the vacant parcel to the rear) are currently a mix of R-2-and R-3. In cleaning up the boundaries, you placed both parcels in the more restrictive RN-1. This severely impacts our plans to redraw the parcel boundaries and create a 7200 sq ft buildable lot in the area currently zoned R-3 at the north end of the plot (it would become subject to a 10,000 sq ft minimum). We respectfully request that you either: 1. Include both parcels in the less restrictive RN-2 zone, or 2. Leave the current messy boundary line as is so that the parcels are a mix of r-2 (future RN1) and r-3 (future RN2). When we eventually apply for a map amendment, this will allow us to make	RN-1 and RN-2 will be combined in the final draft zoning map, which will address this concern.

NAME	DATE	SOURCE	ARTICLE	TOPIC	COMMENT	RESPONSE
Daniel D'Alessandro	6/5/2024	GIS Map Viewer	Map	RN-2 Jackson Street	I live on Jackson Street, and we chose this street because we like the neighborhood. Unfortunately, even with the proposed relaxation of setbacks and setoffs, the neighborhood could not be built/rebuilt under the proposed zoning. The existing houses and garages are all nearer to the property lines than allowed under the proposed R2. The zoning should not be more stringent than the existing structures. Instead, Jackson Street should be zoned so that the setbacks and setoffs are consistent with the existing structures such that the neighborhood, as it exists now, could be built consistent with the zoning. The zoning should allow structures to be built closer to the property line (some existing structures are right on the property lines and have created no issues).	ReCode proposes more flexibility in the dimensional standards than currently exists, including the option to flex on side setbacks. While some nonconformities will continue to exist, this flexibility should help.
Alan Platner	4/5/24	Form	Map	RN-2/RN-4	I am really excited for this next wave of changes to become Portland's new land use code. I especially like the use of the RN4 zone applied to parts of the neighborhood between Canco and Ocean. Unless there is a compelling reason to do otherwise, I think it should be applied to the the RN2 areas in the neighborhood as well. Thanks for all your hard work with the recode process.	The draft map proposes some changes in residential zoning where the existing lot pattern supports it. In the final draft, some additional rezoning will be proposed, based on parcel patterns.
Jacqueline Cohen	4/10/24	Email	Map	RN-2/RN-4	I have reviewed the proposed reasoning map and I do not understand why you have upzoned Torrey Street and Wellwoodstreet and the streets off the latter from R3 to RN4. These streets have small lots and small houses and are dead endstreets. Read Street has larger lots and larger houses and it is rezoned from R5 to RN3. I would appreciate yourresponse. I would be happy to meet with you to discuss this.	Under ReCode, we have proposed several zoning map changes in Back Cove from the existing R-3 zone to RN-3 (which is the equivalent of the existing R-5). These are areas where there are a large number of existing nonconforming lots with respect to minimum lot size. (In the R-3, or what is being called the RN-1 under ReCode, the minimum lot size is 6,500 SF. In the R-5/RN-3, the minimum under ReCode is 5,000 SF.) The idea is to bring these lots into conformity. You can learn more about this mapping approach here: https://storymaps.arcgis.com/stories/b818a90868ed441388224d9a321662d1
Jeff Sherman	5/3/2024	GIS Map Viewer	Map	RN-2/RN-4	[Anson Road] This area should be zoned RN4. The lower density does not make sense here.	This area has a high degree of conformity with respect to the minimum lot size of the RN-1. As such, the existing zoning will remain.
Jeff Sherman	5/3/2024	GIS Map Viewer	Map	RN-2/RN-4	The Back Cove should be zone RN4. The lower density does not make sense in this area considering the access to services, public transportation, etc.	The draft map proposes some changes in residential zoning in this area where the existing lot pattern supports it.
Jeff Sherman	5/6/2024	GIS Map Viewer	Map	RN-2/RN-4	[Rowe Avenue] Why is there RN2 zoning near TOD1/B2 zones? All the RN2 in this area should be rezoned as RN4 and the parcels on Brighton should be zoned as B1 or B2.	These zones (now the RN-1 and RN-3) would permit many of the same uses with some distinctions in dimensional standards. As such, both are appropriate for use between transit nodes, which are generally covered by mixed-use or TOD zones. These zones support more density and height. Nodal zoning is the goal to ensure a concentration of density that can better support transit.

NAME	DATE	SOURCE	ARTICLE	TOPIC	COMMENT	RESPONSE
Jeff Sherman	5/6/2024	GIS Map Viewer	Map	RN-2/RN-4	There should be no RN2 zoning on Washington Ave. This should be zoned as RN4	These zones (now the RN-1 and RN-3) would permit many of the same uses with some distinctions in dimensional standards. As such, both are appropriate for use between transit nodes, which are generally covered by mixed-use or TOD zones. These zones support more density and height. Nodal zoning is the goal to ensure a concentration of density that can better support transit.
Jeff Sherman	5/6/2024	GIS Map Viewer	Map	RN-2/RN-4	There should be no RN2 zoning along Brighton Avenue. This should be rezoned as RN4	These zones (now the RN-1 and RN-3) would permit many of the same uses with some distinctions in dimensional standards. As such, both are appropriate for use between transit nodes, which are generally covered by mixed-use or TOD zones. These zones support more density and height. Nodal zoning is the goal to ensure a concentration of density that can better support transit.
Jeff Sherman	5/6/2024	GIS Map Viewer	Map	RN-2/RN-4	There should not be any RN2 zoning along Brighton Avenue. This area should be rezoned as RN4	These zones (now the RN-1 and RN-3) would permit many of the same uses with some distinctions in dimensional standards. As such, both are appropriate for use between transit nodes, which are generally covered by mixed-use or TOD zones. These zones support more density and height. Nodal zoning is the goal to ensure a concentration of density that can better support transit.
Jeff Sherman	5/6/2024	GIS Map Viewer	Map	RN-2/RN-4	There should not be any RN2 on Washington Ave. This is particularly bad because it is so close to a business district. This area should be upzoned to RN4 to create a walkable neighborhood and it should grow to support more transit investment.	These zones (now the RN-1 and RN-3) would permit many of the same uses with some distinctions in dimensional standards. As such, both are appropriate for use between transit nodes, which are generally covered by mixed-use or TOD zones. These zones support more density and height. Nodal zoning is the goal to ensure a concentration of density that can better support transit.
Emma Rubin	5/18/2024	GIS Map Viewer	Map	RN-2/RN-4	The cutoffs between RN-2 and RN-4 seem arbitrary. For example, what makes Hersey St different than Codman St? Or why would the 2 sides of Edwards St be different? All RN-2 should become RN-4. Major streets should have more B1 zoning for daily shopping and service needs to make more residential locations complete walkable neighborhoods. For example, more areas of Brighton Ave, Ocean Ave, and Stevens Ave should be zoned as B1.	The boundaries are based on an analysis of lot size and parcel pattern. Additional B-1 areas will be shown on the final draft map.

NAME	DATE	SOURCE	ARTICLE	TOPIC	COMMENT	RESPONSE
Kellan	7/5/2024	GIS Map Viewer	Map	RN-2/RN-4	What is the purpose of splitting neighborhoods, in this example back cove, which all used to be R-3 into RN-2 and RN-4? How exactly does mandating larger lot sizes and larger setbacks (RN-2) in North Back Cove promote walkable low impact neighborhoods and freedom to build density? How will mandating oversized lots and large setbacks alleviate the housing crisis? All of back cove should be zoned as RN-4 and adhere to the same lot sizes and setbacks. Bigger picture, RN-1 and RN-2 shouldn't exist.	The draft map proposes some changes in residential zoning in this area where the existing lot pattern supports it.
Jacqueline Cohen	7/29/24	Email	Map	RN-2/RN-4	Your proposed zoning map has different zones on each side of Torrey St. Why? All of Torrey St was originally R3. What is your reasoning for creating RN 3 and RN 4 zones now? I see no reason to change the zoning and I really can't figure out the reasoning for different zoning along a street where both sides are the same. In addition, there is no sidewalk there. If you allow more density with no required parking, you will have school kids walking in the middle of the street. We do get snow here. How do you justify this plan?	Under ReCode, we have proposed several zoning map changes in Back Cove from the existing R-3 zone to RN-3 (which is the equivalent of the existing R-5). These are areas where there are a large number of existing nonconforming lots with respect to minimum lot size. (In the R-3, or what is being called the RN-1 under ReCode, the minimum lot size is 6,500 SF. In the R-5/RN-3, the minimum under ReCode is 5,000 SF.) The idea is to bring these lots into conformity. You can learn more about this mapping approach here: https://storymaps.arcgis.com/stories/b818a90868ed441388224d9a321662d1
Portland Housing Development Corporation	7/16/24	Email	Map	RN-6 zone	Recommendation #2 – Rezone Anderson Street and Monroe Court Parcels (22-K-7, 12-R-1 and 13-B-2) to RN-6 for Future Multifamily Node in East Bayside Justification for rezoning: • Rezoning these parcels to RN-6 will facilitate future development of a node of activity containing mid-rise affordable housing development. This node would be centered around the Anderson St and Monroe Ct intersection. • These parcels align with RN-6 goals in "Table 5-B: Residential Zone Purposes Statements". This includes parcel size ("exhibiting a pattern of larger lots and setbacks") and building type ("multifamily dwellings at relatively high density"). • Parcels are all greater than 40,000 sq ft. Technically, 12-R-1 and 13-B-2 are one legal parcel connected by a portion of the Monroe Ct paper street that PHA acquired in 1971. • Existing buildings on these parcels would be non-conforming if rezoned to RN-5 due to building lengths well exceeding 60'. Existing buildings would conform under RN-6, except for setbacks. • See Exhibit A for a proposed zoning map showing PHA-owned parcels rezoned to RN-6.	The existing form an pattern in the area surrounding these parcels is small in scale. For this reason, no map change will be proposed in this area. Map changes are proposed in other areas of Kennedy Park to support height and density closer to Franklin Street.
Alex Coupe	7/30/24	Email	Map	RN-6 zone	Attached are documents to support my statements tonight at the ReCode Workshop. I am proposing my existing 1.5 acres to be RN-6 specifically, which allows the lot to be developable due to its panhandle shape. The B1 and B2 and TOD zones don't allow it due to maximum building setbacks. RN-6 also fits the spot, a little pop up commercial section on Forest Ave with some multi family blended it. The RN-6 purpose statement does just that. The lot has frontage on Forest Ave and Belfort St. I have a rendering attached, and a proposed site plan.	The revised draft map will show changes in this area, as a site with proximity to a school and other services.

NAME	DATE	SOURCE	ARTICLE	TOPIC	COMMENT	RESPONSE
Portland Housing Development Corporation	7/15/24	Email	Map	RN-7 zone	Recommendation #1 – Rezone Kennedy Park Parcel (CBL 22-I-3) to RN-7 to Maximize Future Affordable Housing Redevelopment Opportunities Justification for rezoning: • Parcel is directly adjacent to 4 other proposed RN-7 properties. • Parcel is partially within the current R-7 Overlay District. • PHA's 2015 Strategic Vision Plan proposes redevelopment of this parcel with mid-rise multifamily buildings, similar to nearby Solterra Apts and Bayside Anchor. High-density housing would not be permissible or financially feasible if rezoned to RN-5. • PHA's largest opportunity to add more affordable homes exists in the East Bayside neighborhood. Rezoning this parcel could double or triple the number of homes built, most of which would be affordable. • Existing Kennedy Park buildings would be non-conforming if rezoned to RN-5. RN-7 allows full conformance with ReCode.	This change will be reflected in the revised map.
Jeff Sherman	5/6/2024	GIS Map Viewer	Map	TOD Thompsons Point	Thompson's Point should be rezoned as TOD. Even if the Amtrak Station moves to St. John's street this area could still be served by rail in the future. Proposed Wesbrook-Gorham rail lines would come right through here.	The placement of TOD zones is designed to align with known future investments in rapid transit, as contemplated by PACTS and METRO, and altogether, the total development potential in the two TOD zones within the draft zoning map is significant. However, the final draft map will include additional TOD zoning.
Jeff Sherman	5/6/2024	Konveio	Map	TOD zones	There should be more TOD zones along existing bus lines. Especially along Congress Street, Brighton Avenue, Forest Ave, and Washington Street. If these areas are not currently zoned TOD, then we should encourage upzoning of these areas and make it easier to do. For example, upzoning an area to TOD-1 should be allowed for any area that is on a bus line unless the planning commission makes specific findings that it would not be appropriate. This will help focus new housing where we are already investing in transit.	The placement of TOD zones is designed to align with known future investments in rapid transit, as contemplated by PACTS and METRO, and altogether, the total development potential in the two TOD zones within the draft zoning map is significant. However, the final draft map will include additional TOD zoning.
Jeff Sherman	5/6/2024	Konveio	Map	TOD zones	More TOD zones on existing bus lines.	The placement of TOD zones is designed to align with known future investments in rapid transit, as contemplated by PACTS and METRO, and altogether, the total development potential in the two TOD zones within the draft zoning map is significant. However, the final draft map will include additional TOD zoning.
Emma M	5/19/2024	Konveio	Map	TOD zones	I'd like to see these zones applied to our existing transit corridors (along bus routes) to encourage more livable areas and bus usage.	The placement of TOD zones is designed to align with known future investments in rapid transit, as contemplated by PACTS and METRO, and altogether, the total development potential in the two TOD zones within the draft zoning map is significant. However, the final draft map will include additional TOD zoning.

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Wendy Cherubini	5/25/2024	Konveio	Map	TOD zones	Why are there just a few parcels designated TOD-1 in this draft? They should be along all existing transit corridors.	The placement of TOD zones is designed to align with known future investments in rapid transit, as contemplated by PACTS and METRO, and altogether, the total development potential in the two TOD zones within the draft zoning map is significant. However, the final draft map will include additional TOD zoning.
Charlotte R	6/4/2024	Konveio	Map	TOD zones	I would also like to see more TOD zones. I think it's great that TOD would allow for more mixing of business and residential, but this should be used to expand mixed use throughout the city rather than applying only to areas where mixed-use development already exists.	The placement of TOD zones is designed to align with known future investments in rapid transit, as contemplated by PACTS and METRO, and altogether, the total development potential in the two TOD zones within the draft zoning map is significant. However, the final draft map will include additional TOD zoning.
Markos Miller	6/23/24	Email	Map	TOD zones	Kevin mentioned being strategic with the location of the TOD zones. Focusing the densest development at strategic nodes to activate transit, meeting places, and capitalize on development opportunities makes sense. However, targeting outer Brighton and St. John's seems very limited in ambition; we should be doing much more than being poised for the train station maybe being relocated to St. John's St someday probably far from now . The current proposals appear to be leaving so many opportunities on the table- i.e., Morrills, Allen, Woodfords corners, most of Forest Ave, and Washington and Brighton (Stevens, Outer Congress) to a lesser degree. Zoning that offers the greatest opportunities for dense, mixed-use development should be along Metro lines of the major corridors, and that seems like that's the TOD- or should be, not a B2b with a bonus that may never get used.	The placement of TOD zones is designed to align with known future investments in rapid transit, as contemplated by PACTS and METRO, and altogether, the total development potential in the two TOD zones within the draft zoning map is significant. However, the final draft map will include additional TOD zoning.

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Dirigo Center Developers, LLC (Waterstone Properties Group, Inc.)	7/11/24	Email	Map	TOD zones	Zoning Districts. We have reviewed the proposed zoning districts in the Second Wave Recode Changes to attempt to find the most appropriate district for the above properties [1176 & 1190 Brighton Ave, 1827 Westbrook St, 79 Rand Road 0 Brighton Ave). The district that best provides the site dimensional flexibility and range of available uses for this high density, mixed use, urban development that utilizes transportation TIF funding is Transit-Oriented District 2 (TOD- 2). While the Rock Row site is not on the peninsula, it is on a major road to the peninsula and provides all of the features this district definition describes. The Rock Row development master plan includes not only the retail and medical office campus area that have been or are being constructed, but also residential, office, commercial, entertainment, dining, recreation, and cultural uses that will establish a dense, urban mixed use development on these properties. The Rock Row development is working: with METRO to coordinate bus service to the site, with the Northern New England Passenger Rail Authority to investigate light passenger rail options between the site and downtown Portland; with Portland Trails and other trail groups to link the site and the quarry to surrounding trail systems for passive recreation; and with all transportation providers to coordinate multimodal transportation opportunities at the site. The Rand Road properties will be a part of this development regime, are connected to Rock Row by a rail corridor beneath the Maine Turnpike, and are located directly behind and adjoining a property that the Second Wave Recode Changes propose to place in TOD-1. For all of these reasons, rezoning the Rock Row and Rand Road properties from their current mix of B4, IL and IM districts to TOD-2 makes sense given their ongoing and intended development, and is consistent with the objectives for the TOD-2 as expressed in the Second Wave Recode Changes.	Additional TOD-1 will be shown in this area in the revised drafts.

NAME	DATE	SOURCE	ARTICLE	TOPIC	COMMENT	RESPONSE
					The Urbanist Coalition of Portland urges you to insist on a ReCode that meets our transportation needs. We feel that the current ReCode proposal does not do enough to create a simpler land use code that advances housing, transit, and complete neighborhoods. UCP has been making recommendations throughout the ReCode process and will continue to do so. However, one of our most critical recommendations will require a change to the proposed zoning map. The process to make this change must start as soon as possible so there is time for staff to update the map before the Planning Board and City Council vote on ReCode. In Maine, zoning must be consistent with a city's comprehensive plan. A cornerstone of Portland's comprehensive plan is encouraging dense, mixed-use development along transit nodes and corridors. This is critical to meet our housing, transportation, and environmental goals. This strategy is mentioned throughout Portland's Comprehensive Plan. It received strong support from community engagement and was woven into our environmental, economic, housing, and transportation policies: "Land use planning will guide new growth to downtown, key nodes, and corridors" - Page 3, Executive Summary: Future Land Use "Survey results, for instance, identified specific nodes and corridors of concern that fed into Future Land Use and transportation goals and strategies. Strong support for transit-oriented development … helped guide the formation of the plan's vision." - Page 10, Community Engagement "Adopt sustainable land use and transportation policies that support connectivity, walkable neighborhoods, and multi-modal Transportation." - Page 19, Policy Guide: Environment "Create incentives to spur transit-oriented, mixed-use development along corridors and in areas that can support high-quality transit service." - Page 76, Policy Guide: Economy "Portland's plan for Future Land Use places emphasis on areas most important to its growth over the next ten years. It includes three maps: … a map corridors and nodes that are poised to accommodate additional growth" - Page 79, Policy Guide: Housing "Priority nodes and corridors indicate areas that would be appropriate for new development to provide needed housing, businesses, and services proximate to transit, or areas that otherwise warrant some examination of potential for positive change in form and/or function." - Page 82, Policy Guide: Transportation The locations of these corridors are specifically mapped in Portland's Comprehensive plan [insert map]. The current ReCode proposal does not update the zoning around these corridors to allow for dense, mixed use development. Below is the currently proposed zoning map with the corridors color coded. [insert map] Open space was counted as equivalent to whichever use was across the street from in order not to penalize open space along these corridors.	

NAME	DATE	SOURCE	ARTICLE	TOPIC	COMMENT	RESPONSE
The Urbanist Coalition	7/29/24	Email	Map	TOD zones	What's concerning: Limited transit-oriented zoning: The entire new transit-oriented zone category will only apply to three specific properties and the denser of the zones is not used at all. This is not a comprehensive plan for transit-oriented development in our city. It is spot zoning for specific projects while other, equally transit accessible, sites have their potential restricted.	The placement of TOD zones is designed to align with known future investments in rapid transit, as contemplated by PACTS and METRO, and altogether, the total development potential in the two TOD zones within the draft zoning map is significant. However, the final draft map will include additional TOD zoning.
Markos Miller	7/29/24	Email	Map	TOD zones	ReCode- I'm so glad this is happening and am appreciative of all the work staff is doing to move this forward. It's big and important work. It moves Portland in the right direction. However, it does not go far enough to achieve the population density Portland needs to sustain walkable neighborhoods, an accessible housing market, or a truly effective transit system. In general, I urge the planning board to ask for more. Some specifics: a. TOD- this should be used along transit corridors and at nodes throughout the city (Forest, Outer Congress, Washington, Brighton, Franklin, Woodfords, Morrill's, and Allen's corners, etc.). The proposed B-5 in most of these areas is insufficient; it's 65' height limits are unlikely to produce the densities needed anytime soon. I know there is a 25' height bonus for affordable housing in the B-5, but this will not achieve the results sought for a couple reasons. i. Affordable housing developers like PHA are saying that they do not build over 6 stories because of construction costs (i.e. steel). So, the very developers this height bonus targets say they will not be using it. ii. Affordable housing is needed. Density is needed. However, we should not be making achieving one goal dependent on achieving the other goal. We need to encourage residential and mixed-use density for all income levels. Portland needs tall market rate buildings as well as affordable housing.	The placement of TOD zones is designed to align with known future investments in rapid transit, as contemplated by PACTS and METRO, and altogether, the total development potential in the two TOD zones within the draft zoning map is significant. However, the final draft map will include additional TOD zoning.
Thomas Bander	8/2/24	Form	Map	TOD Zones	I'm supportive of drastically increasing TOD zones to the entirety of the major arterial streets like Brighton and Forest. The current proposal does not go far enough to increase density of areas that will have better bus transit. TOD zones should be entire streets, not just individual parcels.	The placement of TOD zones is designed to align with known future investments in rapid transit, as contemplated by PACTS and METRO, and altogether, the total development potential in the two TOD zones within the draft zoning map is significant. However, the final draft map will include additional TOD zoning.
Portland Regional Chamber of Commerce	8/2/24	Email	Map	TOD zones	While we are encouraged to see the addition of the TOD zones to the code, we believe there are more applications for these zones than are currently mapped. Particularly, we think the Saint John Valley TOD zone could be further expanded and moved from TOD1 to TOD2 across a variety of nearby underdeveloped sites, recognizing recent and upcoming investments from Maine Medical Center, the Northern New England Passenger Rail Authority, and other city infrastructure projects that lend themselves towards transit-oriented development. Other opportunities for introducing more TOD zones include the Allen's Corner area, currently unmapped areas of Marginal Way and Franklin Arterial that are prime redevelopment sites should future infrastructure projects allow, as well as potential expansion of the TOD1 zone at the western terminus of Brighton Avenue.	The placement of TOD zones is designed to align with known future investments in rapid transit, as contemplated by PACTS and METRO, and altogether, the total development potential in the two TOD zones within the draft zoning map is significant. However, the final draft map will include additional TOD zoning.

NAME	DATE	SOURCE	ARTICLE	TOPIC	COMMENT	RESPONSE
Jeff Sherman	5/6/2024	GIS Map Viewer	Map	TOD-1 111 Pine Tree Industrial Parkway	TOD1 should be expanded in this area to include all the area zoned as B2/B4. This area is currently served by a bus line and could be served by rail if a Gorham/Westbrook train is built.	The placement of TOD zones is designed to align with known future investments in rapid transit, as contemplated by PACTS and METRO, and altogether, the total development potential in the two TOD zones within the draft zoning map is significant. However, the final draft map will include additional TOD zoning.
Jeff Sherman	5/6/2024	GIS Map Viewer	Map	TOD-1 1372 Congress Street	The Shaw's Plaza should be rezoned as TOD1. It is currently served by a bus line and could be served by a rail if a route to Gorham-Westbrook was built. This is a great opportunity to increase density in this area.	The placement of TOD zones is designed to align with known future investments in rapid transit, as contemplated by PACTS and METRO, and altogether, the total development potential in the two TOD zones within the draft zoning map is significant. However, the final draft map will include additional TOD zoning.
Markos Miller	6/21/2024	GIS Map Viewer	Map	TOD-1 zone	TOD zones should be used along all current transit lines on major roadways and 'nodes'- including Morrils, Woodfords, Allens corners. Limiting this to where a new train station might go someday and the strip mall world of outer Brighton is so limited.	The placement of TOD zones is designed to align with known future investments in rapid transit, as contemplated by PACTS and METRO, and altogether, the total development potential in the two TOD zones within the draft zoning map is significant. However, the final draft map will include additional TOD zoning.
Emma M	5/19/2024	Konveio	Map	TOD-2 zone	From the map, I don’t see this zone used. I’m not sure the purpose of having this defined if it’s not used. This zone seems promising for transit nodes. As specified by TLU 1.2 in the one climate future plan.	The placement of TOD zones is designed to align with known future investments in rapid transit, as contemplated by PACTS and METRO, and altogether, the total development potential in the two TOD zones within the draft zoning map is significant. However, the final draft map will include additional TOD zoning.
Urbanist Coalition	6/13/24	Email	Map	TOD-2 zone	Where is TOD-2? One of the most baffling apparent omissions, if it is an omission, is the lack of implementation of TOD-2, one of the two new transit-oriented zones. In the maps released by the Planning Department, not a single parcel appears to be designated TOD-2, despite the introduction of the high-density zone into the proposals. It’s unclear why this zone hasn’t been utilized; it may be that the proper use of this zone is still being considered internally at City Hall. However, if the purpose is in fact to treat the new zone as a special designation – not something to be baked into the maps but rather something to be requested by interested developers – then this would be very troubling. This is the sort of unpredictable spot-zoning which has given many local governments in Maine the reputation for obscurity, favoritism, and delay. We trust that this is not the case, and that a revised map will utilize the new zone and be released in the future.	The placement of TOD zones is designed to align with known future investments in rapid transit, as contemplated by PACTS and METRO, and altogether, the total development potential in the two TOD zones within the draft zoning map is significant. However, the final draft map will include additional TOD zoning.
James McPherson	6/14/24	Form	Map	Veranda Street	My property on Veranda St. is on Rte 1, across the street from the ocean, on the bus line and on all major utilities. I believe it’s a perfect spot for housing of at least 8-10 stories in height. It would not block anyone’s views, would not increase traffic in the neighborhood etc. It appears to be a perfect spot for a building. Shouldn’t it be recoded to allow for an increase in height? I can not tell from the information provided. What can I do to propose a higher height limit here.	As this part of Veranda Street is not identified as an area for major growth in *Portland's Plan,* this area is proposed to retain its existing zoning, with some expansion of the RN-4 (R-5) zone into areas currently zoned R-3. This zoning designation is successful in supporting dense, walkable neighborhoods of that are appropriate for this context.

NAME	DATE	SOURCE	ARTICLE	TOPIC	COMMENT	RESPONSE
James McPherson	7/29/24	Email	Map	Veranda Street	I'm inquiring about recoding of Veranda Street between Martins Point and the 295 on/off ramp. That stretch of Veranda should be included and allowed for much taller residential buildings. It's on a major route, all major utilities are right there, would not increase neighborhood traffic, it's on the bus line and higher buildings would not block anyone's views of the bay. It's an ideal location for higher residential building.	As this part of Veranda Street is not identified as an area for major growth in *Portland's Plan,* this area is proposed to retain its existing zoning, with some expansion of the RN-4 (R-5) zone into areas currently zoned R-3. This zoning designation is successful in supporting dense, walkable neighborhoods of that are appropriate for this context.
Christian MilNeil	7/29/24	Email	Map	Zone boundaries	I have a question about the city's proposed ReCode zoning map. All the maps I've seen so far are drawn such that public rights of way are excluded. I understand that the rationale for this is so that zone boundaries follow parcel boundaries, but I'm concerned that this could complicate efforts to offer public right-of-way for private development on excessively wide streets like Franklin and Spring Streets, or the I-295 interchanges. These are the places that offer some of our biggest opportunities to build new housing on city-owned land, and we should be explicit about encouraging higher-density development there from the get-go, instead of leaving these areas to uncertainty as a blank spot on the zoning map. Is there language in the proposed zoning text that says that zoning boundaries will be implicitly extended into the adjacent public right of way? If not, I'd encourage the Planning Board and the planning dept. to make certain exceptions to the zoning-follows-parcel-boundaries rule where there are plans in place to narrow or otherwise redevelop the right-of-way, on Spring and Franklin Streets and in the I-295 Exit 5 cloverleaf interchanges in Libbytown. Otherwise, I'm really excited for the changes and will also throw my own support behind the others advocating for more ambitious changes to height and density rules, and expanding the proposed TOD zones into more districts, so that we can invite more people to live here affordably in more walkable neighborhoods.	5.2.2 provides that zone boundaries extend to the center lines unless otherwise indicated, which would apply in the case of abandonment of any ROW.
John Woodbury	6/7/24	Email	Map		See images in PDF [Back Cove]	This proposal represents a capital project, rather than a land use one.
PIC	5/18/24	Email	Other		Need for commercial vehicle parking lot.	This suggestion is beyond the reach of zoning.
Cheryl Leeman	7/17/24	Note	Other		Update to Design Standards?	Design standards will be updated as a product of the parallel work on the Design Manual.

THE RECODE STUDIO: COMMENT SUMMARY BY MAJOR TOPIC AREA

ReCode PORTLAND

Following is a summary of written comments received from the City of Portland's ReCode Studio event, held over the course of two days on June 4 and 5, 2024. The Studio was held at One Canal Plaza, in Downtown Portland, spanning 11am-6pm on June 4 and 8am-2pm on June 5. Approximately 200 persons were in attendance. In addition to the written comments summarized here, participants at the Studio provided a large amount of verbal comments, which will also be considered as the City progresses forward with ReCode.

THOUGHT-PROVOKING QUESTIONS FROM ATTENDEES

- How can zoning incentivize pedestrian and bike activity?
- How many new dwelling units in what timeframe are you hoping to create?
- Can you encourage pedestrian cut throughs in all zones (pedestrian passages)?

MAJOR THEMES

Height

- Greater height allowance along arterials. RN setback proposals are still too stringent - so are heights.
- I would like to see the new R-6 have higher height.
- Measure height from pre-development grade rather than post-development grade.
- Lower height for single family makes good sense.
- I am very concerned about increasing height limits overall - because the historic buildings will become lost. Also, view corridors that allow pedestrians to see glimpses of the beauty of this city's location will be lost. That takes away from the unique character of this city. Furthermore, tall buildings block light from reaching the street level. The trees on the streets will die without the sunlight they already have which isn't much. New trees planted along Hancock Street - with tall new buildings - are dying.
- I recommend expanding the 325 max height area to the northern side of Center Street. I recommend expanding the heights along Congress Street to 1.5x along Congress Street. I recommend expanding all heights by 1.25x.
- B2 at 65 feet is way too high - buildings could most likely be higher depending on how they are measured and whether elevator shafts are included. High rises on what is now B1 on Washington Avenue will increase traffic dramatically.
- B-1 to B-2 (165 Washington, Northern Burner Supply) 45′ is enough. Stick to human scale. There is no coherent argument for an anonymous 75′-80′ height limit for this one site. It could be reasonable for a non-maximum use of the entire site (i.e. greater setbacks at north and south ends).
- 325′ max height is way too tall even with "shadow mitigation." [C]oncentrate tallest heights in commercial areas on arterials off peninsula.

Housing

- Market rate apartments are still too expensive for the bulk of residents who need this new housing.
- Do not listen to developers who say they cannot build affordable housing without more density - they mean they will have to accept less profit.
- It would be great to see a map showing the "delta" between current built environment, current permitting limits, and new permitting limits for total amount of housing units.
- I love the support for walkability, transit, getting rid of cars and surface parking and dense housing. Please do everything possible to add as many units as possible. Working people being able to afford housing is so much more important than aesthetic concerns some have raised. Please remember that most people in this city are struggling with housing costs, and the only solution is to increase supply.
- The *One Climate Future* plan states that "greater Portland will see an increase of 23-27% in population by 2040". I am hoping that the city is planning to have adequate supply of housing for this change in places that encourage biking and transit use.

Transportation/Parking

- More Transit-Oriented Development (TOD)
- I live near Allen's Corner in North Deering. With the possibility of adding hundreds more residents, I am concerned about traffic. Today, it takes a half hour or more to drive from Veranda Street to Allen's Corner at peak traffic times. What does the future look like with all these extra units?
- Love parking minimums being eliminated and maximums being added and love bicycle parking minimums.
- TOD should be extensive - along Congress, Washington, and Brighton. TODZ - Why is this not on the map? Major arterial corridors should all be TOD 2.
- Love eliminating parking minimums and adding maximums and similarly, a goal to reduce vehicle trips.
- There are already signs around town complaining about the traffic from Roux Institute. Busses are too infrequent to conveniently suit people on a regular basis. Cars are still necessary.
- I would like to see the evidence for the desired effect of eliminating parking requirements, and what plans are being made for inevitable challenges of demand exceeding supply.
- I see 2 TOD-1 zones added which is awesome. I am wondering why so few. Would it be possible to add a ton more along transit corridors so that more Portlanders have access to denser/walkable amenities?
- Lack of minimum parking requirements in RN-5 zone is inadequate in such a densely populated area. At a minimum, residential parking permits should be instituted for existing property owners and tenants.
- Consider reduced setbacks to TOD zones, should mirror transit corridor as illustrated in the Comprehensive Plan (Washington off peninsula, Forest, Stevens, Brighton).
- Yes, to removing parking minimums and setting maximums. Lower Franklin (Cong. to Middle) should be higher than 65' for height limit. I am concerned that the ReCode maximums are, at best, the bare minimums we need to meet our goals for housing, walkable mixed-use neighborhoods, quality transit options. That means we will not reach these goals. We need to plan for 30% to 50% build out of zoning

maximums and that should be the target for walkable neighborhoods and viable transit. Falling short should not be an option. We can adjust if we see overbuilding threat.

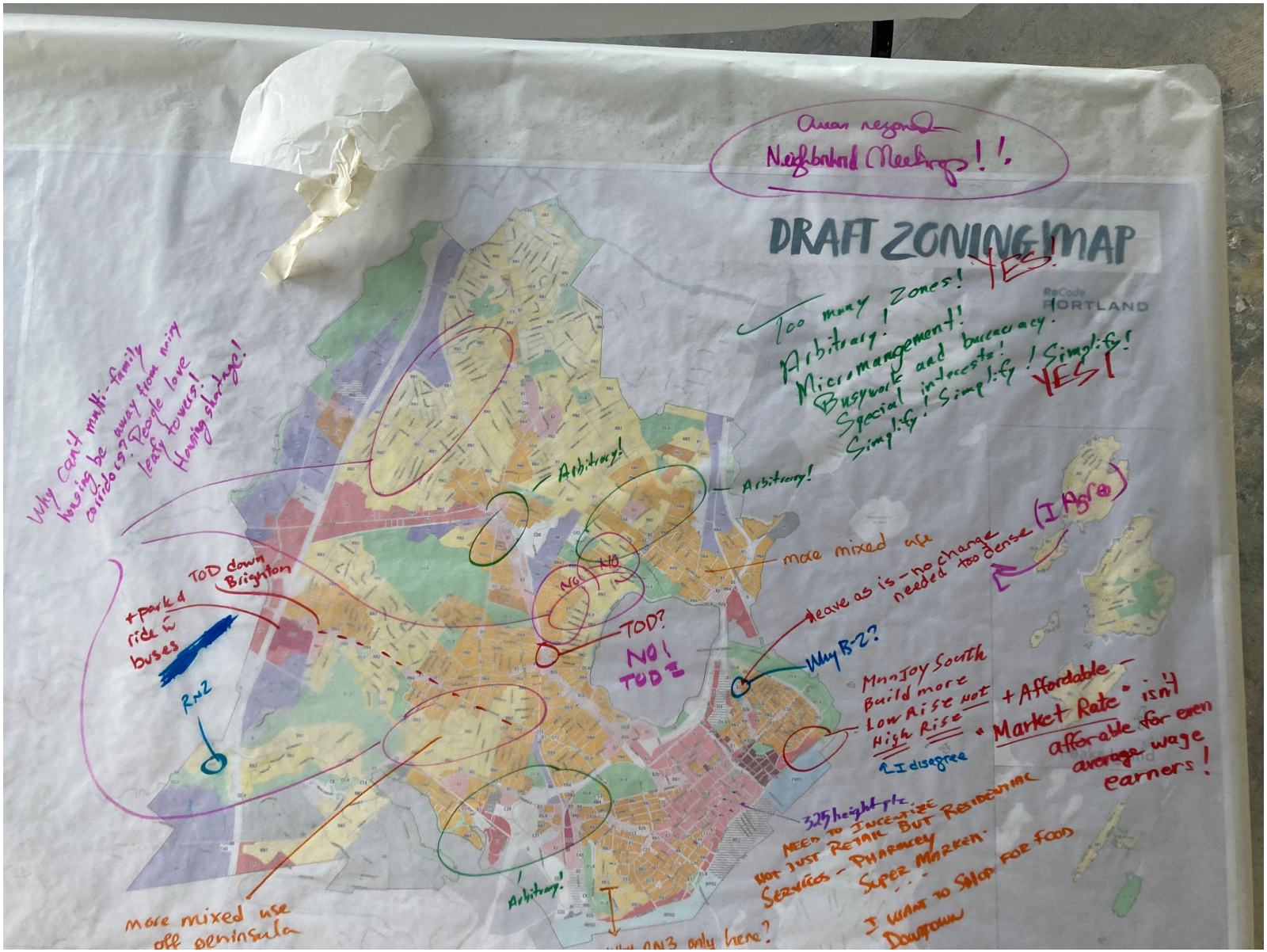
Other Content-Related Feedback

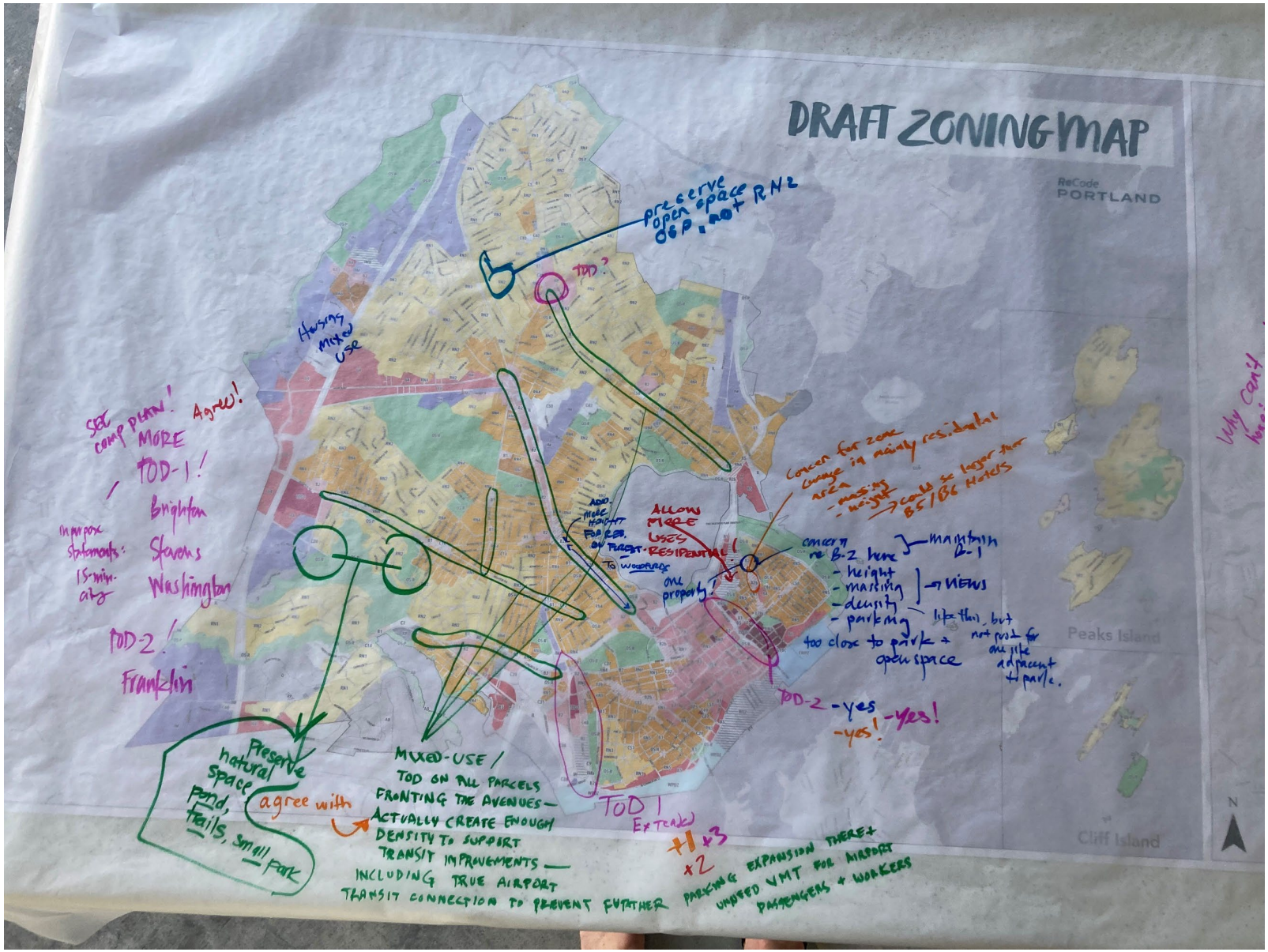
- Still way too many zones, arbitrary map, micro management; setback requirements unrealistic for urban environment, make them smaller; refer to the UCP's recommendations.
- Need mixed use and commercial 10-15 min. walk from all homes - zone for those uses in RN zones - all of them. Still too many zones - slim this down more.
- The code still seems complex - stream lining is a better way to ensure development.
- Overall the changes are too minor with respect to simplifying the code, allowing denser housing, encouraging transit-oriented development, and mixed-use neighborhoods.
- Would like to see splitting up of "retail" so that residential services are a separate use and incentivized - i.e. need small format 8-12 thousand sf supermarkets for downtown, residential service could include supermarkets, pharmacy, banks - could give density bonuses or parking decreased. We are adding residential to downtown and we need walkable services not just restaurant and clothes stores or pot shops.
- Beneficial electrification of downtown will fail unless we partner with CMP to remake the grid and harmonize the zoning/building code/EPA efficiency standards and cost.
- 20' street frontage is much too narrow in RN-5 zone. 30' is much more reasonable.
- A general "flow chart" of the process from concept to approved structure is well known among "developers" but not the general public. Getting "surprise" notices in the mail can feel out of control and you can only react, but don't know where or how. The public has different jobs and is unaware of the "process pathway". Every project follows known pathway and an outline should be shared with the public at the beginning.
- Communication between boards need improvement. The only "persons" at all the meeting is the applicant. This allows the applicant to "play" one board against another.
- I think insufficient attention to climate resiliency - though good to start. Cleaning up after flooding is expensive for all and devastating to those affected.
- Maintain interim protection for historic places/districts while under consideration for designation.
- I think it is short sighted to eliminate parking. We are creating another Boston.

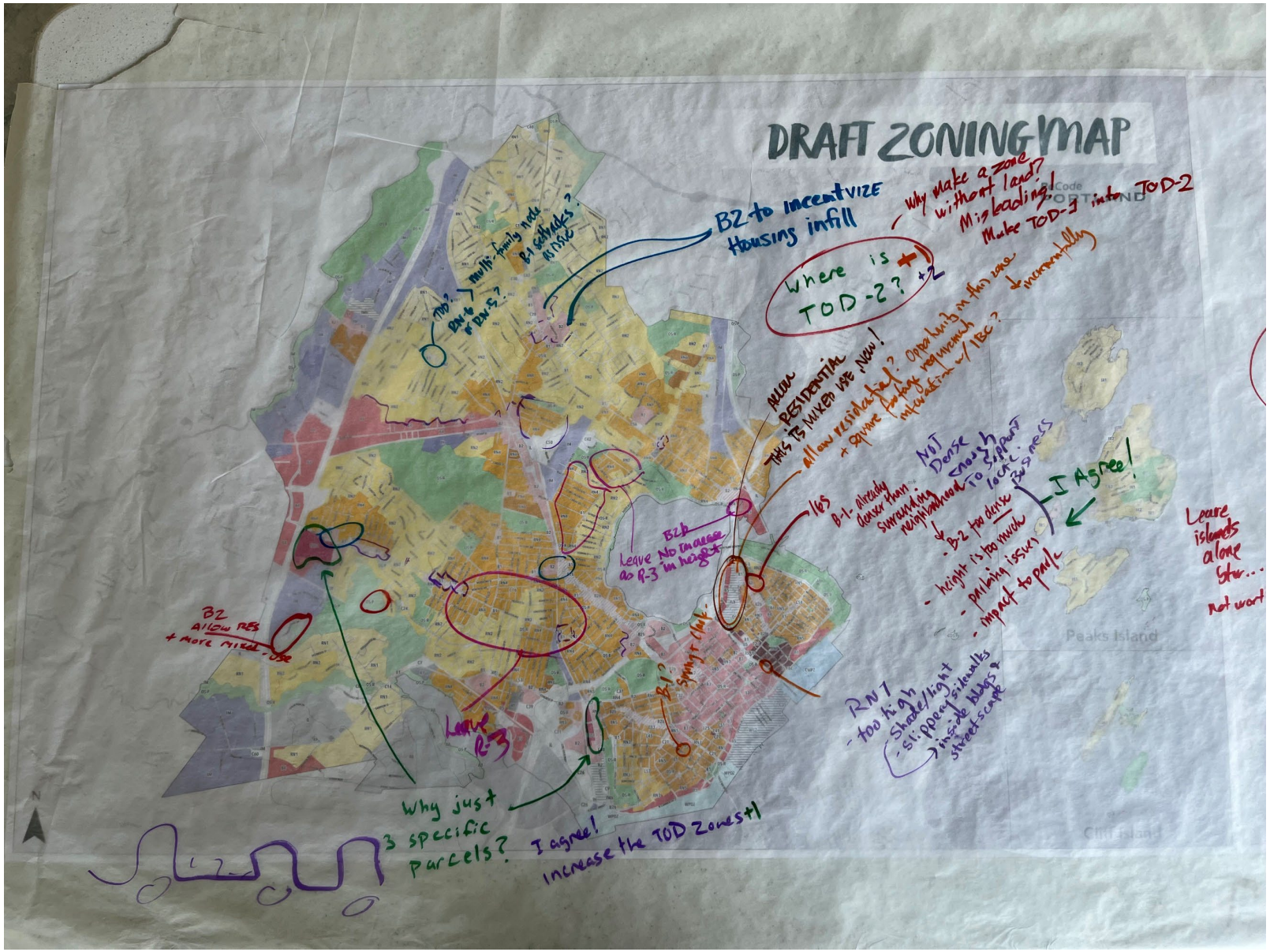
Feedback on the ReCode Studio

- Really great info and learned a lot. I like that you want to hear from Portland peeps.
- Thank you! I really appreciate all the effort you all put into clearly communicating this information and engaging the public. I learned a lot.
- Love the gallery format! It was neat to see.
- Thank you for offering several methods to connect with everyone to learn about ReCode. This space was great. The posters were easy to read and take in all of the information.
- Generally pleased to see the level of effort being undertaken.
- Kudos on the presentation. Love it and appreciate all of the hard work.
- Note that there is peer-reviewed published research showing that people that show up at these public forums don't represent the views of the larger population.
- Great opportunity to learn - superb staff.
- LOVE the branding and how everything was presented.
- Really great work. I am excited to see how this improves Portland!
- This Recode Studio is not public conducive and is not available to residents who work during the day.
- This ReCode Studio is a joke. It should be held in neighborhoods rather than the middle of the day when residents work.

Draft Zoning Map Comments




DRAFT ZONING MAP
ReCode PORTLAND
preserve open space OSP, not RN2
TOD?
Housing mixed use
SEE COMP PLAN! Agree!
MORE TOD-1!
Brighton
Stevens
Washington
TOD-2!
Franklin
ALLOW MORE USES RESIDENTIAL!
one property!
concern re B-2 here
- height
- massing
- density
- parking
maintain B-1
views
too close to park + open space
like this, but not good for one site adjacent to park.
TOD-2 - yes
-yes! -yes!
Peaks Island
Cliff Island
Preserve natural space
pond, trails, small park
agree with
MIXED-USE / TOD ON ALL PARCELS FRONTING THE AVENUES — ACTUALLY CREATE ENOUGH DENSITY TO SUPPORT TRANSIT IMPROVEMENTS — INCLUDING TRUE AIRPORT TRANSIT CONNECTION TO PREVENT FURTHER
TOD 1 Extended
+1 +3
+2
PARKING EXPANSION THERE + UNNEED VMT FOR AIRPORT PASSENGERS + WORKERS

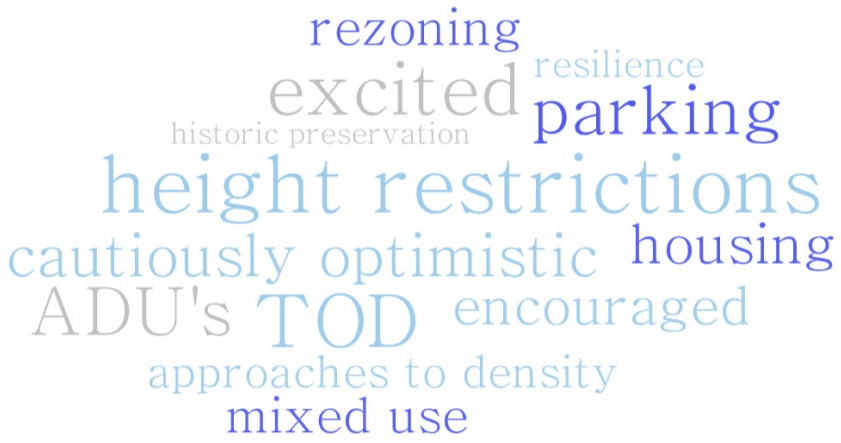

DRAFT ZONING MAP
B2 to incentvize Housing infill
Where is TOD-2? +1 +2
Why make a zone without land? Misleading! Make TOD-1 into TOD-2
incrementally
multi-family node B-1 setbacks? issue
TOD? RN-6 or RN-5?
ALLOW RESIDENTIAL THIS IS MIXED USE NOW!
allow residential? Opportunity in this zone + square footage requirements interaction w/ IBC?
NOT Dense enough to support local business
I Agree!
B-1 already denser than surrounding neighborhood
B-2 too dense
height is too much
parking issues
impact to park
Leave islands alone btw... not wort
B2b Leave No increase as R-3 in height
B2 Allow RES + more mixed-use
Leave R-3
B-1? Spring + Clark
RN1 - too high
Shade/light
slippery sidewalks
inside bldgs & streetscape
Why just 3 specific parcels?
I agree! increase the TOD Zones+1
Peaks Island
Cliff Island

Feedback from the ReCode "Mad Libs"

After exploring the studio, I was _____ *(adjective)* **to see a change to** _____ *(code section or topic)*.

I think that the changes to _____ *(code section or topic)* **will have a/an** _____ *(adjective)* **impact on the City.**

After exploring the studio, I was _____ *(code section or topic)* **to see a change to** _____ *(adjective)*.



SOURCE	IS THIS YOUR FIRST RECODE EVENT?	WHAT BRINGS YOU INTO THE STUDIO TODAY?	SPECIFIC TOPIC (IF APPLICABLE)	AFTER EXPLORING THE STUDIO I WAS (BLANK)	TO SEE A CHANGE TO (BLANK)	I THINK THAT THE CHANGES TO (BLANK)	WILL HAVE A (BLANK) IMPACT ON THE CITY.	I'M STILL A BIT CONFUSED BY (BLANK)	AND I'D STILL LIKE TO SEE CHANGES TO (BLANK).	GENERAL COMMENTS
ReCode Questionnaire	This is my first ReCode event.	Hoping to learn more about ReCode.		happy	mixed use in more residential	ped/bike transportation	positive	climate	incentivize	- How can zoning incentivize pedestrian and biking transportation? - Why is climate not a priority?
ReCode Questionnaire	This is my first ReCode event.			disappointed	B1 area changed to B2	R areas	positive			Market rate apts. are still too expensive for the bulk of residents who need this new housing.
ReCode Questionnaire		Hoping to learn more about ReCode.		excited	structure of code, housing section, density section	housing	positive	timing of changes	looks good so far	
ReCode Questionnaire	This is my first ReCode event.	Hoping to learn more about ReCode.	road capacity			zoning in outlying areas	negative			I live hear Allen's Corner in North Deering. With the possibility of adding hundreds more residents, I am concerned about traffic. Today it takes a half hour or more to drive from Veranda Street to Allen's Corner at
ReCode Questionnaire	This is my first ReCode event.	Hoping to learn more about ReCode.		excited	the digestibility of the code	the dimensional standards	positive			I am impressed by the flood resilience planning and efforts to make it easier for the public to access and understand the code. I am also impressed by: 1) tree canopy requirements; 2) complete neighborhoods effort
ReCode Questionnaire	This is my first ReCode event.	Hoping to learn more about ReCode.								
ReCode Questionnaire	I've attended previous events.	Hoping to learn more about ReCode.	public restrooms	inspired	restroom centers					Easing of the bathroom requirements/interpretation for rehab/new construction. Requiring a fund buy-in for public restrooms for new construction above X threshold
ReCode Questionnaire	This is my first ReCode event.	Hoping to learn more about ReCode.		great graphics	Preble Street area					Really great info and learned a lot. I like that you want to hear from Portland peeps.
ReCode Questionnaire	This is my first ReCode event.			pleased	building heights	historic preservation	beneficial	India Street area	More TOD zones	More TOD
ReCode Questionnaire	This is my first ReCode event.	Hoping to learn more about ReCode.	adu's, non-conforming, height restrictions	happy	adu's	zones and code enforcement	positive	non-conforming	height, non conformance	Sean King was great - ver helpful and took the time to answer our questions and find answers to questions he did not know. Chris was great too. One question: How many new dwelling units, in what timeframe are you
Recode Questionnaire	I've reviewed material on recodepor	Hoping to learn more about ReCode.								
Recode Questionnaire	This is my first ReCode event.	Hoping to learn more about ReCode.	How climate resiliency into this	excited	how code is being simplified for easier understanding and implementation	coastal flood resilience overlay zone	positive	the parking hanges - vehicle trips	curious about how to improve our transit system to easily support these changes	I also like "neighborhood residential use" accessary dewlling units - yay!
Recode Questionnaire	I've attended previous events.	Hoping to learn more about ReCode.	Sea level rise	excited	parking minimums	allowing higher density develpment and changes to the floodplain regulations	positive	how the city is adapting to handle more stormwater and how that might be impacted by increasing density	regulatory around impervious surfaces	Thank you! I really appreciate all the effort you all put into clearly communicating this information and engaging the public. I learned a lot.
Recode Questionnaire	This is my first ReCode event.		nervous	height restrictions	more density/bike infrastructure	profound	height overlays	building requirements	I think that 325 feet is too tall, especially if there arent incentives/rules on reduction of impervious surfaces. I	
Recode Questionnaire	I've attended previous events.	Hoping to learn more about ReCode.		happy	parking minimums	dimensional standards	small	how the TOD locations were selected	the land use code	Overall the changes are too minor with respect to simplifying the code, allowing denser housing, encouraging transit oriented development, and mixed use neighborhoods
Recode Questionnaire	This is my first ReCode event.	Hoping to learn more about ReCode.		excited	parking mins. and max	height/downtown density	good	don't own currently so not sure on zones/codes		Love parking minimums being eliminated and maximums being added and love bicycle parking minimums; allowing exemptions to historic preservation projects that advance city goals i.e. solar is great; loved the setup
Recode Questionnaire	I've attended previous events.									Still way too many zones, arbitrary map, micro management; setback requirements unrealistic for urban environment, make them smaller; refer to the LIC P's recommendations
Recode Questionnaire	I've reviewed material on recodepor	I've got specific questions!	Why are proposed zoning changes insufficient to meet our housing goals	saddened	not enough/meet our housing goals			lack of ambitionto meet housing goals	increase	TOD should be extensive - along Congress, Washington and Brighton. TODZ - why is this not on the map? Major arterial corridors should all be TODZ. Greater height allowance along arterials. RN setback proposals are still to
Recode Questionnaire	I've attended previous events.	Hoping to learn more about ReCode.	Process, admin changes, various areas	very happy	admin review vs. public for L4 units	dimensional standards and parking requirements	very positive			Very happy to see simplification, flexibility for ADUs, admin review, parking flexibility. Lower height for single family makes good sense. Question - how will parking max be set? Market may drive high parking
Recode Questionnaire	I've reviewed material on recodepor	Hoping to learn more about ReCode.		happy	to see a reduction in code complexity	floodplain management	positive resiliency			Love the gallery format! It was neat to see.
Recode Questionnaire	This is my first ReCode event.	Hoping to learn more about ReCode.		glad	coastal flood resilience overlay zone	shoreland, floodplain and waterfront	beneficial			Thank you for offering several methods to connect with everyone to learn about ReCode. This space was great. The posters were easy to read and take in all of the information
Recode Questionnaire	This is my first ReCode event.	Hoping to learn more about ReCode.								Generally pleased to see the level of effort being undertaken.
Recode Questionnaire	I've reviewed material on recodepor	I've got specific questions!	Why are the TOD zones so limited to only 3 parcels? They should extend along the entire corridor to	excited	density (on increase)	increase density	positive by making neighborhoods walkable	spot zoning	the map to simplify changes. All parcels along a busy street should be developed, for example	Love eliminating parking minimums and adding maximums and similarly, a goal to reduce vehicle trips. The code still seems complex - stream lining is a better way to ensure development. Thanks for working to increase
Recode Questionnaire	I've attended previous events.	I've got specific questions!	housing, TOD	cautiously optimistic	no parking minimums	increase density	great	absence of TOD 2 zone on maps		
Recode Questionnaire	This is my first ReCode event.	Hoping to learn more about ReCode.	zoning (my neighborhood) waterfront and shoreline preservation - not development!	more educated	land use code	land use	positive	multi-unit dwellings	encourage actually affordable housing for younger folks and middle income	
Recode Questionnaire	I've reviewed material on recodepor	Hoping to learn more about ReCode.		excited	height map	building heights	positive			I recommend expanding the 325 max height area to the norther side of Center Street. I recommend expanding the heights along Congress Street to 15x along Congress Street. I recommend expanding all heights by 1.25x
Recode Questionnaire	This is my first ReCode event.	Hoping to learn more about ReCode.	glad	approaches to density				density is historic preservations		Any way to incentivize existing Portland garage owners (public parking) to add EV spots. This is being done in Burlington, VT. On the individual zone guides, (RN2, etc.) cold you add an inset of the zone map. Ease of use.
Recode Questionnaire	I've reviewed material on recodeportland.me		Change from B1 to B2 especially along Washington Avenue	distressed	B2 from B1	B2 from B1	very negative			Do not listen to developers who say they cannot build affordable housing without more density - they mean they will have to accept less profit. B2 at 65 feet is way too high - buildings could most likely be higher
Recode Questionnaire	I've attended previous events.	I want to learn about a specific topic	How many B1 areas have been changed to B-2 and what are their specific circumstances?							I would like to see the evidence for the desired effect of eliminating parking requirements, and what plans are being made for inevitable challenges of demand exceeding supply. B-1 to B-2 (16c Washington, northern burner
Recode Questionnaire	This is my first ReCode event.	Hoping to learn more about ReCode.	housing, parking, transit	happy	parking minimum			historic pres.	what qualifies for preservation	Kudos on the presentation. Love it and appreciate all of the hard work. It would be great to see a map showing the "delta" between current build environment, current permitting limits, and new permitting limits for total
Recode Questionnaire	I've attended previous events.	Hoping to learn more about ReCode.	Preserving the character of Portland - the forest city and historical connections					I am going to read all the zone changes and updates before I opine about teh specific plan		I am very concerned about increasing height limits overall - because the historic buildings will become lost. Also, view corridors that allow pedestrians to see glimpses of the beauty of this city's location will be lost. That takes
Recode Questionnaire	This is my first ReCode event.	Hoping to learn more about ReCode.	height limits - especially downtown and arterial streets	intrigued and appalled by or excited	residential zoning (esp)	height limits - too high - height concentrated in wrong places	terrible, detrimental - discourages pedestrian traffic			Great opportunity to learn - superb staff - I think insufficient attention to climate resiliency - though good to start. Cleaning up after flooding is expensive for all and devastating to those affected - 225' max height is way
Recode Questionnaire	I've reviewed material on recodepor	I've got specific questions!	TOD and increasinghousing supply	pleased	minimum parking requirements	mixed use zones	positive	lack of TOD - 1 & 2	simplicity (decreasing number of RN's)	I see 2 TOD-1 zones added which is awesome. I am wondering why so few. Would it be possible to add a ton more along transit corridors so that more portlanders have access to denser/walkable amenities? The one
Recode Questionnaire	This is my first ReCode event.	I want to learn about a specific topic	B3 Downtown	encouraged	B3			Connections between zoning and historical planning	historical rules	1. Would like to see splitting up of "retail" so that residential services are a separate use and incentivized - ie need small format 8-12 thousand sf supermarkets for downtown, residential service could include
recode Questionnaire	This is my first ReCode event.	Hoping to learn more about ReCode.	parking shortage			parking	parking	RN5 parking	RN5 parking	Any new development on Munjoy Hill need to include parking, please. Also, please add "East End residential parking permits, similar to those in West End."
recode Questionnaire	This is my first ReCode event.	Hoping to learn more about ReCode.								20' street frontage is much too narrow in RN-5 zone. 30' is much more reasonable. Lack of minimum parking requirements in RN-5 zone is inadequate in such a densely populated area. At a minimum, residential parking
recode Questionnaire	This is my first ReCode event.	Hoping to learn more about ReCode.	How the code changes/communication between boards, abutters and city residents	excited	outdated (fractured) code specifically consolidation of all affordable "L D2002" housing	board definitions/scopt of standards	positive	historic district infill rules	code dimensions to keep infill from "disrupting" the HD.	1. A general "flow chart" of the process from concept to approved structure is well known among "developers" but not the general public. Getting "surprise" notices in the mail can fest out of control and you can only react
recode Questionnaire	I've attended previous events.		trees, parks and green space.							Height Map - I recommend changing the PHS/Masonic/First Parish parcel to same as City Hall to lessen the chance of teardown redevelopment. Historic Preservation - could more parks (Kennedy, Post Office/Tommy's
recode Questionnaire	I've reviewed material on recodeportland.me			happy	our collective thinking on density, transportation and climate	neighborhood non-residential	smaller than hoped for	the disconnect between hefty comprehensive plan goals and modest zoning changes	align with those goals, re: density to enable transit and walkability	Overall I am so glad to see so many great changes being proposed in this recode update (addition of TOD zones, parking maximums, restriction of drive-thrus, etc.) - but I am still concerned that this opens-in-a-
recode Questionnaire	This is my first ReCode event.	Hoping to learn more about ReCode.		impressed	dimensional standards	uses in residential zones	positive	large lot areas for 1-4 unit buildings	industrial zones	Lot areas for 1-4 units should be reduced further. More residential use should be considered in industrial zones. More density in Stroudwater. Eliminate owner-occupancy for ADUs being added to lot. Don't understand why
recode Questionnaire	This is my first ReCode event.	I've got specific questions!	permitted use in Ilb zone East Bayside	excited	housing densification	residential zoning	positive	usage of Ilb zone		As a property owner at 200 Anderson Street in East Bayside, I would like to see clarification of permitted use as well as a considered expansion of use.
recode Questionnaire	This is my first ReCode event.			interested	Rosemont zone map	the code	good	bayside	housing but not altering public views, access or increased heights of buildings	
recode Questionnaire	This is my first ReCode event.	Hoping to learn more about ReCode.	transportation/climate	excited	TOD	temporary use	positive			LOVE the branding and how everything was presented
recode Questionnaire	This is my first ReCode event.	Hoping to learn more about ReCode.	TOD	excited	parking minimums	TOD	positive		more TOD	Really great work I am excited to see how this improves Portland!
recode Questionnaire	I've reviewed material on recodepor	I want to learn about a specific topic	6.4.1							Please consider the number of streets on peninsula that 6.4.1 plays a role in limiting development. There are current projects being built and approved on these narrow streets that would not be allowed to move forward
recode Questionnaire	I've participated in ReCode surveys.	I want to learn about a specific topic	Stepbacks	pleased	B-2/b/c	Flood plain	long term benefit	ADU		Great job on a massive undertaking outreach has been thorough all through to CP and RC process.
recode Questionnaire	This is my first ReCode event.					B-2	negative			
recode Questionnaire	This is my first ReCode event.							open spaces	include more OSP	Parking - could parking be underground, first floor? Not everyone can take the bus, walk, or bike. Architectural integrity - will building new structures conform to existing housing. Will open spaces be preserved (Portland
recode Questionnaire	I've attended previous events.	I've got specific questions!				appreciate all of the work that the city has done.				I would like to see the new R-6 have higher height - consider reduced setbacks to TOD zones should mirror transit corridor as illustrated in the Comprehensive Plan (Washington off peninsula, Forest, Stevens, Brighton)
recode Questionnaire	This is my first ReCode event.	Hoping to learn more about ReCode.		disappointed	B1 Washington Avenue to B2	B2 on Washington Ave.	negative			Keep B-1 on Washington Avenue. B2 would make it too dense. Proposed height is too much. Parking is already tight. Impact on Munjoy and Orchard is a concern. Affordable housing is necessary. 45' is high enough.
recode questionnaire	This is my first ReCode event.	Hoping to learn more about ReCode.	How will uses that become out-of-conformance be treated in future permitting? (e.g. single family houses			flood planning	great	the timeline for implementation of the new code		It would be amazing to have a single HTML-based continuous text version (i.e., no expand/collapse headings) of the new code. The reason is that you can ask an AI bot to summarize a website, but more free bots won't
recode questionnaire	This is my first ReCode event.	Hoping to learn more about ReCode.		interested	rezoning	some rezoning	negative	some rezoning decisions	some rezoning changes	Along Washington Avenue, there is a B-2 recode zone recommendation that is adjacent to the public park, part of the Eastern Prom. The new B-2 plot is bordered by R-6 and other B-1 lots. This seems like spot zoning to
Index card										Maintain interim protection for historic places/districts while under consideration for designation. Measure height from pre-development grade rather than post development grade.
Index card										I think it is short sighted to eliminate parking. We are creating another Boston.
Index card										The grade slope calculation is still very vague and allows developers to "trick" the building height allowed.
Index card										I am concerned abou the side and rear setbacks for B1 propoerties abutting residential zones off Ocean Avenue.
Index card										ILb zone in East Bayside - would like to see clarification of permitted use and expansion of permitted use.
Index card										Does recode provide means to achieve goals in comp plan? I have doubts.
Index card										Yes to removing parking minimums and setting maximums. Lower Franklin (Cong. to Middle) should be higher than 4s' for height limit. I am concerned that the recode maximums are at best, the bare minimums we need to
Index card										Can you encourage pedestrian cut throughs in all zones (pedestrian passages)?
Index card										This recode studio is not public condusive and is not available to residents who work during the day.
Index card										There should be better protections on mature trees and no more tree waivers.
Index card										Residential purpose statements are too loose and allow too much commercial businesses inside residential zones.
Index card										No more density bonuses on B2b.
Index card										This recode studio is a joke. It should be held in neighborhoos rather than the middle of the day when residents work

Fwd: Form Submission - Contact us Re:Code - ADU's in R-5 and setbacks

Helen Donaldson <hcd@portlandmaine.gov> Mon, Jul 27, 2020 at 9:06 AM
To: Jennifer Munson <jmy@portlandmaine.gov>

Jen,

Can you get this into the public comments for ReCode and publish with the backup for the meeting as well?

Thanks,

Nell

---------- Forwarded message ---------
From: Squarespace <Unknown>
Date: Sunday, July 26, 2020 at 12:23:44 AM UTC-4
Subject: Form Submission - Contact us Re:Code - ADU's in R-5 and setbacks
To: recodep...@portlandmaine.gov <Unknown>

Name: Nick Aceto

Email Address: n...@acetola.com

Subject: ADU's in R-5 and setbacks

Message: Hello,

I am excited to see the city has recently published the first phase of the revised land use code. I am also very pleased to see more language included in this phase regarding ADU's in residential zones, particularly R-5. Thanks to everyone for all the hard work!

Reading through the dimensional standards I was a bit confused by a few items:

1. Rear Setbacks: It appears the rear setback for R-5 has remained the same, 20'. It also appears this requirement stands for accessory structures (ADU's). If this is the case I would strongly suggest reconsidering a more progressive standard which can allow for greater flexibility in design and more efficient use of yard space. By reducing the rear yard setback to 5' for detached ADU's you would allow what is often underutilized yard space to be repurposed as living space/floor area. For the average two car garage carriage house this represents an additional +/- 300 sf(or one additional bedroom). In the case of some smaller lots this could mean the difference between building the ADU or not. In a time when Portland so desperately needs affordable housing, I urge you to consider drastically relaxing setback standards, particularly for ADU's.

2. Detached ADU Height Limits: It appears ADU's are proposed to carry a max height limit of 18' while their counterpart principal structures are nearly double at 35'. It seems unnecessarily restrictive to set a lower height limit than the principal structure. In a time where affordable housing is needed, the height limit seems it could restrict some property owners from providing additional living space or even make the ADU project unfeasible. I would suggest making the height limit the same as the principal structure. There is already language in the code requiring accessory structures to be 'subordinate' to the principal buildings in terms of placement and bulk (2/3rds floor area limitation).

As a resident in the R-5 zone my partner and I would very much like to develop our own ADU. We think the ADU could be a very valuable tool in helping combat the lack of affordable housing, organically, within existing neighborhoods. However I would urge staff to consider relaxing dimensional standards so as to allow maximum design flexibility early in order to promote efficacy of this new strategy.

Thank you!

NIck Aceto

(Sent via *ReCode Portland*)

Public Comment on Recode Phase II

Elizabeth Parsons <ecparsons33@hotmail.com> Tue, Jan 18, 2022 at 10:51 AM
To: "recodeportland@portlandmaine.gov" <recodeportland@portlandmaine.gov>
Cc: Christine Grimando <cdg@portlandmaine.gov>, Matthew Grooms <mgrooms@portlandmaine.gov>, Helen Donaldson <hcd@portlandmaine.gov>

The Recode II documents you are circulating represent an important amount of work and the challenging part will be putting these ideas into practice. The following comments contain a few observations about practical implications of what's envisioned.

- General comments/suggestions
  - Under "Resources" please add a link to the One Climate Future (OCF) website site.
  - During the Planning Board's January 11th workshop, most discussion concerned the built environment. This is understandable given the general expertise of Planning Board members and the character of American urban society. Please, however, make a concerted effort to focus more attention on the natural world environment since without air/water/soil/light Portland can't exist.
    - Drawing more attention to the natural world could involve such things as:
      - Making sure the Planning Board is trained in all sections of the One Climate Future plan, is reminded of its crucial importance by City Council, and enforces that importance when reviewing projects. At present, it is not evident that the Board is all that familiar with the OCF plan;
      - Coordinating better communications amongst the Planning Department, Sustainability Office, and Parks and Rec (specifically Forestry);
      - Highlighting the need for increased staffing in Sustainability and Parks/Rec Forestry. These offices are understaffed yet significant elements of the Recode effort will fall within their purviews and/or affect their work;
      - Adopting an attitude that looks first for what elements of the natural world can be saved/retained/relocated during development planning and execution. Trees, for instance, are major natural elements. Removing a mature tree and planting a new sapling instead is not a one-to-one exchange.
  - Comments by Karen Snyder, Liz Trice, and Maggy Wolf at that Planning Board workshop were spot on. Please re-listen to them and take their observations to heart. Here is the link to that workshop; their remarks start at about 1 hour 41 minutes.

- Transportation
  - Eliminating previous parking requirements for new construction is a very good thing.
  - To encourage more walking and biking, particularly on the peninsula:
    - Do not simply adopt some of the strategies being implemented in places like Cambridge, Massachusetts (our bike lanes on Park Avenue resemble what's being done in Cambridge). Rather, investigate how European cities such as Copenhagen, Denmark and Malmo, Sweden have created safe ways for biking.
    - Reviving the State/High Streets two-way conversion proposal that was closely considered several years ago could help with this.

- Increased housing density

- Curtailing single family housing off the peninsula makes a lot of sense. Be prepared, however, for how new ADUs in currently single family locations will affect not only resiliency elements of the OCF plan but residential life in possibly unexpected ways. For example:
    - ADU construction will likely invite tree removal(s). The Heritage Tree Ordinance only applies to Historic Districts and, although the Sustainability Office envisions expanding it throughout the City, Councilors have said this can't be done without adequate staffing to enforce the ordinance. Given current fiscal constraints, there's no telling when additional staff might be hired. So meanwhile, please consider closely what might be done to highlight the vital role trees play; to encourage the Planning Board to emphasize this when reviewing projects; and to stress that we shouldn't be looking at an either/or choice: housing or trees. We need both—*especially* where affordable housing is being considered. This is a matter of social and ecological equity.
        - Here is the link to a recent article about this very matter that gives some important guidance.
    - ADU construction may created unintended effects on neighboring properties and neighborhood relationships. For example, prior to moving to Portland, I lived in an urban area that started allowing infill construction. When new homes went in up the street and on the lot behind our two-family condo building we started getting water in the basement. This never happened prior to that new construction and dealing with it was a years-long, unpleasant process. So, the Planning Department and Board should be prepared to ask questions not simply about proposed new infill projects but about possible ramifications on nearby properties.

Thank you for considering this comments.

All best wishes,
Elizabeth Parsons
44 Winter Street
Member, Portland Climate Action Team
Past-President, West End Neighborhood Assn.

Squarespace
Feb 9, 2021, 7:23:42 PM
to recodep...@portlandmaine.gov

Sent via form submission from *ReCode Portland*

Name: Winston Lumpkins IV

Email Address: winston.lumpkins@gmail.com

Subject: support Multi unit buildings

Message: It is my firmly held belief that there should be absolutely no development of single unit buildings allowed, we have far too many.
3 units should be the minimum that are allowed on a single foundation. Mulit unit buildings are green, they are more affordable to rent, they look nicer. Bring back the triple Decker's! They are selling for like 500,000, there is no way they wouldn't build lots if they where allowed to.

It's f*cking disgusting all the little single unit buildings all over the place wasting perfectly good land that could house 3-4 families.

Squarespace
Apr 18, 2021, 7:49:34 AM
to recodep...@portlandmaine.gov

Sent via form submission from *ReCode Portland*

Name: Mary Morse

Email Address: mrsm1359@outlook.com

Subject: Noise

Message: When looking at zoning and land use please considered impacts on existing neighborhoods with regard to noise pollution. We are overwhelmed with the noise (especially the bass) from music venues on the East side. These venues often go to 1 AM! It is seriously impacting the livability of our neighborhoods.

Portland Maine Yes. Google's good here.

Helen Donaldson <hcd@portlandmaine.gov>

Re: Form Submission - Contact us Re:Code - recode II suggestion

G Bahlkow <gbahlkow@gmail.com> Wed, Jul 14, 2021 at 10:28 AM
To: Helen Donaldson <hcd@portlandmaine.gov>

Hi Nell,

Thank you for your prompt reply!

Any help understanding "where" in the RECODE II process things stand will be appreciated.

Many thanks, Gary

PS Pasted below is a copy of email sent to Director and Deputy Director of Planning about a specific (to me) anomaly which seems easy to address - note there are two attached files that support the dialogue :

Good afternoon,

I am contacting you at the suggestion of Caitlin Cameron. Please let me know if this is, in fact, directed to the right people!

I have been renovating a residential property in the R6 with Munjoy Hill overlay. It is located in the newly approved Munjoy Hill Historic District. 42 Lafayette Street.

After completing renovations to the main house, I met with Caitlin, Deb Andrews and Ann Machado in January of 2019 about the possibility of replacing the existing garage (circa 1948) with a new one. My concept was to use a slightly larger footprint and have a small dwelling unit above.

I ran into a conflict with the current regs that Caitlin, Deb and Ann seemed to think was an unintended consequence of a new overlay reg - 8.7.4.A.2. (At least that was my impression of their comments at the meeting - I don't mean to put any words in their mouth).

I believe it was Caitlin who said the intent of 8.7.4.A.2. was to get more living space onto the ground floor in larger condo type projects (or avoid the sterility of nothing but garage on ground floors in condo projects). In my case, I am really just replacing a functionally obsolete accessory building with a new one. And adding a single, small dwelling unit above.

If you look at the Dimensional Table 7A for R6 you will find that I could build a 20x30 garage with 8 foot door (40%) and put the dwelling unit on top. Unfortunately, the Overlay reg in 8.7.4.A.2. currently takes that 7A allowable garage away.

If, in fact, this is an unintended consequence of the overlay I will appreciate you considering a modification in the RECODE II process.

Currently I have a permit pending for a new single family (as advised by Ann). The permit number is BLDR 2019 01144. If you look at the original submittals (with a new garage) vs the revised submittals I just uploaded today (without the garage) you might conclude, as I have, that a single bay garage/workshop on the first floor with a small dwelling unit above looks like a thoughtful accessory building (where a little house next to the big house looks, well, odd. At least to me.).

As a personal note - to give you some context on why I am pushing for this, my hobby is tinkering on old cars. I REALLY would like to replace the tiny garage there now with a slightly larger one that could accommodate a workshop on the ground level. I'd also like to add a small dwelling unit above to the housing pool on Munjoy Hill.

If this is a lost cause I will go ahead and replace the old garage with a new house with no garage/workshop but I am hoping you folks might see a path forward for me to do what I hope to do.

I know this is a long and potentially confusing email. I'd be glad to elaborate in person or by phone if that might be useful. 207-650-1551

In the meantime, I am attaching a couple items that might help you visualize the foregoing. You might have to be patient waiting for the Site Plan to load. It is a pretty big file that takes a minute or two to draw.

Thank you for your consideration.

Gary Bahlkow

[Quoted text hidden]

> [Quoted text hidden]
> Notice: Under Maine law, documents - including e-mails - in the possession of public officials or city employees about government business may be classified as public records. There are very few exceptions. As a result, please be advised that what is written in an e-mail could be released to the public and/or the media if requested.

2 attachments

42LAFA~1.JPG
4229K

Bahlkow Site Plan_3B-11 x 17 (7) (1) June 25, 2019.pdf
757K

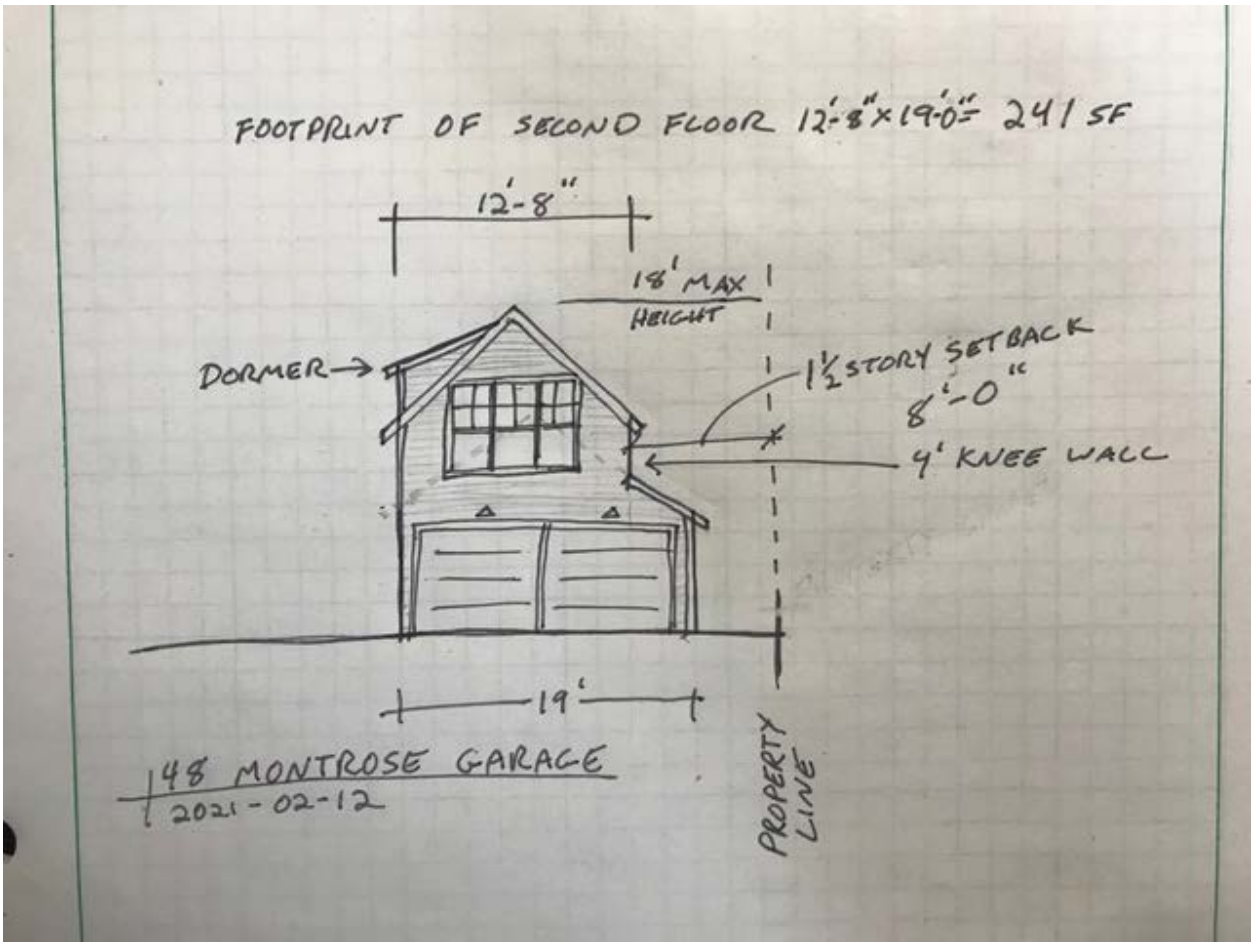
Chris Herlihy
Jul 26, 2021, 3:47:13 PM
to recodep...@portlandmaine.gov

Hello,

I am working with a clients who owns 48 Montrose Ave. We are interested in knowing if the recoding would have impact on the setback limitations of using their accessory structure (garage) for an ADU. The house is in Zone R5 and I have sketched the current limitations below, but they would like to use the whole 2nd floor, or more then I currently have allotted if they are able to.

Best Regards,

Chris Herlihy
Architectural Designer
Polestar Design
70 Center St. 2nd Floor
Portland, Maine 04101
O: 207.405.1815
M: 406.600.5069



Squarespace
Dec 16, 2021, 2:21:16 PM (5 days ago)

to recodep...@portlandmaine.gov

Sent via form submission from ReCode Portland

Name: Daniel Higgins

Email Address: dannyhiggins207@gmail.com

Subject: R2 Zoning Questions

Message: I live on 106 Caron St. with a lot size of approx. 17,800 sq.ft. A number of years ago I contacted Marge Schmucal (spelling?) in city hall and was informed that , to sub-divide my lot for 2 lots R2 zoning requires 10, 000 sq. Ft. Per lot.. Now I see Brandi Lane sub-division approx. 50 yards away from my house, being started with many lots below the 10,000 sq.ft.. This was zoned C40. Is the ReCode Portland addressing issues like this?

Does this submission look like spam? Report it here.

Mush J
unread,

Dec 21, 2021, 5:31:08 PM (17 hours ago)

to recodep...@portlandmaine.gov

Hello,
I own a land in Hemingway Street and I'm looking to build a house there and my neighbors too, that's in my opinion is going to help with the housing needs and the economic too so I was hoping that the city is looking at this issue and waive the requirements of paving the street or helping us pave it or even split the cost,
Thank you,
Mushreq J Alsamraee
35 Hemingway street
Portland, ME
2076329523

Squarespace
unread,

9:06 AM (2 hours ago)

to recodep...@portlandmaine.gov

Sent via form submission from ReCode Portland

Name: Elizabeth C Parsons

Email Address: ecparsons33@hotmail.com

Subject: Recode Portland format

Message: Have received the email about reading and commenting on the current Recode process. Would very much like to do this and find that the format is tedious and off-putting. The document appears in a small window and navigating around it is tricky. Is it possible to receive a PDF of the document?

If this is the only way that you solicit feedback, what you are going to get are responses only from people who are already in the know and not just ordinary citizens--who may have perspectives that need to be heard. Please make a concerted effort to expand the ways of access to this important document and process.

Does this submission look like spam? Report it here.

Portland Maine Yes. Google's good here.

Matthew Grooms <mgrooms@portlandmaine.gov>

Comments

'Dennis Martin' via ReCode Portland <recodeportland@portlandmaine.gov> Wed, Dec 22, 2021 at 10:41 AM
Reply-To: Dennis Martin <dennyjrdaddy@yahoo.com>
To: recodeportland@portlandmaine.gov

Hello- We are in a historic district. We would install solar panels on our large southeast facing roof except it is also street side for the historical district. It's probably time to limit the historical districts' reach when it comes to homeowner's mitigating their carbon footprint. Wasn't sure how to comment on the document. Thanks Dennis Martin 217 Brackett St.

Recode Phase II Land Use Code Evaluation

Barbara Vestal <vestal@chesterandvestal.com> Thu, Jan 6, 2022 at 12:56 PM
To: planningboard@portlandmaine.gov, Christine Grimando <CDG@portlandmaine.gov>, Helen Donaldson <HCD@portlandmaine.gov>

Chair Mazer and Planning Board Members:

These comments are submitted for consideration as part of your workshop on the Land Use Code Evaluation (Evaluation) on January 11th. For the most part, I am submitting comments on the document in this letter format rather than using the awkward online "bubble" format.

While I think the Evaluation contains many useful observations and may trigger important discussions, I found it to be very uneven and incomplete in how substantive topics are addressed. I was hoping the document would contain a detailed assessment of the ways in which the current land use ordinance fails to implement the major principles of Portland's Plan 2030. (Those major principles are adequately summarized in the Evaluation as: One Portland, complete neighborhoods, strong downtown, thriving working waterfront, priority nodes and corridors, and connected transportation, open spaces and infrastructure, p. 7). Further, I was hoping the Evaluation would contain a comprehensive set of recommendations for amendments (or at least a list of very specific topics for further analysis) which would detail **how to move the City toward implementation of the major principles of Plan 2030**.

Instead, the Evaluation is organized around those six generic themes from Plan 2030 (equitable, sustainable, dynamic, secure, authentic, connected) which are so amorphous that they are not equal to the task of moving the discussion forward. The Evaluation is further divided into technical sections organized by seven components of any Land Use Code. There are approximately 40 substantive recommendations gathered in the "recommendation matrix" but they seem scattershot. The document does not clearly identify the fundamental choices that need to be made if the City is to move toward those major policy principles of the comprehensive plan, Plan 2030, nor does the Evaluation seem to propose a comprehensive suite of recommendations (or focused topics for further analysis) which are strategically selected to further those principles.

Figuring out how to amend the Land Use Code to actually further those substantive principles is the work that needs to be undertaken now. To be successful, it needs to be intensive and laser focused on those principles. The choices among alternative land use patterns and opportunity costs of those choices need to be clearly laid out so that appropriate decisions can be made. If true to Plan 2030 principles, some fundamental changes need to be made in the pattern of uses allowed by zoning and supported by the Land Use Code, particularly off-peninsula. Instead of confronting those decisions head on, this Evaluation seems to have gotten sidetracked on a quest to generate recommendations that will tick as many boxes as possible based on claims that they have some vague relationship to the six generic themes. To my mind, this is an unhelpful elevation of form over substance.

The chapter entitled "The Land Use Code & Portland's Plan" (pp. 7 - 19) is a bit of a puzzle. It asserts over and over and over again that revisions to a land use code **CAN** produce x, y or z (e.g. achieve complete neighborhoods, further equity goals, incentivize affordable housing, etc.). Is the word **CAN** intended to be read as **SHOULD** in relation to Portland? Are these intended as substantive recommendations? Or is this chapter just meant to educate the reader as to the theoretical power of a generic land use code? It would be a more useful document if it helped the City identify **how** to move toward plan implementation by focusing on the specific decisions that need to be made in amendments to the Land Use Code, organized by the topics called out in this chapter (equity, environmental sustainability, parking, complete neighborhoods, housing) and additional major principles goals from Plan 2030 which are not specifically highlighted in this chapter (one Portland, strong downtown, thriving working waterfront, and land use patterns related to priority nodes and corridors and connected transportation, open spaces and infrastructure).

Turing to substance, I would like to share four general observations:

AFFORDABLE HOUSING: The Evaluation seems to emphasize new housing production. (p. 8, 17-18), identifying what could be included in the toolkit to incentivize new construction to produce expanded housing opportunities. The elephants in the room, not discussed in the Evaluation, are the disincentives imposed by referenda in November 2020, specifically including rent control, which are highly likely to discourage the construction of virtually any **newly constructed rental housing.** The exception may be 1-4 unit structures intended to have an owner occupant, accessory dwelling units, government-subsidized units, or units owned by Portland Housing Authority, which are exempt from rent control. Unlike most other rent control ordinances, there is no exemption for rental units constructed after the date of enactment. Any "holistic look" at land use housing tools is a wasted effort unless it expands its focus enough to appreciate the current broader regulatory framework. Rather than focusing on new construction incentives, I believe the land use toolkit for affordable housing is going to need to focus on how Portland can adjust its provisions on nonconformities to **retain existing housing** and to encourage investment in existing affordable housing. This is mentioned very briefly on page 9 but not fleshed out.

In addition, the new construction incentives need to be adjusted so they are not counterproductive. For example, on Munjoy Hill, the height bonus for one “workforce” housing unit has actually incentivized demolition of multiple existing units, to be replaced by expensive condominium units, resulting in a **net loss** of affordable housing. A different set of incentives need to be developed (e.g. allow different types of units or smaller units, reduced minimum lot size per unit for affordable units, etc.) to replace the counterproductive height bonus.

HEIGHT: Recommendation 2.H. states: "Consider opportunities to refine height controls within the Land Use Code's ***mixed use zones***" (emphasis added). This recommendation should not be limited to mixed use zones. Height provisions need to be comprehensively reviewed throughout the City. Currently measurement methodologies are very sparsely detailed and are particularly inadequate for retaining an acceptable scale on a sloped site. Architects have developed "work arounds" that evade the intent and letter of the ordinance. Except on the islands, the current language is being interpreted, unlike almost every other jurisdiction, to allow

a developer to fill first (or resort to other artificial means) and then calculate height from a newly created grade.

The methodology to calculate height needs to be fixed. It needs to specify: 1) where measurements are to be taken on the surface of the earth relative to the footprint of the structure (what defines the corners or the location of the perimeter – the weight-bearing foundation? Incorporated retaining walls? Other?); 2) where measurements are to be taken relative to the vertical location/elevation of the corner points or perimeter (e.g. where the weight-bearing foundation pierces the ground or some other point?); 3) stipulate that calculations are to be based on pre-development grade (or natural grade as of a past date like the year 2000) so that use of fill or other artificial ground-raising techniques to increase allowable height are not permitted; and 4) as many of the remaining undeveloped sites in Portland involve steep slopes, establish standards to address height calculations for sloped lots so that the resulting structures are not out of character with their surroundings, such as a cap on the number of feet of additional height allowed as a result of averaging the grade. Ideally this height methodology fix, which has been discussed for years, should be expedited and not wait for completion of the entire Recode II process.

WATERFRONT ZONES: The Evaluation recommends that "the Code revision process should maintain the unique orientation and provisions of each of these [3 waterfront] zones, while recognizing the potential for emerging industries that can be compatible within the waterfront context." (p. 54). If the emerging industries are meant to be **water-dependent industries** (not intended to include the “hospitality industry” or similar “industries”), that is a reasonable recommendation. As these waterfront zones are so complex and have been intensely negotiated, from time to time, over the last 30 years, I strongly believe it is best for the Recode II process to leave them as they are and not undertake to "align, clarify, [or] modernize the language" even if the recommended intent would be to preserve the function and intent of these established zones. Trying to consolidate definitions into one place or tweaking performance standards so they are consistent with the language used in another zone may inadvertently upset a delicate balance.

LAND USE PATTERN: The Plan 2030 calls for off-peninsula areas to carry more of the burden of accommodating future growth, and advances priority nodes and corridors as the way to do this while supporting sustainability goals for public transportation. The zone analysis in the Evaluation contains only a very cursory analysis of the existing zones, and fails to address how these zones could and should be amended to further these important major principles. Does the City need one or more overlay zones for the priority nodes and corridors? Where would the overlay zone(s) apply? How much density would be allowed? How would they be structured to support affordable housing goals? These issues are the heart of making the Land Use Code consistent with and supportive of Plan 2030. It is unfortunate that the Evaluation does not include more helpful analysis of these issues.

Best wishes as you try to cull what is useful out of this Evaluation and come up with a plan for how to move forward with the Recode II process.

Regards,

Barbara Vestal

--
Barbara A. Vestal, Esq.
Chester & Vestal, PA
107 Congress Street
Portland, Maine 04101
(207) 772-7426 - phone
(207) 761-5822 - facsimile

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PC 11

Comments on Proposed Recode

0 views

Subscribe

Cheryl Ann Leeman <cal4161@yahoo.com> 12:00 PM (4 hours ago)

to planning@portlandmaine.gov

First and foremost, there has to be a recognition for the city's neighborhoods and their value to the overall quality of life in Portland especially established neighborhoods with patterns of developments attractive to young families who want a more suburban feel similar to outlaying communities - - as stated in the city's comprehensive plan that "uniqueness and integrity of our neighborhood will be maintained and enhanced" and "compatible with current development patterns and contextually appropriate ".

1. *Urbanization* of neighborhoods will be in direct conflict with what the Comp Plan and the homeowners who purchased their homes in areas of the city where the established patterns of housing development were an indication of a desirable, well-defined and livable neighborhoods to raise one's family.
2. Until there is an actual inventory of housing stock in the R-3 and R-5, it is somewhat inaccurate to say that these zones "do not appear to acknowledge the current built forms" mapped within the city. AS stated, three and four family dwellings are not predominant housing types in these zones.
3. Greater density requires data-based documentation as to the appropriateness of where this might be applicable.
4. To suggest "context-based" solution to front and side setbacks has potential for unintended consequences of urban application with buildings closer to street and abutting properties in neighborhoods that historically have front and side yards.
5. Possible elimination of small lot residential lot option could lead to the purchasing of a house with small lot next to it, demolitioning the house and combining lots for a massive scale development, and so much more.
6. Changing R-3 zones to R-5 would affect almost every neighborhood off peninsula to higher density impacts for unwelcome multi-family buildings in well established neighborhoods like Back Cove, Deering Center, North Deering, East Deering and Riverton, etc.
7. Infill development, if carefully done, with specific standards within established context of R-3 and R-5 zones is certainly an option. However, to date, what we have experienced is amendment changes to zoning to accommodate a proposal even though it may not fit within neighborhood context.
8. Where is the neighborhood planning tool kit to enrich community input?
9. There is a need of defined process for improved neighborhood involvement prior to the finalization of projects instead of being put in a position of reacting to proposal, setting up adversial situation.

Finally, the document sent out for folks to use for evaluating the Recode was difficult to navigate. I believe the public will be hard pressed to response using this method.

Thank you, Cheryl Leeman

Helen Donaldson <hcd@portlandmaine.gov>

Fwd: Form Submission - Contact us Re:Code - Changing the land use code is a bad idea

---------- Forwarded message ---------
From: Squarespace <Unknown>
Date: Monday, January 31, 2022 at 4:46:07 PM UTC-5
Subject: Form Submission - Contact us Re:Code - Changing the land use code is a bad idea
To: recodep...@portlandmaine.gov <Unknown>

Sent via form submission from *ReCode Portland*

Name: Phyllis Guevin

Email Address: phyllisguevin@icloud.com

Subject: Changing the land use code is a bad idea

Message: I do not want any land use changes.This would bring overcrowding and even more excessive traffic .Morills Corner is the busiest intersection in my state of maine and has yet to widen end,taking land by eminent domain as necessary.It has never been fixed since I was a kid growing up in Portland,me.What I already see is too many schools on one avenue,Stevens.Overbuilding has already taken place.Does anyone calculate the number of cars added by cramming more housing into Portland.No more fields and woods in my former neidhborhood.No more fields and woods behind what used to be Zaire's and Vallees .I rode horse behind there from Camelot farms which beautiful and now is doomed for more housing .Stop building and fix the roads and sidewalks that we have.Move schools out of the city and combine them into one large school outside the city.start doing studies on the traffic we have and terrible congestion as well as stop drawing crazy white lines everywhere.This is a wintry state.Bikes should be banned in the winter and on sidewalks,not on our narrow streets.Many Toyota cars have safety sense which goes with these excess white line.We need to hire a very talented new road engineer, .How many of you were born and raised in the Portlan d and greater Portland area and know what it was like as I do over sixty nine years.Kids needs Fields and wooded areas near homes to run and play.Please send me some recent traffic studies before and after this foolish plan.

Does this submission look like spam? Report it here.

Re: Watch the ReCode public forums!

Markos Miller <markossmiller@hotmail.com> Sun, Mar 6, 2022 at 12:52 PM
To: ReCode Portland <recodeportland@gmail.com>, Helen Donaldson <hcd@portlandmaine.gov>

Thanks for sending out the videos so quickly.

This appears to be very well done, a nice balance of informing and updating, clarifying, and soliciting feedback.

I appreciate the opportunity to view and offer comment after the fact.

Some questions and comments about Forum 1:

1. Definition/goal for density. 8-20 units an acre is underwhelming. I live in/own a 3 unit on Munjoy Hill. The lot is just under .9 acres. We enjoy a nice yard and parking for 4 cars. This suggests that at least 30 units per acre could be comfortable. Larger apt buildings could use land even more efficiently at high densities. "Density" should start at 20/acre and then increase.

2. I agree that the on/off peninsula distinction should be eliminated for zoning purposes.
3. Housing survey slide: I hope this is just to get a "read of the room" and not to prioritize energies. These all are important. My choices here are 3,6,5,4,2,1
4. Home ownership assistance/incentives are a great idea, even if not germane to zoning.
5. Anne Pringle's comment on Munjoy Hill R6: I think the shortcoming of the R6 changes here is that we did not connect density/setbacks/height augmentations to creation of more units/affordable units. So we got 2-3 giant condos for rich folks on a lot, not lots of smaller size units for young people, young families, working folks. Don't throw out the R6 reforms, improve them so they work to meet our goals, and expand them to all R6 zones, and maybe beyond. (Sounds like this may be a goal via other means?) Then address design guidelines.
6. Zack Barowitz' comment about Portland population vis-a-vi population of the metropolitan area is an important one. Portland population is not growing and this should be made clear. As a percentage of larger region, Portland population is shrinking. What are the goals around this? This should be a driver of our housing creatin policies.

7. Transit corridors are a great place to focus, but how wide is a transit corridor? What density (people who can walk to transit and essential business/services) in these areas is needed to support quality transit services and businesses? 20 units/acre up and down Forest Ave will not be enough.
8. Climate change survey: 1-2 (two sides of same coin),3,6. Maybe human scaled access to coast/water should be a priority, improving quality of life features while limiting development in high risk areas.
9. Transportation survey: 5,2,3
10. Redevelopment of parking lots (particularly larger ones) is a worthy goal. Impervious surfaces is one tool that also speaks to environmental goals. Increase incentives for redevelopment and disincentives for maintaining parking should be pursued. There are so many downsides to parking, and we can do better at providing other options that provide the few upsides.

Many Thanks,

Markos

Markos Miller
17 Atlantic St
Portland, ME
04101
(207) 807-2681

From: ReCode Portland <recodeportland@gmail.com>
Sent: Friday, March 4, 2022 1:46 PM
To: markossmiller@hotmail.com <markossmiller@hotmail.com>
Subject: Watch the ReCode public forums!

Thanks to all who attended our recent ReCode public forums! If you missed the forums, don't worry! You can watch videos below.

3/1 Forum: Housing, Climate, & Transportation

3/2 Forum: Complete Neighborhoods, Design, & Economy

We are still looking for input on our code evaluation survey! The survey will be open for another week, until Friday, 3/11/22.

And if you want to read and comment on the code evaluation in its entirety, our document comment portal will be open for one more week, until Friday, 3/11/22.

Thanks to all who have commented so far!

ReCode Portland
389 Congress Street
Portland, ME, 04101
United States

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Squarespace
Mar 7, 2022, 11:57:31 AM (7 days ago)

to recodep...@portlandmaine.gov

Sent via form submission from *ReCode Portland*

Name: Allen Armstrong

Email Address: armstrong105@gmail.com

Subject: Historic Preservation to allow addition of sustainable objects

Message: With ReCode's focus on sustainability and the goals set out in Portland's Plan 2030 and One Climate Future, I would like to suggest the following changes to the draft Land Use Code:
Section 17.7.1 A 1 I be deleted. ("installation of solar collectors")
Section 17.7.2 F be added: "Where additions consist solely of objects designed to reduce energy consumption or greenhouse gas emissions, e.g. solar collectors, heat pumps and electric vehicle chargers."

Does this submission look like spam? Report it here.

FORESIDE
PORTLAND, MAINE
254 Commercial Street, Suite 118, Portland, Maine 04101

March 11, 2022

Christine Grimando
Director of Planning & Urban Development
City of Portland
389 Congress Street
Portland, ME 04101

RE: Public Comment | RECODE Phase 2

Dear Christine:

I am writing on behalf of Portland Foreside Development Company (PFDC) regarding RECODE Phase 2 that is currently underway in the City of Portland. After reviewing the documentation available, we would like to submit the following comments:

- We propose that a Zoning Text Amendment be included in RECODE to Section 10.2.3(B)(11) and Section 10.2.7.(C)(4) of the Zoning Code. This change is associated with a Zoning Text Amendment that Portland Foreside Development Company pursued between December 2020 and January 2022. We were successful in receiving approval for this amendment from the Planning Board. The City Council did not approve this Zoning Text Amendment and among other comments, noted that this was something that could be included with RECODE. The overarching goal of this zoning text amendment change is to open up a portion of the EWPZ to the public as a space for enjoying food and beverage and experiencing the waterfront and marina located at 1 Marina Way.
    - The Zoning Text Amendment being proposed for Section 10.2.3(B)(11)(a) would read as follows:

> ***"Section 10.2.3.B.11(a):*** *Marinas located east of the eastern boundary of the parcel of land owned by the City of Portland pursuant to a deed from the State of Maine dated February 1982 and recorded in the Cumberland County Registry of Deeds at Book 4916, Page 26.*
>
> *a. Restaurants and food service establishments, **including any storage or preparatory space**, shall be permitted as accessory uses if such uses do not exceed 1,000 square feet of total **interior** floor area of the **principal marina building** and are within 100 feet of the principal marina building, **provided pedestrian circulation is not unreasonably impaired** and further provided that such accessory uses are open to the general public.*

- The language for 10.2.7(C)(4) would read as follows:

> ***"Section 10.2.7.C.4 –*** *Setback from pier line: Notwithstanding the above requirements, a minimum setback of 25 feet from the edge of any pier, wharf or working edge of the hardened shoreline shall be required for any structure, provided that marine offices, as defined in Section 10.2.3 (B)(12), may be located up to five feet from the edge of any pier, wharf, or working edge of the hardened shoreline. The setback area may be utilized for water-dependent uses, restaurants and food service establishments accessory to marinas, and public uses and activities, subject to the provisions of Subsections 10.2.2 and 10.2.4, and shall not be utilized for ~~restaurant, drinking, or~~ other non-water-dependent uses or for off-street parking. The edge of any pier, wharf, or bulkhead shall include any attached apron(s)."*

- Propose that the City consider, as a resiliency measure, allowing developers to convert height restrictions in feet to a maximum number of stories. This change would allow for the increase in floor to floor height of lower floors (thereby providing mitigation from the impacts of flooding) and encourage the thoughtful placement of mechanicals without negatively impacting uses and floors above. To qualify for additional height, should be required to demonstrate that the extra height is used for resiliency measures. The City could consider requiring that certain other sustainable development practices be met as well.

- **Use & Use Standards**
  - **1B - The Code should address additional creative uses not currently listed** - We offer support for the idea of "creative uses" not currently listed including but not limited to roof top gardens, roof decks, food and beverage offerings at marinas, etc.
  - **1D - Consider revising the definition of "agriculture" to include modern agricultural activities** - Adding to the definition of agriculture some urban agriculture concepts could include elements like rooftop gardens and amenities.
  - **1G - A comprehensive set of temporary uses should be addressed in the Code** - Temporary events should not only be modified but also more inclusive. The Temporary Event language in the Eastern Waterfront Port Zone is something that could be modified to focus on the whole Zoning District along with the City owned Ocean Gateway.

- **Dimensional & Design**
  - **2A - Consider developing bonus provisions within the residential and mixed-use zones to encourage sustainable construction and/or a walkable, urban environment** – Regulatory incentive (density bonuses and/or height increases), Tax (TIFs), economic, financial (grant programs, support for infrastructure) should be considered for projects that include a mix of uses and prioritize walkability.
  - **2B – Evaluate dimensional standards and uses permitted throughout the city in the context of risk and resilience.** Developing regulatory incentives and requirements for projects in low risk and high risk areas should be differentiated. Resiliency overlay zones should be flexible and dynamic due to and consider flood zones, stormwater and heat islands. Including flood tolerant landscaping, requiring utility systems to be flood resistant are examples of some regulatory options.

- **2G - Explore opportunities to encourage transit oriented development within appropriate areas of the city, in coordination with regional transit planning** - Consider the idea of adopting a TOD ordinance that creates incentives (density, height bonuses, tax incentives) or requires certain types of development to meet specific criteria that is focused on TOD.
- **2H - Consider opportunities to refine height controls within the Land Use Code's mixed-use zones** – Instead of just thinking about refining height controls, think about where additional density and height makes sense for the urban fabric and walkability of the City and allow flexibility for certain types of projects or projects that meet specific requirements.

- **Zones**
  - **3A - Identify barriers, and explore options and implications related to allowing for a greater diversity of housing types within the City's residential zones** – Consider a diversity of housing types for all Zones, but when doing so, also think about transportation options that serve each zone and a variety of transportation choices that are and can be offered.
  - **3C - Evaluate and refine the City's mixed-use zones to ensure they support the city's thriving mixed-use areas, and continue to enable modern, sustainable, walkable development in line with the City's vision for the future –** To further encourage mixed-use redevelopment, support new development and redevelopment in areas of the City that can occur and is already happening. Incentives and support can be tax, economic, financial, or regulatory. We support simplifying the regulations in the B6 Zone. We encourage the City to require that the majority of a street fronting ground floor in any of the urban mixed-use zones be open to the public (hotel lobby, retail, etc.) to support active pedestrian/public uses.
  - **3G - Ensure that the City's waterfront zones continue to function effectively.** To acknowledge and support prioritizing the mix of marine and non-marine uses in the EWPZ, while prioritizing the health and operational needs of the working waterfront, consider zoning text modifications that allow for the general public to more fully experience the area (see our proposed Zoning Text Amendment on page 1).
  - **3H - Consider the continued applicability of the Land Use Code's overlay zones** – Consider eliminating the Munjoy Hill Neighborhood Conservation Overlay Zone now that the Munjoy Hill Historic District has been adopted.

- **General Development Standards**
  - **4B - A comprehensive set of accessory structures and uses should be clearly defined within the Code** – This should include temporary accessory structures that could be renewed with certain time intervals.

- **Parking, Loading & Access**
  - **5C - Consider enhancing the Transportation Demand Management (TDM) Plan requirements to incorporate recommendations within One Climate Future** – There is also a need to update the TDM requirements so that consideration is given to the bigger picture of projects and activities within the City and not just the project requiring the TDM. There should be more consideration and collaboration given to what is going on with TDM as a whole.

- **Landscape**
  - **6A - Landscape requirements should address all aspects of site development, from preservation to screening and buffering** – Landscaping standards should be modified to include consideration of current landscaping on adjacent properties and consistency within an area of the City or neighborhood. Consideration should also be given to incentivizing techniques that can be used to support resiliency and flood mitigation.

Thank you for the opportunity to provide comment on ReCode Phase II.

Sincerely,

Mary McCrann

Digitally signed by Mary McCrann
DN: C=US,
E=mcm@portlandforeside.com,
CN=Mary McCrann
Date: 2022.03.11 15:59:58-05'00'

Mary McCrann, AICP
Director of Strategic Initiatives

Peaks zoning for affordable housing

Elizabeth Remage-Healey <remagehealey@gmail.com> Mon, Mar 14, 2022 at 10:23 AM
To: Christine Grimando <cdg@portlandmaine.gov>, hcd@portlandmaine.gov

Good morning. On behalf of Peaks Island Home Start, about 10 days ago I submitted comments via the ReCode website asking for revision of current zoning in IR-2 that would better support small affordable homes, similar to the proposed small lot regulations proposed for R-5.

There are many small lots on City water and sewer in IR-2 that could benefit from smaller setbacks. A 5000 square foot lot with 50 foot frontage currently requires 20 foot side set backs on each side , which leaves only 10 feet for a home. Not practical - or pretty ! Unless you're a fan of traditional trailer design.

When we originally proposed this change to Jeff Levine 5 years or so ago, we were advised to wait for Phase 2 of the ReCode. So here we are.

Does this request need further discussion? How can we best advocate for it? Of course we're happy to meet via zoom or in person, and also to solicit the support of the Peaks Island Council if that would be helpful.

Thank you for getting back to me. I know you face many bigger issues, but this is a small change that could lead to more houses built by year round Peaks residents.

Betsey Remage-Healey
President
Home Start

Matthew Grooms <mgrooms@portlandmaine.gov>

ReCode recommendations should aim high for housing

Zack Barowitz <zbarowitz@gmail.com> Fri, Mar 18, 2022 at 8:20 AM
To: recodeportland@portlandmaine.gov, Planning Board <planningboard@portlandmaine.gov>, Christine Grimando <CDG@portlandmaine.gov>, Matthew Grooms <mgrooms@portlandmaine.gov>, Helen Donaldson <hcd@portlandmaine.gov>
Cc: Timothy wells <welmaurya@gmail.com>, Wendy Cherubini <wcherubini@gmail.com>, Kara Wilbur <karawilbur@gmail.com>, Todd <todd@morsecodist.io>, Elizabeth Trice <liztrice@gmail.com>, Eric Freeman <ericphilipfreeman@gmail.com>

Dear Chair Stanley and Members of the Planning Board:

I am happy to see the ReCode process moving along, but I am a little concerned that the consultants are aiming a bit low of the target. I hope that the recommendations will be based on what is best for Portland rather than a calculus of what is least controversial. Having attended a forum and looked at the survey I see the framing of many questions to encourage incremental changes to the point of negligible. For example, the first question in the housing sections is stated as thus:

ALLOW A GREATER DIVERSITY OF HOUSING TYPES WITHIN RESIDENTIAL ZONES.

Revise permitted uses and densities within lower density residential zones (e.g. the R-3, R-4, and R-5) to allow up to three- and four-family dwellings.

Note the "up to" wording of the question limits the revision to 3-4 units. This, and questions like it, are frustrating for a survey taker who understands that 3-4 is a very low bar. Not only has LD 2003 cleared committee (which would obviate this clause), but that there are many examples of existing 4+ (including 10+) unit housing through these zones who fit in in terms of scale, massing, and style such that they are barely noticeable. Some examples include 96 Noyes Street (Twelve 2-bedroom units), 244-246 Woodford Street (18 units), and 104 Highland Street (10 units).

The above examples are taken from the Deering Highlands neighborhood. Deering Highlands is not unlike the West End (in terms of grain, styles, and demographics). Many of the older multi-unit buildings in one neighborhood could find context in another. I look, for example at 15 Clifford Street (6 unit condo), and 197 Pine Street (32 units).

This spreadsheet lists all properties over 5 units in the R3, R4, R5 zones including condos and PRUDs. Although the data (which was pulled from the tax assessor site) is not as specific as it could be, it does indicate numerous examples of multi-unit rental housing in those zones.

The information is summarized here:

Zone	Condo	5 to 10 Family	11-20 Family	20+ Family	TOTAL
R3	719	3	1	10	733
R4	18	3	0	0	21
R5	324	54	8	10	396
TOTAL	1061	60	9	20	1150

Thank you,

Zack Barowitz

--
207-838-6120
917-696-5649
ZacharyBarowitz.com

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Fwd: Variable Setbacks

Ann Machado <amachado@portlandmaine.gov> Mon, Mar 21, 2022 at 9:08 AM
To: Helen Donaldson <hcd@portlandmaine.gov>, Matthew Grooms <mgrooms@portlandmaine.gov>

I told the person that I was forwarding their idea to the Planning group overseeing the recode.

Ann

Ann Machado
Zoning Administrator
Permitting and Inspections Department
City of Portland, Maine
(207) 874-8709
amachado@portlandmaine.gov

---------- Forwarded message ---------
From: **Christopher Parelius** <CParelius09@gmail.com>
Date: Mon, Mar 21, 2022 at 9:03 AM
Subject: Variable Setbacks
To: <amachado@portlandmaine.gov>

Hello!

I really appreciated the format of the Recode Zoom Meetings and the willingness to take and consider public comments as part of the process. However, an idea didn't occur to me until this morning and I wanted to share it here.

Has the city considered implementing variable setbacks? Say within a range of a few feet. I think would be especially useful in an area with no setbacks with the stipulation that either, A:at least some part of the building must touch the property line (bay windows, support columns for the upper stories etc.) or B: the property line is dilniated with a low wall or fence. This creates definition and continuity along the street while also allowing for variety, the visual interest that Camilo Sitte argues is so important for good public space, and what Jan Ghel in Cities for People calls "soft edges" and "semi-private space."

Think of how the brownstones in Back Bay and Beacon Hill have protrusions created by their windows but also recesses with their little front gardens or how so many old Italian cities have irregular building lines yet are picturesque.

Anyway it was just a random thought I figured I'd suggest. Thank you so much for taking the time to read this.

Your neighbor,
Chris Parelius

Form Submission - Contact us Re:Code - Peaks Presentation

Squarespace
Mar 24, 2022, 5:34:28 PM (19 hours ago)
to recodep...@portlandmaine.gov

Sent via form submission from *ReCode Portland*

Name: Rachel Conly

Email Address: rachel@juniperdesignbuild.com

Subject: Peaks Presentation

Message: Hello! Thank you all for a well organized and informative presentation to Peaks Island last night. In follow up, I wanted to reiterate my support of a reevaluation of the dimensional standards on the island. As noted by your team, the current zoning standards are not in synch with the reality of a community with predominantly existing, non-conforming lots and structures. In addition, the standards are not in synch with the growing demands for resiliency to adapt to things like climate change, a housing crisis and a pandemic. The current setbacks, lot coverage and land per dwelling unit are all obstacles to basic amenities that would support health, wellbeing, and local economies, such as porch spaces, greenhouses, garden sheds, studios, home offices and aging in place. I have worked on renovation projects for 16 years on the island and I have found the majority of homes and lots are existing, non-conforming to current standards, with very few having a traceable permit history. This sometimes leaves people in a compromising position to pursue improvements and, in some cases, even basic maintenance for fear of risking exposure to their non-conformity. I think it would be worth considering amnesty or extending the pre-1957 "grandfather" parameters to a later date. Thank you! Rachel Conly

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Squarespace
unread,
Mar 30, 2022, 10:16:42 AM (22 hours ago)
to recodep...@portlandmaine.gov

Sent via form submission from *ReCode Portland*

Name: Nina Markov

Email Address: peaks123@gmail.com

Subject: Zoning peaks island

Message: Hi, we have property in the IR 1 on Peaks. Parcel 088-L-012-001, between Brackett and Upper A. My parents bought in the '70s and combined lots. Now, even though we have by far the biggest lot —twice as large as any other lot on Brackett or Upper A, we can't build an additional house on it, nor divide the lots again. Especially since there are 4 houses on tiny lots across from us, I think we should be allowed to build a second structure on our enormous lot.
In addition, we only have summer water, so we are not able to rent the place out during the off-season 6 mos. It is a modest summer cabin. (We have a well, but it is inadequate and does not provide consistent and reliable water that is obviously essential for a rental.) Yet we pay very high taxes— $6k plus. Since this is by definition a summer place, we should be able to rent it and/or an ADU as vacation rentals. Renting it "long term" for 1+ months at a time during the 6 mos that we have city water is just not practical, and it does not generate enough money to pay the taxes. Peaks Island is a summer colony and most of the tax payers are "summer people" (who often end up retiring on the island). We care about the island deeply and are committed to it, but we do not think summer renters are the enemy. Summer rental is a way to help support the property. I don't think owners of summer cabins can solve the affordable housing problem, nor should we be prevented from trying to support ourselves.
Thanks for listening to this perspective.

To: Members of the Portland Planning Board
Cc: Portland Planning Department
From: MEREDA Local Issues Committee
Re: ReCode II Evaluation
Date: 4/1/2022

Overview and General Support for ReCode Phase II Evaluation Findings

The Maine Real Estate and Development Association (MEREDA) has been following and participating in the ReCode efforts to date. In Phase I, MEREDA submitted comments to support the initial adoptions as well as propose changes. Now, as you begin the work of drafting Portland's new land use code, we offer the following thoughts to help shape your thinking and hopefully open up new opportunities for smart growth and development in Portland.

MEREDA is a statewide, membership-based organization founded in 1985, whose members include real estate owners, for-profit and non-profit developers, architects, engineers, bankers, property managers and other related professionals. The mission of MEREDA is to support responsible development and real estate ownership throughout Maine. Through the work of its Public Policy Committee, MEREDA pursues a more fair, practical, and predictable policy environment. MEREDA is the state's only trade association supporting responsible commercial real estate development and the positive economic growth that accompanies it.

MEREDA appreciates the hard work that has gone into the evaluation of Portland's land use code, and participated in the public forums that were held in early March. We thank the Planning Department and the City for its efforts at transparency and community collaboration. We believe the evaluation sets forth smart, effective guidelines for redrafting Portland's land use code, and we support the efforts to increase housing, promote sustainability, and encourage the creation and maintenance of complete neighborhoods.

To achieve many of the goals outlined in Portland's Plan 2030 and reflected in the evaluation, it will be necessary to make some significant changes to the land use code. The current code is restrictive, was built as a patchwork of ordinances over a long period of time, and does not necessarily reflect the policy priorities of Portland's community today. MEREDA applauds the City of Portland for recognizing that the time is right to reevaluate and rewrite Portland's land use code to better effectuate the City's broader policies and goals. MEREDA offers the following comments on each of the broad topics discussed in the evaluation.

MEREDA Comments on Specific Evaluation Topics

Uses and Use Standards

MEREDA agrees that the City needs to open up the potential uses and potentially amend use standards to allow more mixed development in the City and to better achieve complete neighborhoods. Specifically, MEREDA endorses the goal identified in the evaluation of changes that can "support the creation of middle-density housing, the creative economy,

and urban agriculture."[1] MEREDA further agrees that it is appropriate for the City to review the City's use regulations with consideration to Portland's climate resiliency goals.

Dimensional and Design Standards

MEREDA believes that modifications to the dimensional and design standards present the greatest opportunity to effectuate change and promote sustainability and housing creation. MEREDA agrees with the evaluation's recommendations, including:

- More consistent regulation of impervious surfaces;
- Height and setback restrictions that incentivize sustainability and climate resiliency;
- Height and setback bonuses for projects that "help support housing creation and transit oriented, walkable, urban development."[2]

Smart growth can enable the City to build more housing while simultaneously meeting its sustainability and climate resiliency goals. Now is the time to consider policy changes for things like height restrictions. Height restrictions were put in place, often decades ago, to prevent the construction of tall buildings, which were deemed undesirable at the time. We now know that building up prevents having to build out, and that means less cars on the road, housing closer to economic and workplace centers, and less use of materials overall.

MEREDA urges the City to think boldly about incentivizing housing development through bonuses for height and setback restrictions. These are easy tools that the City can use to move the lever for both housing and climate resiliency.

Zones

Just as with uses and use standards, MEREDA believes it is appropriate for the City to take steps to promote more mixed-use zones. Where much of the City is currently broken up into clearly residential and clearly industrial areas, there are parts of the city where mixed commercial and housing thrive – these are the most popular parts of the City, and they make up the greatest growth for the City's revenues in the past two decades. Clearly, Mainers like the model of a complete neighborhood where they can walk to what they need, including work.

By making reasonable and measured changes to Portland's zoning maps, the City could promote greater flexibility for areas currently zoned only for residential use. MEREDA also agrees that it may be appropriate and timely for the City to streamline the number of zones generally. In cases where a zone may not be achieving its purpose, it may be appropriate to rezone or modify the uses and use standards so that zones may be consolidated to achieve the same broad purposes. This would help level the playing field for housing creation across the city.

General Development Standards

MEREDA supports the evaluation's findings that there may be places where exceptions and modification of rules related to architectural elements and accessory dwelling structures and uses may be necessary. Additionally, MEREDA agrees that any such exemptions or modifications should be carefully targeted to ensure protection of the aesthetic design unique to certain areas of the city. It is critically important that Portland stay Portland, even

[1] Executive Summary, Land Use Code Evaluation, 2 of 6, available at https://static1.squarespace.com/static/5a75f43a692ebeeb1159413d/t/61c0fe443f0075242f44004d/1640037959344/LUC+Evaluation+Companion.pdf

[2] *Id.*

while it is opening up the doors to new residents and ensuring that those new residents have quality accessible housing.

MEREDA also agrees that performance standards should be consolidated and updated to facilitate easier compliance. Developers, architects, and engineers have long struggled to reconcile some of the city's standards, particularly along the waterfront. While some recent action has been taken at the state level to clarify calculations of height related to the Shoreland Zone and federal flood plain management, it will be necessary for the City to take action to ensure local standards align with those state and federal standards.

Parking, Loading and Access

MEREDA agrees that it is time to consider the importance and prominence of parking with respect to project standards. While there can be no doubt that we are a car-driven society, much of Portland's community seeks to move away from daily vehicle use, and are interested in prioritizing walkability. MEREDA does caution the City not to become too committed to the promotion or development of another specific type of technology. It will be important for any final standards to be technology-neutral, or as close as possible, to leave room for new technologies and changing living and movement patterns.

Landscape

MEREDA agrees that landscape should be considered more broadly than in a traditional aesthetic paradigm. Natural elements and landscape design have a prominent place in sustainability efforts, and local food-sourcing is becoming increasingly important. As these new uses of green space and natural elements take shape, it will be important for the City to enable them.

However, MEREDA urges the City to think carefully about how landscape standards, particularly green roof or other sustainable natural elements of building design, should be implemented. For example, incentivizing use of natural elements for sustainability is a better path than mandating them. Mandates tend to choose particular technologies or methodologies and constrain developers and innovators from finding creative solutions to climate and sustainability problems in the buildings sector. Additionally, the use of green roofs and other natural elements is still relatively new to the buildings sector in Maine. It will be important for the City not to mandate more than can be achieved.

Finally, MEREDA would note that the evaluation summary states that a new landscape chapter should be adopted to "overtly prioritize and facilitate landscaping and landscape alternatives that further the City's goals."[3] Here again, we would advise incentivizing over mandating. If landscape priorities are mandated over all other priorities, that will include the creation of much-needed housing. While landscape preservation and sustainability are critically important, we urge the City not to overlook the potential for too much regulation in this area to bog down or even break projects.

Nonconformities

MEREDA supports the evaluation's conclusions that the City's nonconforming uses rules should be updated to allow greater flexibility for the use and long-time reuse of nonconforming structures. As the City looks to make changes to the broader shape of the land use landscape, it will have to find ways to effectively use or ensure the effective use of nonconforming structures. The proposals in the evaluation to provide greater flexibility to enlarge a nonconforming structure or allow one nonconforming use to be replaced with

[3] *Id.* at 4.

another nonconforming use make sense in light of the City's existing nonconforming uses as well as the ones that will be created through rezoning and changes to the uses and use standards for those zone.

Updates to Code Structure

MEREDA supports the evaluation's recommendation that the work done in ReCode Phase I be included in the final draft of the rewritten land use code. In particular, MEREDA encourages the City to look carefully at the ADU rules and to ensure the expanded ADU rules adopted under Phase I are extended to the Phase II draft. However, we also recognize that activities on legislation at the statewide level in Augusta may require the City to rewrite, to some extent, the ADU rules adopted under Phase I.

Conclusion

By and large, MEREDA believes the evaluation of Portland's current land use code reflects the needs of the City and its inhabitants as we face climate change, seek to resolve the housing crisis, grow local food and services systems, and encourage creative entrepreneurship. MEREDA also believes the recommendations contained in the report could help level the playing field for housing creation in the City by adding more mixed uses and helping create complete neighborhoods where individuals of varying income levels can live, work, and play.

We also thank the City and its consultants for their efforts to provide public forums for feedback and suggestions as the evaluation was rolled out and before the redrafting efforts begin in earnest. We hope this kind of transparency and collaboration can continue as the drafting process begins and look forward to contributing to that process.

Sincerely,

The MEREDA Local Issues Committee

Matthew Grooms <mgrooms@portlandmaine.gov>

Form Submission - Contact us Re:Code - Potential for Point Access Blocks in Portland

'Squarespace' via ReCode Portland <recodeportland@portlandmaine.gov> Tue, Apr 5, 2022 at 5:53 PM
Reply-To: agoberlin@gmail.com
To: recodeportland@portlandmaine.gov

Sent via form submission from *ReCode Portland*

Name: Amy Oberlin

Email Address: agoberlin@gmail.com

Subject: Potential for Point Access Blocks in Portland

Message: Hi there,

I am a resident and condo owner on Portland's East End, and I have a proposed code change that I would like for the city to consider.

About me: I am profoundly concerned with global climate catastrophe and the national housing shortage, and I believe we need to build dense multifamily housing, eliminate cars, and convert the road and parking space into bike infrastructure and transit in order to live decarbonized lives. Here in Portland, I have had multiple friends move away due to extreme housing costs. Just this week, another neighbor was told that her apartment will be converted to a short-term rental and she will have to move out next month. I see incredible demand for dense, walkable housing all around me, and I think that Portland desperately needs to build more of it.

I am an engineer by training (though not a civil engineer or architect), and I have been reading about urbanism and development out of my own curiosity and I want to propose a zoning change for Portland that I have come across that I believe will have significant benefits.

The code change is this: to allow construction of low- and mid-rise multifamily housing accessible by just a single staircase, a building form found widely in Europe, also known as a Point Access Block.

Core Evidence for the Benefits of this Code Change:

- A report commissioned by the city of Vancouver, B.C. to evaluate the benefits and drawbacks of the Point Access Block. Report produced by Seattle architect Michael Eliason of Larch Lab https://www.larchlab.com/city-of-vancouver-report-on-point-access-blocks/

- A 1-hour video seminar with Michael Eliason covering the Vancouver report: https://www.youtube.com/watch?v=DcFZgsPZ6QE&feature=youtu.be

- Example of a single-stair apartment building in Seattle, where these buildings have been permitted for several years: 6 stories, 17 units on a 2,711 sq.ft. lot, all accessible by elevator and a single staircase. https://seattle.curbed.com/2017/7/26/16037292/capitol-core-apartments-capitol-hill , http://www.seattle.gov/dpd/AppDocs/GroupMeetings/DRProposal3018227AgendaID5140.pdf

- Architect Conrad Speckert's master's thesis on Point Access Blocks, which makes a similar argument and includes research on the building ordinances in 25 countries and a database of floorplans collected from around the world that showcase the buildings and features that we are missing out on under North American building codes. https://secondegress.ca/

- Introductory articles published in Slate and The Urbanist:
- https://slate.com/business/2021/12/staircases-floor-plan-twitter-housing-apartments.html
- https://www.theurbanist.org/2021/12/20/seattles-lead-on-single-stair-buildings/

The Argument in Summary:

The predominant form of multifamily housing in North America -- the double-loaded corridor -- is not an optimal or desirable building form. This building form is forced by the code requirement that multifamily housing have two staircases. In most of Europe, where this requirement does not exist, the double-loaded corridor likewise does not exist. The second staircase is supposedly for fire safety, but European countries that do not require a second stair do not have any greater residential fire deaths. Point Access Blocks enable better floor plate efficiency, units with greater square footage, more bedrooms, more windows, corner aspects, and cross-ventilation. Point Access Blocks also enable low- and mid-rise development on smaller lots, infill with smaller buildings, projects of a scale achievable by smaller developers. The only obstacle in permitting Point Access Blocks is, as far as I can tell, coordination with local fire departments on the height limits of their ladder rescue equipment. Instead of broadly banning single-stair multifamily housing in North America, we can unlock many potential benefits in Portland by permitting and regulating the circumstances under which it can be built.

Benefits of Point-Access Blocks I see in Portland specifically:

- Increased Accessibility - Because eliminating the second stair creates more livable/saleable footprint, multifamily projects with elevators begin to pencil, greatly increasing the number of housing units accessible by elevator.

- Harmonization of Historic Districts and New Construction - The existing 5-over-1s along Franklin Street, for example, that pencil under current zoning and building codes, stand hulking and alone -- they don't integrate with the fine-grained character of the older neighborhoods on either side of them. The general dislike of their large and neighborhood-disrupting mass is, I believe, a significant reason for opposition to new development broadly. Allowing Point Access Blocks, and connected Point Access Blocks, will enable the fine-grained, small-lot, new multifamily development that is currently just simply not geometrically feasible on small lots due to the second stair requirement. This also sidesteps the general opposition to new high-rise housing by enabling a gentle upzoning turning SFH neighborhoods into, say, 4-6 story neighborhoods to increase housing density without jumping directly from SFHs to massive high-rise eyesores to house hundreds.

- Urban Family Housing - Because Point Access Blocks enable larger unit sizes with more bedrooms, this building form enables dense construction of housing for families with children or families otherwise needing more than two bedrooms. The ability of families to live in a dense, walkable city is hugely critical for reducing GHG emissions, not to mention the benefits for community, resiliency, etc. when it is possible for residents of all ages and family sizes to live together in one building.

I think the Recode Portland project is a rare opportunity to make some really progressive changes to our building code. With any luck, we are about to experience a national housing construction boom to address the national housing shortage. The Point Access Block is one change among many that could really make a difference in the quality of the buildings and the quality of the city we're about to build.

Thanks for your time! I believe I've provided ample resources, but if you have further questions for me, please do not hesitate to ask. I hope you'll consider this change to Portland's Code.

Thanks,
Amy Oberlin

Does this submission look like spam? Report it here.

Matthew Grooms <mgrooms@portlandmaine.gov>

What exactly does recode Portland mean?How about Improve driving conditions throughout my city of birth .Widen the roadsBuild overpasses.put a limit on any mor housing of any kind.There are already too many drivers in Portland 10 years ago with no major widening of Morrills corner,Allen's corner,woodfords cornerLets get to work widening and improving our roads for safe pleasant driving.Put the few bikers back on the sidewalks where they are safer for themselves and drivers.maine is a wintry state .Let survey original Portlanders their driving safety preferences.Bikers are seasonal and are safest on sidewalks.SURVEY CITY OF pORTLAND DRIVER SAFETY WiDening of roads for real and stop drawing more lines.It's unsafe and unwise

2 messages

'Phyllis Guevin' via ReCode Portland <recodeportland@portlandmaine.gov> Fri, Apr 15, 2022 at 4:37 PM
Reply-To: Phyllis Guevin <phyllisguevin@icloud.com>
To: recodeportland@portlandmaine.gov

Sent from my iPad

Matthew Grooms <mgrooms@portlandmaine.gov> Wed, Apr 20, 2022 at 8:51 AM
To: Phyllis Guevin <phyllisguevin@icloud.com>
Cc: recodeportland@portlandmaine.gov, Helen Donaldson <hcd@portlandmaine.gov>, Zachary Powell <zpowell@portlandmaine.gov>, Christine Grimando <cdg@portlandmaine.gov>

Hi Phyllis,

Thank you for your email. I am saving your comment to the public record for ReCode.

Best,

Matt

On Fri, Apr 15, 2022 at 4:37 PM 'Phyllis Guevin' via ReCode Portland <recodeportland@portlandmaine.gov> wrote:

> Sent from my iPad

--
Matthew Grooms, AICP
Senior Planner
City of Portland
Department of Planning & Urban Development
City Hall, 389 Congress Street, 4th Floor
Portland, Maine 04101
(207) 874-8725 (T)
(207) 756-8258 (F)
mgrooms@portlandmaine.gov
(he/him/his)

Matthew Grooms <mgrooms@portlandmaine.gov>

Form Submission - Contact us Re:Code - Recode and Zoning on Peaks Island

2 messages

'Squarespace' via ReCode Portland <recodeportland@portlandmaine.gov> Mon, Apr 18, 2022 at 1:07 PM
Reply-To: t.wyant@icloud.com
To: recodeportland@portlandmaine.gov

Sent via form submission from *ReCode Portland*

Name: Timothy Wyant

Email Address: t.wyant@icloud.com

Subject: Recode and Zoning on Peaks Island

Message: A month or so ago you and your consultants gave a very helpful and interesting online presentation on zoning and recode issues related to Peaks Island. Part of that presentation presented statistics on number of properties and average age of dwelling in different Peaks Island zones.

I did a more detailed summary a couple of years ago -- in particular, distinguishing "lots" from "properties." There about twice as many lots as properties. I also calculated breakdowns of number of lots and properties by size, zone, and proximity to sewer.

If this report would be of any use, you can download it from https://www.dropbox.com/sh/pv0zlxd7hpgr65w/AADxCgch3cldn9WnNMdg4f8aa?dl=0

Does this submission look like spam? Report it here.

Matthew Grooms <mgrooms@portlandmaine.gov> Wed, Apr 20, 2022 at 8:55 AM
To: Timothy Wyant <t.wyant@icloud.com>
Cc: recodeportland@portlandmaine.gov, Zachary Powell <zpowell@portlandmaine.gov>, Helen Donaldson <hcd@portlandmaine.gov>, Christine Grimando <cdg@portlandmaine.gov>

Hi Timothy,

Thank you for your email and for the attachment. This is great info, and we appreciate you sharing. We will save this and the attachment to the ReCode public record, and will flag this for consideration as we begin the drafting process.

Best,

Matt
[Quoted text hidden]
--
Matthew Grooms, AICP
Senior Planner
City of Portland
Department of Planning & Urban Development
City Hall, 389 Congress Street, 4th Floor
Portland, Maine 04101
(207) 874-8725 (T)
(207) 756-8258 (F)
mgrooms@portlandmaine.gov
(he/him/his)

planning & urban development

Matthew Grooms <mgrooms@portlandmaine.gov>

Form Submission - Contact us Re:Code - Zoning and recode on Peaks Island

'Squarespace' via ReCode Portland <recodeportland@portlandmaine.gov> Mon, Apr 18, 2022 at 1:47 PM
Reply-To: t.wyant@icloud.com
To: recodeportland@portlandmaine.gov

Sent via form submission from *ReCode Portland*

Name: Timothy Wyant

Email Address: t.wyant@icloud.com

Subject: Zoning and recode on Peaks Island

Message: This note was triggered by (a) the excellent online Recode presentation you gave to Peaks Islanders a month or so ago, and (b) some recent events on Peaks Island.

Peaks Island has a very small business zone. Yet, Islanders have many needs that cannot be addressed by enterprises in the business zone, and yet would require very substantial delays and dollars to solve using businesses "across the water". As a result, there are many "businesses" on the Island -- I'm thinking mostly about construction trades and vehicle/machinery repair.

Many of the Islanders providing these essential services park trucks and other equipment on the streets in front of their house, or store equipment and materials in back yard. Frequently, there are repair, loading, and unloading activities going on in these yards.

This is fine by me, and fine by most Islanders! These are essential activities, that are well integrated in the community, and are reflective of the hard and ingenious worker-run enterprises that have characterized
Maine history.

Recently, an Islander whose views seem at odds with those of most Islanders, filed complaints with zoning enforcement about one such enterprise. The enterprise in question had made significant efforts to comply with code. It's owner comes from a family with many many decades of Peaks Island residents. Dozens of Islanders have given their total support to this enterprise on local bulletin boards. His moving off the Island would result in tremendous inconvenience and expense for many Islanders. and for many years in the future.

But without getting into a debate about the detailed history of this particular dispute, how can the Recode - and related zoning and zoning enforcement - reflect the need for these activities that are invaluable to Islanders, and yet do not fit tidily into zoning for "business" v. zoning for residences.

Is there some way to make public that a complaint has been made, so that Islanders are not suddenly faced with a fait accompli that they would have opposed had they only heard about it?

Is there some way to give weight to Islander input in when contemplating enforcement

Would there be some way to put a longevity or "while still occupied by current resident" requirement on any enforcement - or lack of enforcement - decision, so that the decision did not become binding forever?

Not my field. Hopefully you guys have better ideas.

Does this submission look like spam? Report it here.

Review for Homestart of Peaks Island properties and lots

IR-1 and IR-2 zones, proximity to sewer, boundary maps, and square footage

Timothy Wyant

2016-08-11

Introduction

Background

- Proposed zoning changes to encourage or permit:
  - Construction of affordable housing units on Peaks Island, or
  - Conversion of existing buildings or units to affordable housing

will require estimates of how many properties or lots are likely to be affected

Complications

- The Island sewer is at capacity given existing and "by right" hookups. Proposals that might allow more units within 250 feet of the sewer will be problematic. (Eyerman memo to Homestart, 7/27/16)
- Island residential zones IR-1 and IR-2 have traditionally been treated very differently in terms of minimum lot sizes for construction, and other restrictions

Properties, lots, and parcels

- As of fall 2013, on Peaks Island there were:
  - 1,259 properties
  - 2,175 lots
- This report looks at both properties and lots on Peaks
- Many properties on Peaks are "pre-subdivided" into multiple lots
- These situations usually go back to purchases of multiple lots in the big subdivisions that on Peaks were created from farms and other large properties around 1900
- Some of the State of Maine's digital boundary files refer to "parcels". The words "parcels" and "lots" are synonymous, at least for purposes of this report

Properties, lots, and parcels

Relevance of lots to Homestart

- Owners of subdivided properties can more easily sell a portion of a property – that is, one or more lots – than owners of properties that are not subdivided.
- Lots may also make some improvements possible that would be more difficult in unsubdivided properties
- The existence of lots may give Homestart some additional tools in proposing zoning changes that would encourage or allow more affordable housing units on Peaks.

Properties, lots, and parcels

Caveats

- "Properties", "lots", and "parcels" are somewhat fluid concepts. Definitions vary with contexts, counts vary both by context and over time.

For example:

- As I understand it, the City does not like dealing with lots on small properties, and is trying to merge lots to create single-lot properties when properties are sold
- To the City Assessor a condo unit is a "property". For this report, a "property" is a single piece of land – for a condo, the lot on which the condo building resides.

Disclaimer

- The boundaries and counts of lots and properties should serve for reasonably accurate statistical summaries
- I do not claim that they are perfect for each and every individual location
- For one thing, the data are three years out of date
- For another, there are occasional minor imperfections and inconsistencies within and across the datasets I obtained from the State and the City
- Finally, I did a lot of computer programming here, and there are likely to be some errors. Please tell me if you find any!

Data

Data sources

- Fall 2013 data
  - Parcel (aka "lot") boundaries from the Maine State GIS system (available online)
  - Portland Assessor online database (available online - in a limited fashion)
  - Digital Island zone boundaries from City of Portland
- March 2015 data
  - PI sewer map from the water district

Data issues – Properties, lots, and parcels

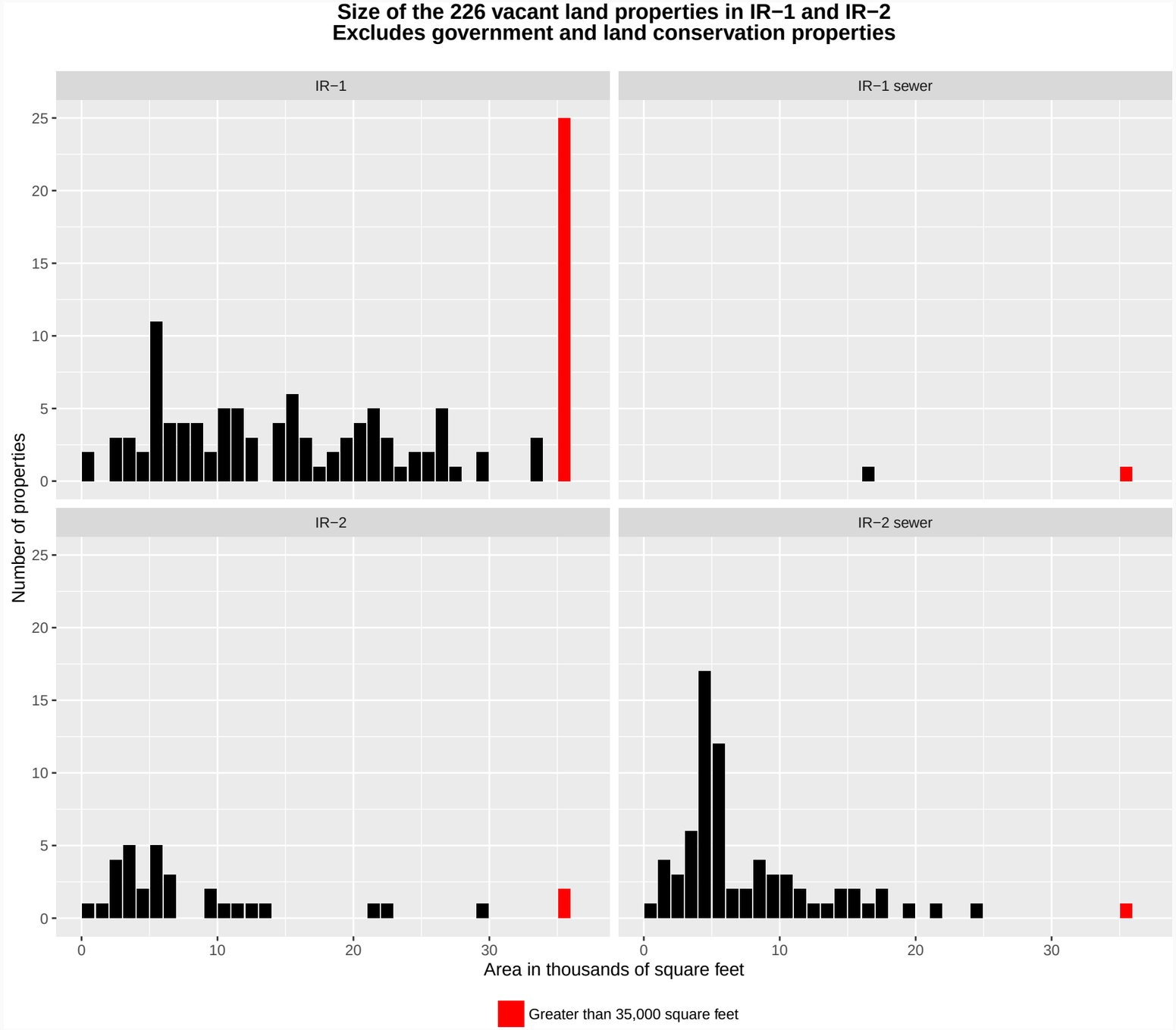
- The computerized data on which this report relies are not perfect, and there are usually a few "parcels" or "lots" in the State's boundary files that are not in the City assessor data, and vice-versa.
- Proximity of properties and parcels to the sewer
  - I have not been able to get from the Water District a list of property addresses already hooked up to the sewer (I made one request in the course of some email back-and-forths with the District.)
  - I have not been able to get from the Water Distric a dgitial GIS file of sewer locations.
  - I had to cobble together my own reasonable but ad hoc proximity algorithm (see Appendix)

Vacant land – properties

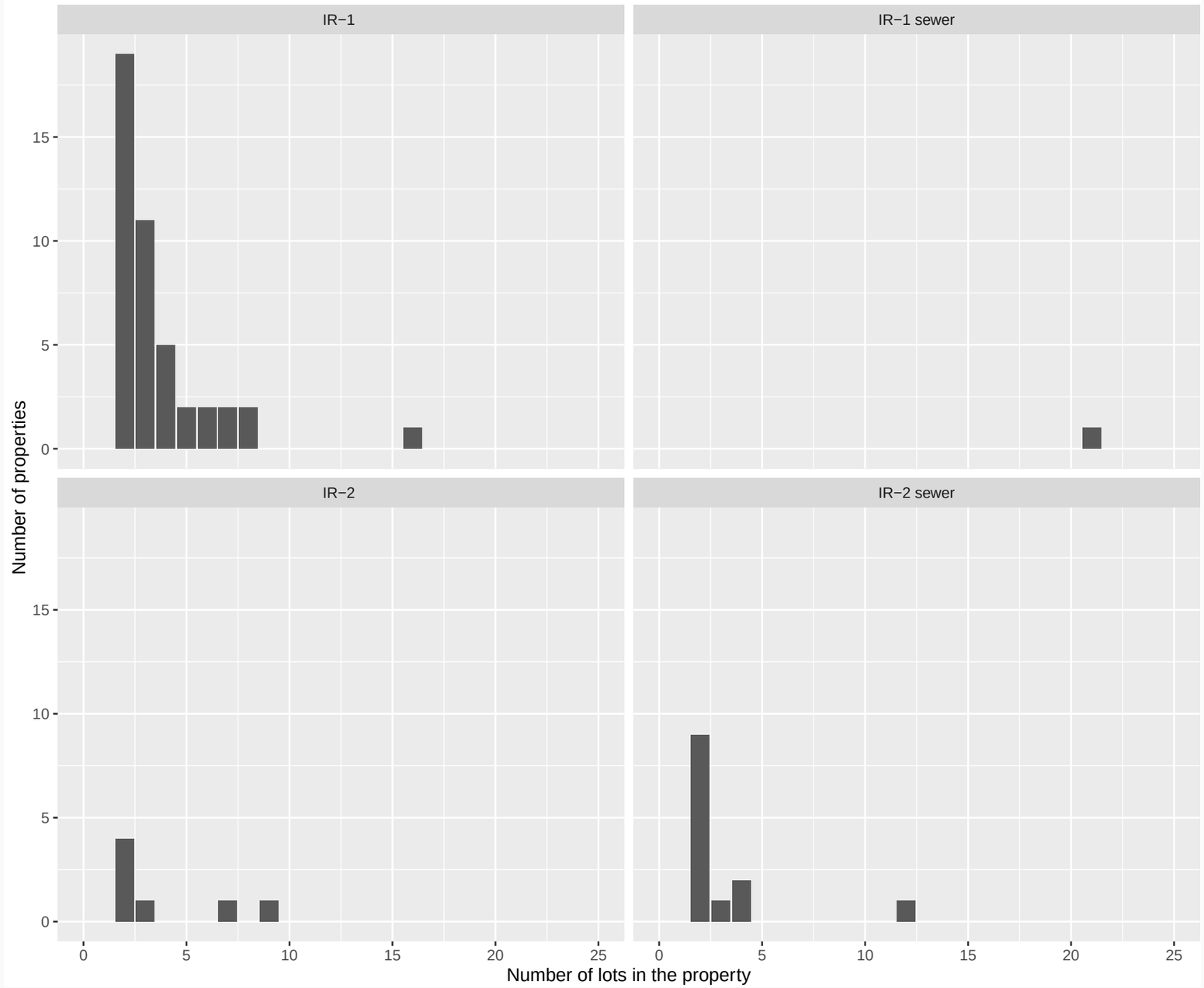
The 226 vacant land properties in IR−1 and IR−2
Excluding government and conservation properties

The 226 vacant land properties in IR−1 and IR−2
Excluding government and conservation properties

Group
- IR−1
- IR−1 sewer
- IR−2
- IR−2 sewer


Size of the 226 vacant land properties in IR−1 and IR−2
Excludes government and land conservation properties
IR−1
IR−1 sewer
IR−2
IR−2 sewer
Number of properties
25
20
15
10
5
0
0
10
20
30
Area in thousands of square feet
Greater than 35,000 square feet

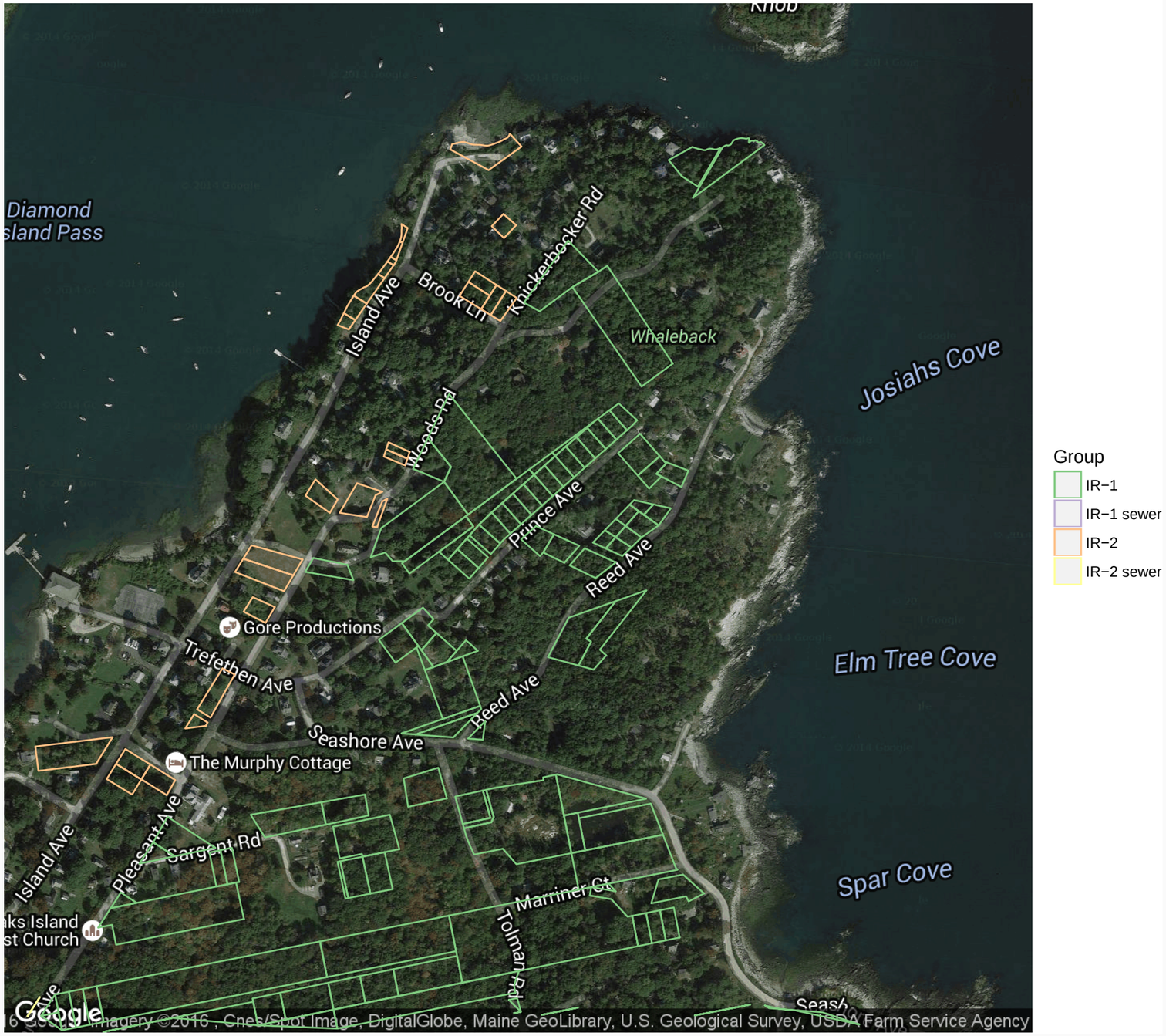
Counts of properties by number of lots
For the 65 vacant land properties in IR−1 and IR−2 that comprise more than one lot
Excludes government and land conservation properties



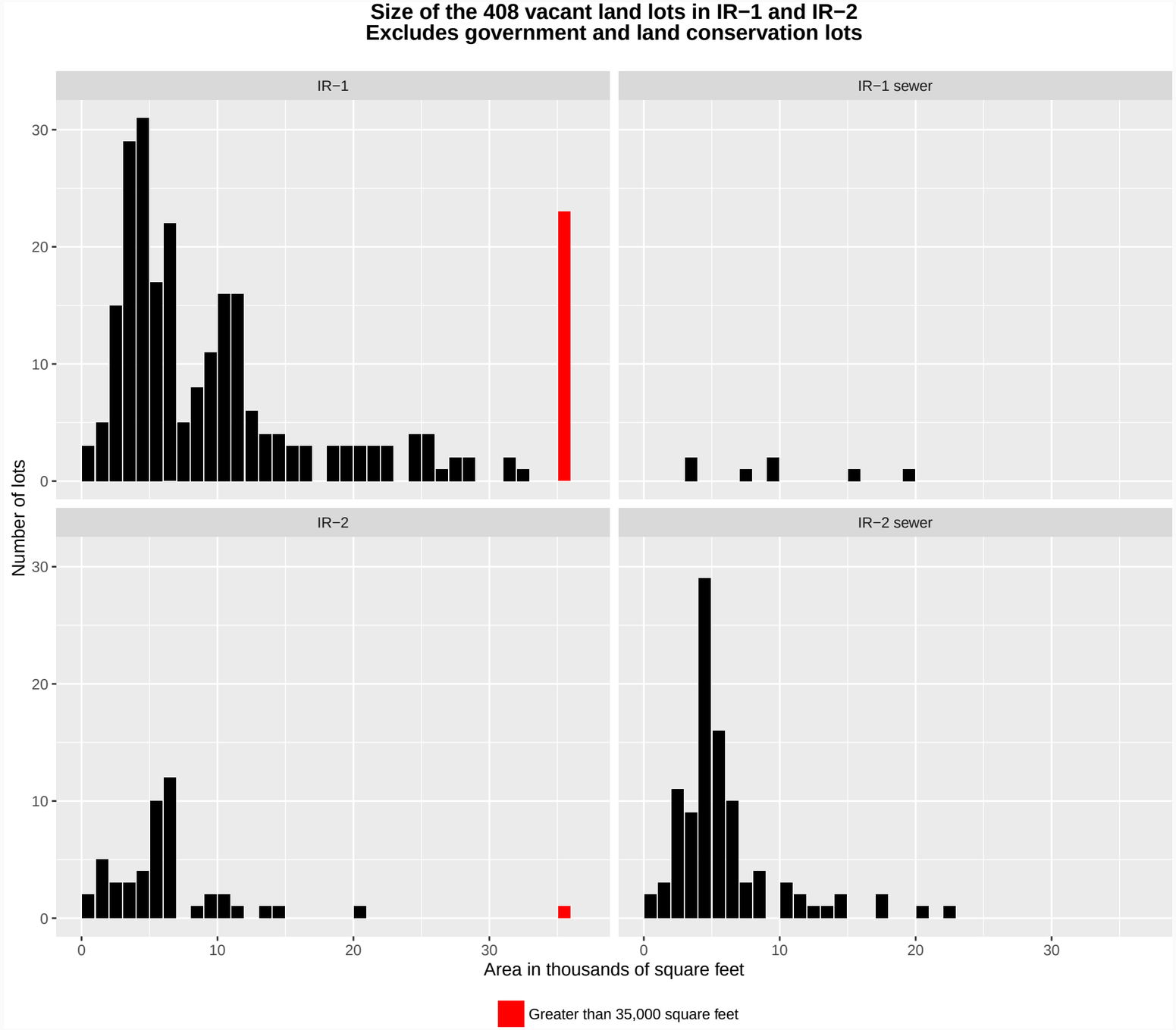
Vacant land – parcels

The 408 lots in the 226 vacant land properties, IR−1 and IR−2
Excluding government and conservation properties

The 408 lots in the 226 vacant land properties, IR−1 and IR−2
Excluding government and conservation properties



Group
- IR−1
- IR−1 sewer
- IR−2
- IR−2 sewer

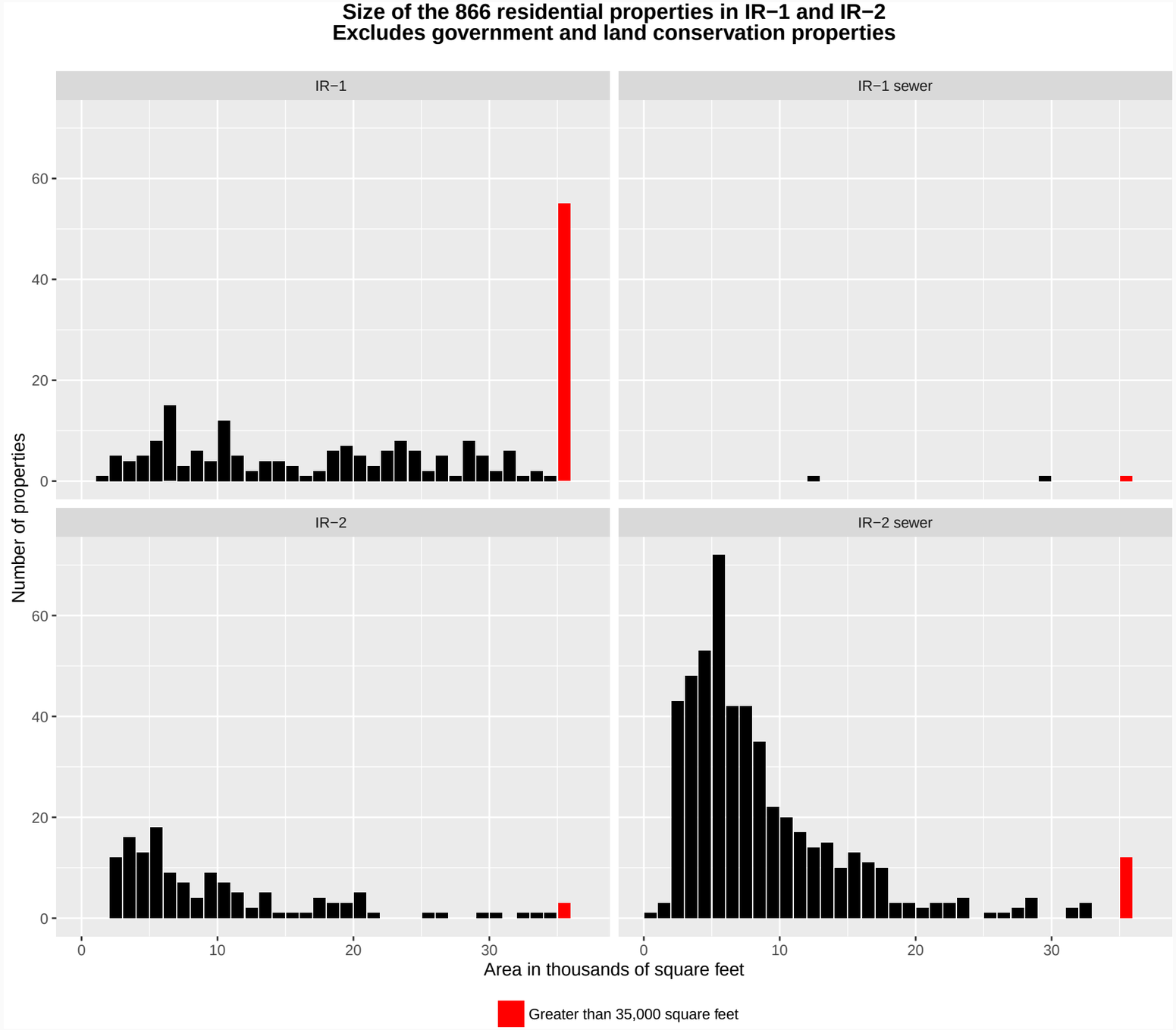

Size of the 408 vacant land lots in IR−1 and IR−2
Excludes government and land conservation lots
IR−1
IR−1 sewer
IR−2
IR−2 sewer
Number of lots
0
10
20
30
Area in thousands of square feet
Greater than 35,000 square feet

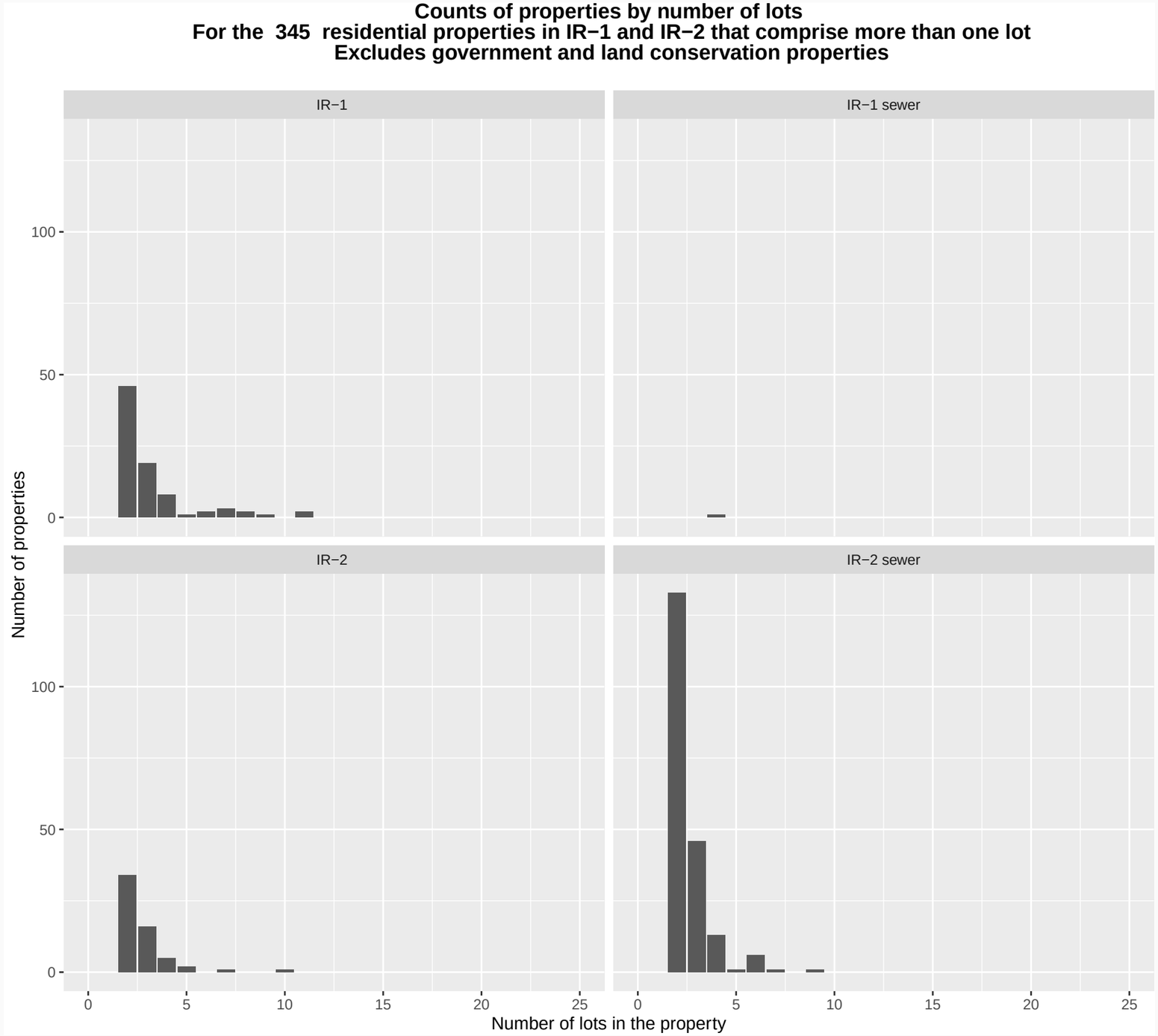
Residential properties

The 866 residential properties in IR−1 and IR−2
Excluding government and conservation properties

Group
- IR−1
- IR−1 sewer
- IR−2
- IR−2 sewer

The 866 residential properties in IR−1 and IR−2
Excluding government and conservation properties


Size of the 866 residential properties in IR−1 and IR−2
Excludes government and land conservation properties
IR−1
IR−1 sewer
IR−2
IR−2 sewer
Number of properties
0
20
40
60
0
10
20
30
Area in thousands of square feet
Greater than 35,000 square feet


Counts of properties by number of lots
For the 345 residential properties in IR−1 and IR−2 that comprise more than one lot
Excludes government and land conservation properties
IR−1
IR−1 sewer
IR−2
IR−2 sewer
Number of properties
0
50
100
0
5
10
15
20
25
Number of lots in the property

Residential lots

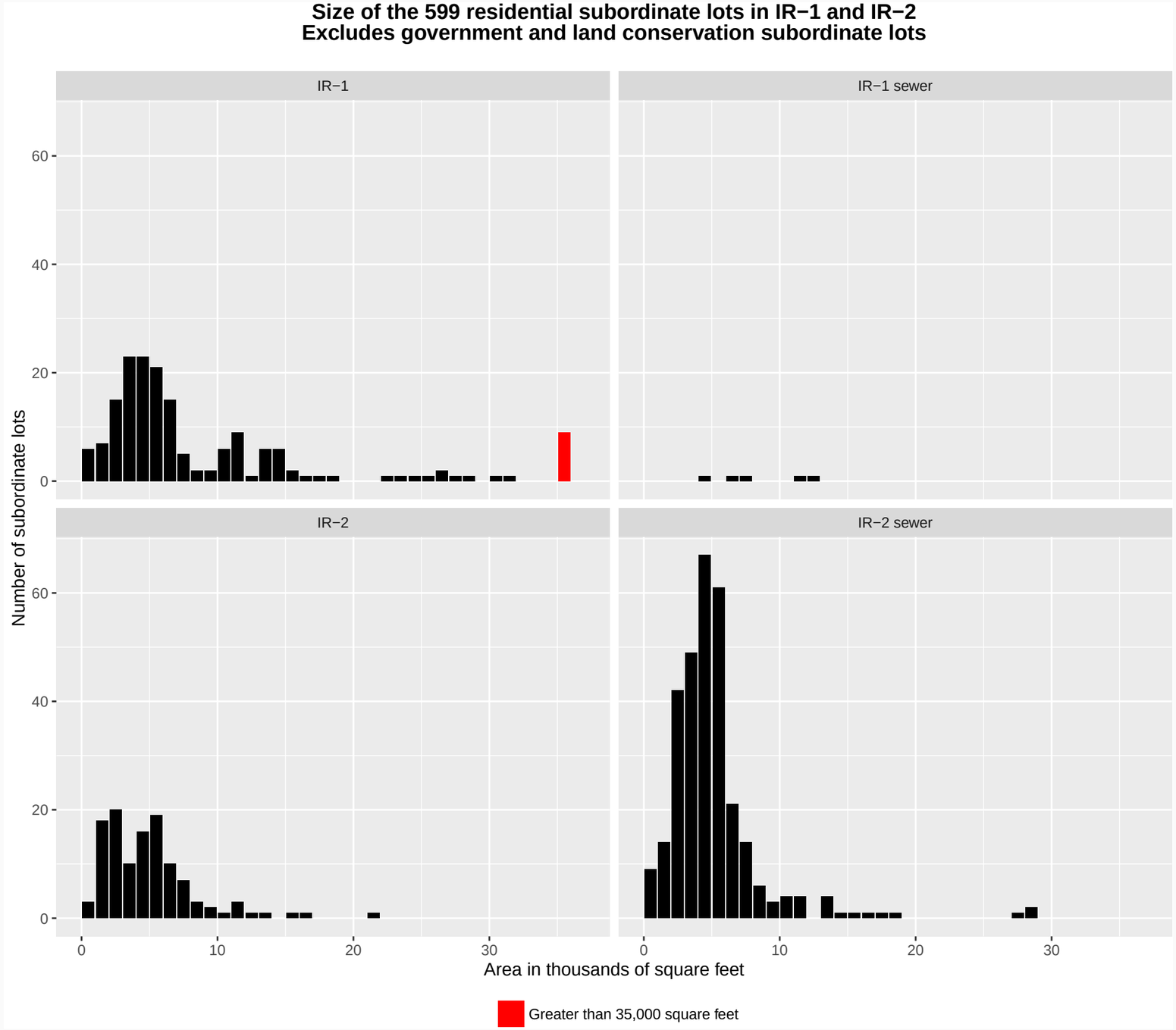
The 1,466 lots in the 866 residential properties, IR−1 and IR−2
Excluding government and conservation properties

Group
- IR−1
- IR−1 sewer
- IR−2
- IR−2 sewer

The 1,466 lots in the 866 residential properties, IR−1 and IR−2
Excluding government and conservation properties

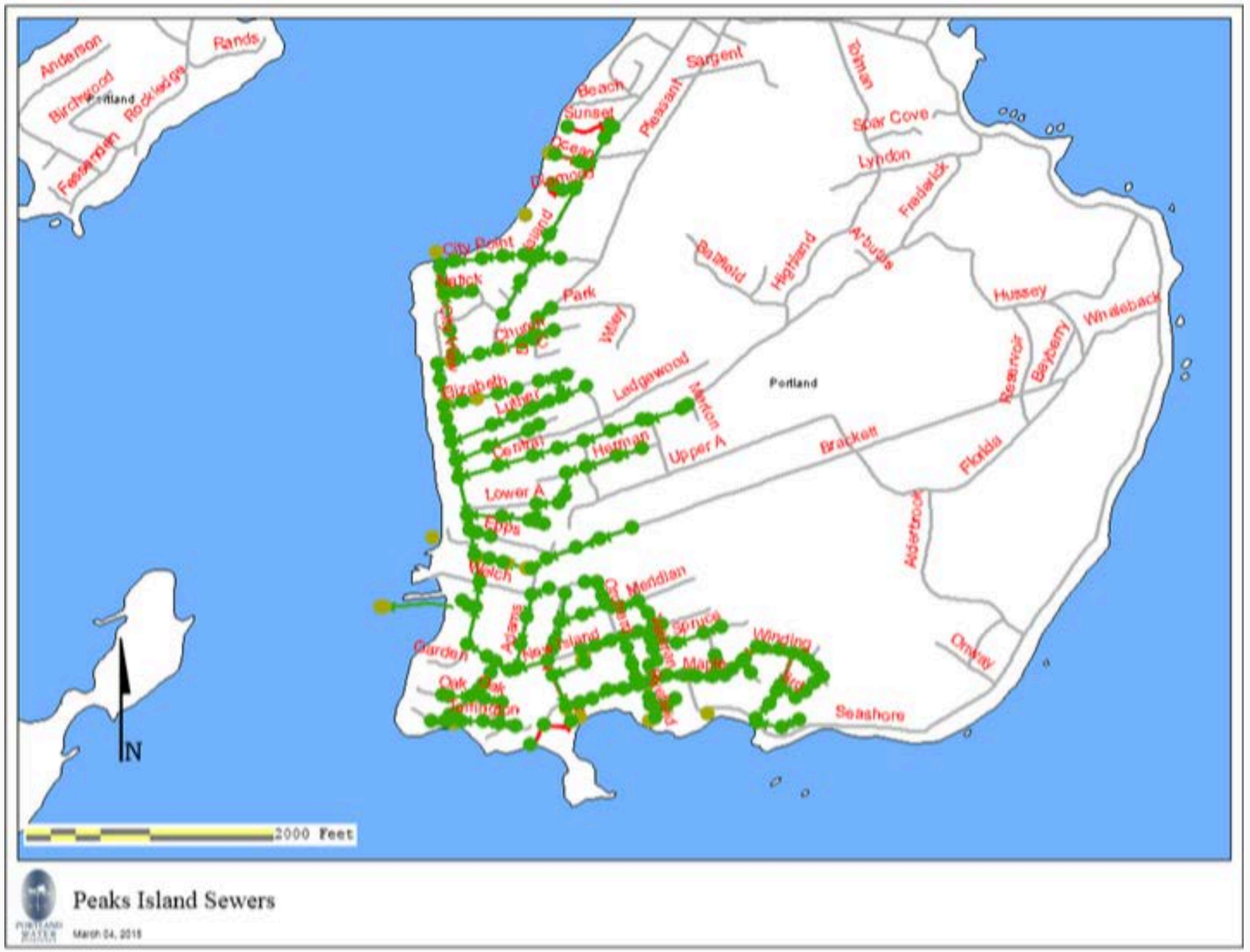
The 599 subordinate lots in the 866 residential properties, IR−1 and IR−2
Excluding government and conservation properties

The 599 subordinate lots in the 866 residential properties, IR−1 and IR−2
Excluding government and conservation properties


Size of the 599 residential subordinate lots in IR−1 and IR−2
Excludes government and land conservation subordinate lots
IR−1
IR−1 sewer
IR−2
IR−2 sewer
Number of subordinate lots
0
20
40
60
0
10
20
30
Area in thousands of square feet
Greater than 35,000 square feet

Appendix 1 – Sewer proximity

The sewer map from the Water District



Proximity to sewers

- My methods are approximate, but should serve reasonably well for statistical assessments
- I have received only the map on the preceding slide from the Water District.
- I do not have:
  - A list of addresses of current hookups
  - A digital GIS map of the exact sewer location
- I also do not know how "250 feet from the sewer" is defined. I am guessing it is to the point on a property's boundary where the hookup will be made.

My methods for determining properties within 250 feet of the sewer

- I digitized the sewer path based on the preceding path. This was not done to a high level of precision.
- I found the centroid of each lot on the Island. If the distance from the centroid to the lot was less than 250' I classified the lot as "within 250 feet of the sewer."
- If any lot in a property was classified as "within 250 feet of the sewer," I classified the property as "within 250 feet of the sewer."

Zachary Powell <zpowell@portlandmaine.gov>

Re: TOD Overlay

Christine Grimando <cdg@portlandmaine.gov> Thu, Jun 23, 2022 at 5:10 PM

On Thu, Jun 23, 2022 at 4:43 PM Christopher Parelius <CParelius09@gmail.com> wrote:

> Hello to all of you on the Planning Board!
>
> As someone who wants to see Portland densify, allow more neighborhoods to be complete communities, and to see land use that generates more public transit ridership I've had an idea that I've been wanting to suggest. It's not so different from some language that I was informed was in Phase 1 of Re-Code. Essentially, it would involve the creation of a Transit Oriented Development Overlay that would allow the following within a half mile of a transit stop: 2x the density of the existing zone, ignore setback requirements (ideally the buildings would either come to the edge sidewalk or have some to semi-private space such as a patio between the building and street facing side of the lot), have a maximum of 1/3 of the lot devoted to parking (honestly I would prefer to see less than this in an ideal situation), and a minimum lot coverage of 33%.
>
> The parking maximums and the minimum lot coverage paired with the setback requirements would bring the buildings up to the sidewalk, giving better definition of the public space and creating active street frontages either from storefronts,small front gardens, stoops or patios making the street a pleasant place to walk along. Reducing the setbacks on the sides not only allows more space for units but allows a continuous building facade along the street reinforcing the effect on public space that eliminating the front setbacks creates. Think of Beacon Hill, the North End, much of Philly, or the Brownstones in NYC. In addition the maximum percentage of the lot devoted to parking also frees up more space for units and outdoor living space.
>
> Finally, the extra density ensures that the added housing and shop space is located exactly where it is needed most to create walkable, complete communities, that have high enough densities to not only support transit ridership but,to boost it, giving GP Metro the extra demand and resources to expand its service thus encourage more people to use transit. This would alos encourage more biking in the city as people choose to ride their bike to meet their needs. When

> you put it all together this overlay would allow Portland to grow in a way that does not create more traffic, that enables people to meet their daily needs without being reliant on car ownership by utilizing the existing transit infrastructure to the fullest as opposed to creating more auto oriented sprawl. We would be building smarter and it would make more units available for people like me who don't want to be burdened by car ownership.
>
> Thank you so much for taking the time to read this and hopefully my proposal came across clearly. I look forward to your response.
>
> Your neighbor,
> Chris Parelius, East Bayside

On Tue, Jul 19, 2022 at 9:32 AM Howard Lowell <holowell5@gmail.com> wrote:
I am a resident of Eastern Prom, and have been for almost 10 years. I am very frustrated by the scope, size and placement of recent projects and have to ask: are you paying any attention to aesthetics and adjusting size to the actual neighborhood?

Placing WEX and Covetrus, both big commercial buildings, smack at the edge of a quiet residential EP neighborhood just doesn't seem to make any sense since I guess most employees onsite (will there be any?) will not be able to afford living in Portland anyway, thus increasing traffic on Franklin 2x daily during commute. Why there and not on Marginal Way or better slightly west?

More recent....I'm stunned by the size of the residential project at the foot of EP below the East End School. Have you looked at this enormous project from 295, or driving down EP from the school or onto Washington from 295? It is totally out of scale with the neighborhood and now blocks from all angles what used to be a wonderful view of back cove. Well done...another viewpoint crushed!

I have to ask....what is driving your planning and decisions, because to me it clearly is not good reason and building more cohesive and aesthetic neighborhoods.

Your thoughts welcome.....and tx

Please note:
From Holo's personal email
My business email is hlowell@egcu.org

09/09/22

Dear Nell,

The Peaks island Council has formed an Affordable Housing and Zoning Committee to address these issues on the island. We recently became aware of the new survey regarding islands as part of the ReCode process by the city of Portland. Thank you for sending this out; we are trying to circulate it to gather a significant number of responses to these very important questions. However, the deadline is way too soon for us to educate islanders and encourage participation. We are asking for an extension of the deadline for at least two weeks, and even more appropriately, until after the November election if possible. As you know the referendum on STR on the island is consuming a lot of attention and conversation here on Peaks. This survey deals with similar issues but is quite distinct in purpose and would be much better addressed by us after the election.

We are sending along with this letter, a copy of the 2017 overview of draft amendments to facilitate the development of more affordable, year round housing on Peaks Island, which was done in conjunction with HomeStart. It was an extensive community based review with professional support and guidance. We believe it remains a relevant and concise document to share with the planning department. It is limited in scope, but addresses many important issues that need attention on the islands. The changes in the housing stock and the increased price of homes on Peaks Island have encouraged many of us to think beyond this initial document and to include additional housing options.

From your own Land Use Code Evaluation, “Peaks Island is the island with the most potential to accommodate some additional housing and other development, and its zoning warrants consideration for tools to create new housing opportunities that also recognize the unique and sensitive island context.” We enthusiastically agree.

We are available immediately to meet with city staff as this is a timely and critical concern in the ReCode process.

Thank you for your attention.

Natasha Markov-Riss, Chair

Anne Coughlin

Kim Peaslee

Chris Roberts

Timmi Sellers

Joanne Sterling

Helen Donaldson <hcd@portlandmaine.gov>

Fwd: Chapter 14 (the City's Land Use Code).

1 message

jmy <jmy@portlandmaine.gov> Mon, Mar 6, 2023 at 10:55 AM
To: Kevin Kraft <kkraft@portlandmaine.gov>, Helen Donaldson <hcd@portlandmaine.gov>, Christine Grimando <cdg@portlandmaine.gov>, Matthew Grooms <mgrooms@portlandmaine.gov>

---------- Forwarded message ---------
From: Rob Bergeron <Rob@hascallhall.com>
Date: Friday, March 3, 2023 at 8:42:20 AM UTC-5
Subject: Chapter 14 (the City's Land Use Code).
To: planning@portlandmaine.gov <planning@portlandmaine.gov>

Good morning,

I was told that you folks would be looking at the above mentioned section in the Land use code and I would like to ask that dust control be inserted in this. This is a huge issue for me and have been talking with code enforcement over the last few years about it.

My property abuts a piece of land on Presumpscot street that Nelson Property uses as a lay down area and the amount of dust that is created is crazy. Pictures have been sent where, at times, you can’t see the trucks on the property because of the dust clouds and all that dust blows on to my property coating all my HVAC equipment, employees cars as well as all the windows and stairs.

Any help would be greatly appreciated.

Regards, Rob Bergeron

273 Presumpscot Street

MAY 2023

Recommendations for Portland's ReCode Phase II

EXECUTIVE SUMMARY

Urbanist Coalition of Portland

Urbanist Coalition of Portland

Recommendations for Portland's ReCode Phase II

EXECUTIVE SUMMARY

MAY 2023

We, the Urbanist Coalition of Portland (UCP), herein present our recommendations for the second phase of the City's ReCode process. We believe the ReCode process is a critical opportunity for Portland to allow for more middle-density, mixed-use neighborhoods that are pleasant to live in and move around. These changes make housing more affordable, encourage equity, protect the environment, make the administration of our city services more resilient and efficient, and bring communities closer together. We recommend seventeen distinct changes to the City's Land Use Code, which we introduce in this document sorted into four broad categories:

- Allow More of What We Love
- Legalize Housing
- Unlock More Transit Options
- Common Sense Fixes

We believe these goals intersect and overlap; for example, much of what we love about our city's historic character is its pre-automobile walkable density that enables car-free or car-lite living. Many of our recommendations are also necessary steps toward more sustainable city finances, more robust transit options, and safer, calmer streets. We believe that our recommendations are not only in alignment with Portland's *Comprehensive Plan* but are essential to achieving its goals. Our recommendations can be implemented separately, but we feel they will have the greatest impact if implemented as a whole.

This document is a high-level executive summary of our ReCode recommendations. Our full ReCode recommendation proposal, which includes detailed descriptions of each of our seventeen recommendations and draft language prepared to amend the Land Use Code, may be viewed on our website at urbanistportland.me/policy/recode-proposal.

Allow More of What We Love

MANY OF THE BELOVED HISTORIC FEATURES THAT MAKE PORTLAND VIBRANT AND UNIQUE ARE ILLEGAL TO BUILD TODAY. LET'S CHANGE THAT.

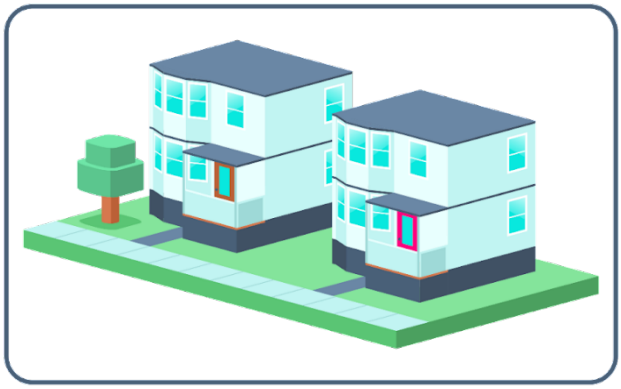
The City of Portland has a long and vibrant history. Home to twelve distinct historic districts, eight of these lie on Portland's peninsula and preserve some of our densest, most beautiful, and most economically productive mixed-use neighborhoods.

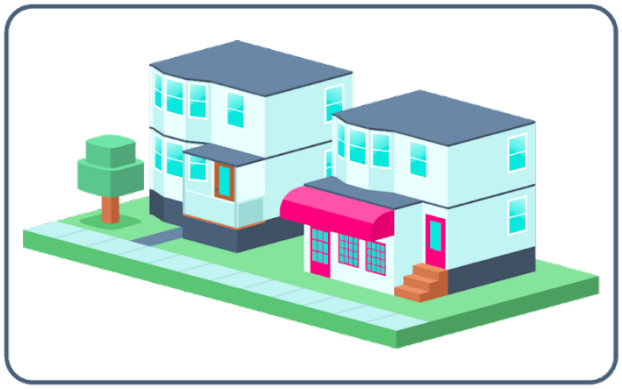
- **Allow neighborhood businesses**
- **Simplify medium-density zones**
- **Reduce setback requirements**
- **Empower neighbors to reduce setbacks together**

We feel that human-scale streets and neighborhoods with walkable amenities should be within reach of everyone who lives in the City of Portland. Portland's Comprehensive Plan agrees that "strong, complete neighborhoods are fundamental to the City's overall health," and that "basic necessities" should be available "within a walkable, bikeable distance."

But our current code restricts neighborhood businesses to tiny carve outs where there simply happened to be a business decades ago when the code was first written. It also mandates specifications for new buildings in historic districts that are out of character with the very nature the historic district protects, and completely precludes things like townhouses and shared-wall buildings that contribute to our city's vibrancy and beloved historic character.

Our city got a lot right in the past, and we are right to treasure and preserve it, but today our land use code stands in the way of building the neighborhoods that our future generations will treasure in the same way.

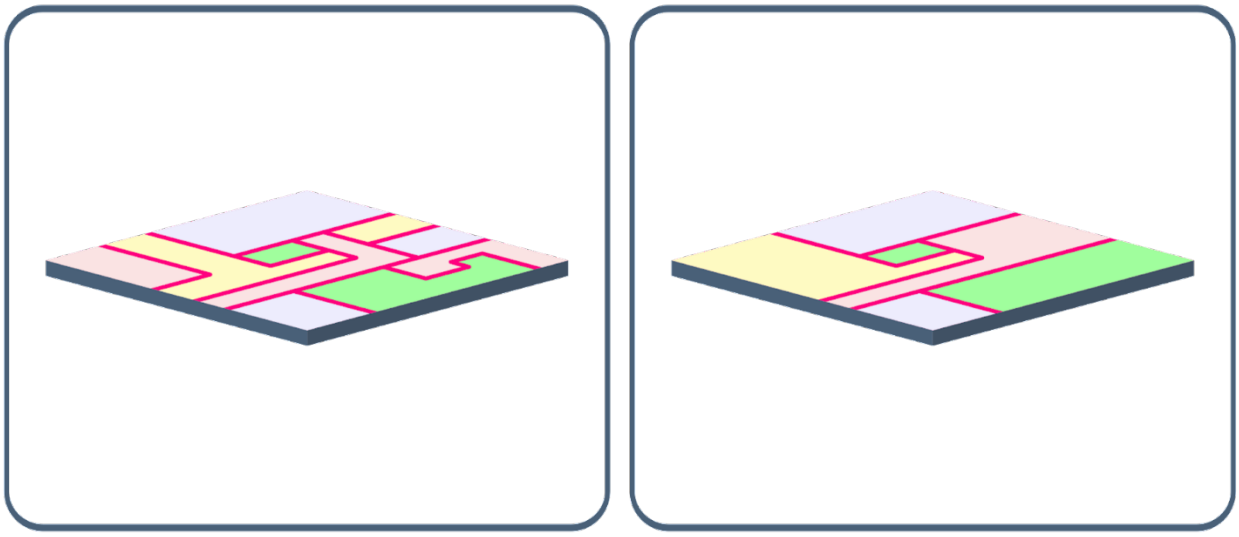




Allow Neighborhood Businesses

Neighborhood businesses are small, first-floor, low-impact businesses that are incorporated into the fabric of residential neighborhoods. Our land use code already defines these businesses and, where currently allowed, they take the form of small local shops, restaurants, and cafes that are assets to their communities. Unfortunately, the areas where they are allowed are few and far between, and some neighborhoods don't have them at all. The locations of these pockets of neighborhood business – many the size of a single building – were determined over a century ago by what businesses happened to be there when our zones were first defined. As our city grows and changes, it is hard to predict where neighborhoods will form and what their needs will be in advance. By allowing neighborhood businesses everywhere, we can allow our current and future neighborhoods to have small shops and restaurants nearby, while still protecting them from large disruptive stores that could bring in outside traffic. Small, locally-owned, neighborhood businesses like hairdressers or baby clothing stores can also become neighborhood anchors, especially for parents who may not have the time or a car to seek these services elsewhere while caring for young children.

We also recommend expanding neighborhood businesses to low- and medium-impact industrial zones. This may sound a bit odd, but recently these zones have become home to many of our local breweries. These breweries have tasting rooms and often host food trucks. Many even have semi-permanent food trucks on site. These establishments are essentially restaurants and have the same impact on their surroundings, but are limited in the services they can provide by our outdated zoning.



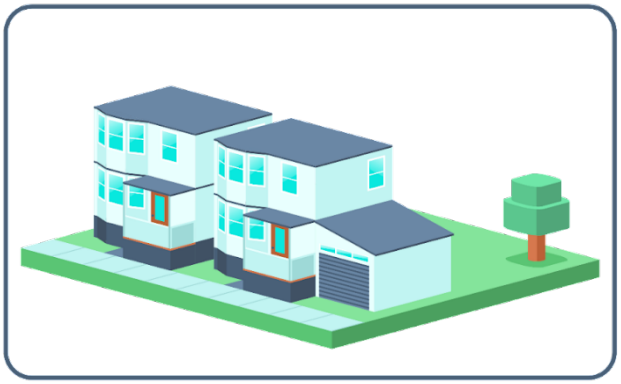
Simplify Medium-Density Zones

Our zoning code is complicated. We have dozens of zones with hundreds of pages. Some of our zones are very small and encompass a single property, while others have very minor distinctions between them. Many zones are arbitrarily split between on and off the peninsula. By combining our low-density zones into a single zone and our medium-density zones into a single zone, we can preserve the form of areas of the city with far fewer requirements.

The R-4 zone is a small zone located entirely near the Western Promenade with the intent to "preserve the unique character of the Western Promenade area". While we applaud the efforts made to protect the historic West End from the damaging effects of urban renewal, the entire R-4 zone and beyond is now covered by the West End Historic District. Meanwhile, the R-4 zone contains standards that are out of character with what is already in the neighborhood. For example, there are multi-family, middle-density buildings in the neighborhood – they are even mentioned in the purpose statement of the zone – but they are not allowed, even as a conditional use. Though the neighborhood resembles the neighboring R-6 zone to the point where most would not be able to tell when they crossed from one into the other, the setbacks and height requirements in the R-4 are more in line with typical suburban standards than what exists in the neighborhood today. The historic district already protects not only all of R-4 but also much of the neighboring R-6 zone from development that is not in

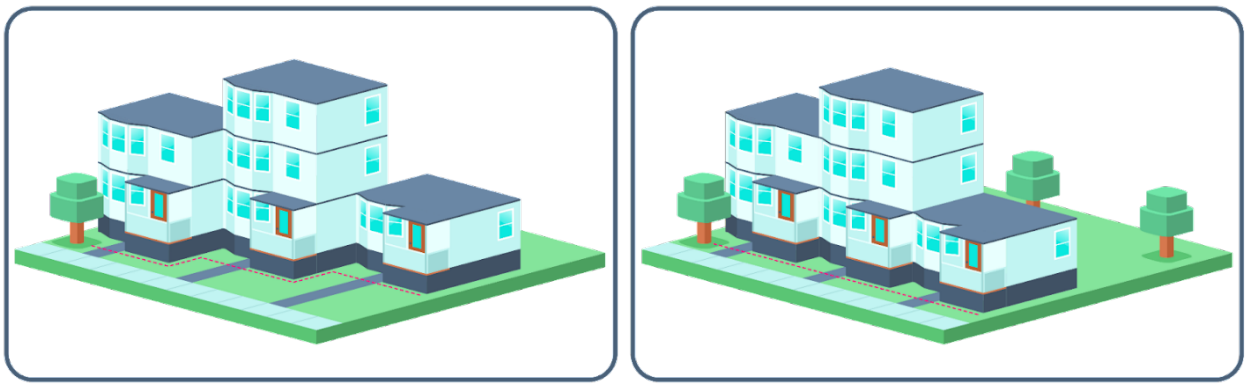
character with the neighborhood, so we feel it is time to retire this zone and let the historic district protect this unique neighborhood.

The R-5 zone is the second-densest residential zone and is mostly located along major corridors, like Congress Street, Deering Avenue, and Forest Avenue. While it is Portland's second most dense residential zone, it only allows low-density housing stock. Much of the housing in R-5 areas predates the land use code and is non-conforming with the zone's standards. Combining this zone with R-6 would ensure the zoning map better reflects the built environment and will simplify the code overall.



Reduce Setback Requirements

Setback requirements require you to build structures far away from the edge of your property. This gives people fewer options on how to build their homes. For example, if you prefer a bigger backyard that is more private than your front yard, you may not be able to have it – if there is a 25-foot front setback minimum, you will have to use that 25 feet for your front yard instead. Side setbacks prevent the construction of row homes. There is already another type of requirement – maximum lot area coverage – which prevents people from covering too much of their lot. Reducing these setback requirements will provide people with these options without reducing the total amount of green spaces.



Empower Neighbors to Reduce Setbacks Together

Front setback requirements require you to build your buildings back a certain amount from the street. In our zoning code today, front setback minimums can already be substituted for an average of the setbacks of your neighbors. This makes sense because the effects of your setback are felt by your immediate neighbors. The only problem with this is that neighbors can't do it proactively, it has to be the average of their existing setbacks. We can provide a block with more flexibility by allowing neighbors on a block to come together and decide to reduce the setback minimums for their own block if they wish. This provides people with flexibility while ensuring they can't ignore the wishes of their neighbors who will be affected.

Legalize Housing

PORTLAND HAS A HOUSING SHORTAGE, AND OUR CURRENT LAND USE CODE IS STANDING IN THE WAY OF OUR FUTURE SUPPLY. LET'S CHANGE THAT.

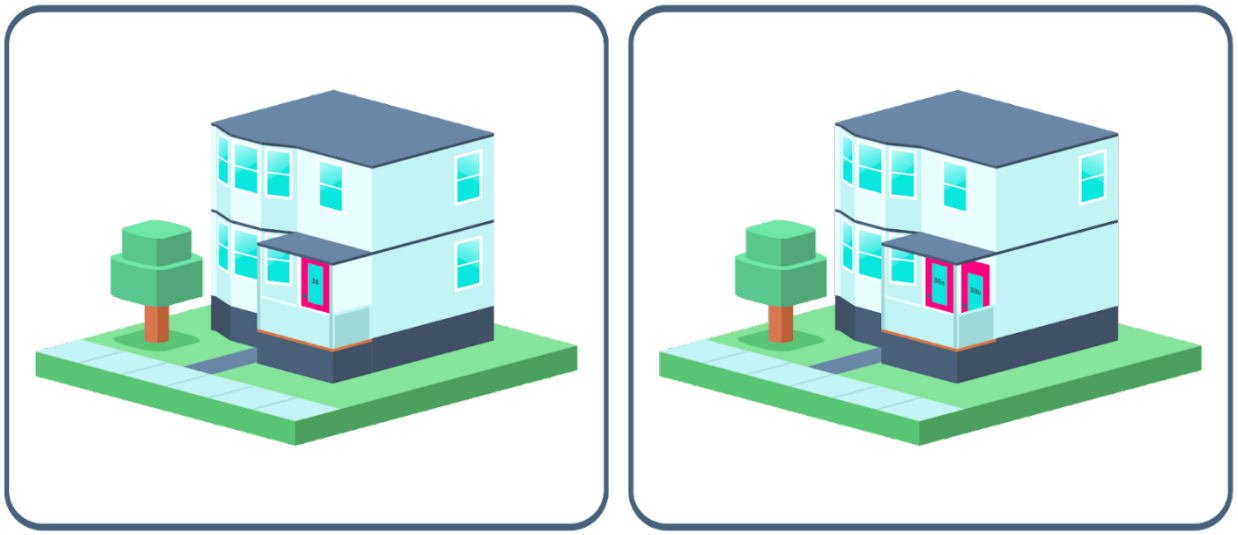
Few would deny that our city – along with the rest of the country – is in the midst of a housing crisis. It is clear our current housing supply is not meeting the needs of our city's residents.

We believe this is, in part, because much of the housing supply is mandated to be one type: single-family homes. Single-family zoning, setbacks, lot coverage maximums, and lot size minimums all add to the cost of housing and limit the amount of housing it's possible to build. This burns the proverbial candle at both ends, reducing both the number of people who are able to afford housing and the total number of homes within our city.

- **Allow multi-family housing**
- **Allow gentle density**
- **Allow renting more rooms**
- **Allow more four-story buildings**
- **Allow coliving**
- **Allow more lot coverage**
- **Allow smaller lots**

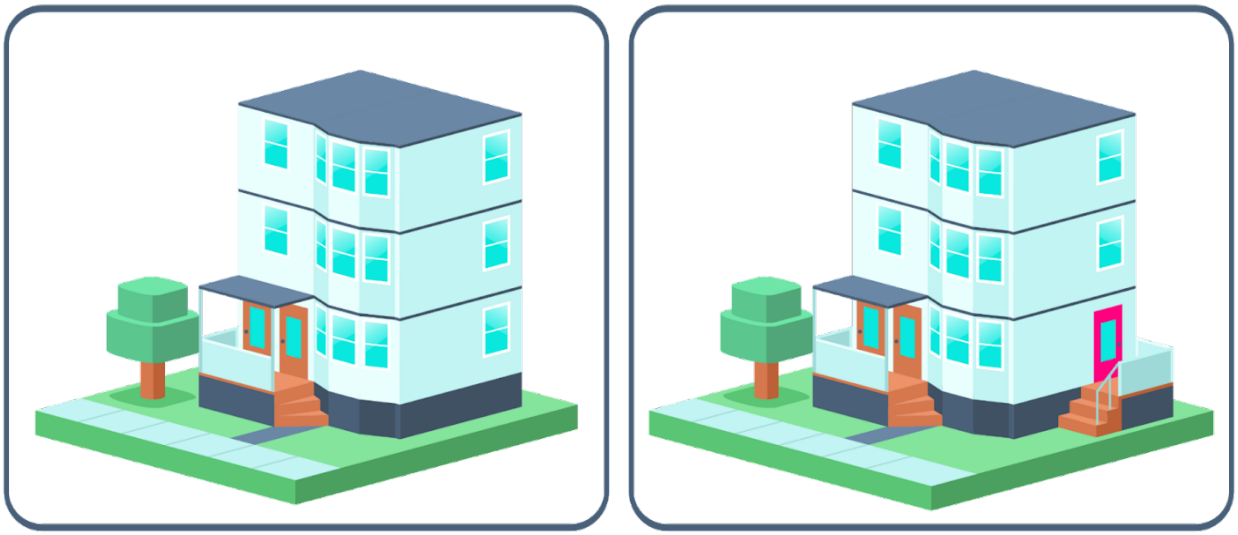
Our recommendations will not make it easier for big developers to build massive apartment blocks. They will allow for a gentler, middle density of homes that individuals will be able to afford to build, own or rent. Going from covering just 20% of your lot to 40%, or allowing a handful of units where before there could only be one, will put housing – and even home ownership – within reach of many more residents, while keeping our city beautiful and making it more livable.

These changes will not end the housing crisis on their own, but for every family that gets a new place to live that could not have been built before, we will have made a world of difference.



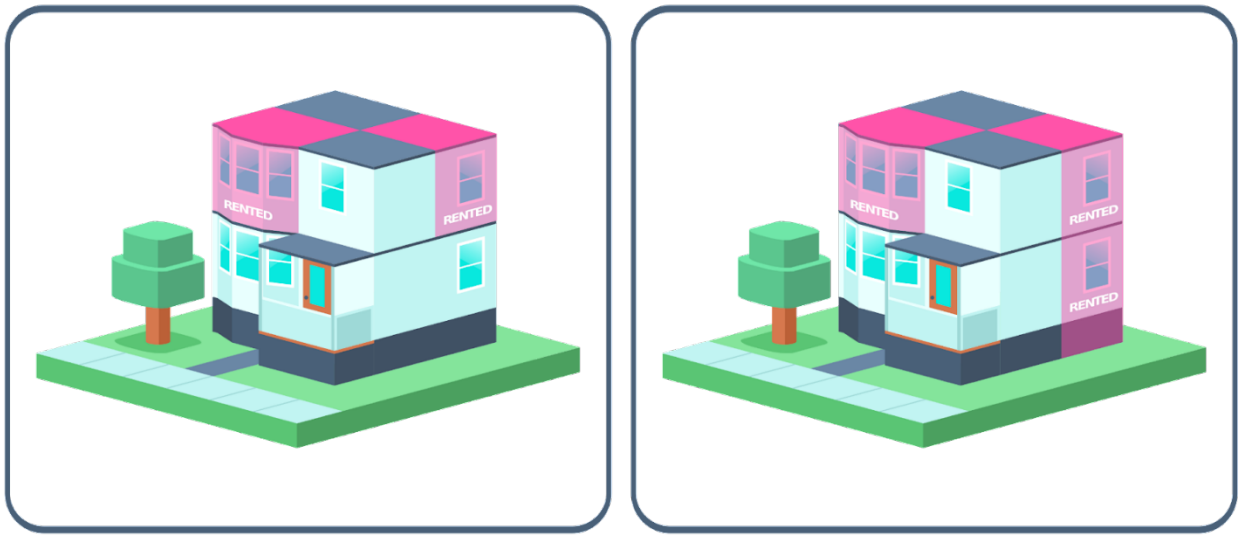
Allow Multi-Family Housing

Multi-family housing is a building with more than one housing unit per building. It can mean anything from a duplex, to a triple-decker with apartments on different levels, to apartment buildings. Currently, the construction of new multi-family housing is not allowed in over three quarters of the residential land in Portland, not including the islands, where it is also not allowed. This restriction has nothing to do with the size and shape of buildings; even duplexes of the same height and footprint as a single-family home are prohibited. This results in sprawling developments of detached single-family homes that are more expensive per unit, excluding people from huge areas of the city, and shrinking our precious green spaces. Conversions to multi-family can also help people age in place by providing a source of income. There are plenty of zoning provisions that will protect our lower-density neighborhoods from experiencing overly intensive development: heights are limited, buildings can't cover too much of their lots, lots need to be a minimum size, etc. We can lift this requirement and provide more housing to more people inside the forms we are already comfortable with.



Allow Gentle Density

Even if your building is under the height requirement, your units are large enough, you aren't using too much of your lot, and you use separate structures, you are still limited by the lot area per dwelling unit minimum requirement. This requirement limits density regardless of circumstances. This restriction is very similar to the restriction on multi-family housing but it applies even to separate structures. There are plenty of zoning provisions that will protect our lower-density neighborhoods from experiencing overly intensive development: heights are limited, buildings can't cover too much of their lots, lots need to be a minimum size, etc. Housing more people in the same space is a good thing – what we want is to mitigate the negative effects of density, like overly small units or lack of light and green space. Lifting this restriction will provide more potential for housing while keeping these effects under control.



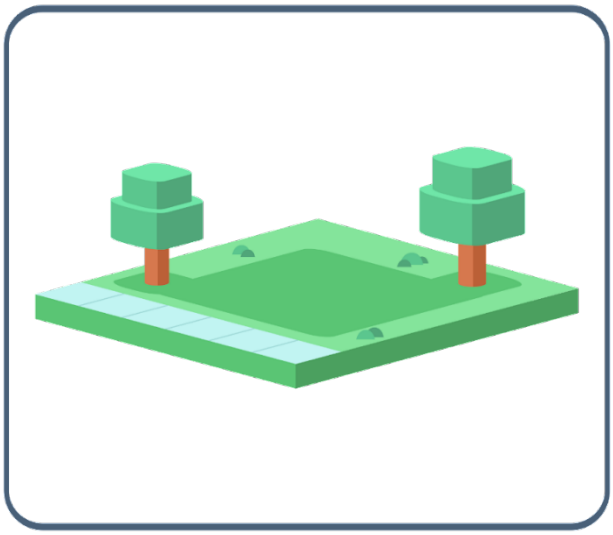
Allow Renting More Rooms

Renting out rooms in your home is a great way to help homeowners remain in their homes, age in place, and provide low-cost housing options. Many of the single-family homes in Portland are large enough to rent out more than two rooms comfortably, without changing the character of the home. We should allow people to make the most of their homes by renting out a few more rooms if they have the space.

Allow More Four-Story Buildings

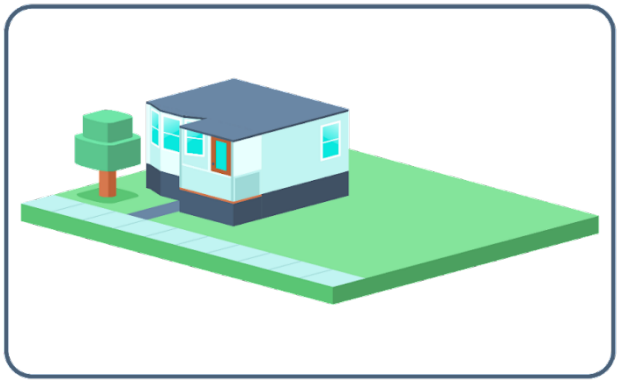
Right now, only one of our main residential zones allows four-story buildings (about four percent of the city). The rest of the residential zones in the city allow only three stories. The neighborhoods that allow these four-story buildings are Munjoy Hill and the West End. These neighborhoods are beautiful and livable. Adding that one

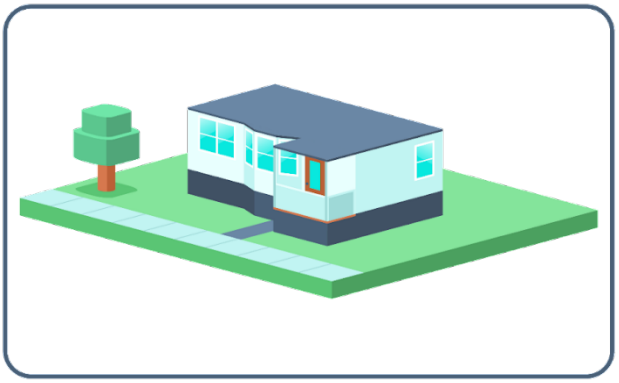
additional story can provide more housing, or a larger housing unit, while maintaining a desirable neighborhood with plenty of light and green space. A four-story building is not even considered mid-rise. We can provide more housing by allowing this extra story in our next most dense zone (about 10 percent of the city).



Allow Coliving

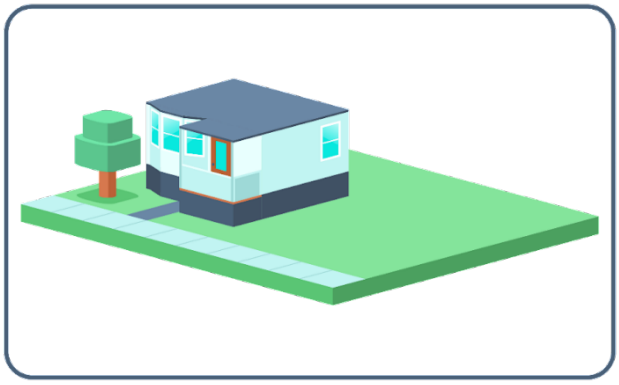
Coliving buildings create access to affordable, flexible housing by allowing people to rent a room with access to shared amenities. Rooms in these buildings are typically rented out a month at a time and are pre-furnished. These are somewhat similar to "lodging houses," which exist in our code today. However, the requirements for lodging houses enforce a very specific configuration where every piece of common space must be available to every tenant, while also regulating the conversion of part of an existing building into a lodging house. This reflects the typical lodging house structure of the past where an owner would convert a portion of their home into a lodging house. In contrast, coliving spaces are typically purpose-built buildings with a suite-style configuration, i.e. a single common area may be shared by multiple bedrooms, but not by every bedroom in the building. It is vital to ensure that every tenant has access to the same level of amenities, but there is no reason to prevent this more modern configuration.

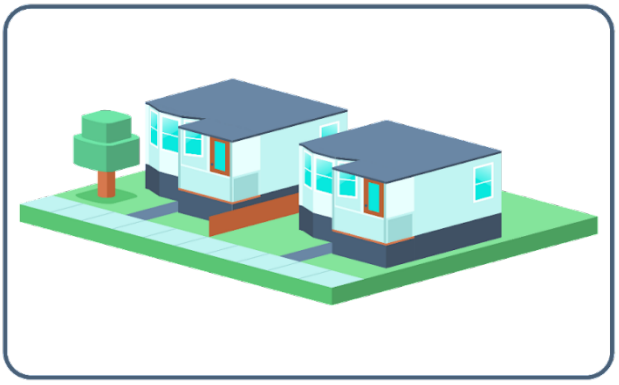




Allow More Lot Coverage

Lot coverage maximums are more sensible than lot size minimums, but in most of the city they are too low. Lot coverage maximums do restrict impermeable surfaces and allow for green space, but when taken to an extreme they can also limit homeownership to only the wealthy. In most of the residential land in Portland today, you can only build on less than 35% of your lot. While permeable surfaces and trees are essential, requiring the majority of a lot to be greenspace means that we have less contiguous land area for public parks and other green spaces that are much more beneficial to a community and wildlife. By gently easing these requirements, we can meet the need for green space and permeable surfaces while making it less difficult for people to afford housing.





Allow Smaller Lots

Currently, our residential lot size minimums are not only very large, but very unevenly distributed amongst zones. The R-6 zone, home to many pleasant neighborhoods, has

a minimum lot size requirement of 2,000 square feet. Meanwhile, the next most dense zone is three times that. By the time you reach the R-1 zone, it takes more than seven R-6 lots to make up just one lot in R-1. Current residential zoning is designed for a suburban development pattern which is inconsistent with Portland's original development pattern. Minimum lot sizes make housing more expensive because they require homeowners to own a significant amount of land just to own a home, while at the same time multiplying the build and maintenance costs of municipal infrastructure, at times causing up to a tenfold increase. The result is significantly higher property tax rates and an artificially limited pool of taxpayers who are responsible for paying these increasing municipal maintenance costs. These lot size requirements are not what maintains the ratio of houses to yards – we already have a separate rule for maximum lot coverage percentage. A lot size minimum is simply a land ownership requirement for housing. We can ease this requirement by reducing lot size minimums by half. Unless a subdivision creates a second parcel of useful land, this change will not help anyone in practice. Reducing these values by half allows an existing lot to be split once.

Unlock More Transit Options

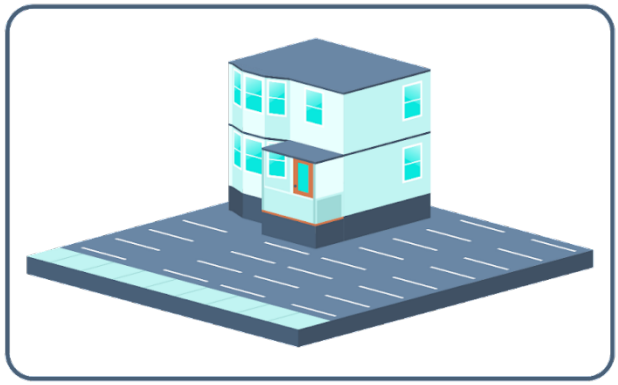
THERE ARE SERIOUS OBSTACLES TO SAFER, MORE EFFICIENT, CLIMATE-ADAPTIVE TRANSIT CHOICES IN PORTLAND. LET'S CHANGE THAT.

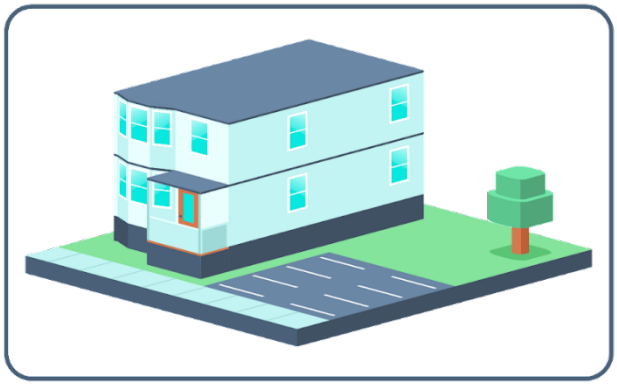
- **Establish parking maximums**
- **Expand bicycle parking**
- **Ease the Transportation Demand Management Plan requirement**

Land use code mainly deals with building forms and uses, but it also influences how a city's residents choose to get around.

When everyone chooses to get around in cars, it crowds out other modes of transportation, creating traffic that delays buses, endangers cyclists and pedestrians, and wastes everyone's time. Not everyone has the means to own a car, the desire to own a car, or the ability to drive, and the needs of these residents are currently marginalized by the existing land use code. Furthermore, the vibrancy of our city comes from people, not cars.

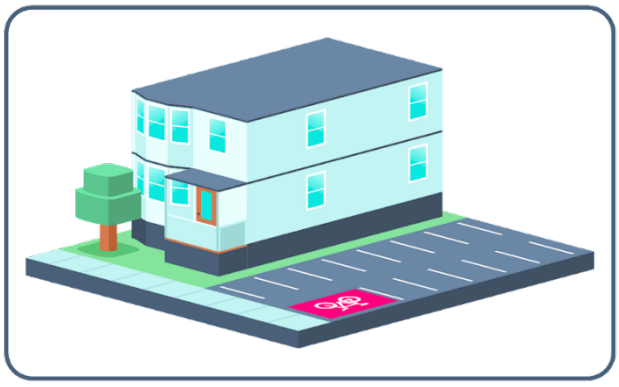
Our recommendations encourage walkable, cyclable neighborhoods. While living completely car-free in Portland right now is unrealistic for many of us, any change that allows a two-car household to become a one-car household is a significant win for that household's finances. Even replacing a single car trip with walking, biking, or bussing benefits the environment and reduces traffic within the city. With mixed-use neighborhoods, people will be located closer to their shops, restaurants, and businesses which makes our whole city more walkable and cyclable. Eliminating the requirement for parking lots where they may not be desired or needed helps use space better, and increasing bike parking enables more people to use alternatives to cars. A bit more density makes more frequent and higher quality transit service financially feasible. With fewer cars on the roads going slower, our streets will also be safer for pedestrians, cyclists, children, and anyone not inside a car. We can improve our environment while increasing convenience and our quality of life for everyone.

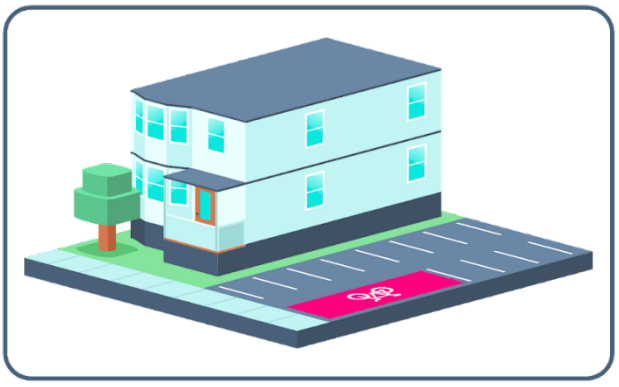




Establish Parking Maximums

The peninsula is becoming increasingly developed. There are quite a few large-scale projects planned in the next few years, and there will undoubtedly be more coming. We need to decide if we want our downtown to be for people or for cars. Around a fifth of our downtown land is already dedicated to parking. The more parking we have, the more people will drive downtown and the worse traffic will be. Air quality will suffer, biking will become less pleasant, and buses will be stuck in traffic. We can protect our downtown by creating parking maximums on new developments to keep our downtown pleasant for everybody – even drivers will appreciate less traffic.





Expand Bicycle Parking

Our city has bicycle parking minimums in place already, which is great! The only issue is they require half the capacity of car parking even though bikes already take up far less space. Bicycle parking minimums can be made equal to the minimums for cars without taking up too much space.

Ease the Transportation Demand Management Plan Requirement

In ReCode Phase One, parking minimums were removed for all new buildings near a transit stop. This is a great step towards reducing our car dependence, but to receive this benefit builders are currently required to spend a lot of time and money producing a Transportation Demand Management plan. This is administrative overhead that may push builders towards building parking instead and provides little benefit. Removing this requirement will make it even easier for builders to build less parking and encourage transit ridership. The requirement will remain in place for very large developments.

Common Sense Fixes

SOME RULES SIMPLY DON'T MAKE SENSE AND CREATE HEADACHES AND LIABILITY FOR THE PEOPLE TRYING TO FOLLOW THEM. LET'S CHANGE THAT.

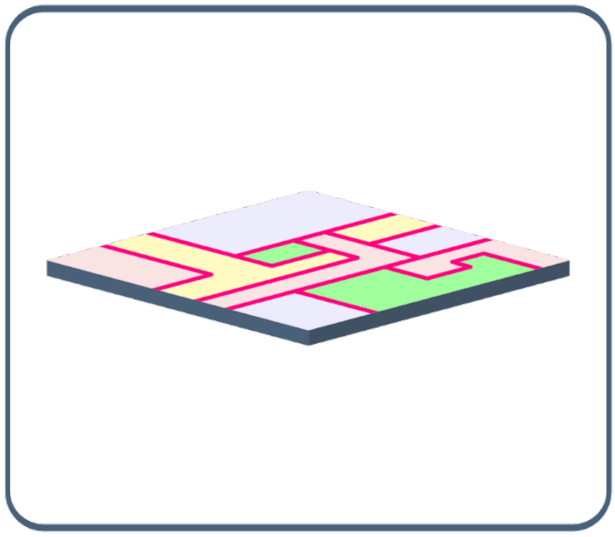
Regulating land use can be a complicated process. Sometimes, what seems like the most expedient way to achieve a particular outcome is with a roundabout rule that may have unintended consequences. Sometimes it doesn't become clear that a rule has unintended consequences until after it's been enacted.

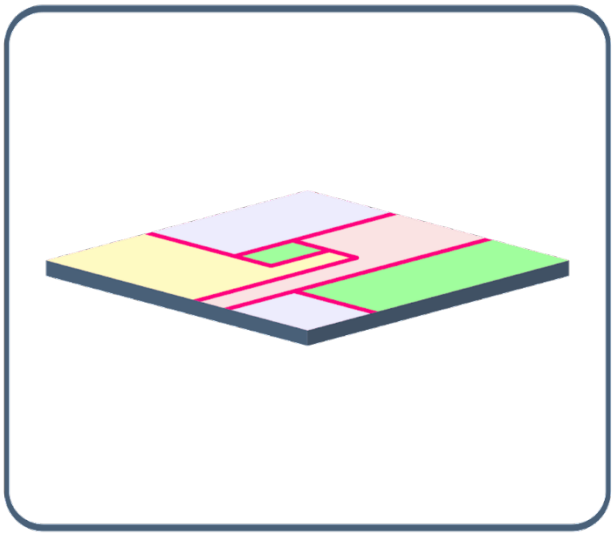
- **Measure heights from sidewalk**
- **Simplify low-density zones**
- **Allow higher quality floors**
- **Allow renting rooms with new kitchens and bathrooms**

That's one reason why it's important to periodically revisit the land use code and revise it, like Portland's ongoing ReCode process. We've identified and drafted fixes for places where we feel the code is overly complex with no apparent benefit, where clarification is needed for a vague rule that doesn't achieve its presumed goal and has already resulted in needless lawsuits, or where a rule is simply arbitrary and doesn't make sense.

Measure Heights from Sidewalks

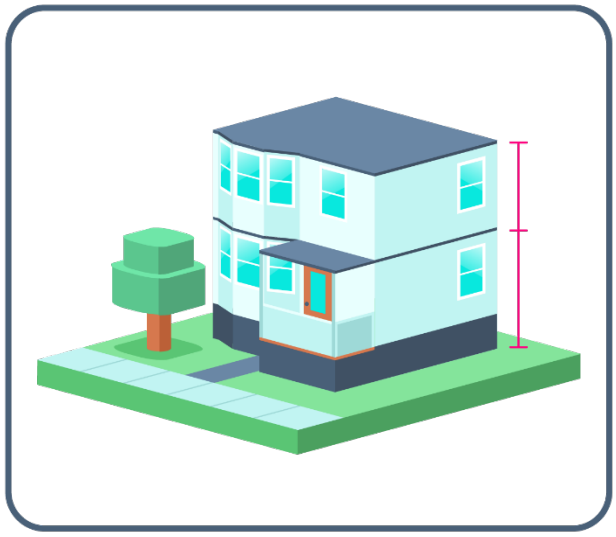
Currently, height is measured as average grade from the corners or multiple points along the foundation of the proposed building. This method has several drawbacks that harms the ability of the City to harness the full value of significant portions of land and prevents hundreds of additional homes being built in proposed buildings. This method penalizes land that slopes downward from the adjacent sidewalk and rewards land that slopes upward from the adjacent sidewalk without achieving any consistency in managing actual height of buildings or taking into consideration the effects on the quality of the buildings being built in terms of design aesthetics, livability, performance, fit-to-purpose, and flexibility for re-use. By measuring height from the sidewalk adjacent to the building entrance, we can clarify this rule and standardize height allowances in our more hilly neighborhoods.

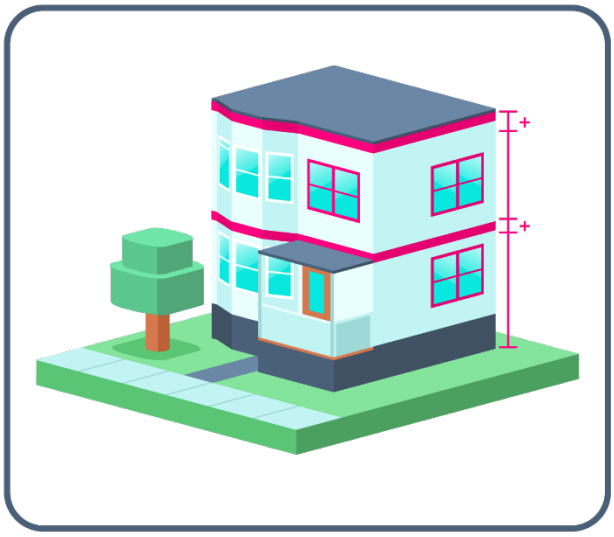




Simplify Low-Density Zones

The R-1 and R-2 zones have identical purpose statements and very similar regulations. There is only a tiny amount of R-1 and it is directly near R-2. The zoning code could be simplified without substantial changes by merging these two zones.

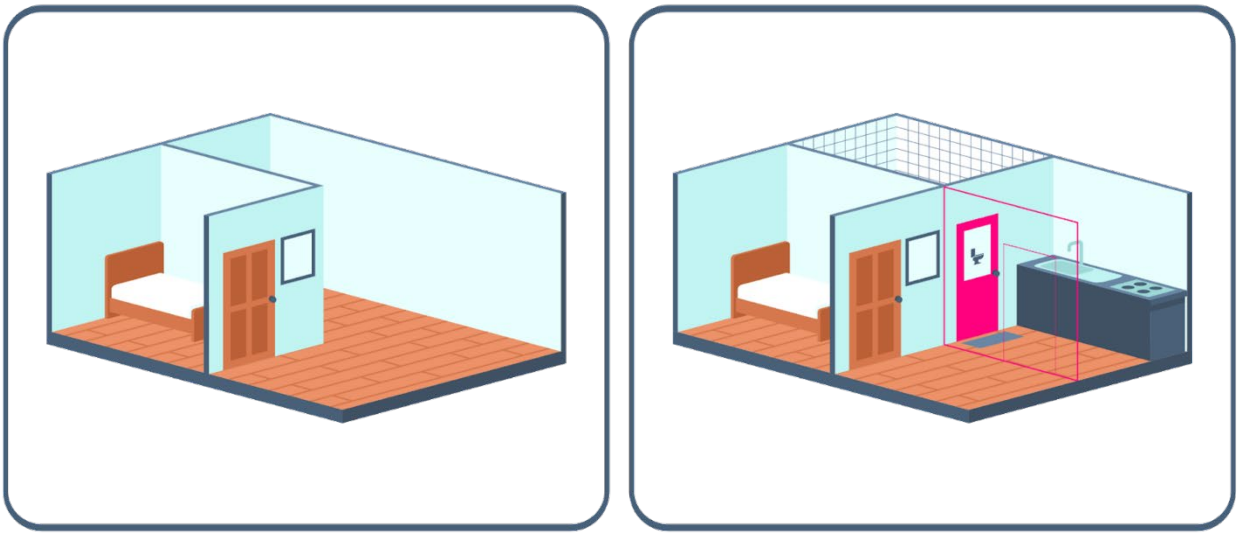




Allow Higher-Quality Floors

Current height allowances are out-of-date with today's construction methods and don't consider the extra depth needed for higher insulation values, sound proofing between floors and homes, required floor-to-ceiling heights that allow more daylight into homes within multi-home buildings, mechanical air ventilation needed in tight

envelope buildings, and larger open spans to allow future reconfiguration of units. These features are essential to keeping buildings relevant for 200+ years, avoiding demolitions, and promoting re-use. By allowing just a little bit more height per floor we can make room for this without being noticeable from the outside.



Allow Renting Rooms with New Kitchens and Bathrooms

Wherever you live in Portland, you are allowed to rent out up to two rooms in your home. These sorts of rentals are a great way to provide low-cost housing and help people afford to stay in their homes and age in place. Unfortunately, there is a strange limitation where you can't rent out a room of your home if you added a bathroom or kitchen within the last two years. This is an arbitrary limitation that only serves to prevent people from providing amenities to their tenants or discourage them from opening up housing at all. This rule change will not help facilitate short-term rentals – not only do all short-term rental restrictions still apply, but this rule only applies to rooms within a single housing unit which means this won't help people take housing out of the long-term housing supply and move it to the short-term market.

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to recodep...@portlandmaine.gov

Sent via form submission from *ReCode Portland*

Name: Donna Buck

Email Address: dbuck@gastingerwalker.com

Subject: Chapter 14 Adopted Land Use Code - Requested Amendment to 7.5-G Rooftop Appurtenences

Message: As occupied roof terraces are becoming more popular for commercial buildings and part of today's workplace environments, it would be good to have roof pavers (w/ adjustable pedestals) add to the list of approved rooftop appurtenances. Pavers are need to provide a level walking surface. We all know flat roofs are not really flat and are sloped to roof drains. Thank you for the consideration.

Does this submission look like spam? Report it here.

Form Submission - Contact us Re:Code - Updated Phase II Zoning Map

2 views

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Squarespace
Jun 30, 2023, 4:52:15 PM (9 days ago)

to recodep...@portlandmaine.gov

Sent via form submission from *ReCode Portland*

Name: Amy Oberlin

Email Address: agoberlin@gmail.com

Subject: Updated Phase II Zoning Map

Message: Hi there,

Will you be releasing an updated zoning map to show where these new zones will be located and how the existing zones have changed? It's hard to evaluate these potential changes without knowing where they will apply.

Thank you,
Amy

Does this submission look like spam? Report it here.

Updated zoning map?

2 views

Subscribe

Robert Foster
unread,

Jul 3, 2023, 11:19:24 AM (7 days ago)

to recodep...@portlandmaine.gov

Hi - I'm looking over the most recent recode changes. Is there an updated zoning map that shows where the new transit-oriented development zones will be?

Thanks,
Rob

Sent from my iPhone

Form Submission - Contact us Re:Code - Noise Pollution

1 view

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Squarespace
unread,

Jul 3, 2023, 2:20:34 PM (6 days ago)

to recodep...@portlandmaine.gov

Sent via form submission from ReCode Portland

Name: Jonas Eule

Email Address: weatherfurniture@gmail.com

Subject: Noise Pollution

Message: Hello. I am wondering if there is anything in these phases pertaining to noise pollution emmiting from in particular Maine Craft Distilling on Washington ave. I also have some questions about sound ordinances and decibel levels.

Does this submission look like spam? Report it here.

Form Submission - Contact us Re:Code - ReCode Review

1 view

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Squarespace
unread,

Jul 4, 2023, 3:44:15 PM (5 days ago)

to recodep...@portlandmaine.gov

Sent via form submission from *ReCode Portland*

Name: Barbara Vestal

Email Address: vestal@chesterandvestal.com

Subject: ReCode Review

Message: As an initial matter, I need help with a couple of inconsistencies to make sure I am reviewing the right thing. Your cover intro says that you have (in my opinion confusingly and unnecessarily) re numbered the residential zones so the old R-6 is now RN-5. But the purpose statements redline in Table 5-B shows old R-6 as new RN-6 (not RN-5). Maybe the problem is with the redlining. The uses in the chart for RN-6 seem to omit things that I would expect to see. Is there a map showing what the bulk of Munjoy Hill will be designated so I can confirm it that way? RN-5 or RN-6?

Are you wedded to the idea of renumbering the zones? It would seem to be much less confusing to merge R-1 and R-2 into a new RN-1, skip RN-2 and just keep the same numbering as now -- with a RN in front of it if you prefer -- for zones 3, 4, 5, 6 and 7, with R-5a/R6a to be RN-6a.

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Portland Recode - Questions

1 view

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Virginie Stanley
unread,

Jul 5, 2023, 12:50:14 PM (4 days ago)

to recodep...@portlandmaine.gov

Thank you for sending out a draft of the Portland Recode.

One item is confusing.

It looks like R-5 is changing to RN-5

R-5a is changing to RN-6

R-6 what does this change into?

R-6a is changing to RN-7

Do you have an updated zoning map showing where the Transit-Oriented Development Zone is located?

Thanks,

Ginny

Virginie Stanley, Architect, Principal

INVIVID ARCHITECTURE

631 Stevens Avenue, Suite 200

Portland, Maine, 04103

207.939.7602

Recode Question

1 view

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Mary McCrann
unread,

Jul 6, 2023, 7:26:48 AM (4 days ago)

to recodep...@portlandmaine.gov

Good morning,

What is the timeframe currently for accepting public comment on the First Wave of Recode?

Also, what is the schedule/timeframe for the project moving forward? When are other phases coming out? When will you go to the Planning Board?

Thank you,

Mary

Mary McCrann, AICP | Director of Strategic Initiatives

Foreside Development Co.

110 Thames Street | Suite 200 | Portland, ME 04101

C: 207.318.4806 | mcm@portlandforeside.com

Public Comments on ReCode Portland 1st Wave Changes

1 view

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Elizabeth Parsons
unread,

Jul 7, 2023, 12:32:19 PM (2 days ago)

to recodep...@portlandmaine.gov, Avery Yale Kamila

Greetings from the West End and thank you for sending around the information on proposed changes to our land use code. Herewith a few observations and wonderings:

Avery Yale Kamila's comments (email dated 1 July 2023) were spot on and I offer **a hearty "second" to everything said there, especially her point that the current times call for us to do things differently.**

For example, if planning proceeds under the assumption that our power grid will hold steady over the next several decades, this is a very risky proposition. Around the country we are already seeing power grid failures during periods of extreme heat and grids being targeted by violent political extremists. Add to that the complexity of mass conversion to renewables and we arrive back at **the importance of tree canopy coverage.**

Trees have an ancient track record of providing cooling and calm. Our One Climate Future plan implicitly acknowledges this in multiple places: TLU 1.7; CR 2.2; CFR 2.5; CR 4; and CR 5. **So it is of great concern to see that the ReCode revisions do not seem to take this into account when allowing new construction in the most densely populated and lowest income sections of the peninsula**. While there has been a lot of talk about the disaster that Victor Gruen's urban renewal effort created by destroying neighborhoods, there seems to be less talk about avoiding the other part of urban renewal's mistakes: constructing massive buildings without giving sufficient attention to physical and socio-economic contexts.

How long will the anticipated new, dense developments be expected to last—20 years? 50 years? During the hottest week ever recorded around the world, it's hard for me to imagine that conditions in urban heat islands even 10 years from now will be consistently stable. The irony here is that many residents of the peninsula's most densely-treed sections already have options that poorer people lack for fleeing the heat. ***Now* is the time to emphasize tree planting where trees are most lacking.**

Of course there are all sorts of regulations and tax/financing issues to consider when deciding what can and can't be done in particular areas. **But there are also developers doing good, thoughtful work in Portland whom I suspect would be open to brainstorming creative ways of incorporating more open/green space and trees in areas slated for dense construction.** I wonder if they've been asked about this.

Finally, a wondering about the revisions' effects across the entire city: while the impetus to eliminate single-family zoning is laudable, we should anticipate that constructing multi-family dwellings and ADUs in areas where such were previously not possible will bring with it more tree felling on private properties. **How will we be prepared to deal with this added stressor to an already stressed tree canopy?**

Assembling this document has undoubtedly been a monumental task perhaps made more onerous by soliciting citizen reactions. Nonetheless, I thank you for considering these comments.

Liz Parsons

44 Winter Street

Form Submission - Contact us Re:Code - ReCode

1 view

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Squarespace
unread,

Jul 9, 2023, 9:46:42 AM (yesterday)

to recodep...@portlandmaine.gov

Sent via form submission from *ReCode Portland*

Name: Publius Portland

Email Address: publiusmaine@proton.me

Subject: ReCode

Message: You should permit the planning board to waive the "step-back" requirements in the RN-5 Zone in the event the lot is an "in-fill" and a finding that there is no material adverse visual impact from the waiver. There are several lots in the current R-6 that could and should be built to 45 feet tall and would fit appropriately in the neighborhood, and requiring the step-back adds construction complexity for very little value.

Does this submission look like spam? Report it here.

Helen Donaldson <hcd@portlandmaine.gov>

Re: Review the First Wave of Draft ReCode Changes!

Anne Pringle <oldmayor@maine.rr.com> Sun, Jul 9, 2023 at 8:24 AM
To: ReCode Portland <recodeportland@gmail.com>, "Grimando, Christine" <CDG@portlandmaine.gov>, "Kraft, Kevin" <kkraft@portlandmaine.gov>, "Donaldson, Nell" <hcd@portlandmaine.gov>
Cc: "Snyder, Kate" <ksnyder@portlandmaine.gov>, "West, Danielle" <dwest@portlandmaine.gov>

Christine, Kevin, and Nell.

I have not digested this yet, but will do so as soon as I can.

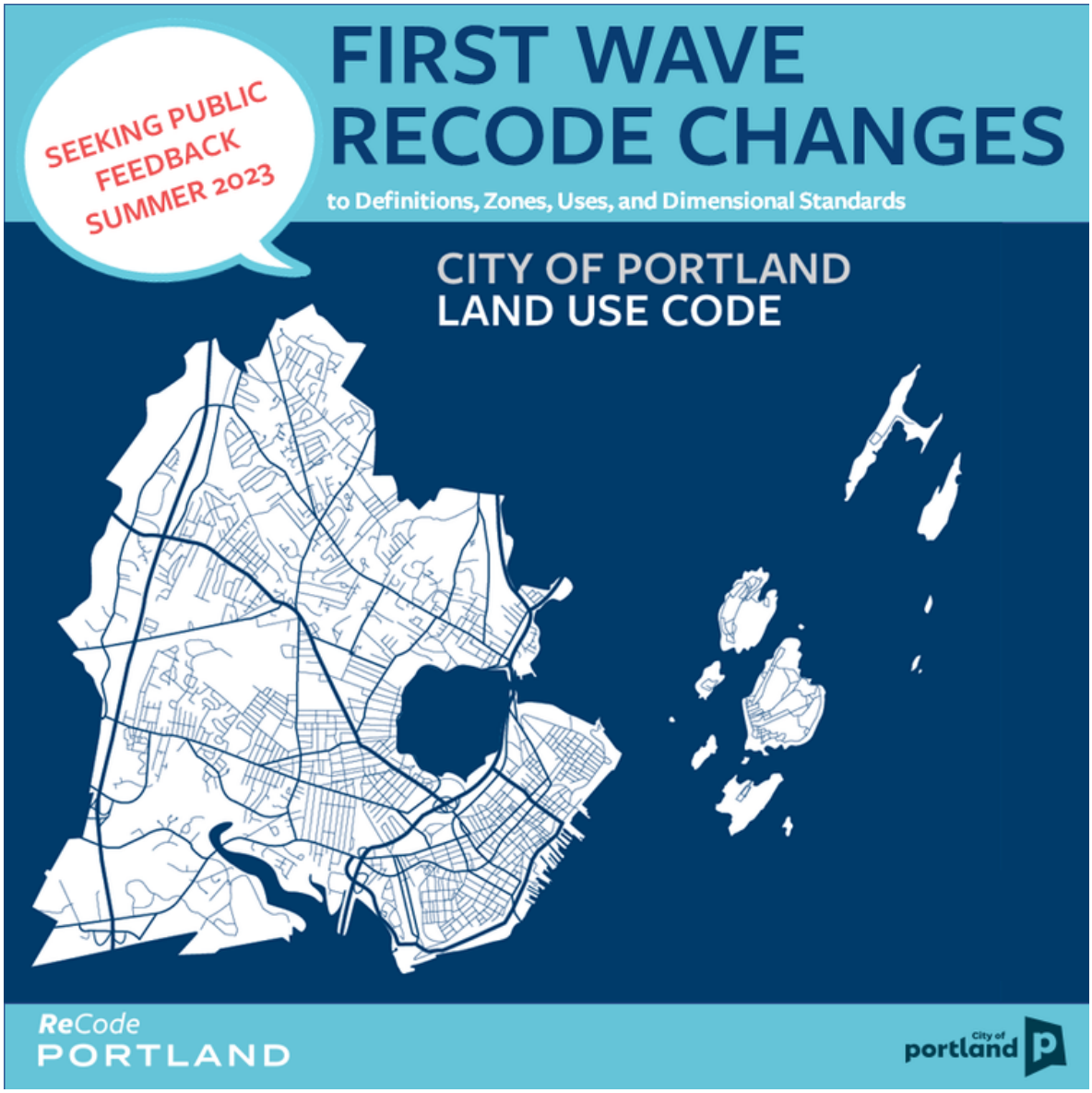
In the text below, you note that emails comments are welcome and that in-person meetings will be held "during the summer". I SRONGLY urge you to push the public process out to September. We are now well into the summer and many people will be away and/or on vacation in August. "The City" will be roundly criticized for, after two+ years of development, putting these very important changes out for public process at the worst possible time.

Please adjust your plans!

I would appreciate a response to this email.

Anne

On 6/30/23 3:01 PM, ReCode Portland wrote:



Review the First Wave of ReCode Phase II Changes!

The first wave of ReCode Phase II edits is here! The edits include changes to four core components of the land use code: Definitions, Zones, Use Standards, and Dimensional Standards. These components have a direct impact on housing creation, complete neighborhoods, the vibrancy of downtown, transportation choice, and other priorities for the City of Portland.

We will be seeking public feedback on first wave of draft changes over the course of the summer, first through an online review period and then through a series of in-person events. So take a look and learn about the changes here. Then comment directly, send us an email with your thoughts, or stay tuned for open houses and more ways to contribute.

العربية Español Français Português

ReCode Portland
389 Congress Street

Portland, ME, 04101
United States

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Unsubscribe

Connect Portland
unread,
Jul 11, 2023, 11:12:01 AM (21 hours ago)

to recodep...@portlandmaine.gov

1. A meeting was organized for housing developer “stackholders” on ReCode. Will there be similar meetings for affected neighborhood resident “stackholders” in order to engage the community for their feedback on ReCode?
2. How will the real possibility of demolition of single-family homes to build multi-family structures be addressed in ReCode?
3. Where will the Transit Oriented Development (TOD) be located? Define “urban neighborhood” and “on or near peninsula”? TOD heights with a maximum of 80 ft and 125ft in or near residential seems excessive. Doesn’t the B2b transit nodes sufficiently address TOD in a more compatible way in highly residential areas in or near peninsula?
4. Did the B2 and B2b get consolidated? If so, it appears the height has increased significantly in the Dimensional Standards?
5. Are ‘Conversions’ of non-residential structures allowed in all residential and business zones? How do “Conversions” differ from proposed “Reuse” of non-residential structures?
6. New Alternative Residential Development Options (Conservation and Cottage Court developments) that allows small lot development, does it apply to all zones? Should it be added to the Use and Dimensional Tables?
7. How do these proposed changes align with the ReCode II recommendations which stated that pretty much all residential zones should be evaluated for bringing zone standards closer to historic patterns of development with decreased lot sizes, reduced dimensional requires, zone changes and allowances for a diverse range of housing types across the city’s neighborhoods to make Portland a more “equitable” city? All mainland residential would permit at least two-family dwellings (R1, R-2 and R-3) does not appear to pass the ‘straight-face test’ for fair and equitable diversity in expanding housing opportunities within residential ones. The R-5 residential zone is being proposed for the most significant changes as is R-4 in the Western Prom.
8. The ReCode II evaluation in the ‘overview” of zones grouped all neighborhoods within their respective zones which does not fairly distinguish the differences between them. For example, neighborhoods in the R-5 such as the USM area, Deering Highlands, Back Cove, East Deering, North Deering, Oakdale, Deering Center are all vey different. One size does not fit all in established neighborhoods within the same zone but in different city locations, and evaluation and recommendations are NOT sensitive to differing neighborhood context as an identified land use objective. How can this issue be addressed?

The work that has gone into these recommendations is to be commended. Thanking you in advance for a response to our questions.

Helen Donaldson <hcd@portlandmaine.gov>

Draft Recode community meeting Peaks

5 messages

Laura Glendening <lrglendening@gmail.com> Tue, Jul 11, 2023 at 1:00 PM
To: cdg@portlandmaine.gov, Helen Donaldson <hcd@portlandmaine.gov>
Cc: Anne Coughlin <annefcoughlin@gmail.com>

Hello Nell and Christine,

Now that the draft ReCode has been published the PIC (Peaks Island Council) Housing and Zoning Community is looking to support you in presenting a community meeting on Peaks Island.

Mid to late August may be a good time to schedule a meeting, as this is a time when property owners that are mostly on the island just for the summer may be able to be present as well as the year-round community. Perhaps you already have a date planned – and we are ready to support and promote a community meeting that works for your schedules. Please let us know.

In the community meeting we see the need for your department to highlight:

1. How the draft ReCode changes zoning on Peaks Island.
2. How the draft ReCode will assist with the development of affordable housing.
3. And to hear from the community the zoning needs on the island, to allow for community input in the development of the new Land Use Code.

I look forward to hearing from you.
Kind regards,
Laura

Laura Glendening
PIC Housing and Zoning Committee, Chair

Helen Donaldson <hcd@portlandmaine.gov> Wed, Jul 12, 2023 at 5:15 PM
To: Laura Glendening <lrglendening@gmail.com>
Cc: cdg@portlandmaine.gov, Anne Coughlin <annefcoughlin@gmail.com>

Laura,

Thank you for reaching out. We have been thinking about open houses this week, so you are right on time.

At this point, the day of Thursday, August 17 looks like the best opportunity for an island open house with Camiros, our consultant. We would likely be looking at a morning or early afternoon timeframe. Camiros has had success with mid-day open houses where folks can drop in during lunch hours, so perhaps that's an option?

Nell
[Quoted text hidden]
--
Nell Donaldson
Director of Special Projects

City of Portland
(207) 874-8723
hcd@portlandmaine.gov

planning & urban development

Helen Donaldson <hcd@portlandmaine.gov> Wed, Jul 12, 2023 at 5:16 PM
To: Christopher Jennette <cjennette@camiros.com>

FYI - Looks like we may do an open house on Peaks, which has the advantage of a beautiful boat ride.

Shooting for early or mid-day on Thursday 8/17.
[Quoted text hidden]
[Quoted text hidden]

Laura Glendening <lrglendening@gmail.com> Wed, Jul 19, 2023 at 7:30 AM
To: Helen Donaldson <hcd@portlandmaine.gov>, cdg@portlandmaine.gov
Cc: Anne Coughlin <annefcoughlin@gmail.com>

Hi Nell,

August 17 sounds great for us. We are wondering if you will be able to give a brief presentation before moving to the open house style format? Maybe an 11-11:30 presentation followed by an open house from 11:30-1:00?

We are also wondering if you will have maps available -- and will there be any draft changes to the zones (IR-1, IR-2, I-B) on Peaks Island?

Having a hand out with a chart of the current land use codes and the new draft will help answer a lot of questions too.

We will start posting this community meeting when you confirm the details.

Many thanks,
Laura

[Quoted text hidden]

> [Quoted text hidden]
> Notice: Under Maine law, documents - including e-mails - in the possession of public officials or city employees about government business may be classified as public records. There are very few exceptions. As a result, please be advised that what is written in an e-mail could be released to the public and/or the media if requested.

Helen Donaldson <hcd@portlandmaine.gov> Thu, Jul 20, 2023 at 10:46 AM
To: Laura Glendening <lrglendening@gmail.com>
Cc: cdg@portlandmaine.gov, Anne Coughlin <annefcoughlin@gmail.com>

Laura,

Great. Do you have suggestions about a location?

Re your questions, we have not finished sketching out the agenda in its entirety, but there will certainly include some presentation time and some less structured time, so hopefully something for everyone.

And thanks for your suggestions on materials. At this point, we will not have any proposed changes to the zoning map to share, as we're trying to focus folks on the revisions to the zones themselves. But suggestions regarding map changes are always welcome.

Nell

Thank you

[Quoted text hidden]

Squarespace
unread,

Jul 12, 2023, 1:37:21 PM (yesterday)

to recodep...@portlandmaine.gov

Sent via form submission from *ReCode Portland*

Name: Jim wolf

Email Address: jmw1@maine.rr.com

Subject: recode

Message: Do you know when the city plans to enact the recode. Thank you

Does this submission look like spam? Report it here.

Rachel Conly
unread,
10:43 AM (5 hours ago)
to recodep…@portlandmaine.gov

Hello,

Thank you for sharing the draft of the Recode. I have a couple of follow up questions with regards to island zoning. Could you please advise on the following?

1. In section 7.7.3.A "Small Island Lots". Can you please clarify if this section is ONLY applicable to development on vacant lots, and not applicable to existing non-conforming previously developed small lots in IR-2? For instance, is it possible to apply the new dimensional standards to a remodel/addition in the IR-2 zone for properties that are less 20,000 SF? Or, can a previously existing single family in the IR-2 be converted into a 2 family?
2. I do not see any proposed island maps for reshaping the existing zoning boundaries. Should I assume that the boundaries are not changing?

Thank you! Rachel

--
Rachel Conly (she/her)
Owner/Design Director
Juniper Design + Build, LLC
207.766.5919

Helen Donaldson <hcd@portlandmaine.gov>

Re: Form Submission - Contact us Re:Code - ReCode Review

Barbara Vestal <vestal@chesterandvestal.com> Thu, Jul 13, 2023 at 5:11 PM
To: Helen Donaldson <hcd@portlandmaine.gov>

Hello Nell,

Asking just for myself, I can't help but notice that you have taken out the language in the purpose statement which (admittedly imperfectly) referred to conserving the existing housing stock, preserving the existing neighborhood character, and making new development consistent with the typical compact lot development found on the peninsula. Of course those are things that people living in the R-6 zone have typically valued. It would seem better to improve how they are referenced in the purpose statement rather than deleting them entirely. What was your thinking in making this change?

The "first wave" is said to only address definitions, zones, uses and dimensional standards. The design standards appear in later sections -- particularly in the site plan and historic preservation sections. It is hard to tell from this first wave release where you are going with design review issues. Is it your intent to also remove the concepts of preserving neighborhood character and consistency with the neighborhood context from the design standards? If so, what do you envision the standards will be based on? Or is it the intent to remove design considerations entirely? I would be interested in your thoughts.

Similarly the design standards seem to have stalled out from the 2020 or 2021 overhaul. What is the intent with regard to revisions to the design standards?

Barbara

[Quoted text hidden]

Helen Donaldson <hcd@portlandmaine.gov>

Re: Questions First Wave ReCode Changes

Connect Portland <connectptld@gmail.com> Fri, Jul 14, 2023 at 6:56 AM
To: Helen Donaldson <hcd@portlandmaine.gov>

Thank you, Nell. What Recode mailing list are you referring to? Who is on this list? We would like a copy. How will you notice beyond referring people to the ReCode website as most people are not aware and it is a very complicated document especially for the lay person? How will you reach a city-wide audience given the implications to every neighborhood in the city?

Sent from Mail for Windows

From: Helen Donaldson
Sent: Thursday, July 13, 2023 4:37 PM
To: ReCode Portland
Cc: Connect Portland
Subject: Re: Questions First Wave ReCode Changes

Thank you for your interest in ReCode. Please see responses below, and don't hesitate to follow up with additional questions.

[Quoted text hidden]

[Quoted text hidden]

cynthia park
Jul 15, 2023, 1:19:38 PM (yesterday)
to recodep...@portlandmaine.gov

Hello,
Please add my comments to the others under consideration..

1. Please consider allowing ADUs that meet square footage requirements to use grandfathered setbacks (ie. replacing an existing structure like an old garage) *without* needing to fit within the current structure's footprint - or alternatively, at least only ONE of the grandfathered setbacks (side or rear).

2. Please include some restrictions on density of cannabis businesses (as in, per square mile).

3. Please tighten the restrictions on business signage. Two examples:
a. the signage for the business called 'Continental' (Brighton and St John, new and not yet open for business) has lettering that is really too large for the neighborhood setting
b. internally lighted signage like the lighted numbers '449' for 449 Forest Avenue, while grandfathered, can be effective without being so bright - the light is too bright for the neighborhood setting

thank you—
Cindy Park

19 Pltt St
Oakdale

Squarespace
Jul 17, 2023, 11:21:21 AM (yesterday)
to recodep...@portlandmaine.gov

Sent via form submission from *ReCode Portland*

Name: brent adler

Email Address: brentadler@gmail.com

Subject: questions

Message: Hello. Thanks for all the work on this recode.. its been a long time! I had a couple things to comment on. What has been done for building on established city streets that are paved that are less than 25' wide. This was a section in the old code under chapter 14-403. This was updated a couple years ago but im concerned that the exception that is allowed to build is up to somebody's opinion. Can we not agree that these narrow streets in Portland are safe and should be allowed to have new buildings built on them. this will help with housing and density. Please remove the restriction on narrow streets to allow development.

Another comment that I had was to clearly define the difference between a boarding house,halfway house, and sober house. As the code is defined now somebody can open a boarding house in R6 and run it as a halfway house or homeless shelter. We require certain kinds of social services and onsite professional management under a shelter and somebody could use the boarding house as a loop hole. This kind of management can lead to unsafe conditions in a R6 zone.

Does this submission look like spam? Report it here.

James Wolf
Jul 17, 2023, 6:13:38 PM (6 days ago)
to Christine Grimando, plan...@portlandmaine.gov, ReCode Portland

Hi

Thanks for getting back to me.

It does not appear from reading that a great deal is being done to stimulate development in the current R-2 zone. If I am reading correctly the lot size is remaining the same and the only change is duplex construction will be allowed. In contrast, in the R-3 zone not only are duplexes being allowed, the density for multi development is much less restrictive.

I also would be curious to know if the zoning map is being altered. In the case of my land on Tucker/Newell it is currently in the R-2 zone, however, via Tucker half the road is R-3. Shouldn't the area have a consistent zone?

Thank you for the input. I do appreciate your help

Jim

Kimberly MacDonald
unread,

10:51 AM (5 hours ago)

to recodep...@portlandmaine.gov

Hello,

The ReCode Portland first wave changes page on the website state that the zones look different—some new, some consolidated and the names of the zones have shifted (ex R-3 to RN-2). However, I can't find a map of the new zones on the website. Where have they consolidated, changed or been added? Can you direct me to a link to the proposed new zoning maps so that I can view how the zones have been changed/re-defined?

Thanks in advance for you assistance,

Kimberly MacDonald

in a R6 zone.

Does this submission look like spam? Report it here.

No outside gardens should be allowed.We all know they attract critters and rats.They should only be permitted within a structure.Enough said.

0 views

Skip to first unread message

Subscribe

Phyllis Guevin
unread,
Jul 18, 2023, 5:19:46 PM (15 hours ago)
to recodep...@portlandmaine.gov

The video is useless.

0 views

Subscribe

Phyllis Guevin
Jul 18, 2023, 5:33:50 PM (15 hours ago)

to recodep...@portlandmaine.gov

I want to read about any changes and their legality word fir word in a written document.I learned nothing from the useless video and could not read for myself the tiny print.Also why is the code being changed and who authorized it and for what purpose?I hope nit to jam more housing in Portland.we need wider roads,overpasses,more traffic lanes and a comp,etc traffic oriented restructuring of the city and a moratorium on any more people settling in Portland.It's way overcrowded.I know.I was born and raised here and little has been done to manage traffic except paint ridiculous lines.we need a new engineer team brought in from other cities that are truly growing their roadways while limiting overcrowding.The bollards have to go.they are a driving impediment and dangerous distraction.Roads are built for cars and sidewalks for pedestrians.Hire a new engineering team first and foremost!Lets get Portland driver friendly.Thank you.email me the documents and the info I requested.Phyllis Guevin.

Sent from my iPad

Helen Donaldson <hcd@portlandmaine.gov>

Re: The video is useless.

Phyllis Guevin <phyllisguevin@icloud.com> Wed, Jul 19, 2023 at 3:58 PM
To: Helen Donaldson <hcd@portlandmaine.gov>

I have read or scan read The Portland Plan.I noticed there is no mention of rebuilding Morrills corner and woodfords corner and Forest avenue to allow traffic to flow freely and actually be able to move forward on a green light.These corners and streets have never been addressed.Bicycles are nonsensical for the baby boomers as well as for maines climate.We need major roadway widening,overpasses,expansion of our roads to accommodate the only sensible maine climate firm of transportation,the car!These corners have not been addressed since the fifties.We need to make getting to medical appointments,work,school,grocery stores easy to make for a better life in Portland and especially being realistic about the climate here.I did not read anything of this nature and I'm certain you missed the majority of the population who happen to drive cars in your so called search for what Portlanders want.I noticed a biking coalition mentioned three times in your contributors.It's not realistic and it's stubbornly impractical.Narrowing the roads is oppressive and dangerous as regards comfortable safe driving.Painting lines does not improve the roads.As I said get a new team of engineers involved to widen and add overpasses to accommodate the majority of travelers in Portland,the car drivers.Widen our sidewalks for bikers who do not belong in the road.You are not listening to the predominant population.What you are doing is. Nit being realistic.Pkease redo your plan to improve our roadways.Get rid of the bollards.It actually is a flawed,selfish and dangerous idea.Thank you.Please face reality.Phyllis Guevin.

Sent from my iPad

> On Jul 19, 2023, at 8:37 AM, Helen Donaldson <hcd@portlandmaine.gov> wrote:
>
> Ms. Guevin,
> [Quoted text hidden]
> Notice: Under Maine law, documents - including e-mails - in the possession of public officials or city employees about government business may be classified as public records. There are very few exceptions. As a result, please be advised that what is written in an e-mail could be released to the public and/or the media if requested.

Helen Donaldson <hcd@portlandmaine.gov>

Re: Questions First Wave ReCode Changes

Connect Portland <connectptld@gmail.com> Wed, Jul 19, 2023 at 10:24 AM
To: Helen Donaldson <hcd@portlandmaine.gov>

Good morning, Nell. We are requesting public list of ReCode mailing list.

Additional questions:

1. Have PRUDs been eliminated?
2. Zone Table 5A does not include Roux Institute at Northeastern University in the Overlay Zones.
3. Zone Purpose Statements where residential or mixture of residential in RN, Islands and B zones are reference does not clarify what type of permitted residential which are clearly spelled out in the RN1 to RN4 zones. The B-1 provides for residential uses but not in the language, page 5-7.
4. Conversions 6.4.12, additions to “existing structures” in all RN zones. What does “existing structures” mean? All residential and nonresidential structures? Should ‘Conversions’ with sub categories for additions, residential and non-residential be added to the Use Standards Table?
5. Definitions includes definition of “on-peninsula and off-peninsula, where is the definition for “on or near peninsula”?
6. No definitions for “arterials” vs corridors or other accepted street type designations?
7. No definition for “urban neighborhoods”?
8. What affect does “housing bonuses” potentially have on proposed 65 height in the B-2 and B2b zones?

Again, thank you!!

Sent from Mail for Windows

From: Helen Donaldson
Sent: Friday, July 14, 2023 12:35 PM
To: Connect Portland
Subject: Re: Questions First Wave ReCode Changes

Anyone who has subscribed via https://www.recodeportland.me/contact-us receives email updates. And of course we are making every effort to reach beyond this mailing list to spread the word as widely as possible.

Thanks again for your comments.

Nell Donaldson

On Fri, Jul 14, 2023 at 7:10 AM Connect Portland <connectptld@gmail.com> wrote:

> Thank you, Nell. What Recode mailing list are you referring to? Who is on this list? We would like a copy. How will you notice beyond referring people to the ReCode website as most people are not aware and it is a very complicated document especially for the lay person? How will you reach a city-wide audience given the implications to every neighborhood in the city?

Sent from Mail for Windows

From: Helen Donaldson
Sent: Thursday, July 13, 2023 4:37 PM
To: ReCode Portland
Cc: Connect Portland
Subject: Re: Questions First Wave ReCode Changes

Thank you for your interest in ReCode. Please see responses below, and don't hesitate to follow up with additional questions.

Nell Donaldson

On Tuesday, July 11, 2023 at 11:12:01 AM UTC-4 Connect Portland wrote:

1. A meeting was organized for housing developer “stackholders” on ReCode. Will there be similar meetings for affected neighborhood resident “stackholders” in order to engage the community for their feedback on ReCode? *In-person events are being scheduled for mid-August. The ReCode website is the best place to stay informed about these events as they are planned. Notice will also be sent via the ReCode mailing list.*

2. How will the real possibility of demolition of single-family homes to build multi-family structures be addressed in ReCode? *Generally speaking, the approach reflected in the draft changes is to allow for conversion from single-family to two-, three-, four-, or multi-family where the higher-density use is permitted within the zone, but to try to ensure that these conversions are achieved in a way that reflects the existing built context (i.e. the pattern of setbacks, heights, and design choices characteristic of the surrounding neighborhood). This is why the draft changes don't include drastic changes to residential dimensional standards. This approach is a direct response to the comprehensive plan goal to support more housing choice in Portland.*

3. Where will the Transit Oriented Development (TOD) be located? Define “urban neighborhood” and “on or near peninsula”? TOD heights with a maximum of 80 ft and 125ft in or near residential seems excessive. Doesn’t the B2b transit nodes sufficiently address TOD in a more compatible way in highly residential areas in or near peninsula? *This feedback on the TOD zones is helpful, and yes, there is some overlap with several of the mixed use zones, including the B-2b, which encourages a dense, urban form. The TOD zones would be new, so we welcome feedback on appropriate locations for them. TOD zone locations will ultimately need to align with areas that have current or planned transit service.*

4. Did the B2 and B2b get consolidated? If so, it appears the height has increased significantly in the Dimensional Standards? *No, they were not consolidated, although many of the use permissions and dimensional standards for these two zones are the same (both in the existing code and in the draft). The heights have been adjusted.*

5. Are ‘Conversions’ of non-residential structures allowed in all residential and business zones? How do “Conversions” differ from proposed “Reuse” of non-residential structures? *Neighborhood nonresidential reuse has been added as a conditional use within all residential zones. See Section 6.4.26 for use standards*

6. New Alternative Residential Development Options (Conservation and Cottage Court developments) that allows small lot development, does it apply to all zones? Should it be added to the Use and Dimensional Tables? *Section 7.4 describes which zones would allow these options. We may also consider integrating them into the use and dimensional tables in the final drafts if they can be successfully formatted as tables.*

7. How do these proposed changes align with the ReCode II recommendations which stated that pretty much all residential zones should be evaluated for bringing zone standards closer to historic patterns of

development with decreased lot sizes, reduced dimensional requires, zone changes and allowances for a diverse range of housing types across the city's neighborhoods to make Portland a more "equitable" city? All mainland residential would permit at least two-family dwellings (R1, R-2 and R-3) does not appear to pass the 'straight-face test' for fair and equitable diversity in expanding housing opportunities within residential ones. The R-5 residential zone is being proposed for the most significant changes as is R-4 in the Western Prom. *The proposed changes try to strike a balance between creating opportunities for new housing everywhere and acknowledging that not all parts of the city are the same. So while the drafts show a stepping up in terms of residential uses (and as appropriate, dimensional standards) in all residential zones, the existing residential zone structure is generally maintained, reflecting a range of residential contexts, from lower to higher density.*

8. The ReCode II evaluation in the 'overview" of zones grouped all neighborhoods within their respective zones which does not fairly distinguish the differences between them. For example, neighborhoods in the R-5 such as the USM area, Deering Highlands, Back Cove, East Deering, North Deering, Oakdale, Deering Center are all vey different. One size does not fit all in established neighborhoods within the same zone but in different city locations, and evaluation and recommendations are NOT sensitive to differing neighborhood context as an identified land use objective. How can this issue be addressed? *We appreciate that neighborhoods within zones can vary. The drafts address some variation in form by proposing context-based dimensional standards (see setbacks, for instance). Suggestions about further distinctions are more than welcome.*

The work that has gone into these recommendations is to be commended. Thanking you in advance for a response to our questions.

Sent from Mail for Windows

Notice: Under Maine law, documents - including e-mails - in the possession of public officials or city employees about government business may be classified as public records. There are very few exceptions. As a result, please be advised that what is written in an e-mail could be released to the public and/or the media if requested.

--

Nell Donaldson
Director of Special Projects

City of Portland
(207) 874-8723
hcd@portlandmaine.gov

planning & urban development

[Quoted text hidden]

Helen Donaldson <hcd@portlandmaine.gov>

Question on Proposed Language

3 messages

Andrew Schiller <aschiller@schillergroup.com> Fri, Jul 21, 2023 at 12:19 PM
To: Helen Donaldson <hcd@portlandmaine.gov>

Hi Nell,

The proposed language for width of streets has an implied assumption that the street is the same width along its length. Or at least for the segment of street upon which the subject lot fronts the street.

This assumption appears to not always be true. Small pavement width variation exists. This does not pose a problem when pavement width is far wider than the proposed language guidelines. It does introduce ambiguity when the street has small pavement width variations that vary around the target width guidelines. This is the case for Bond Street, based on my measurements.

The section to which I refer is 6.4.1 (A.1.a).

Bond Street is over 20' in width (20' 2" of pavement width, from inside of curb to inside of opposite curb). But not uniformly along its length. Sometimes it is 19' 10", and so forth. Some variation.

Should the language clarify that one rounds up to the nearest whole foot? Or conversely take the minimum width measured?

The lot is at the corner of Bond and Orange. Clearly, as I get very close to the corner (directly in front of the lot) the streets are preparing to intersect and the pavement width increases further to perhaps 21' or 22'. But numerous feet back away from the intersection on Bond, and still in front of the lot in question, the pavement width measures over 20'. But a few feet further on and it measures 19' 10".

Practically speaking, there is no safety or access difference between 20' 2" and 19' 10". So it is not a public safety issue. But the language leaves this ambiguity on where to measure and if to round to the nearest whole foot (up or down), or to use the minimum width found in front of the lot. Or simply round to the nearest whole foot for the minimum width found in front of the lot. Do you have any thoughts on this?

Alternatively, this could be such a rare case that it is better to discuss it with the Fire Chief and/or the head of the DPW. I realize this falls squarely into the '90-10' rule of potentially an edge case! But I do want to be thoughtful and engage for clarity and balance the production of housing in Portland with safety.

Yours truly,

Andrew

Helen Donaldson <hcd@portlandmaine.gov> Fri, Jul 21, 2023 at 4:32 PM
To: Andrew Schiller <aschiller@schillergroup.com>

Andrew,

Thanks for providing such a specific case study for this language. Let us consider how the language might be interpreted here. Generally, minimums are minimums (i.e. there would be no averaging or rounding), but it's worth thinking about whether the 20' would need to be held for the entire street frontage requirement.

Nell
[Quoted text hidden]
--
Nell Donaldson
Director of Special Projects
City of Portland
(207) 874-8723

hcd@portlandmaine.gov

planning & urban development

Andrew Schiller <aschiller@schillergroup.com> Fri, Jul 21, 2023 at 4:46 PM
To: Helen Donaldson <hcd@portlandmaine.gov>

Hi Nell,

Thank you for thinking about this. In this case, if my measurements are correct, the street is over 20' wide in front of the lot. But not for all of the frontage. It is just a slight variation. But it does dip below 20'.

For your consideration, since streets tend to be reasonably stable in width (although imperfectly so as in this case), I would think if the street is 20' or more wide as measured somewhere in front of the lot, that would meet the minimum width requirement.

This is because, even if it dipped below, it is always just inches of difference and thus not a safety or access issue. This would allow the production of housing per the language and be in keeping with the intent to promote fire safety and unrestricted DPW access.

Yours truly,
Andrew

[Quoted text hidden]

> [Quoted text hidden]
> Notice: Under Maine law, documents - including e-mails - in the possession of public officials or city employees about government business may be classified as public records. There are very few exceptions. As a result, please be advised that what is written in an e-mail could be released to the public and/or the media if requested.

Gabe
unread,
8:33 AM (2 hours ago) 7/25/23
to recodep...@portlandmaine.gov

I watched your video and I understand how you are consolidating the zones.

No mention was made about how the allowed uses are changing.
Are there any allowed use changes expected for the RN-2 (formerly R3) zones?

--
Gabriel Zappia
1-207-370-0743 (Text is best, calls are silenced unless scheduled in advance

Helen Donaldson <hcd@portlandmaine.gov>

Re-code phase 2

Liv Chase <livchase@yahoo.com> Wed, Jul 26, 2023 at 4:18 PM
To: Hcd@portlandmaine.gov

The following sections and suggested edits are interpretations that directly affect the property I own here in Portland. Both are over sites that I would like to bring to your attention in hopes that we can talk further.
Sincerely,
Liv Chase

Section 6.4.1- width of a street is no less than 35'.

Amendment should contain the language that this requirement does not apply to accepted city streets. The original intent of this section was to make sure that existing paper streets were designed in a manner that was up to current fire code requirements. Preventing residential construction on accepted city streets that are already built on is not in line with the overall city goal of creating more affordable housing in areas that can accommodate development.

Under R-6 allowable uses: lodging houses should be excluded from this section or the definition of lodging house needs to be amended. Currently, the city is allowing housing of homeless residents and the operation of homeless shelters under this vague language in the land use code. The original intent of this section I believe was to accommodate b and b style housing. If the definition creates a decrease in value of the homes around it then it would make sense not to include this use under any residential zone. Drug trafficking, trespassing, and vandalism are all an outcome of this loophole that has impacted my property on the West end.

Sent from my iPhone

LD2003 Related Questions

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Damon Yakovleff
unread,
Aug 4, 2023, 3:11:48 PM (2 days ago)
to recodep...@portlandmaine.gov

Greetings,

I appreciate the outreach you have done on the recode changes! Thank you.

I have a few questions regarding how the changes interact with the requirements in LD2003. Specifically, it seems that the "growth area" is a key consideration. It is not clear exactly where the growth area is located. Please make sure this is clearly identified in the website.

Generally speaking, I'd suggest that all the dimensional requirements should be relaxed in all zones and density increased. For example, there's no need for a 5 ft. setback for 250sf accessory structures - this can be reduced to 3', etc.

Based on my reading of the proposed changes, it appears that the new RN1, and possibly the RN2 zones, are not considered the "growth area" because they do not allow 4 or more units. I would suggest that the "growth area" should be defined as "anywhere in mainland Portland served by public water and sewer'. All of these locations should be zoned for medium to high residential densities. Separate considerations for the islands make sense.

Related to this, please add clarifying information regarding the 2.5 times density bonus required by LD2003 to the recode website. It appears that this would apply in all areas except for the RN1 zone, since all these locations are served by public water and sewer and allow multifamily dwellings. The RN2 zone is a bit odd, in that it does not permit the 3 and 4 unit development required in growth zones but does allow for multifamily development. This ambiguity should be clarified.

Generally speaking, please work to include more information about how Portland is complying with LD2003 on the recode website. Look to relax dimensional requirements. And also clear up ambiguity with the RN2 zone, and provisions around the 2.5x density bonus.

If Planing staff would like to take time to discuss this with me, I'd be happy to find a time to meet up.

Again, thanks for your efforts on this, I know it is a ton of work.

Damon

Question

0 views

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Jill Roland

Aug 6, 2023, 6:47:44 PM (18 hours ago)

to recodep...@portlandmaine.gov

Why not add the R1 and R2 zones - both higher income areas - to the process?

Jill R

Helen Donaldson <hcd@portlandmaine.gov>

Public Comment - ReCode II "First Wave"

Anne Pringle <anne.pringle.me@gmail.com> Tue, Aug 8, 2023 at 12:55 PM
Cc: "Grimando, Christine" <CDG@portlandmaine.gov>, Kevin <kkraft@portlandmaine.gov>, "Donaldson, Nell" <hcd@portlandmaine.gov>

WESTERN PROMENADE NEIGHBORHOOD ASSOCIATION

August 8, 2023

To Portland Planning Department

Re: ReCode II Comment

On March 9, 2015, the WPNA sent a formal letter (below) expressing concerns about the then-proposed (later-enacted) density changes to the R-6. On its face, it made sense to conform zoning to the then-existing development pattern, which would not have been allowed under the existing zoning.

Unfortunately, we believe that the “unintended consequences” we foresaw have come to pass on Munjoy Hill. And now, it appears that the density proposals in ReCode II might follow the same approach and thwart the policy objective that failed on Munjoy Hill – to produce more affordable housing.

Before going forward with the public review process, we **formally urge that you slow the process down and take stock of what has happened on Munjoy Hill** since the density was change. These questions must be answered:

~~How many existing units were demolished? What was the location and assessed value of each of those units? At the then-assessed value, were these units considered “affordable”?

~~How many new units were created, either on cleared land or vacant land? What was the sale price of each unit created?

~~How many “affordable units” were created on Munjoy Hill? How many units were affordable to “the missing middle” vs. subsidized housing?

~~If developers opted out of creating the required affordable units, how much money was contributed to the Duson Housing Fund? How many “affordable” units, in aggregate, would those donations have created in this expensive construction market?

~~Was there a net loss of affordable units on Munjoy hill?

ReCode II could produce very significant and unintended changes in Portland’s housing stock and affect the composition of its residential neighborhoods, as the R-6 changes sis on Munjoy Hill. Let’s take time to “get it right”.

WPNA looks forward to a formal response to this request for analysis.

This letter is intended as a formal comment on ReCode II.

Very truly yours,

(s) Anne B. Pringle

President

WPNA Letter of 3.9.15 on proposed changes to the R-6:

WESTERN PROMENADE NEIGHBORHOOD ASSOCIATION

March 9, 2015

Portland Planning Board

389 Congress Street

Portland, ME 04101

Re: Proposed Changes to the R-6

Dear Planning Board Members:

I am writing as the President of the Western Promenade Neighborhood Association to provide comments regarding the proposed changes to the R-6 zones in the City.

First, we appreciate and agree with the basic approach of better conforming zoning to the existing development pattern and to allow existing structures more flexibility in meeting the needs of owners. That said, “the devil is in the details” and we have the following comments:

1) Unintended Consequences We are very concerned that the proposed significant increase in density will result in the development of even more housing that is unaffordable to the vast majority of Portland residents. In particular, we continue to be concerned about the potential for the smaller, affordable single-family houses to be cut up to small condos for couples.

2) Focus First As suggested in a prior email comment, perhaps the focus should first be on ”stranded lots”, development of which is constrained by existing zoning. Apply the proposed new zoning regime to these lots and see what kind/cost of housing is proposed before making a wholesale change in the entire R-6.

3) Development and Development Criteria It is evident that the reduction or functional elimination of many of the R-6 zone limitations is a significant benefit to the development community. The City and its citizens should get something in exchange for the reduction in the limits:

- *Higher Building and Energy Efficiency Requirements* – As a *quid pro quo* for the elimination of many limits on building and/or renovation, the City should adopt its own building code for the R-6 which would, for example, require any new construction and/or major renovations to be done to a LEED standard or the highest energy efficiency standards that can reasonably be met.

- *Provision for Plantings and Planting Requirements* – Trees, shrubs and plantings are visually appealing, but also reflect and absorb heat. An accessible example is the difference between parking one's car on a hot day on a shopping center parking lot, versus a city street with trees and plantings. Studies have been conducted showing a "heat trap" effect in cities without plantings. With the changes in reduced set-backs, etc., the amount of trees and plantings might be minimal, if left to a developer. The City should mandate a provision for trees and plantings as part of the R-6 revisions.

4) Impacts. The R-6 proposals simply lower the restrictions on building. As described above, the City and its citizens should not, as an unintended result, lose what is now an appealing city-scape. Even renovations and conversions have an impact. Additional meters, wiring and non-owner occupations will change the current "feel" of Portland, and likely not in a positive way.

Allowing garage openings of any size in the front façade of new townhouses will bring a undesirable suburban design element to the peninsula and does not in any way reflect the current development pattern of garages or off street parking spots to the side or rear of properties. NO garage opening should be allowed in front facades, period.

The City should consider expanding the Historic District areas to allow oversight on new construction. For example, aesthetically, when previously one started up Congress into Munjoy Hill, the sense was that one was entering a neighborhood. Just the few higher elevation structures recently constructed on Congress Street have changed how that is experienced. Because of the impact of those few buildings, it feels now that one remains in an extension of an urban core area.

Lastly, we add an important general comment. The sentiment expressed by the staff and Planning Board seems to imply that new building in the R-6 will necessarily result in more affordable housing. That idea is misplaced. The most expensive and desirable land, of which there is a scarcity, is on the peninsula. If a developer is going to incur the expense of acquiring such land and building on it, it is not going to be for the purposes of creating affordable housing. It will be to capture the explosive market demand both in the sale and rental market. As Economics 101 seems to indicate that

increased density will allow a property owner to set a higher asking price, which would then be spread over the increased number of units. Depending on the market premium the added density provides, it seems unlikely that workforce housing will be produced.

The Western Promenade Neighborhood Association appreciates the early outreach to neighborhoods and encourages the Board to give very careful consideration to the many concerns being expressed by residents.

Very truly yours,

Anne B. Pringle

President

--

PLEASE NOTE that I have migrated to a new email address: anne.pringle.me@gmail.com and I will no longer be using oldmayor@maine.rr.com. Please update your address book accordingly.

Squarespace
unread,
Aug 9, 2023, 4:30:14 PM (22 hours ago)
to recodep...@portlandmaine.gov

Sent via form submission from *ReCode Portland*

Name: Patrick Hess

Email Address: phess@avestahousing.org

Subject: Zoning along Oxford St

Message: Oxford St in West Bayside offers good opportunities for infill development, especially of much-needed housing, close to transit, services, and amenities on peninsula. The zoning however is inconsistent. For example, between Chestnut and the block between Cedar and Elm, the City should consider rezoning to extend the adjacent B7 found along Oxford east of Chestnut.

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Squarespace
unread,

Aug 9, 2023, 4:09:17 PM (22 hours ago)

to recodep...@portlandmaine.gov

Sent via form submission from *ReCode Portland*

Name: Nate Howes

Email Address: nhowes@avestahousing.org

Subject: Height Limit on Peninsula - Crest of Bayside (Cumberland Ave)

Message: The block at the NE corner of Cumberland and Elm is under-zoned (85’ max height) compared to the block on the NW corner of Elm and Cumberland (105’ max height), especially given its location immediately across the street from the Metro transit hub. Portland should be prioritizing density along busy corridors like this in the core of the downtown peninsula. The 105’ height overlay should be applied on the NE corner block.

Manage Submissions

Does this submission look like spam? Report it here.

Helen Donaldson <hcd@portlandmaine.gov>

Fwd: ReCode Comments for Workshop

jmy <jmy@portlandmaine.gov> Fri, Aug 11, 2023 at 9:09 AM
To: Helen Donaldson <hcd@portlandmaine.gov>, Christine Grimando <cdg@portlandmaine.gov>

---------- Forwarded message ---------
From: Cheryl Leeman <cal4161@yahoo.com>
Date: Friday, August 11, 2023 at 7:08:25 AM UTC-4
Subject: ReCode Comments for Workshop
To: planningboard@portlandmaine.gov <planningboard@portlandmaine.gov>

TO: Planning Board Chair Mazer and members

More public engagement is needed! Although there have been videos and there are 3 planned Open Houses, it is not enough. There should be more outreach to neighborhood groups and additional forums in the neighborhoods affected by an urban planning approach to land use codes with sweeping changes that in some cases does not appear to "respond to each areas context." And it is unfortunate that the Planning Board will not have the benefit of public comment from these forums for their Workshop.

Zone Purpose Statements:
All Zone Purpose statements should be clearly defined as to what is or what is not permitted in the zone as opposed to open ended terms such as "on or near peninsula, select areas off-peninsula and along arterials.

-RN-5 (R-6) includes new inserted text that states and "in select off-peninsula locations."

-Inconsistencies in Zone Purpose Statements regarding type of "residential" or "mixture of residential" which are not clearly spelled out in every zone.

-Transit Oriented Development (TOD) -1 is off-peninsula and -2 is on or near peninsula with no indication as to where and new zone is similar to the B2-b.

Use/Dimensional Tables:

Use/and Dimensional Tables do not include all the proposed changes – **confusing** as there are changes in the text but not included in the Use Table Examples; Conversions for Non-residential and Residential, Conservation and Cottage Court Developments and no footnote references in the Use Table that corresponds with the Dimensional Table

Business Zones:

Every Business Zone includes “residential” to encourage housing is in conflict with it stated purpose of providing for a mixture of commercial as their primary use.

Major changes to Business zones with elimination of density limits to encourage residential urban compact, high-intensity development with increased heights from 45ft to 65ft. (B-2 are major parcels of land abutting neighborhoods such as Shaw's, Hannafords, Northport, Allen Avenue intersection, Ocean Avenue, former Rainbow Mall on Washington Avenue, Congress Street, Forest Avenue, Woodfords/Morrills Corners and St. John Street). NOTE: Does not reference “density bonuses”that will impact the height (perhaps a footnote).
B-2 and B2-b consolidated yet are different in their purpose. The ReCode II recommendation states that the B2-b appears to be working well... the “gradients” in use B-2 zones appear to primarily address levels of commercial intensity and transitions to adjoining neighborhoods. As such, there is likely a need to maintain them.

Removed distinction from Dimensional Standards between on-peninsula and off-peninsula in B-1, B-2 and B2-b zones. There should be a softer approach to transitioning urban, compact development that abut highly residential areas.

NO classification of streets that identify arterials, connectors and local roads by recognized traffic standards.

RP zones added “residential” as permitted use whereas in the current language it states, “any residential use permitted in the nearest residential zone.”

Residential:

Removed Planned Residential Unit Development, (PRUDs) and Small Lot Development which have worked well to increase density more in keeping with historical pattern of neighborhoods,

Only decrease in lot size of any significance is in the R-5 (RN-4) from 6,000sf to 5,000sf with addition of three and four family dwellings including conversions.

Removed from current Use Standard Table is **Off-street parking** as Conditional use “to insure compatibility with the immediate neighborhood.”

Group home restriction that they can not be located within 500ft of another has been eliminated.

Demolition of existing structures NOT addressed as a prohibition to achieve proposed changes.

Other observations:

Section referencing to “undefined” terms (1.8 Rules of interpretation, Section 1.8.1 Meaning of word and terms if not stated are interpreted by common dictionary meaning or customary usage... To insure correct interpretation, terms to be defined should include definition of urban, urban compact development, on or near peninsula (on-peninsula south of I295 and on-peninsula north of I295), classification of streets (arterial, collector or local), Dwellings (Conservation and Cottage Court),

Changed Limitations on Conditional Use from 6 months to 5 years

Landscape and screening changes do not address residential or the recommendations in ReCode II for a stated need to evaluate and revise for consistency and clarity.

NO analysis of impact of these changes regarding traffic, parking, environment, infrastructure and city resources. Studies show that

“urbanization” can cause environmental and economic strain of land and people.

Squarespace
unread,
Aug 11, 2023, 5:58:33 PM (2 days ago)
to recodep...@portlandmaine.gov

Sent via form submission from *ReCode Portland*

Name: Phyllis Guevin

Email Address: phyllisguevin@icloud.com

Subject: Cramming smaller and taller buildings in Portland

Message: Could you please provide the traffic studies that should coincide with any city growth considerations .We need to limit the number of people in our city to avoid adding more traffic until road widening,overpasses,and extensive planning for more cars which our current roads cannot handle as they ave not been widened since the forties.Let's concentrate on comfortable ,safe ,wide roadways to accommodate auto traffic while keeping population growth in the city at a minimum.There is a great need for population growth in northern maine to fill vacant jobs.We can make bike trails in the woods and parks to keep our roads safe for car travel the most practical mode of transportation in our wintry state.Iam not in favor of taller buildings due to blocking our views.Again overcrowding residential lots is not

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Recode Phase 2

0 views

Subscribe

Leslie Hart
unread,

Aug 13, 2023, 6:31:52 PM (15 hours ago)

to recodep...@portlandmaine.gov, Christine Grimando, kkr...@portlandmaine.gov, Helen Donaldson, Ice

As a Portland resident, I am writing to encourage you to slow down the rapid-fire rush to approve Recode Phase 2 until all constituents have ample time to review and comment upon the sweeping changes in this proposal and their potential negative impacts on the city.

Many of the Recode Phase 2 elements fly in the face of the City's Portland Plan 2030 adopted by the City Council in June 2017.

Specifically the comprehensive Portland Plan, developed with input from city-wide stakeholders, recognizes ***Portland's built environment and natural environment are inseparable in any consideration of sustainable quality of place***

The Portland Plan calls for **creation of complete neighborhoods** by

- improving livability while retaining the key characteristics that make neighborhoods unique
- maintaining and enhancing the uniqueness and integrity of our neighborhoods
- maintaining our character through preservation, innovation, and excellence in design for the built environment
- developing land use policies which support complete neighborhood

Yet the Recode Phase 2 plan would

- do away with conserving the existing housing stock and residential character of neighborhoods....and controlling the scale of external impacts of professional offices of non-residential use
- permit increased height from 45ft to 65ft or 50ft if there is first floor commercial use in the B-2b zone along Washington Avenue & Bayside
- reduce set-backs so that the amount of trees and plantings would be left to a developer and might well be minimal
- not make Portland any more equitable or affordable
- not facilitate the type of housing and business Portland residents desire

The Portland Plan also acknowledges that **Diverse forums for community engagement will remain essential to a strong civil society.** Yet three rushed meetings crammed back-to-back in three days hardly constitutes adequate and diverse forums for community engagement.

Please provide more time and opportunities for the public to engage. And please respect the vision for Portland that was established in 2017 by the Planning Board, the City Council, Office of the City Manager, all under the leadership of Project Manager Christine Grimando.

Thank you

Leslie Hart

917.364.3682

215 Sheridan St.

Portland ME 04101

blesliehart@gmail.com

Kevin Schochat

917.597.4154

215 Sheridan St.

Portland ME 04101

kevin@kevinschochat.com

Richard Marino
unread,

Aug 13, 2023, 2:32:54 PM (18 hours ago) to recodep...@portlandmaine.gov, Christine Grimando, plan...@portlandmaine.gov, counc...@portlandmaine.gov, Richard Marino

From: Richard Marino <marino04102@yahoo.com>
Date: August 13,2023
Subject: Recoding Portland

Regarding the recoding of Portland I would like to make several comments and suggestions.
I believe many of the recommendations are fine. Especially in respect to ADUs. My biggest concern is the increase in height and density in B1. As an abutter in a R6 neighbor zone it will dramatically affect my residence. I and my neighbors were prepared to live under the current situation. In our particular development of Munjoy Heights we have 29 townhomes on 68000 square feet. If the proposed changes go thru our neighbor at 165 Washington Avenue could develop most of 70,000 square feet to a height of 50 feet. It probably would in effect be a building of 5 stories as opposed to 4 stories. All of this without any input from the people it affects most.
From an aesthetic perspective and density perspective this is too much.
I understand the need for more housing in Portland. There has to be a balance between the citizens that live in the city and the community of special interests that will gain financially from development.

I do have a recommendation for B1 as it pertains to 165 Washington Ave. I can't speak to other areas in the B1 zone. I would suggest a height of 40 feet (average existing grade for a benchmark as suggested in the recode). I would also recommend an increase in height up to a maximum of 60 feet as long as it does not increase the net total of square feet. Any increase on part of a building would be offset by a decrease on other parts to maintain the 40 foot average. This could make the building more interesting by getting away from the monolithic boxes that are being built now. This would give the developer an opportunity do develop 260,000+ square feet.
I would like an opportunity to discuss the recoding with as many people as possible. I am away until September 15 so I am unable to attend the presentation this week. If we could schedule a time after September 15 that would be great.

Richard Marino

226 Sheridan

207 756 0553

Gabriel Ruffin
unread,

9:05 AM (21 minutes ago)

to recodep...@portlandmaine.gov

Aug 14, 2023

Greetings,

I haven't learned much about the changes that the City of Portland is making to the zoning laws, but from what I understand I am in support of the new changes. I really appreciate the changes to areas that were previously single-family-zoning exclusive to allow for double-family residents. I also appreciate the addition of Transit-Oriented-Development zones, one of the places in which I believe Portland has the most room for improvement. I believe the addition of more complex family housing into our existing neighborhoods will help all Portland residents with walkability, rent control, and quality of life. The current state of many of the "Single-Family" zoned spaces in Portland are being rented out, sometimes to upwards of 3 different tenants. With spaces zoned for additional residents to begin with, we may find that the price of some of these Attic and Basement 1-bedroom apartments will adjust to a new market normal, helping all Portland renters, esp. low-income folks. This effect is even greater when designing and zoning for multiple-family-zoning above 3 or 4 families, and so I am in favor of the City of Portland zoning additional space for those developments. With changes such as these on the horizon, I think Portland could be stepping towards a brighter, more affordable, easily walkable future.

Keep going!

Gabriel L Ruffin

mat.gabe10@gmail.com

kevin@kevinschochat.com

Helen Donaldson <hcd@portlandmaine.gov>

Fwd: 8/17/2023 PB Workshop: Recode Phase II- First Wave Public Comment Feedback Concerns

1 message

jmy <jmy@portlandmaine.gov> Mon, Aug 14, 2023 at 8:40 AM
To: Helen Donaldson <hcd@portlandmaine.gov>

Saved to the packet and web

---------- Forwarded message ---------
From: Karen Snyder <karsny@yahoo.com>
Date: Sunday, August 13, 2023 at 9:50:27 AM UTC-4
Subject: 8/17/2023 PB Workshop: Recode Phase II- First Wave Public Comment Feedback Concerns
To: Planning Board <planningboard@portlandmaine.gov>
Cc: Planning and Urban Development <planning@portlandmaine.gov>, Christine Grimando <cdg@portlandmaine.gov>, councilors@portlandmaine.gov <councilors@portlandmaine.gov>, Anna Trevorrow <atrevorrow@portlandmaine.gov>

To the City of Portland Planning Board Members,

On August 17, 2023, is the initial PB workshop for the Planning Department's Recode Phase 2 First Wave recommendations. Hybrid Planning Board ReCode Meeting • City of Portland Meetings & Agenda Portal • CivicClerk

The City of Portland Planning Department's Recode Phase 2 First Wave proposals are basically gutting and loosening residential zoning claiming that it will create "complete neighborhoods" in order to support the Comprehensive Plan is unfounded. What the Planning Department is currently recommending is very reminiscent to what they proposed in 2015 when they loosened R6 Zoning which resulted in a failed initiative in building more diverse and affordable housing for long term residents especially for the "missing middle".

Consequently, below are just some of the questions that need to be answered by the City of Portland Planning Department regarding their Recode Phase 2 First Wave recommendations that were released to the public on June 23, 2023.

Recode Phase 2- First Wave Question #1: How is the City of Portland Planning Department Ensuring that a Socioeconomic Diversity of Long-Term Residential Housing will be built especially for the "Missing Middle"?

- ***There is no factual evidence that the Planning Department proposed Recode Phase 2 First Wave recommendations will ensure that long term residential housing will be created especially for the "missing middle" or even to protect existing working- and middle-class housing stock. Proof of this is the failed 2015 R6 zoning change recommendations made by City of Portland Planning Department which primarily targeted Munjoy Hill.***
- For example,
- - Between 2016 to 2020, it is estimated that over 50 apartment rentals were removed from 19 demolitions to be replaced with over 100 luxury housing units mostly part-time housing with only 1 laughable "affordable" housing project at 65 Munjoy St which consisted of 8 housing units where people have to be making 120% of AMI which is approx $80,000/ annual income for a single person.

- The biggest consequence of the 2015 R6 Zoning change which primarily affected Munjoy Hill were:
  (1) the increase of luxury condos and luxury single family homes,
  (2) an accelerated property value assessments of existing housing stock with the highest avg property tax increase of 40% in the city, and
  (3) the price gouging and accelerated rents on existing rental units, and
  (4) the rampant increase in Airbnbs as the City continues to ignore enforcing the illegally operated Airbnbs

- These above consequences have caused Munjoy Hill to NOT be a complete neighborhood but a transient place where long-term residents have decreased with an increase of property investors and temporary residents made up of part time luxury condo owners and Airbnb's dragging their suitcases through the streets.

What will happen?

- These proposals will only motivate developers to continue to demolish in order to either create property investment luxury housing for the wealthy and/or subsidized low-income housing and push out even more middle-class tenants and property owners similar to what happened with the 2015 R6 zoning changes which resulted primarily in a proliferation of luxury condos and a reduction of long-term residents on Munjoy Hill.

Recode Phase 2- First Wave Question #2: How does the Planning Department think that Relaxing the Residential Neighborhood Zoning Language Will Ensure Long Term Residential Housing is Created?

City of Portland Planning Department has loosened most of the residential zoning language specifically targeting yet again on-peninsula neighborhoods (RN-5 formerly R6). Specific examples of this are shown below.

Example #1: The Gutting of RN-5 (formerly R6) Residential Neighborhood Purpose Statement.

In **Table 5-B: Residential Neighborhood Purpose Statement (page 27),** of the following document link, First Wave Changes - Comments — ReCode Portland, the City of Portland Planning Department has specifically removed from the RN-5 (formerly R6) Residential Neighborhood Zone Purpose statement the following verbiage "***conserve the existing housing stock and residential character of neighborhoods....and controlling the scale of external impacts of professional offices of non-residential use***"

What will happen?

- Large non-descript buildings with luxury condo or subsidized housing will be created with no ties to the neighborhood and not really be used for long term residential need.
- The lack of importance now in conserving or incentivizing existing housing stock by having an easier time to create more multi units without cost prohibitive improvements. For example, going from a 2-unit to a 3-unit should not require sprinkler systems when an existing 3-unit does not have to have a sprinkler system.
- The proposed RN-5 (formerly R6) residential neighborhood zoning statement will allow more commercial and/or non-residential use businesses such as Bed &Breakfast/Hostels/Lodging homes which are all temporary transient housing businesses an easier time to be built in residential neighborhoods instead of focusing on long term residential housing to be built or created.
- There is a no mention of a maximum lot size but only a minimum lot size of 2,000 sq ft. Theoretically, an entire block could be combined into one parcel instead of multiple existing housing rather than people crammed in large and sterile, solid housing blocks

like rats in a lab cage. Didn't the City learn during COVID that large buildings where people lived in close quarters are not livable in which people fled these cities where there was too much density and came to smaller cities such as Portland which are less dense?

Example #2: Allowing an Easier Time for More Commerical Business/Non-Residential Use Businesses in RN-5 (formerly R6) Rather than Focusing on Long Term Residential Housing.

In **Table 6-A: Permitted and Conditional Uses in Residential Neighborhood Zones (page 36)**, in following document link First Wave Changes - Comments — ReCode Portland, Planning Dept is relaxing how many commercial business and non-residential use businesses can be allowed in residential neighborhoods. For example:

1) Planning Department thinks it is okay to only allow most non-residential use businesses such as: bed&breakfasts, hostels and lodging houses (aka sober houses in RN-5(formerly R6) to RN-7 but yet NOT allow them in the other residential zones of RN-1 to RN-4. How is this fair and equitable?
The "Lodging House" definition on Page 9 of document states: " *A house, building, or portion thereof containing two or more rooming units, as well as common area, and providing individuals on not less than a monthly basis for compensation".* From my understanding, Lodging housing (aka Sober houses) are considered temporary housing for people (Note: *They don't even have to be Maine residents*). This type of housing is considered transient and "non-residential use" business (besides also the Bed/Breakfasts and Hostels) will only remove more long-term residential housing units within the RN-5 (formerly R6) to RN-7 residential neighborhoods. *Let us be very clear, long-term residents do NOT want to live next to transient housing such as: lodging houses, sober houses, bed& breakfasts or hostels. Long-term residents want to live in stable residential neighborhoods where there is an actual residential community and not a transient community which are less safe.*
2) In addition, currently, there is no transparency to easily identify in the land use code what residential properties are currently being used as non-residential use businesses such as lodging/sober houses or group homes. Note: There have been at least manually identified over 20 lodging/sober houses within residential neighborhoods without notifying residents that this type of transient housing businesses is actually operating in residential neighborhoods.
3) It also needs to be clear how many and how far apart these commercial businesses and non-residential use businesses are allowed in residential neighborhoods. **For example, the Planning Department has removed restrictions that group homes cannot be located within 500 ft of each other.**

What will happen?

- Not only Airbnbs are unregulated but now the City of Portland will allow an unlimited amount of non-residential use businesses with no restrictions to the number of Bed&Breakfasts, hostels, and lodging houses that can operate in residential neighborhoods. Consequently, with no restrictions, these types of non-residential businesses can overwhelm a residential neighborhood and remove long term residential housing units rather than ensuring there is enough long-term residential housing being built or created.

Example #3: Inconsistent and Unclear All the Different Non-Residental Use Businesses Allowed in the Residential Zones

- This is strange and not clear. In **Section 6.4.26 -Neighborhood Non-residential Reuse (page 52)**, in the following document link First Wave Changes - Comments — ReCode Portland, it lists additional non-residential use commercial

businesses such as: general offices < 5,000 sqft, general services < 5,000 sq ft, restaurants, retail < 5,000 sq ft, specialty foods, studios for arts that can be opened up within residential neighborhoods without listing these commercial/non-residential reuse businesses on page 36 of Table 6-A: Permitted and Conditional Uses in Residential Neighborhood Zones.

What will happen?

- It needs to be clear in Table 6-A (page 36) all the differing types of commercial and non-residential use businesses that are allowed in residential neighborhoods and how far apart these non-residential use businesses can be located between each other. All these different business types can potentially overwhelm residential neighborhoods with commercial and non-residential use businesses rather than long term residents.

Question #3-Recode 2 First Wave: Recode II First Wave Public Feedback Time is Charade of Public Engagement and is Nothing but Theater.
City of Portland Planning Department headed by Planning Director, Christine Grimando, and Special Project Director, Helen "Nell" Donaldson, claim they want public feedback prior to going to Planning Board workshop is disingenuous. Below is the City of Portland Planning Dept timeline for Recode Phase 2 First Wave public feedback.

- **Friday, 6/23/2023 - Email from City of Portland Planning Dept announcing their proposals for Recode Phase 2 First Wave Changes**
- **Wednesday, 8/16/2023 - Planning Dept Open House on Recode Phase 2**
  11am - 1pm Portland Public Library
  5pm-7pm Lyseth Elementary School Library
- **Thursday, 8/17/2023 - Planning Dept Open House on Recode Phase**
  11am-1pm - Peaks Island Library
- **Thursday, 8/17/2023 Planning Dept Planning Board First Recode Phase 2 Workshop**
  (Same Day as Last Public Open House Meeting, How can Planning Dept incorporate any public feedback changes in a day?)
  Hybrid Planning Board ReCode Meeting • City of Portland Meetings & Agenda Portal • CivicClerk

What will happen?

- This above public feedback timeline only proves that the City of Portland Planning Department is only wanting to "tick the boxes" by quickly holding public feedback meetings in the summer when they know residents are not engaged at inconvenient times and inconvenient places then immediately holding the first Planning Board Recode Phase 2 First Wave **the same week** in order to slip by as much as possible passed Portland residents.

Unfortunately, until the City of Portland Planning Dept can prove otherwise, this Recode Phase 2 First wave proposals will once again cause Munjoy Hill and possibly other residential neighborhoods to become more of temporary enclaves for the wealthy and/or subsidized housing while continue to pushout even more working- and middle-class long term residential property owners by continued unfair and inequitable property tax increases which will be passed to their tenants without protecting or ensuring long term residential housing is being created especially for the missing middle.

Ultimately, it appears the City of Portland Planning Department does not want actual long-term residents but a "Disney Land" city where the housing density is for property investment use and to cater to commercial and non-residential business owners. Long term Portland residents need to

realize the City of Portland is registered as a corporation in which policies are NOT meant to ensure long term residential housing and long-term residents but instead policies are created to favor businesses that cater to property investors, real estate, tourists, wealthy, non-profits and restaurant industries at the expense of long-term residents and the environment.

Do people still wonder why there is a housing crisis in this city and in this country?

Regards,
Karen Snyder
Waterville St.

Helen Donaldson <hcd@portlandmaine.gov>

Recode Phase 2

Ritter, Gregg (MMA) <Gregg.Ritter@marshmma.com> Mon, Aug 14, 2023 at 10:06 AM
To: "recodeportland@portlandmaine.gov" <recodeportland@portlandmaine.gov>, "CDG@portlandmaine.gov" <CDG@portlandmaine.gov>, "kkraft@portlandmaine.gov" <kkraft@portlandmaine.gov>, "hcd@portlandmaine.gov" <hcd@portlandmaine.gov>

Good Morning ~

As I also have been thinking of ways to express my concern over the recent news of recoding phase 2, I believe Leslie's points said it best and I will echo her concerns and statements below.

As a Portland/Munjoy Hill resident, I too am writing to encourage you to slow down the rapid-fire rush to approve Recode Phase 2 until all constituents have ample time to review and comment upon the sweeping changes in this proposal and their potential negative impacts on the city.

Many of the Recode Phase 2 elements fly in the face of the City's Portland Plan 2030 adopted by the City Council in June 2017.

Specifically the comprehensive Portland Plan, developed with input from city-wide stakeholders, recognizes ***Portland's built environment and natural environment are inseparable in any consideration of sustainable quality of place***

The Portland Plan calls for **creation of complete neighborhoods** by

- improving livability while retaining the key characteristics that make neighborhoods unique
- maintaining and enhancing the uniqueness and integrity of our neighborhoods
- maintaining our character through preservation, innovation, and excellence in design for the built environment
- developing land use policies which support complete neighborhoods

Yet the Recode Phase 2 plan would

- do away with conserving the existing housing stock and residential character of neighborhoods....and controlling the scale of external impacts of professional offices of non-residential use
- permit increased height from 45ft to 65ft or 50ft if there is first floor commercial use in the B-2b zone along Washington Avenue & Bayside
- reduce set-backs so that the amount of trees and plantings would be left to a developer and might well be minimal
- not make Portland any more equitable or affordable
- not facilitate the type of housing and business Portland residents desire

The Portland Plan also acknowledges that **Diverse forums for community engagement will remain essential to a strong civil society.** Yet three rushed meetings crammed back-to-back in three days hardly constitutes

adequate and diverse forums for community engagement.

Please provide more time and opportunities for the public to engage. And please respect the vision for Portland that was established in 2017 by the Planning Board, the City Council, Office of the City Manager, all under the leadership of Project Manager Christine Grimando.

Thank you

Gregg Ritter, CIC, MLIS, AIC

SVP, ME/MA Sales Manager

T +1 207 523 2283 | M +1 207 712 7023

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From: Leslie Hart <blesliehart@gmail.com>
Sent: Sunday, August 13, 2023 6:32 PM
To: recodeportland@portlandmaine.gov; CDG@portlandmaine.gov; kkraft@portlandmaine.gov; hcd@portlandmaine.gov
Cc: Ice <kevin@kevinschochat.com>
Subject: Recode Phase 2

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Helen Donaldson <hcd@portlandmaine.gov>

Recode Phase 2 feedback

Ann Casady <anncasady@yahoo.com> Mon, Aug 14, 2023 at 7:38 PM
To: recodeportland@portlandmaine.gov, CDG@portlandmaine.gov, Kevin Kraft <kkraft@portlandmaine.gov>, hcd@portlandmaine.gov
Cc: Peter Pitegoff <ppitegoff@gmail.com>

August 14, 2023

Today we were in the Old Port and saw how many people -- tourists and residents alike -- were out and about on a Monday! They were enjoying our remarkably charming city, strolling and photographing the quaint buildings. We see the same activity in our beautiful residential neighborhood in Munjoy Hill. The historic architecture, the green space, trees lining the streets, public parks -- these are treasures!

We urge the Planning Department to slow its hurried timetable to approve Recode Phase 2. We must plan our city's growth in a way that preserves green space between multi-unit homes and respects the separation of business districts and residential districts. Please allow for more time to gather input from residents and take seriously the concerns you hear.

What happened to the City's Portland Plan 2030 adopted by the City Council in June 2017?

The comprehensive Portland Plan 2030 recognizes Portland's responsibility to the built and natural environment as critical to a sustainable quality and sense of place.

The Portland Plan emphasized the following points that should guide the city planning department:
• improving livability while retaining the key characteristics that make neighborhoods unique
• maintaining and enhancing the integrity of our neighborhoods
• maintaining the city's character through preservation, innovation, and excellence in design for the built environment
• developing land use policies that support complete neighborhoods

It appears that the Recode Phase 2 plan would:
• Reduce set-backs without requiring developers to include sufficient treees and plantings. Portland needs green space interspersed throughout neighborhoods.
• Compromise the existing housing stock and residential character of neighborhoods in favor of big blocky buildings with over-priced condos.
• Permit increased height if there is first floor commercial use in the B-2b zone. At risk is the popular and neighborhood friendly Washington Avenue -- a very walkable space lined with buildings of modest height.

The Portland Plan also acknowledges that diverse forums for community engagement remain essential to a strong civil society. There are only three meetings scheduled in three days. That does not provide
adequate and diverse opportunity for community engagement.

As the Joni Mitchel song goes:
"Don't it always seem to go
That you don't know what you've got
Till it's gone
They paved paradise
And put up a parking lot"

Please provide more time and opportunity for the public to engage. And please respect the Portland Plan 2030 vision that was established in 2017 by the Planning Board, the City Council, and the Office of the City Manager.

Thank you,

Ann Casady & Peter Pitegoff
205 Sheridan Street
Portland, Maine 04101

207.450.4745
anncasady@yahoo.com

Helen Donaldson <hcd@portlandmaine.gov>

Recode Phase 2 feedback

DAVID MACHESNEY <dmaches101@aol.com> Mon, Aug 14, 2023 at 11:22 PM
To: recodeportland@portlandmaine.gov
Cc: cdg@portlandmaine.gov, Kevin Kraft <kkraft@portlandmaine.gov>, hcd@portlandmaine.gov

To all those involved with organizing and informing the general public about Recode Portland:

Respectfully, we believe you are not adequately allowing the citizens of Portland to hear about the new Recode proposal. The changes in this motion are a radical departure from the 2030 plan adopted in 2017. It warrants more time for residents to learn of the ramifications and implications for future development in the city. Three information sessions ,two in the middle of the day , in the middle of summer, is not fair or sufficient. If you work , or have children, the meeting times and locations are not feasible or accessible. Realistically, the only individuals that can easily attend these odd times are those with flexible schedules or retirees; hardly a true representation of the population.

There has been little to no publicity about the Recode meetings. It would be prudent and good policy to :
1) Offer multiple information sessions in each community of the city, (East End, West End , Deering, downtown, Munjoy Heights ,etc) at various times of the day and evening
2) Do mailings and public media announcements about the program explaining what “Recode Portland “ is and when and where the public can learn more.
3) Plan the information sessions over several months so the citizens have a chance to hear and express their concerns.

Unfortunately, the current roll out of this program is giving the appearance of being pushed through to favor easier and not necessarily thoughtful new development in Portland. We are not sure this is the intention of the Recode organizers or the Planning Department. There needs to be much more effort to explain the Recode plan than is currently being executed.

We ask that all involved in bringing this new proposal forward, take a breath and be mindful and transparent to the Portland residents.. It is the right thing to do. Please give all of us a chance to become more informed and digest what this new proposal entails.

Thank you in advance,

Nancy Machesney
David Machesney
213 Sheridan St

Form Submission - Contact us Re:Code - Please provide and discuss the traffic studies that had to be done.

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Squarespace
unread,
Aug 15, 2023, 5:42:42 PM (2 days ago)
to recodep...@portlandmaine.gov

Sent via form submission from *ReCode Portland*

Name: Phyllis Guevin

Email Address: phyllisguevin@icloud.com

Subject: Please provide and discuss the traffic studies that had to be done.

Message: Everything I just read is counter to what native Portlanders want,seniors need,and the Maine climate requires,I.e.,improved and widened roadways with removal of bike lanes and decreasing unnecessary streetparking.This is a foolish idea and will be voted down.

Form Submission - Contact us Re:Code - Feedback on public workshop

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Squarespace
Aug 16, 2023, 11:03:22 PM (yesterday)

to recodep...@portlandmaine.gov

Sent via form submission from *ReCode Portland*

Name: Julie Dubovsky

Email Address: jrdubovskys@gmail.com

Subject: Feedback on public workshop

Message: My apologies for not getting to drop a comment - I blame my toddler - but I meant to relay a positive comment on the extensive work and excellent website. I brought my parents along and in case they don't relay their feedback, I wanted to jot it down.
1. Zoning is intimidating - Maybe a poster or a Zoning 101 video to add to the videos on the Resources page and something at the workshops to help the general audience understand.

2. "What's it mean to me?" - I bet everyone is asking for a map showing the zone changes. I did nudge a stranger to pick up the binder of the existing code to look at the use changes, but maybe a sign being as blunt as that to help someone see what it means for their neighborhood would help.

3. "they're banning single-family homes" - just because you don't understand something, doesn't make it stupid, which is what I should've said to the lady who called all this work stupid because they're "urbanizing the city." She lived by the elementary school and even my mom's efforts to point out that their neighborhood had lots of types of housing, didn't relieve the fear this neighbor expressed. So maybe something showing the changes to the dimensional standards in the more suburban (nay, ruralish) areas might help relieve some of those fears?

Excellent work overall and excited to see "residential neighborhoods" and the new uses - the neighborhood non-residential reuse category especially. Visuals of existing contexts and landscapes, by corridor, node or zone, is always helpful to illustrate changes across audiences. Hate to suggest the CNU transect, but even Portland has one and there are great local illustrators who may be interested in showing it (see Maine Needs' recent drawing contest as an example).

Best,
Julie
165 Clinton St

Helen Donaldson <hcd@portlandmaine.gov>

Fwd: Recode Portland Open House

Charles Tetelman <ctetelman@portlandmaine.gov> Thu, Aug 17, 2023 at 2:30 PM
To: Kevin Kraft <kkraft@portlandmaine.gov>, Helen Donaldson <hcd@portlandmaine.gov>, Christine Grimando <cdg@portlandmaine.gov>

---------- Forwarded message ---------
From: **Sheila Mayberry** <shemay.93@gmail.com>
Date: Thu, Aug 17, 2023, 1:47 PM
Subject: Recode Portland Open House
To: <ctetelman@portlandmaine.gov>
Cc: <mdion@portlandmaine.gov>

Good afternoon Charles,

I am writing to you today to share my impressions of the Open House I attended last night at Lyseth. The Recode Portland presentation was difficult to watch and ingest for a variety of reasons. The information presented in the powerpoint was too tiny and dense to even read. The man presenting the information spoke quickly and used too much planning board jargon. The overall leader of the workshop was not responsive to the attendees in the room. She was dismissive and she lacked a willingness to listen to the requests of the people in attendance. Overall it felt like the goal was to just go through the motions to say there had been public input. In addition, the Open House was poorly publicised which honestly appears to have been intentional.

Code proposals of this magnitude need to involve all stakeholders throughout the city in order to have a true understanding of the impact on homeowners in every neighborhood. Transparency in this process appears to be lacking which will only lead to poor overall results.

I encourage you to revisit the way information is being disseminated to the public and improve the transparency of this process.

Sincerely,
Sheila Mayberry
93 Carter Street
207 838-4946

Squarespace
unread,

Aug 16, 2023, 2:22:27 PM (yesterday)

to recodep...@portlandmaine.gov

Sent via form submission from *ReCode Portland*

Name: John Voyer

Email Address: john.voyer.jv@gmail.com

Subject: Ambiguity in Table 7-A

Message: Hello,
I attended the Open House in the Library and went home and looked over the draft Recode. I may be overthinking what I see in Table 7-A, but it appears that there is an ambiguity for Zone RN-2. It says that only one- and two-family housing is allowed, but then, under "Multi-family," the table indicates that for RN-2 there is a minimum size of 1,200 SF per unit. At a minimum RN-2 lot size of 6,500 SF, that would come out to potentially 5 units on an RN-2 lot (6,500 SF/2,00SF = 5 +/-).

I recommend that you clarify this somehow.

Thank you,
John Voyer
60 Autumn Lane
Portland

Form Submission - Contact us Re:Code - Use standards 6.4.14 Emergency Shelters & Residential Care Facilities

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unread,

Aug 17, 2023, 12:58:17 PM (21 hours ago)

to recodep...@portlandmaine.gov

Sent via form submission from *ReCode Portland*

Name: Julie Dubovsky

Email Address: jrdubovsky@gmail.com

Subject: Use standards 6.4.14 Emergency Shelters & Residential Care Facilities

Message: Hi again!
I would also like to suggest that Emergency Shelters and Residential Care Facilities (small) be permitted/conditional in RN-4 due to the presence of a fixed route transit service on Stevens and Brighton Ave, or to consider adding them as permitted/conditional uses to the B-1 Neighborhood Business zone allow for families experiencing homelessness to be sheltered (allowed in B-2) near their schools and services. Smaller facilities have a better chance of facing less NIMBY opposition, and would support the city's greater efforts in Housing First adoption and opportunities for new housing development with social service providers.

Thank you very much for your consideration and the extensive work to marry land uses with all the policy efforts of the city.

Sincerely,
Julie Dubovsky

Form Submission - Contact us Re:Code - First Wave Recode Changes

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Sep 3, 2023, 11:01:46 AM (2 days ago)

to recodep...@portlandmaine.gov

Sent via form submission from *ReCode Portland*

Name: Holly Perry

Email Address: hollyann75@gmail.com

Subject: First Wave Recode Changes

Message: Hello, when does the City anticipate these changes being released and officially adopted into the Land Use Code? Thanks!

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Robert Kahn
Sep 5, 2023, 11:50:07 AM (yesterday)
to recodep...@portlandmaine.gov

ReCode Changes
Planning Dept. -
My comment and concern is that the city puts a lot of time and resources into the zoning code and then ignores zoning when a large development proposal comes before it. This happens time and again. Height limit was exceeded at the apartment building under construction behind the Congress St post office. For what reason? That building is way out of scale with the surrounding buildings. With the mega-project at the base of Munjoy Hill, the developers have submitted one plan which they ignore and do what they want and as they please. Who's watching? Will there be any meaningful enforcement?

Yet, if homeowners request a small allowance to building or zoning codes, they are hit over the head with the code books.

Please comment. Thank you - Robert

Helen Donaldson <hcd@portlandmaine.gov>

Fwd: Fw: ReCode Portland First Wave Changes

Jennifer Munson <jmy@portlandmaine.gov> Tue, Sep 12, 2023 at 9:23 AM
To: "Grimando, Christine" <cdg@portlandmaine.gov>, Helen Donaldson <hcd@portlandmaine.gov>

Jennifer Munson
Office Manager, Planning & Urban Development Department
City of Portland
389 Congress Street
Portland ME 04101
207-874-8719
jmy@portlandmaine.gov

planning & urban development

---------- Forwarded message ---------
From: **'Cheryl Leeman' via Planning Board** <planningboard@portlandmaine.gov>
Date: Mon, Sep 11, 2023 at 1:32 PM
Subject: Fw: ReCode Portland First Wave Changes
To: Planning Board <planningboard@portlandmaine.gov>

Good read and appears to be the sentiment across the city with exception of the Urbanist Coalition (formerly Portland First). You need to listen to the rest of the residents as well!!

----- Forwarded Message -----
From: Cheryl Leeman <leemanc174@gmail.com>
To: Cheryl Leeman <cal4161@yahoo.com>
Sent: Monday, September 11, 2023 at 01:24:44 PM EDT
Subject: ReCode Portland First Wave Changes

ReCode Portland First Wave Changes http://thewestendnews.com/recode-portland-first-wave-changes/

Sent from Mail for Windows

From: **bobrodneymasonry** <bobrodneymasonry@gmail.com>
Date: Tue, Sep 12, 2023 at 12:47 PM
Subject: Hello,my wife christine and I own two house lots at the dead end of Florida ave in portland.these house lots start where the hot top ends.there is one house after our lots built in the 1980s..and two homes directly Accross the dirt street from our lots.these home owners receive city services,such as trash pick up, snow plowing,mail, etc..christine and I know we need to upgrade the road before we build.my question is.on the recode for rezoning coming up,will our lots become buildable without upgrading?
To: <planning@portlandmaine.gov>

Robert J. OBrien
unread,
Oct 6, 2023, 12:09:52 PM (3 days ago)
to Christine Grimando, Evan Schueckler, recodep...@portlandmaine.gov

Hi Christine,

Just wanted to toss out an idea for ReCode.

The HP board has at least twice in recent times run into building height limitations for pitched roofs, which ends up making the building look squat as a result.

The first example I have was new construction on Danforth Street. This preceeded my time on the HP board, but as you can see the new building on the right had a lower height allowance than both of its historic abutters. I heard the HP board at the time recommended the pitch of the roof should be steeper to match its abutters but City height limits prevented that so it needed to stay squat. It looks a little silly.

The second example is a Munjoy Hill attic conversion to living space proposal that's come up recently. In order to accomodate head-heights in the new living spaces, dormers need to be added, reducing the slope of the roof. It would make sense to raise the pitch of the roof to maintain the proportions of the house, but the house runs up against the building height limits. The project would be so much improved if the building's proportions could be retained after this renovation, and all it would take is another few feet to make it right. (This project won't be affected by ReCode, but it's an example that's likely to come up again in the future).

--> My idea is allowing a roof pitch to exceed buidling height limits (below an additional 5'? 8'?) **if** the project is subject to design review (by staff or board) and the height allowance best serves the composition of the building (as opposed to the programmatic desires of the applicant -- I don't want to turn this into a pent house grab).

Maybe there's another way to approach it. But it's too bad we've run into a couple of these honest examples that could have benefitted from a couple feet of flexibility.

Best wishes,
Robert O'Brien

Squarespace
Oct 6, 2023, 1:22:02 PM (3 days ago)

to recodep...@portlandmaine.gov

Sent via form submission from *ReCode Portland*

Name: ken madore

Email Address: kmadore2000@yahoo.com

Subject: Accessory Dwelling units for Re-code zoning

Message: Hi
Reaching out as I am not able to find zoning and/or regulations for accessory dwelling units in the new RN-4 zone. I own a property that includes 2 garages and additional square footage above the minumum lot requirement for this zone of 5,000sf (lot is approximately 8,000sf with 2 driveways so looking at creative options for possible ADU and/or increased building envelope
Re: 12 Kenilworth St

Thanks,
Ken

Manage Submissions

Does this submission look like spam? Report it here.

Robert J. OBrien
unread,
Oct 6, 2023, 12:09:52 PM (3 days ago)
to Christine Grimando, Evan Schueckler, recodep...@portlandmaine.gov

Hi Christine,

Just wanted to toss out an idea for ReCode.

The HP board has at least twice in recent times run into building height limitations for pitched roofs, which ends up making the building look squat as a result.

The first example I have was new construction on Danforth Street. This preceeded my time on the HP board, but as you can see the new building on the right had a lower height allowance than both of its historic abutters. I heard the HP board at the time recommended the pitch of the roof should be steeper to match its abutters but City height limits prevented that so it needed to stay squat. It looks a little silly.

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Maybe there's another way to approach it. But it's too bad we've run into a couple of these honest examples that could have benefitted from a couple feet of flexibility.

Best wishes,
Robert O'Brien

sharida perrin
unread,

Oct 6, 2023, 3:02:29 PM (3 days ago)

to recodeportland@portlandmaine.gov <recodeportland@portlandmaine.gov>

Hi Recode!☺

My partner and I live in a 484 sq. ft. house, we also have a 160 sq. ft. utility shed(old garage).

Our lot size is 5634 sq. ft.

We have been thinking & dreaming about possibly building an ADU on our property, where our shed is now, or having an ADU built somewhere else on our property.

We would like to eventually have a year-round rental unit to help provide local affordable housing in Portland, and also to help with paying off our current mortgage.

I have read through the RECODE materials, and I'm unsure if we would even be able to have an ADU built based on the Residential Neighborhood Zone Dimensional Standards Lot Area minimum for RN-3 of 6000 sq. ft.?

If you know of anyone that could answer my question, and possibly walk us through the process, it would be greatly appreciated.

Thank you for all your good work and help,

Sharida Perrin

64 Belfort St

Portland

Markos Miller
unread,

Oct 7, 2023, 9:38:10 PM (2 days ago)

to ReCode Portland, recodep...@portlandmaine.gov

Hi,

I'm really happy to see the ReCode work is re-emerging for public input. I miss the committee format of pre-pandemic, but appreciate the recent effort to reconnect with the public. this is important work.

I just wanted to offer a few comments. On the recent 9/27 virtual public forum one staff member commented that a fair amount of the public response was that the recommendations had gone to far, while another significant amount of the responses were that the recommendations had not gone far enough, and thus the recommendations must be about right.

I think that is a good way to think about political efforts- especially when all parties are at the table and able to see that they are getting some wins, and the other parties are some wins, but these wins are balanced, and come with some losses.

However, ReCode is not merely a political exercise- it is setting policy to reach Comp Plan goals that have already been established through a comprehensive public engagement process and a political process. The question now should not be what kind of city (zoning-wise) we want to be, but how do we best become the city envisioned in the approved and adopted Comp Plan. Setting a goal, but creating a path/policy that only gets us half way there, is not successful policy.

My first comment is that there has been very little reference back to the Comp Plan, and this weakens the position of the recode process. The Comp Plan is visionary, solid, and based in a transparent, broadly supported process. It is foundational to all the ReCode work; ReCode should always be presented in the context of the Comp Plan- the WHY has already been decided, we just need to be reminded. The discussion is HOW we achieve these goals.

2nd comment- I applaud the general move towards more density. This is necessary for more housing, for walkable communities, transit, everything people say they want. However, the high end of the recommendations satisfies only the bare minimum needed to support better transit, neighborhood businesses, and thus, walkable neighborhoods. This means we will never reach those goals- because only in the maximum build out scenario can it be achieved, and we will never have maximum build out.

The recommendations must present a plausible path to reaching our goals. I don't know if it's 30%, 50%, build out, or what, but it's not 100%.

So, please, be more ambitious with policy that encourages more housing.

Best,

Markos

Peaks Island Council + PIC Housing & Zoning Committee
ReCode recommendations and questions

Lot area

- We support the spirit of the small island lot, but wonder about its proposed size.
    - How many more lots would become available if the lot size is reduced to 3,500 sq ft? Or 3,000 sq ft?
    - Is ReCode considering any provisions that would ensure these new lots would be developed for owner-occupied use (not short-term rentals)? Or is this something the City Council would have to legislate?

Lot coverage

- We looked at a few streets in IR2 as examples, and the draft numbers are still low enough that a considerable amount of homes would still be non-conforming, seemingly the majority of many blocks in IR1 and IR2.
    - Is there consideration for raising the allowable lot coverage, given that it would not change the current feel of neighborhoods?
    - At the least, for non-island small lots, can an additional percentage be granted when quality of life enhancements" such as unenclosed porches, deck, greenhouses, and tool sheds?

Two family allowance

- The H&Z committee and the PIC unanimously support island-wide two family allowance. This would increase housing choices, for renting and home ownership, and would not alter the character of the island. We have found widespread support for this throughout the community— including unanimous support of community members who attended the last two PIC meetings.

Cottage Court zoning

- We have heard broad interest in Cottage Court zoning on Peaks. This could aid in our desperate need for year-round rental housing, while preserving adequate open spaces. ADUs are already of course not allowed to rented short-term on Peaks. This was also supported unanimously by the PIC and H&Z committee.

Multi-family units + LD2003

- Was there consideration to allow multi-family units in IR2 or IR1? Or at least up to four-units?
    - This was discussed at the last PIC meeting and there was not any pushback to idea of allowing more multi-families. The reality is that the limiting factors of property values and available land on Peaks mean we are very unlikely to see a surge in building even with new zoning allowances. The character of the island is not in danger.
- How is LD2003 being dealt with here? Is there a reason the multi-family allowance of the state bill is not being extended to Peaks?

Light industrial zoning + I-B + allowable uses

- One of the most widely discussed zoning issues in all of our discussions is the need for more commercial space. Property values are so high and our business district so small (and filled with residential homes) that it is nearly impossible to start a legal business on Peaks.
- In the next phase of ReCode, serious consideration needs to be given toward establishment of a light industrial zone and expansion or alteration of the current I-B zone. Our H&Z Committee recommends looking at land adjacent to the Transfer Station.
- Is there consideration to open up allowable uses of IR1 or IR2 at all to allow for more mixed used zoning?

Sewer

- Are there any concerns about how many new housing units the current sewer system can support?
- Do you know when the Planning Department/Public Works are looking at another phase of sewer extension on Peaks?

Paper Roads

- Though not addressed in the draft, the H&Z Committee is wondering if ReCode is planning to interface with the paper road determination process in any way.

Sprinklers

- This may be too minute for ReCode to touch, but currently there is a rule that if you touch over 50% of a building you must put in sprinklers. Could this requirement be exempted for some island homes? Such systems make either city supplied water or a well with a pump necessary, which isn't possible in all situations on Peaks. This makes it impossible for many homes to be renovated without an astronomical expense, leading to only wealthy buyers being able to make the numbers work.

Request for Planning Staff to Meet with Greater Portland Landmarks' Advocacy Committee

1 view

Subscribe

Sally Oldham
Oct 10, 2023, 8:24:22 PM (yesterday)

to recodep...@portlandmaine.gov, Christine Grimando, Carol De Tine

Greetings,

I would like to request that Kevin Kraft and Nell Donaldson meet with the Advocacy Committee of Greater Portland Landmarks to discuss proposals in the Recode project that will likely impact designated historic areas in the City as well as areas of simplification or concern that may be addressed regarding the Historic Preservation Program processes. The Advocacy Committee will be meeting on Wednesday, November 8 from 9:00-10:30 am. We would appreciate Kevin and Nell joining the committee for a presentation and discussion either at the 9-10 am or 9:30-10:30 am timeframe.

I would be happy to talk with Kevin or Nell about this request. We are aiming to educate ourselves and also to provide a forum for dialogue about Recode proposals so we can offer informed comments that we hope will be helpful to the City.

Thanks very much,

Sally Oldham
Co-Chair, Landmarks' Advocacy Committee

Cell: 207 481-1640
Email: oldhamseg@gmail.com

Helen Donaldson <hcd@portlandmaine.gov>

Comments from Munjoy Hill Neighborhood Organization on ReCode First Wave

Barbara Vestal <b.vestal@munjoyhill.org> Wed, Oct 11, 2023 at 3:26 PM
To: recode@portlandmaine.gov, "cdg@portlandmaine.gov" <cdg@portlandmaine.gov>, "hcd@portlandmaine.gov" <hcd@portlandmaine.gov>, "kkraft@portlandmaine.gov" <kkraft@portlandmaine.gov>

Please see the following comments on the proposed changes, ReCode First Wave. They are being submitted on behalf of the Munjoy Hill Neighborhood Organization.

1. THE PIECEMEAL APPROACH OF RECODE II IS A BARRIER TO MEANINGFUL CITIZEN PARTICIPATION

It is difficult for citizens to meaningfully participate in the ReCode II drafting process because the "First Wave" is only definitions, zones, uses and dimensional standards. We are "in the weeds" without any context. There are no maps, no development review standards, and the rest of the land use code is missing. Without a draft of the entire land use code document, it is difficult to tell what is intended by staff and the consultant for later sections. We will need the ability to go back and comment on the "First Wave" once later sections are released. It needs to be an iterative process.

2. THE PURPOSE STATEMENT FOR THE NEW RN-5 ZONE OMITS IMPORTANT CONCEPTS

In the purpose statement for the R-6/ New RN-5 zone, the proposed draft has **deleted** concepts that appear in the current purpose statement that refer to **conserving the existing housing stock**, **preserving the existing neighborhood character**, and making new development **consistent with the typical compact lot development** found on the peninsula. While perhaps imperfectly expressed in the current code, they identify concepts that are typically valued by residents. It would be better to improve the way they are referenced rather than removing them entirely.

Staff has said that similar concepts now appear in proposed Table 5-B, with the introductory paragraph emphasizing "context sensitivity." However, while statements about "standards encouraging compatibility and context sensitivity" do appear in the RN-2, RN-3 and RN-4 zones in the context of conversion of existing structures to higher density uses, that phrase does not appear anywhere in the RN-5 zone. **Standards requiring compatibility and context sensitivity should be an integral part of the RN-5 purpose statement, and should apply to all new development as well as to the conversion of existing structures**. Similarly **rewritten design standards**, long put on hold, need to be completed and adopted so that they are a meaningful part of the development review process. Design standards are an integral part of assessing compatibility and context sensitivity.

3. HEIGHT REGULATION IS NOT IMPROVED; HEIGHTS SHOULD BE MEASURED FROM PRE-DEVELOPMENT GRADE

Measurement of heights in Portland has been problematic for at least a decade. Rather than fixing the source of the controversy, the proposed draft further embeds the misguided approach. For both the islands and mainland, dimensional height limits should be applied from **pre-development grade** as existed as of a certain date, such as January 1, 2000. Instead, the proposed draft imposes absolutely no limits upon a developer importing fill or otherwise proposing to alter the site prior to calculating allocable height. That makes the height limits de facto non-existent and defeats the reason for having height limits in the first

place. Similarly, the proposed draft does not adequately define the point of measurement; applied details such as planters should not be treated as if they are a foundation.

4. THERE SHOULD BE A CAP ON HOW MUCH GAIN CAN BE REALIZED FROM AVERAGING GRADE

The code needs to recognize that a high percentage of the sites in Portland that remain to be built upon are on steeply sloped land. In the last several years some buildings have been proposed or built on these steeply sloped sites, which take maximum advantage of grade averaging and produce **buildings that are greatly out of scale with their context**. These buildings should serve as cautionary examples and the proposed code should be adjusted to establish a maximum amount of height above the lowest grade that can be picked up by averaging grade, such as 4 feet. A cap like that will further context sensitivity from both the uphill and downhill perspectives.

5. PORTLAND'S CODE NEEDS TO INCORPORATE A METHODOLOGY FOR MEASURING GRADE THAT IS CONSISTENT WITH STANDARD ENGINEERING PRACTICES AND IS NOT AS VULNERABLE TO MANIPULATION BY APPLICANTS

The proposed definition of "grade, average" proposes minor improvements over current, but the methodology is incomplete. "Foundation" is not operationalized. Using the perimeter of the building as the element to be measured allows for heights to be "gamed" by proposing a building that is heavily crenelated or repeatedly indented on the highest part of a site, giving extra weight to that part of the perimeter. A more standard methodology for measuring grade is in order.

6. THE PROPOSED RN-5 75' BUILDING LENGTH DIMENSIONAL STANDARD IS INADEQUATE TO ADDRESS THE SCALE OF NEW BUILDINGS

The new building length dimensional standard is inadequate to control the scale of new construction. In 2020, the peninsula neighborhoods proposed approaching context sensitivity through regulating lot consolidation in order to retain a development pattern typical of compact lot development. In the alternative, they proposed that lots could be purchased by a common owner but proposed that the maximum dimensional requirements would be established by the maximum that could have been built upon the separate, non-merged lots of record.

While this 75' maximum building length restriction may attempt to get at a similar problem, 75' is too big for the Munjoy Hill neighborhood context. 50' would be more in keeping with a typical building size. Similarly, the definition does not specify that a setback would be required between two or more such buildings. Theoretically, a technical break of one foot would suffice under the proposed definition. That is not sufficient. To be contextually appropriate, a full setback on each side of the midline should be required for each building even if they are on a single large lot under common ownership.

7. THERE IS INSUFFICIENT ATTENTION PAID TO WHAT THE LAND USE CODE CAN DO TO RETAIN EXISTING HOUSING AND/OR MAKE AFFORDABLE HOUSING MORE LIKELY

So far, the sections of the proposed changes to the land use code seem to focus on new construction. **More attention needs to be paid to how the land use code can foster and incentivize retention of existing housing because that is where the "missing middle", "naturally occurring affordable housing" and "workforce housing" is typically found.** New construction will be expensive, and frequently in Portland the new "luxury housing" that is built is a second (or more) residence for a non-resident. The creation of luxury housing is unlikely to result in "trickle-down housing" in the Portland market which will be available to middle income residents. Perhaps the rewrite of the section on non-conforming structures will identify some opportunities for the repurposing of formerly non-residential structures

into residential uses, or the retention of existing housing with upgrades or additional units which can be part of addressing the shortage of affordable housing.

In addition, more attention needs to be paid to how building heights and other dimensional standards can incentivize workforce housing. The (now repealed) Munjoy Hill Neighborhood Conservation Overly Zone contained some height differentiations that should be studied for possible inclusion in the proposed ReCode changes. Instead of allowing 45 feet as of right (as proposed in ReCode II), in the MHNCOZ at least one workforce unit had to be included to increase allowable height from 35' to 45'. This was too generous; it should have required a percentage like 25% rather than a single unit to qualify for the height bonus.

The other dimensional requirements should be studied to see what other workforce housing incentives can be incorporated. Perhaps lot area per multi-family unit (725 SF/unit) could be reduced if all units (or a certain high percentage) were workforce housing.

But any adjustments to dimensional standards also need to be coupled with intensive scrutiny of the standards for what qualifies as workforce housing. For example, for proposed workforce condominium units, the ordinance should ban the practice of monthly condominium fees being assessed on a per capita basis. Instead, monthly condominium fees should be regulated so they reflect that the workforce unit is smaller, in a less desirable location, has different appliances or finishes, etc., as applicable. It defeats the intent unless the monthly carrying costs are affordable.

Thank you for this opportunity to comment. We understand this is an iterative process and look forward to seeing your next draft of these four sections, and your proposed revisions for the rest of the land use code.

Regards,

Barbara Vestal

--
Barbara Vestal
President
Munjoy Hill Neighborhood Organization
92 Congress Street, Portland, Maine 04101
b.vestal@munjoyhill.org

Helen Donaldson <hcd@portlandmaine.gov>

Re: IR - 2

3 messages

Helen Donaldson <hcd@portlandmaine.gov> Thu, Oct 12, 2023 at 12:14 PM
To: ReCode Portland <recodeportland@portlandmaine.gov>
Cc: Elizabeth Remage-Healey <remagehealey@gmail.com>

Betsey,

See answers below. Don't hesitate to follow up with additional questions or suggestions.

Best,
Nell

On Wednesday, October 11, 2023 at 4:51:22 PM UTC-4 Elizabeth Remage-Healey wrote:

> 1. Is cottage court zoning included for IR 2 ? *Not in the first wave drafts. Cottage courts would only be allowed in the RN-1, RN-2, RN-3, and RN-4 zones.*
>
> 2. What is the frontage required for the proposed small island lot ? *Table 7-B includes a frontage requirement of 40' for small island lots.*
>
> 3. What is the maximum lot coverage allowed for a house ? *This would depend on what zone you're in. Assuming you are referring to the IR-2 zone, the maximum lot coverage in the first wave drafts is 20%, except 30% on small island lots.*
>
> 4. I'm assuming Sec.2.3,11.E.6 in the current code is deleted from the proposed ReCode. *We have not yet released draft amendments to Article 2, so we have not yet considered this language.*
>
> Thanks for getting back to me,
> Betsey Remage-Healey

Elizabeth Remage-Healey <remagehealey@gmail.com> Thu, Oct 12, 2023 at 2:23 PM
To: Helen Donaldson <hcd@portlandmaine.gov>

Why isn't cottage court zoning proposed for IR1 or IR2 ? Surely an important option for small/tiny house clusters. I believe a number of islanders have requested this.

Re my 4 th item, it currently deprives ONLY islanders of the right to appeal lot sizes. Not fair !

[Quoted text hidden]

> [Quoted text hidden]
> Notice: Under Maine law, documents - including e-mails - in the possession of public officials or city employees about government business may be classified as public records. There are very few exceptions. As a result, please be advised that what is written in an e-mail could be released to the public and/or the media if requested.

Helen Donaldson <hcd@portlandmaine.gov> Fri, Oct 13, 2023 at 8:27 AM
To: Elizabeth Remage-Healey <remagehealey@gmail.com>

Thanks for your follow up, Betsey. I'll add these comments to our running list!

Best,
Nell

[Quoted text hidden]

--
Nell Donaldson
Director of Special Projects

City of Portland
(207) 874-8723
hcd@portlandmaine.gov

ReCode Portland Feedback

3 views

Subscribe

George Katilus
Oct 11, 2023, 8:15:50 PM (17 hours ago)

to recodep...@portlandmaine.gov

Hello,

I am a resident of North Deering off of Allen's Corner. I think Allen's and Morril's need serious revitalization. At their current state, they provide little to no value to the dense population surrounding the immediate areas. Instead, I feel as these areas are only oriented towards the vehicle traffic that passes through. I wish there could somehow be a redirection of traffic to reduce congestion in the area; more locally owned small businesses, stores, restraints, and cafes; increased priority to pedestrians (it is a scary, ugly, loud place to walk); a reduction and prevention of any more drive-thorough fast food chains and overall a more community-oriented approach to development with mixed use-multi-story buildings.

In short; I would see protected bike lanes, transit, walkability, greenery, and local business that makes this area attractive to residents rather than a dangerous, congested thoroughfare serving only those passing by.

Thank you,

George

—

George Katilus IV

772-538-8813

ReCode Comments on Dimensional Standards

2 views

Subscribe

Mary E. Costigan
unread,

Oct 11, 2023, 5:08:38 PM (21 hours ago)

to recodep...@portlandmaine.gov

Hello Portland Planners:

Please accept these comments on the ReCode draft submitted on behalf of Sun Life.

Sun Life was recently denied approval of a proposed rooftop occupancy due, in part, to the City's determination that their proposed paver system was a "structure" above the height limitation that was not on the list of approved rooftop appurtenances in the Code. We did request an amendment to add paver systems to the list for ReCode, but it appears that it did not make it into the draft. We are therefore writing to ask that it be added to the list of rooftop appurtenances.

With the growing popularity of rooftop occupancy, we believe it is important for the City to consider amendments to its allowed list of appurtenances in order to allow for occupancy. Many rooftops are sloped for drainage and therefore need to have a flooring surface that is on adjustable pavers to create a level walking surface. The paver system, just like tiles laid directly on the surface are simply additional roofing material and do not add any significant height to a structure. Rather, they create an even, safe surface to walk on.

Finally, because of the popularity of rooftop occupancy, the issue of what types of structures can go on the roof to support the occupancy is likely to continue. It seems logical that shade structures, attached furnishings, and other accessory structures associated with rooftop occupancy should also be allowed as appurtenances, provided they do not exceed the height of the penthouse or other approved parapet for screening rooftop mechanical systems.

We have drafted the following amendments for your consideration.

Section 7.7.1. Height

E. Exceptions for Rooftop appurtenances. Unless otherwise noted, rooftop appurtenances for the housing of elevators, stairways, tanks, fans, or other building operating equipment not intended for human occupancy, deck railings or guards, pedestal paver roof deck systems, skylights, steeples, flag poles, chimneys, smokestacks, radio or television masts, water tanks, or silos may be erected above the height limitations herein prescribed. Shade structures, attached furnishings, and other appurtenances associated with rooftop occupancy may also be erected above the height limitations provided they do not exceed the height of

the rooftop penthouse or other approved parapet for screening of rooftop mechanical systems.

Add a new definition to Section 3:

Pedestal paver roof deck system: flooring system consisting of pavers which are laid over a pedestal support (fixed or adjustable height) which raises the tiles or pavers off the existing surface to create a level, elevated deck.

Thank you for your time and consideration. Please let me know if you have any questions.

Mary

Mary E. Costigan

Shareholder

207 228-7147 direct

207 774-1200 main

207-774-1127 fax

My Bio | LinkedIn | Twitter

BERNSTEINSHUR

Portland, ME | Manchester, NH | Augusta, ME | bernsteinshur.com

Confidentiality notice: This message is intended only for the person to whom addressed in the text above and may contain privileged or confidential all copies of this message including any contained in your reply. Thank you.

ReCode Feedback from the Urbanist Coalition of Portland

2 views

Subscribe

Todd Morse
unread,

Oct 11, 2023, 7:41:05 PM (18 hours ago)

to recodep...@portlandmaine.gov

To Whom it May Concern,

I am Todd Morse, President of the Urbanist Coalition of Portland. We, the Urbanist Coalition of Portland (UCP), have prepared recommendations for the second phase of the City's ReCode process. We believe the ReCode process is a critical opportunity for Portland to allow for more middle-density, mixed-use neighborhoods that are pleasant to live in and move around. These changes make housing more affordable, encourage equity, protect the environment, make the administration of our city services more resilient and efficient, and bring communities closer together.

Sincerely,

Todd Morse

Urbanist Coalition of Portland

2023 Proposal for ReCode

2023 Proposal for ReCode
Master Reference – 1st Edition
May 2023

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This document is not and should not be construed as legal advice.

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All correspondence can be directed to *contact@urbanistportland.me*

Urbanist Coalition of Portland

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Our ReCode Proposal

The City of Portland is in the process of rewriting its zoning code. We applaud the ongoing work as well as the work done in Phase One of this ReCode process, which greatly simplified our code, allowed the construction of accessory dwelling units, and took the first step towards transit-oriented development. However, from following the process, we are concerned the proposed changes for ReCode Phase Two will not take full advantage of the rare opportunity we have to improve our city. This is why we have put together our own proposal of code changes.

The intention of these zoning code changes is to allow for more middle-density, mixed-use neighborhoods that are pleasant to live in and move around. These changes make housing more affordable, encourage equity, protect the environment, make the administration of our city services more resilient and efficient, and bring communities closer together. All of these outcomes are goals laid out in Portland's Comprehensive Plan. The recommendations in this document will not stop people from building the types of buildings they build today, they will just give people more options of neighborhoods to build and live in. We are currently in a housing affordability crisis with an environmental crisis on the horizon; the least we can do is allow ourselves to build the kind of city that can rise to face these challenges.

Independence of Recommendations

We feel that in order to get the full benefit of these recommendations, it would be best if they were all accepted. Each recommendation complements and enhances the others – if several are accepted, the overall effect would be greater than the sum of each recommendation alone. However, each recommendation is designed so that it can be accepted independently of any other recommendation. In situations where one recommendation may impact other recommendations, both cases have been listed out and have been highlighted in gray. Our default approach to each recommendation is to make the smallest possible change while carrying forward the intent of the remainder of the existing code given that change. For example: we would like to allow for slightly taller buildings to make room for modern-day insulation and ventilation between each floor. We would also like to allow one additional story in certain zones. Under the first recommendation, we propose slightly increased heights to allow for insulation based on the number of stories currently allowed in each zone by the existing code, without including our desired extra story. We also note what the increased height would be if our recommendation for an additional story were to be accepted as well.

How This Document Was Made

The Urbanist Coalition of Portland has decided to propose our own ReCode recommendations to encourage the City to make the most of this rare opportunity to update our land use code. Many of our members have attended one or more ReCode workshops and felt their process seemed to be gathering support for a specific few proposals that would fall short of allowing the kind of sustainable, affordable housing that our city needs. Our membership consists of Portlanders concerned about stagnancy, financial sustainability, environmental sustainability, climate, green space, transit, equity, social justice, all of whom broadly agree that middle-density, mixed-use, walkable, and bikeable neighborhoods are the qualities that the city should pursue. The recommendations in this document reflect those ideals and are meant to enable these desired outcomes.

To produce this document, our membership first brainstormed ideas, then categorized and combined those ideas based on the emergence of some common themes, and finally voted on which ideas to include in this document. We then drafted this document, with the intent of producing a set of specific land use code amendments with language that could be passed as is. This required a thorough understanding of the land use code and confirming that the language of all amendments was consistent with the current code, changed every relevant element, and was internally consistent. Recommendations were adapted as needed when new information within the code came to our attention. Once the document was written, our membership voted to approve it.

Portland's *Comprehensive Plan*

Portland's Plan is a document that lays out ambitious yet vital goals for our city's future. We believe that our ReCode recommendations are compatible with all of the city's goals, and are essential for achieving some of them. To that point, we provide examples of how our ReCode recommendations will empower Portland to achieve each of the goals outlined in Portland's Plan.

Environment

> *"Adopt sustainable land use and transportation policies that support connectivity, walkable neighborhoods, and multi-modal transportation."*

The best land use policies to promote walkable neighborhoods and multi-modal transportation are policies that allow middle-density housing and mixed-use neighborhoods. In mixed-use neighborhoods, people's homes will be located closer to their shops, restaurants, and businesses, which makes our whole city more walkable and cyclable. With a bit more density, more frequent transit service begins to make sense, resulting in higher quality service for everyone. This will not only reduce carbon emissions but will also improve the local environment. Car brake pads release particles into the air that have been shown to cause respiratory problems, especially in children. By making it easier to drive less, we can protect the planet and breathe easier.

Economy

"Value and nurture Portland-based businesses."

Neighborhood-scale businesses are too small and local for many national chains to bother opening. This is where local businesses shine. If you look at our neighborhood business zones today, you will see almost entirely local businesses. By opening our city up to more businesses like this, we will lower the barrier of entry for Portlanders to open their own business and local businesses will be able to compete where they can win: locally.

Housing

"Increase, preserve, and modify the overall supply of housing City-wide to meet the needs, preferences and financial capabilities of all Portland Households."

Our city is in the midst of a housing crisis and it is clear our housing supply is not meeting the needs of our city's residents. We believe this is, in part, because much of the housing supply is mandated to be one type: single-family homes. Single-family zoning, setbacks, lot coverage maximums, and lot size minimums all add to the cost of housing and limit the amount of housing it's possible to build. This burns the proverbial candle at both ends, reducing both the number of people who are able to afford housing and the total number of homes within our city. The recommendations in this document will not make it easier for big developers to build massive apartment blocks. They will allow for a gentler, middle density of homes that individuals will be able to afford to build, own or rent. Going from covering just 20% of your lot to 40%, or allowing a handful of units where before there could only be one, will put housing – and even home ownership – within reach of many more residents, while keeping our city beautiful and making it more livable. These changes will not end the housing crisis on their own, but for every family that gets a new place to live that could not have been built before, we will have made a world of difference.

Facilities and Services

> *"Use planning and fiscal management to sustainably maintain a high level of service for existing infrastructure and programs."*

Allowing for more density is the best way to provide a high level of service in a financially sustainable way. The larger the tax base is for a given area, the less each person has to pay for road paving, sewers, electric cables, snow clearance, and more. With a small increase in density, our city can afford to offer a higher quality of service at the same cost to our residents. Another benefit of these recommendations is that walking, cycling, and transit are cheaper to facilitate and maintain than car-centric infrastructure. Not only do these modes of transport all use road space more efficiently than personal cars, but the weight of cars and trucks puts exponentially more wear and tear on roads than bikes or feet, requiring more frequent resurfacing.

Transportation

> *"Promote multi-modal accessibility, enabling residents and visitors of all ages and abilities to participate fully in the social and economic life of the community."*

This goal is very similar to the environment goal and is an opportunity where we can improve our environment while increasing convenience and our quality of life. Our recommendations encourage walkable, cyclable, neighborhoods. With mixed-use neighborhoods, people will be located closer to their shops, restaurants, and businesses which makes our whole city more walkable and cyclable. Eliminating the requirement for parking lots where they may not be desired or needed helps use space better, and increasing bike parking enables more people to use alternatives to cars. A bit more density makes more frequent and higher quality transit service financially feasible. With fewer cars on the roads going slower, our streets will also be safer for pedestrians, cyclists, children, and anyone not inside a car.

Equity

> *"We will remain an open and inclusive City, celebrating diversity and providing a welcoming and safe place for residents and visitors alike."*

This is not a goal of the comprehensive plan but a value to be applied throughout. We felt it was crucial to include this value here because our recommendations attempt to undo some of the damage wrought by inequitable zoning practices. Single-family zoning was conceived as a means of racial segregation and has served as an amplifier for the inequities in our society through its entire history and into the present. These reforms will not be enough on their own to undo that damage but we feel they are a step in the right direction.

Future Land Use: Complete Neighborhoods

> *"Portland's Plan recognizes that strong, complete neighborhoods are fundamental to the City's overall health. Portland's intent for its predominantly residential neighborhoods is one where all residents regardless of age, ability, or income have access to the basic necessities of daily life - high quality and affordable housing, schools and other civic functions, food, open space, other amenities and services - within a walkable, bikeable distance."*

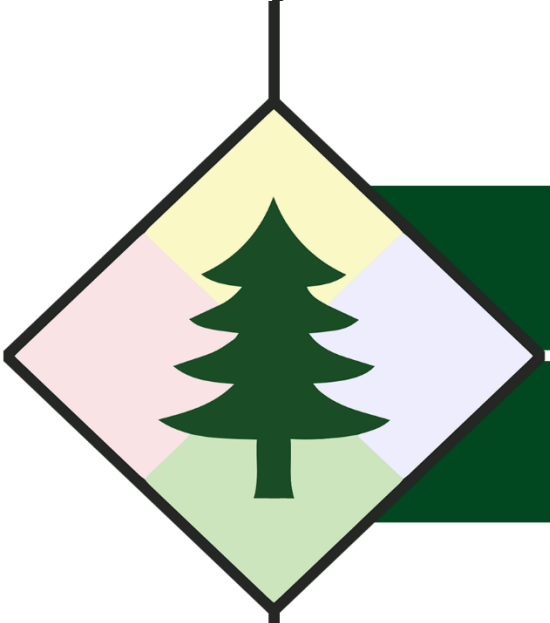
If our recommendations could be summarized in two words, they might be "complete neighborhoods". Everything in this document is there to ensure our city's neighborhoods have access to these life necessities close by. Allowing for some more density will provide access to high-quality, affordable housing and leave more room for truly usable open space, preventing sprawl. Allowing mixed uses will provide nearby food and other amenities.

LD2003

Recently, the state of Maine passed LD2003 which allows for two to four units everywhere that housing is currently allowed. This law takes effect July 1, 2023 and our zoning code is not in compliance. If we don't update the code in advance of these changes it can lead to legal ambiguity. These recommendations will bring us into compliance with LD2003.

The Islands

We feel the needs of the islands are different from the needs of the mainland and best addressed by the residents of the islands themselves. We welcome any attempts by the residents of the islands to use the ReCode process to improve their land use code but in this document we have left the land use code of the islands **completely unchanged**.



1

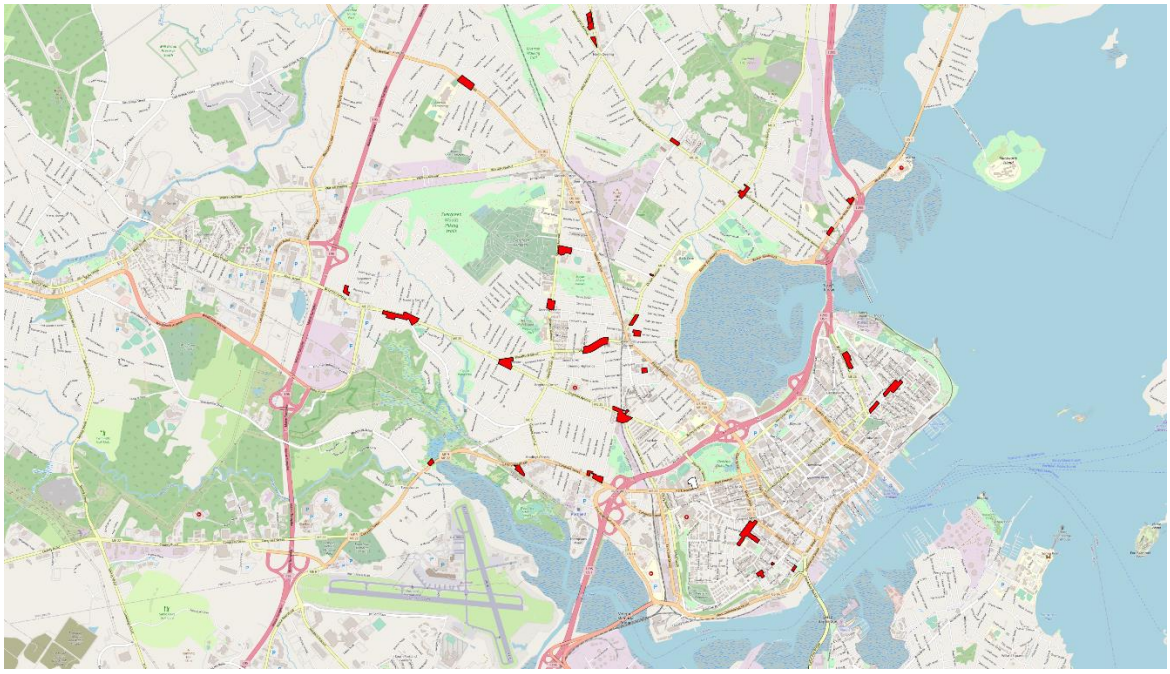
Neighborhood Business

Neighborhood Business

Neighborhood businesses are small, first-floor, low-impact businesses that are incorporated into the fabric of residential neighborhoods. Our land use code already defines these businesses and, where currently allowed, they take the form of small local shops, restaurants, and cafes that are assets to their communities. Unfortunately, the areas where they are allowed are few and far between, and some neighborhoods don't have them at all. The locations of these pockets of neighborhood business – many the size of a single building – were determined over a century ago by what businesses happened to be there when our zones were first defined.

As our city grows and changes it is hard to predict where neighborhoods will form and what their needs will be in advance. By allowing neighborhood businesses everywhere, we can allow our current and future neighborhoods to have small shops and restaurants nearby, while still protecting them from large disruptive stores that could bring in outside traffic. Small, locally-owned, neighborhood businesses like hair dressers or baby clothing stores can also become neighborhood anchors, especially for parents who may not have the time or a car to seek these services elsewhere while caring for young children.

We also recommend expanding neighborhood businesses to low- and medium-impact industrial zones. We know this may sound a bit odd, but recently these zones have become home to many of our local breweries. These breweries have tasting rooms and often host food trucks. Many even have semi-permanent food trucks on site. These establishments are essentially restaurants and have the same impact on their surroundings, but are limited in the services they can provide by our outdated zoning.



A map of the tiny pockets where neighborhood businesses are allowed. Some are the size of a single business.

Recommendation Summary

Allow small, low-impact, first-floor commercial uses in all residential zones as well as low- and medium-impact industrial zones. Some examples of uses that will be allowed, on the ground floor: restaurants, small retail, and clinics. Some examples of what will **not** be allowed: bed and breakfasts, marijuana retail stores, bars, adult business establishments, and auto service stations.

Recommendation In-Depth

1. Update the use standards of all residential zones (R-*) (*Table 6-A*) as well as certain industrial zones (I-L/I-Lb and I-M/I-Mb) (*Table 6-E*) to include this subset of allowed uses from the B-1b Zone (*Table 6-C*) with the footnote "Permitted on the ground floor only":
    a. Combined living/working spaces
    b. Clinics (ground floor) (ground floor)
    c. Elementary, middle, and secondary schools (ground floor)
    d. Governmental uses (ground floor)
    e. Places of assembly (< 10,000 SF) (ground floor)
    f. Preschool facilities (ground floor)
    g. General offices (<5,000 SF) (ground floor)
    h. General services (<5,000 SF) (ground floor)
    i. Restaurants (ground floor)
    j. Retail (< 5,000 SF) (ground floor)
    k. Studios for artists and craftspeople (ground floor)
    l. Parks and open spaces
    m. Solar energy system (minor)
    n. Utility substations
2. The B-1b zone will remain in place so all existing areas zoned B-1b will maintain the same rules. Notably these uses are not applied to all zones:
    a. Single-family dwellings
    b. Two-family dwellings
    c. Multi-family dwellings
    d. Bed and breakfasts
    e. Hostels

3. Table 20-F (Allowed Sign Types by Sign District)

   a. Add footnote: “For commercial uses in residential zones all sign types are allowed except for the following: Marquee Sign, Service Island Canopy Sign, and Pole Sign“

4. Table 20-G: Dimensional Standards for Building-Mounted Signs by Sign District

   a. Add subsection to row “Residential”: “Lots with commercial use in all residential zones”

      i. Add sub-row “Single-tenant building”

1. “Total Area for All Signs (per Tenant or Façade)”: “All other zones: 1.5 SF per linear foot of building façade where sign is placed; Max. 100 SF”

2. “Number of Signs (max.)”: “1 per street frontage, plus 1 additional”

      ii. Add sub-row to row “Multi-tenant building”

         1. “Total Area for All Signs (per Tenant or Façade)”: “All other zones: 1.5 SF per linear foot of building façade where sign is placed; Max. 150 SF”

         2. “Number of Signs (max.)”: “1 per tenant[5,6], plus 1 additional for the building.”

5. Table 20-R: Dimensional Standards for Freestanding Signs by Sign District

   a. Add sub-row to row “Residential”: “Commercial”

      i. Area (max.): 32 SF

      ii. Height (max.): 8 ft.

      iii. Number of Signs: 1 per lot[1]

Draft Amendment Language

Section 1: Update Use Standards in Residential and Industrial Zones

Amend the use standards for all residential zones (R-*) (*Table 6-A*) and specified industrial zones (I-L/I-Lb and I-M/I-Mb) (*Table 6-E*) to incorporate the following permitted uses, with the footnote "Permitted on the ground floor only":

- Combined living/working spaces
- Clinics (ground floor)
- Elementary, middle, and secondary schools (ground floor)
- Governmental uses (ground floor)
- Places of assembly (< 10,000 SF) (ground floor)
- Preschool facilities (ground floor)
- General offices (<5,000 SF) (ground floor)
- General services (<5,000 SF) (ground floor)
- Restaurants (ground floor)
- Retail (< 5,000 SF) (ground floor)
- Studios for artists and craftspeople (ground floor)
- Parks and open spaces
- Solar energy system (minor)
- Utility substations

Section 2: Sign Regulations for Commercial Uses in Residential Zones

Amend Table 20-F (Allowed Sign Types by Sign District) with the following footnote: "For commercial uses in residential zones, all sign types are allowed except Marquee Sign, Service Island Canopy Sign, and Pole Sign."

Section 3: Dimensional Standards for Building-Mounted Signs

Amend Table 20-G by adding the following rows under "Residential":

Subsection 3-A: Lots with commercial use in all residential zones

Single-tenant building:

Total Area for All Signs (per Tenant or Façade): All other zones: 1.5 SF per linear foot of building façade where sign is placed; Max. 100 SF

Number of Signs (max.): 1 per street frontage, plus 1 additional

Multi-tenant building:

Total Area for All Signs (per Tenant or Façade): All other zones: 1.5 SF per linear foot of building façade where sign is placed; Max. 150 SF

Number of Signs (max.): 1 per tenant, plus 1 additional for the building

Section 4: Dimensional Standards for Freestanding Signs

Amend Table 20-R by adding the following sub-row under "Residential":

Commercial:

Area (max.): 32 SF

Height (max.): 8 ft.

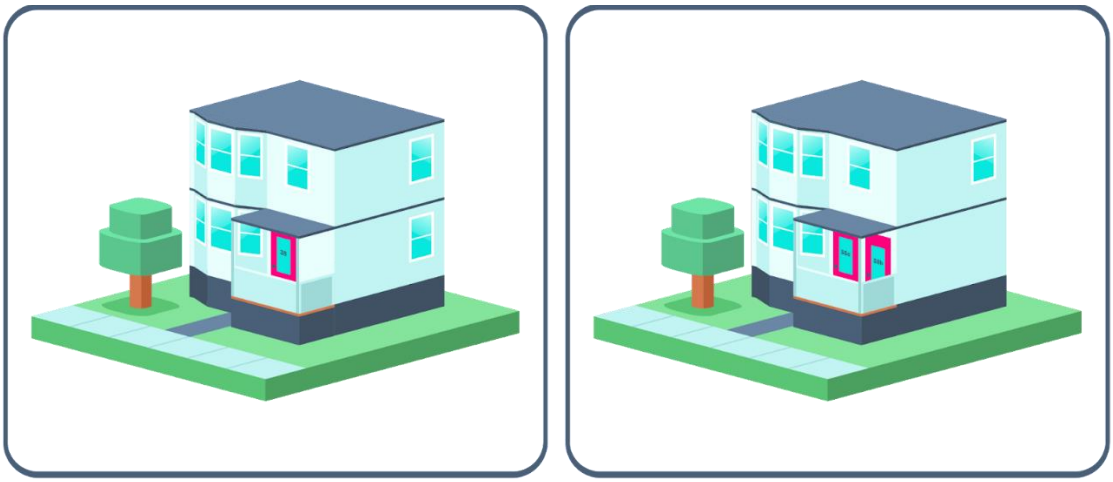
Number of Signs: 1 per lot

2

Multi-Family Housing

Allow Multi-Family Housing

Multi-family housing is a building with more than one housing unit per building. It can mean anything from a duplex, to a triple-decker with apartments on different levels, to apartment buildings. Currently, the construction of new multi-family housing is not allowed in over three quarters of the residential land in Portland, not including the islands, where it is also not allowed. This restriction has nothing to do with the size and shape of buildings; even duplexes of the same height and footprint as a single-family home are prohibited.



This results in sprawling developments of detached single-family homes that are more expensive per unit, excluding people from huge areas of the city, and shrinking our precious green spaces. Conversions to multi-family can also help people age in place by providing a source of income. There are plenty of zoning provisions that will protect our lower-density neighborhoods from experiencing overly intensive development: heights are limited, buildings can't cover too much of their lots, lots need to be a minimum size, etc. We can lift this requirement and provide more housing to more people inside the forms we are already comfortable with.

Recommendation Summary

Combine multi-family, multiplex, two-family, and single-family dwelling uses into a single use (dwellings) and allow that new use anywhere the old uses were allowed, with the exception of island zones. For the island zones, create a new use “Island Dwellings” which are limited to single-family dwellings and apply them wherever single-family dwellings were allowed in island zones to preserve existing standards.

Recommendation In-Depth

1. Section 3 Definitions
    a. Page 3-3: here the following terms are defined: “Dwelling, single-family”, “Dwelling, two-family”, “Dwelling, multi-family”. These definitions will be removed and replaced with two new definitions:
        - “Dwelling: A building or portion thereof containing one or more dwelling unit”
        - “Island Dwelling: A single building containing one dwelling unit, located on an island”
    b. Page 3-9: Remove definitions “Multi-family development” and “Multiplex”
    c. Page 3-10: update the definition of “Place of assembly”, replace “… not including the permanent residents of a single-family dwelling…” with “not including the permanent residents of a single dwelling unit (if permanent residents of multiple dwelling units are present only permanent residents of the dwelling unit with the most permanent residents present will not be included)…”
    d. Page 3-10: update the definition of Planned unit development. Change from “A development consisting of either detached or attached single-family dwelling units…” to “A development consisting of island dwellings…”

e. Page 3-12: update the definition of Small-scale marijuana caregiver, replace "...no more than: 1) 250 square feet of plant canopy where located in a single-family dwelling or commercial space; or 2) 125 square feet of plant canopy where located in a dwelling unit within a two-family or multi-family building." with "...no more than: 1) 250 square feet of plant canopy where located in a commercial space or a building containing only one dwelling unit; or 2) 125 square feet of plant canopy where located in a dwelling unit within a building containing more than one dwelling unit."

2. Table 5-B (Residential Zone Purpose Statements):

   a. R-1: Replace "To provide for lower density residential development characterized by single-family homes on individual lots in outlying areas of the city and along traffic corridors with limited additional traffic capacity." with "To provide for residential development in outlying areas of the city and along traffic corridors with limited additional traffic capacity." (If recommendation 11 A is approved remove this purpose statement)

   b. R-2: Same as above

   c. R-3: replace "To provide for medium-density residential development characterized by single-family homes on individual lots and also to provide for planned residential unit developments on substantially sized parcels." with "R-3: "To provide for residential development and also to provide for planned residential unit developments on substantially sized parcels."

   d. R-4: replace "To preserve the unique character of the Western Promenade area of the city by controlling residential conversions and by allowing the continued mix of single-family, two-family, and low-rise multi-family dwellings and other compatible development at medium densities." with "To preserve the unique character of the Western Promenade area of the city by allowing dwellings and other compatible development." (If recommendation 11 B is approved this purpose statement will be removed)

e. R-5: replace “To provide appropriate areas of the city for medium-density residential development characterized by single-family, two-family and low-intensity multifamily dwellings on individual lots; to ensure the stability of established medium-density neighborhoods by controlling residential conversions; and to provide for planned residential unit development on substantially-sized parcels.” with “To provide appropriate areas of the city for residential development of a wide range of housing for different types of households.” (If recommendation 11 C is approved this purpose statement will be removed)

f. R-6: replace “To set aside areas on the peninsula for housing characterized primarily by multi-family dwellings at a high density providing a wide range of housing for differing types of households; to conserve the existing housing stock and residential character of neighborhoods by controlling the scale and external impacts of professional offices and other nonresidential uses; and to encourage new housing development consistent with the compact lot development pattern typically found on the peninsula.“ with “To set aside areas on the peninsula for housing providing a wide range of housing for differing types of households; to conserve the existing housing stock and residential character of neighborhoods by controlling the scale and external impacts of professional offices and other nonresidential uses; and to encourage new housing development consistent with the compact lot development pattern typically found on the peninsula.”

3. Table 6-A (Permitted and Conditional Uses in Residential Zones):

   a. Remove rows: “Single-family dwellings”, “Two-family dwellings”, “Multi-family dwellings”, “Multiplex”

   b. Add new row: “Dwellings” allowed as a use in all zones

   c. Footnote 3: replace “Conversions of existing two-family or multiplex structures…” with “Conversions of existing dwellings…”

4. Table 6-B (Permitted and Conditional Uses in Island Zones)

   a. Rename row “Single family dwellings” to “Island dwellings”

b. Remove row “Two-family dwellings”

c. Rename row “Multi-family dwellings” to “Dwellings”

d. Update footnote 2 from: “Single-family attached permitted provided that new construction shall be limited to no more than six attached dwellings per building.” to “Island dwellings may be attached provided that new construction shall be limited to no more than six attached dwellings per building.”

5. Table 6-C (Permitted and Conditional Uses in Mixed-Use Zones)

   a. Remove rows: “Single-family dwellings” and “Two-family dwellings”

   b. Rename row: “Multi-family dwellings” to “Dwellings”

      - Within row, remove footnote 1 from B-1/B-1b

   c. Remove footnote 1

6. Section 6.4.1 (In General) B Item 2:

   a. Remove “The provisions of this paragraph (2) shall not apply to the erection of any single-family dwelling on any lot where the owner of the lot establishes that he or she was the owner of that same lot on November 19, 1984, and at all times thereafter, and states his or her intention under oath to make the structure his or her personal residence.”

7. Section 6.4.12 (Multiplexes): Remove entirely

8. Section 6.5.6 (Supplemental use-specific conditional use standards) G (Multi-family)

   a. Rename to: “Dwellings with more than one unit on the Islands”

   b. Remove item 1

   c. Update item 2 (which becomes the new item 1)

      - Update item a from “Multi-family buildings shall have a maximum of four units.” to “Dwellings shall have a maximum of four units”

9. Table 7-A (Residential Zone Dimensional Standards)

   a. Remove row: “Multiplex”

b. Remove row “Lot area per multiplex unit (min.)” unless recommendation 3 is approved in which case this will already be removed

c. Update row: “Lot width (min.)”, column “R-5”, remove “90 ft. for multiplex” (If recommendation 11 C is approved this column will be removed and this item is not necessary)

d. Update footnote 3: replace “Single-family homes” with “Dwellings”

e. Update footnote 4: replace “For R-5a, PRUD standards shall apply to PRUDs, multi-family development of 4 or more units, …” with “For R-5a, PRUD standards shall apply to PRUDs, developments of 4 or more units,” (If recommendation 11 C is approved this footnote will be removed and this item is not necessary)

f. Update footnote 5: replace “Applies to 1-, 2-, and 3-family dwellings only.” with “Applies to dwellings with fewer than four units only.”

g. Update footnote 6: replace “Alterations to single-family, two-family, and multi-family dwellings…” with “Alterations to dwellings…”

10. Table 7-B (PRUD Dimensional Standards)

    a. Update footnote 3: replace “…multi-family development of 4 or more units…” “…developments of 4 or more units”

    b. Update footnote 4: replace “…multi-family development of 4 or more units.” with “…developments of 4 or more units.”

11. Table 7-C (R-5 Small Residential Lot Development Dimensional Standards) (If recommendation 11 C is approved this column table will be removed and this item is not necessary)

    a. Update footnote 1: replace “Single-family homes…” with “Dwellings…”

12. Table 7-E (Mixed-use Zone Dimensional Standards)

    a. Update footnote 3: replace “…multi-family buildings…” with “…dwellings…”

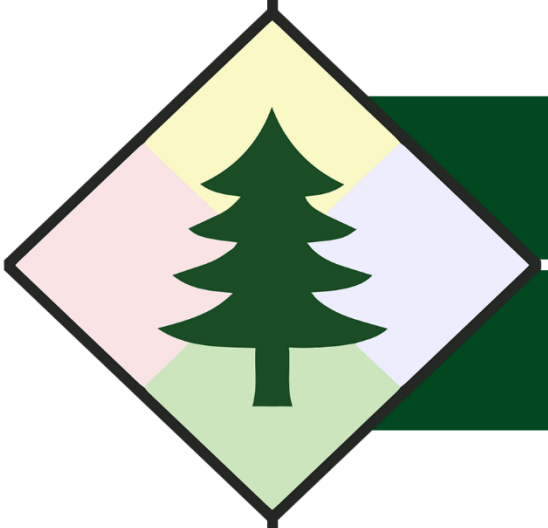
13. Table 8-C: Permitted Uses
    a. Replace “Multi-family Housing for Healthcare Staff and Students” with “Housing for Healthcare Staff and Students”
14. 8.1 “Compact Urban Residential Overlay” 1: replace “moderate- to high- density multi-family housing” with “moderate- to high-density housing”
15. 8.1.4 B: replace “Primary ground floor residential entries to multi-family buildings must orient to street, not to interior blocks or parking lots. Secondary and upper-floor entries from the interior of a block are acceptable. The front door to single-family homes, duplexes, and townhouses must be visible from the street.” with “Primary ground floor residential entries to dwellings must orient to street, not to interior blocks or parking lots. Secondary and upper-floor entries from the interior of a block are acceptable.”
16. 9.1.8 A: remove “single-family, “
17. Table 14-A: (Site Plan Classifications)
    a. Update row “New construction or additions”
        - Replace “Single- or two-family structures” with “Structures with 6 or fewer dwelling units”
        - Replace “Multi-family development of 3 or more units” with “Structures with more than 6 dwelling units”
    b. Update footnote 3: replace “...3 or more dwelling units...” with “...more than 6 dwelling units...”
    c. Update footnote 4: replace “..one or two units...” with “fewer than six units”
18. 14.3.2 (Master development plan) A:
    a. Remove “multi-family,”
19. 14.6.4 (Site design standards) I (Design standards) e
    a. ii. Update, remove “and multiplex”
    b. iii: Update, remove “of single-family homes”
    c. v: Update, remove “two-family and multiple family”

20.14.11.3 (Performance and defect guarantees) C (Minor residential development.): replace "...shall be defined as single- or two-family development..." "...shall be defined as residential development of buildings with four or fewer units..."

21. Table 16-A (Parks & Recreation and Transportation Impact Fee Schedule)
    a. Remove columns "Single-family/Two-family" to "Dwellings, fewer than three units"
    b. Rename column "Multi-family" to "Dwellings, three or more units"
22. 18.2.2 (Reduction of fees) C.2: replace "...single-family or multi-family dwelling..." with "... dwelling .."
23. Table 18-C (Bonuses for Eligible Projects)
    a. Footnote 1: remove "In R-P zones, multifamily is permitted with a "base" no less than 1 unit per 1,500 SF. of land area."
24. 19.1.4 (Shared use vehicles) remove "multi-family"
25. Table 19-A (Off-Street Parking Minimums): Rename row, "Single-, two-, or multi-family units" to "Dwelling units"
26. Table 19-B (Categorical Exceptions to Off-Street Parking Minimums): rename column "Multi-family housing" to "Housing"
27. 19.1.8 (Location of vehicular parking) A (In general) 2: replace "...single- or two-family dwellings..." with "...dwellings with fewer than three units..."
28. 20.7.3 (Sign illumination) A (Sign illumination by sign district) 1: replace "...single-family residences or duplexes..." with "... dwellings with fewer than three units ..."
29. Table 20-G: Dimensional Standards for Building-Mounted Signs by Sign District
    a. Rename row: "PRUDs, multi-family lots" to "Dwelling lots"
30. Table 20-R: Dimensional Standards for Freestanding Signs by Sign District
    a. Remove row: "Single-family lots"

b. Rename row: “PRUDs, multi-family lots” to “Dwelling lots”

   - Update “Number of Signs”: 1 per lot or 1 per major vehicular entrance, whichever is larger



3

Gentle Density

Allow Gentle Density

Even if your building is under the height requirement, your units are large enough, you aren't using too much of your lot, and you use separate structures, you are still limited by the lot area per dwelling unit minimum requirement. This requirement limits density regardless of circumstances. This restriction is very similar to the restriction on multi-family housing but it applies even to separate structures. There are plenty of zoning provisions that will protect our lower-density neighborhoods from experiencing overly intensive development: heights are limited, buildings can't cover too much of their lots, lots need to be a minimum size, etc. Housing more people in the same space is a good thing – what we want is to mitigate the negative effects of density, like overly small units or lack of light and green space. Lifting this restriction will provide more potential for housing while keeping these effects under control.

Recommendations Summary

Eliminate Lot area per dwelling unit and lot area per rooming unit dimensional standards.

Recommendations In-Depth

1. Eliminate all instances of minimum lot area per dwelling unit requirements

a. Table 7-A (Residential Zone Dimensional Standards)

i. Remove rows “Lot area per dwelling unit (min.)”, “Lot area per rooming unit (min.)”, “Lot area per multiplex unit (min.)” (note: if recommendation 2 is approved this removal is redundant), and “Lot area per SNIDU (min.)”

ii. Remove footnotes 1 and 9

iii. In footnote 7 remove the sentence “The applicable minimum lot area per dwelling shall apply to each lot.”

b. Table 7-B (PRUD Dimensional Standards)

i. Remove row “Net land area per dwelling unit (min.)”

ii. Remove footnote 5

c. Table 7-E (Mixed-Use Zone Dimensional Standards)

i. Remove rows “Lot area per dwelling unit (min.)” and “Lot area per rooming unit (min.)” as well as all sub-rows

ii. Remove footnote 3

d. Table 8-A (R-7 Dimensional Standards)

i. Remove row “Lot area per dwelling unit (min.)”

e. 6.6.2 (Standards for specific accessory uses) A (Accessory Dwelling Units (ADUs)) 8.a

ii. Replace “Lot coverage and lot area per dwelling unit requirements.” with “Lot coverage requirements.”

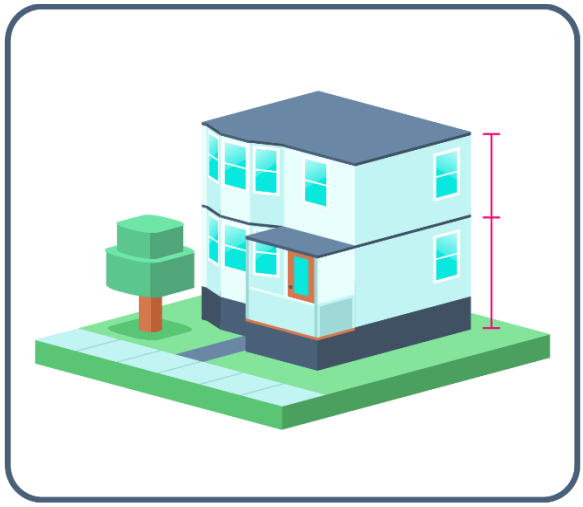
f. 6.5.6 (Supplemental use-specific conditional use standards) G (Multi-family) item 1: remove item B, unless recommendation 2 is approved in which case all of item 1 here will be removed

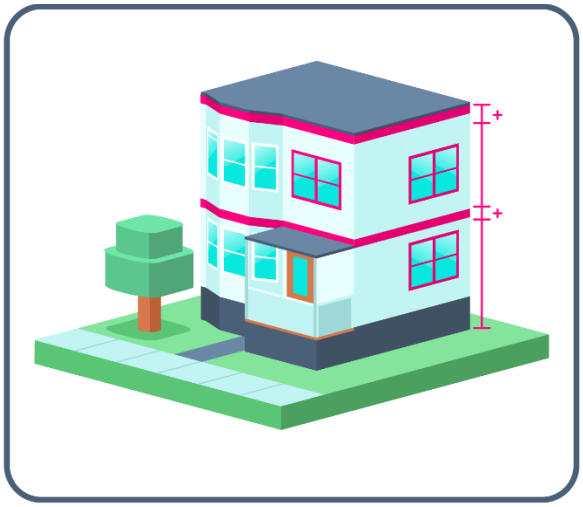
4

Higher Quality Floors

Allow Higher Quality Floors

Current height allowances are out-of-date with today's construction methods and don't consider the extra depth needed for higher insulation values, sound proofing between floors and homes, required floor-to-ceiling heights that allow more daylight into homes within multi-home buildings, mechanical air ventilation needed in tight envelope buildings, and larger open spans to allow future reconfiguration of units. These features are essential to keeping buildings relevant for 200+ years, avoiding demolitions, and promoting re-use. By allowing just a little bit more height per floor we can make room for this without being noticeable from the outside.





Recommendation Summary

Allow a little bit more height per floor by looking at all height standards, calculating the number of allowed floors. Based on the allowed number of floors add slightly more height per floor to allow for more insulation between floors.

Recommendation In-Depth

1. Table 7-A
    a. Update row “Structure Height (max.)” (not sub-row “Detached accessory”)
        i. R-1: 40 ft. (If recommendation 11 A is approved this column will be removed)
        ii. R-2: 40 ft.
        iii. R-3: 40 ft.
        iv. R-4: 40 ft. (If recommendation 11 B is approved this column will be removed)
        v. R-5: Depends on whether or not recommendation 10 is approved (If recommendation 11 C is approved this column will be removed)
            1. If so: 40 ft.
            2. If not: 50 ft.
        vi. R-5a: Depends on whether or not recommendation 10 is approved (If recommendation 11 C is approved this column will be removed)
            1. If so: 40 ft.
            2. If not: 50 ft.
        vii. R-6: 50 ft.
        viii. R-6a unchanged (65 ft.)
2. Table 7-B
    a. Update row “Structure Height (max.)”
        i. R-3: 40 ft.
        ii. R-5: 40 ft. (If recommendation 11 C is approved this column will be removed)
        iii. R-5a: 64 ft. (If recommendation 11 C is approved this column will be removed)

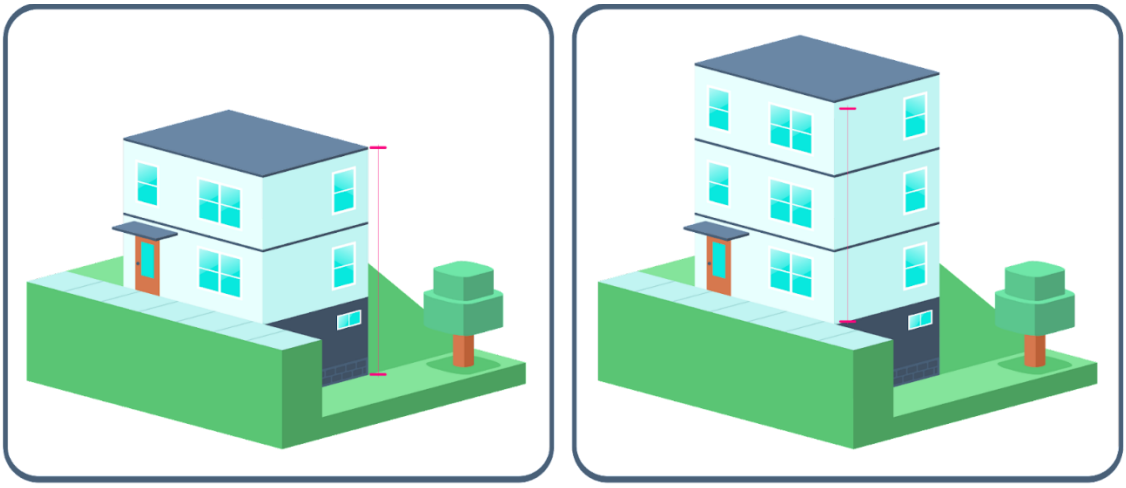
3. Table 7-E
    a. Update row “Structure height (max.)”
        i. B-1/B-1b (Off-peninsula section is eliminated): 50 ft., except 55 ft. if commercial first floor and residential above
        ii. B-2/B-2b/B-2c: 50 ft., except 55 ft. if first floor is in commercial use and residential above, 76 ft. in B-2 and B-2c on lots >5 ac. if required side and rear setbacks are increased by 1 foot for each foot of height over 45 ft., or as otherwise governed by the Bayside Height Overlay Map
            1. Apply footnote 2
        iii. B-3/B-3b/B-3c unchanged
        iv. B-4 unchanged
        v. B-5: unchanged (65 ft. with other restrictions)
        vi. B-6: unchanged (65 ft. with other restrictions)
        vii. B-7: unchanged
    b. Modify footnote 2: replace “The commercial first floor uses shall utilize at least 75 % of the first-floor frontage along Congress Street and shall have an average depth of at least 20 ft.” with “The commercial first floor uses shall utilize at least 75 % of the first-floor frontage and shall have an average depth of at least 20 ft.”
4. Table 8-A (R-7 Dimensional Standards)
    a. Replace row “Structure height (max.)” with “55 ft.”

5

Measuring Height from Sidewalks

Measure Heights from Sidewalks

Currently, height is measured as average grade from the corners or multiple points along the foundation of the proposed building. This method has several drawbacks that harms the ability of the City to harness the full value of significant portions of land and prevents hundreds of additional homes being built in proposed buildings. This method penalizes land that slopes downward from the adjacent sidewalk and rewards land that slopes upward from the adjacent sidewalk without achieving any consistency in managing actual height of buildings or taking into consideration the effects on the quality of the buildings being built in terms of design aesthetics, livability, performance, fit-to-purpose, and flexibility for re-use.



By measuring height from the sidewalk adjacent to the building entrance, we can clarify this rule and standardize height allowances in our more hilly neighborhoods.

Recommendation Summary

If a building is on a hill where one side is at sidewalk level, allow height to be measured from that sidewalk instead of the average height of the lot.

Recommendation In-Depth

1. Section 7.2: update “Height” from “The vertical measurement from grade, or the pre-development grade on the islands, to the highest point of a structure. …” to “The vertical measurement from the highest sidewalk or curb height (elevation measured ASL) along the perimeter of a property, or the pre-development grade on the islands, to the highest point of a structure. For buildings with 3 or more dwelling units, measurement may begin from average grade at the corners of the foundation of the proposed structure if such a building is being built on upward sloping lots with grades equal or greater than 4% grade (4’ elevation rise over 100’), and this alternative start is lower than the height highest sidewalk or curb. …”

6

Reducing Setback Requirements

Reduce Setback Requirements

Setback requirements require you to build structures far away from the edge of your property. This gives people fewer options on how to build their homes. For example, if you prefer a bigger back yard that is more private than your front yard, you may not be able to have it – if there is a 25-foot front setback minimum, you will have to use that 25 feet for your front yard instead. Side setbacks prevent the construction of row homes. There is already another type of requirement – maximum lot area coverage – which prevents people from covering too much of their lot. Reducing these setback requirements will provide people with these options without reducing the total amount of green spaces.

Recommendation Summary

Make small reductions to front and side setbacks in all residential zones.

Recommendation In-Depth

1. Table 7-A (Residential Zone Dimensional Standards)
    a. Update row “Side setback (min.)”
        i. R-1 (If recommendation 11 A is approved this column will be removed)
    b. Update row “Front setback (min.)” (maintain “Or average depth of adjacent front yards”)
        i. R-1: 15 ft. (If recommendation 11 A is approved this column will be removed)
        ii. R-2: 15 ft.
        iii. R-3: 10 ft.
        iv. R-4: 5 ft. (If recommendation 11 B is approved this column will be removed)
        v. R-5: 5 ft. (If recommendation 11 C is approved this column will be removed)
        vi. R-5a: 5 ft. (If recommendation 11 C is approved this column will be removed)
        vii. R-6: remove
        viii. R-6a: unchanged
    c. Update row “Side setback (min.)”
        i. Update sub-row “<1.5 stories to 1.5 stories”
            1. R-1: 8 ft. (If recommendation 11 A is approved this column will be removed)
            2. R-2: 8ft.
            3. R-3: 6ft.
            4. R-4: 5 ft. (with footnote 10) (If recommendation 11 B is approved this column will be removed)
            5. R-5: 5 ft. (with footnote 10) (If recommendation 11 C is approved this column will be removed)

6. R-5a: 5 ft. (with footnote 10) (If recommendation 11 C is approved this column will be removed)
7. R-6: unchanged
8. R-6a: unchanged.

ii. Update sub-row "2 stories"

1. R-1: 10 ft. (If recommendation 11 A is approved this column will be removed)
2. R-2: 10 ft.
3. R-3 8ft.
4. R-4: 5ft. (with footnote 10) (If recommendation 11 B is approved this column will be removed)
5. R-5: 5 ft. (with footnote 10) (If recommendation 11 C is approved this column will be removed)
6. R-5a: 5 ft. (with footnote 10) (If recommendation 11 C is approved this column will be removed)
7. R-6: unchanged
8. R-6a: unchanged

iii. Update sub-row "2.5 stories"

1. R-1: 12 ft. (If recommendation 11 A is approved this column will be removed)
2. R-2: 12 ft
3. R-3: 10 ft.
4. R-4: 5 ft. (with footnote 10) (If recommendation 11 B is approved this column will be removed)
5. R-5: 5 ft. (with footnote 10) (If recommendation 11 C is approved this column will be removed)
6. R-5a: 5 ft. (with footnote 10) (If recommendation 11 C is approved this column will be removed)
7. R-6: unchanged
8. R-6a: unchanged

iv. Update sub-row "On side street (min.)" keep "Or depth of front yard directly abutting the lot."

1. R-1: 10 ft. (If recommendation 11 A is approved this column will be removed)
2. R-2: 10ft.
3. R-3: 10ft.
4. R-4: None (If recommendation 11 B is approved this column will be removed)
5. R-5: None (If recommendation 11 C is approved this column will be removed)
6. R-5a: None (If recommendation 11 C is approved this column will be removed)
7. R-6: unchanged
8. R-6a: unchanged

d. Apply footnote 7 "Subdivisions consisting of horizontally attached dwellings on individual lots are not required to have side yards between such dwellings where a party wall condition will exist. Horizontally attached dwellings located within a single lot shall be required to meet the applicable side setback requirements at the external lot boundaries of the subdivision and internal lot boundaries between such dwellings that are not attached to each other. No minimum lot size width shall be required for individual lots underlying townhouse (horizontally attached) dwelling types. **The applicable minimum lot area per dwelling shall apply to each lot.**" to column R-4, R-5, and R-5a. The final sentence (in bold) will be omitted if recommendation 2 is approved. If recommendation 11 B is approved R-4 column will be removed, if recommendation 11 C is approved columns R-5 and R-5a will be removed, if both 11 B and 11 C are approved this whole item is no longer necessary.

e. Update footnote 10, replace "Except that a side setback in the R-6 zone…" with "Except that a side setback in the R-4, R-5, R-5a, and R-6 zones… " and apply it to columns R-4, R-5, R-5a on all sub-rows of row "Side setback (min.)" except the "On side

street (min.)" sub-row If recommendation 11 B is approved R-4 column will be removed, if recommendation 11 C is approved columns R-5 and R-5a will be removed, if both 11 B and 11 C are approved this whole item is no longer necessary.

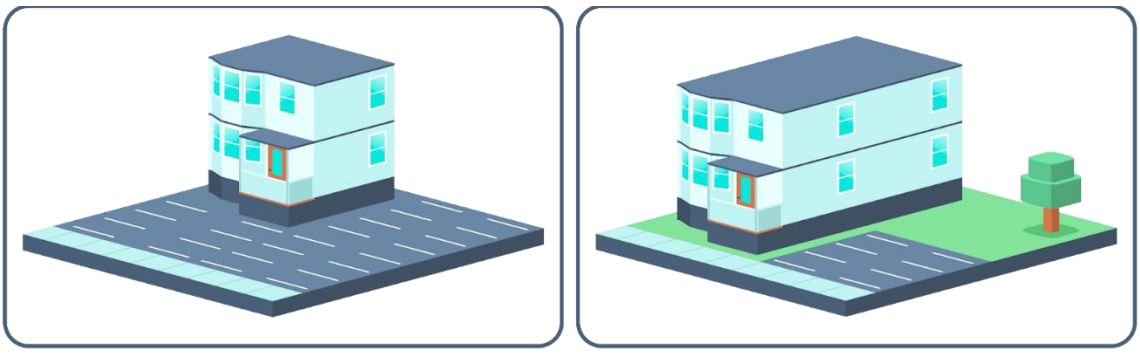
f. 18.2.4 (Density and dimensional bonuses and reductions) B. (Planned Residential Unit Developments (PRUDs).) 1: replace "Minimum building setbacks may be reduced to 10 feet." with "Minimum building setbacks may be reduced to 5 feet."

7

Parking Maximums

Establish Parking Maximums

The peninsula is becoming increasingly developed. There are quite a few large-scale projects planned in the next few years and there will undoubtedly be more coming. We need to decide if we want our downtown to be for people or for cars. Around a fifth of our downtown land is already dedicated to parking. The more parking we have, the more people will drive downtown and the worse traffic will be. Air quality will suffer, biking will become less pleasant, and buses will be stuck in traffic. We can protect our downtown by creating parking maximums on new developments to keep our downtown pleasant for everybody – even drivers will appreciate less traffic.



Recommendation Summary

In peninsula zones the city should set parking maximums to the current parking minimums, with a few exceptions where the minimums are low like lodging houses and congregate care facilities.

Recommendation In-Depth

1. Re-number Table 19-B (Categorical Exceptions to Off-Street Parking Minimums) to 19-C and create a new table 19-B called Off-Street Parking Maximums
2. This table will have two columns, the first unlabeled to specify the use, the second will be “Vehicular”. The values will be:
    a. If recommendation 2 is approved “Dwelling units” - otherwise “Single-, two-, or multi-family units”: 1 space/dwelling unit
    b. Lodging house: 1 space/rooming unit
    c. Special needs independent dwelling unit: 1 space/dwelling unit, plus 1 space/staff member normally present at any one time
    d. Sheltered care group home: 1 space/1 employee
    e. Congregate care facilities: 1 space/1 dwelling unit
    f. Emergency shelters: 1 space/1 employee
    g. Long-term, extended care, and intermediate care facilities: 1 space/5 beds, plus 1 space/employee normally present, during weekday morning shift
    h. Governmental uses: 1 space/400 SF of floor area
    i. Hospitals and clinics: 1 space/500 SF of floor area
    j. Places of assembly: 1 space/150 SF of floor area used for assembly purposes
    k. Preschool facilities: 1 space/staff member normally present at any one time
    l. Schools:
        i. For students up to 15 years: 1 space/room used for instruction purposes
        ii. For students 16 years and older: 1 space/10 seats used for instruction purposes or, if no fixed seats, 1 space/100 SF used for instruction purposes

m. Bed and breakfasts: 1 space/2 guest rooms for first 4 guest rooms, plus 1 space/additional room thereafter

n. General offices: 1 space/400 SF of floor area

o. Hostels: 1 space/8 beds

p. Hotels: 1 space/4 guest rooms

q. Retail: 1 space/200 SF of first floor area in excess of 2,000 SF, plus 1 space/700 SF for each floor above

r. Restaurants and bars: 1 space/150 SF of floor area

s. Theaters, performance halls, funeral homes: 1 space/5 seats or, if no fixed seats, 1 space/100 SF of assembly space

t. Industrial uses: 1 space/200 SF of floor area or lot area, whichever is larger

3. Create a footnote and apply it to the "Vehicular" column: "Only in zones: R-6, R-4, India Street Form Based Zone, B-7, B-6, B-5b, B-5, B-3c, B-3, B-2b, B-2, B-1B, B-1, Eastern Waterfront Port, Waterfront Central, Waterfront Port Development, and I-Lb" - If recommendation 11 B is approved remove R-4 from this list.

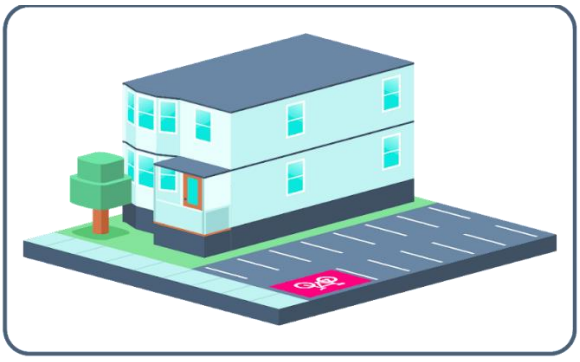
4. Create a footnote to apply to "Industrial uses": "Except for Intermodal transportation facilities"

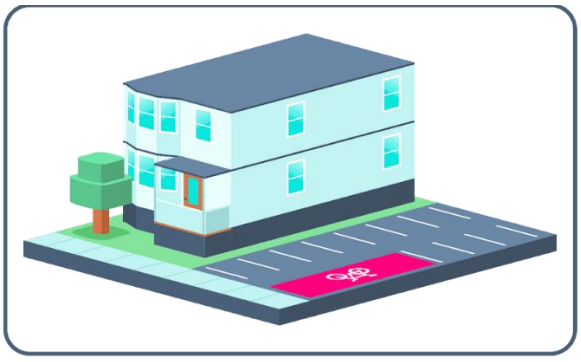
8

Bicycle Parking

Expand Bicycle Parking

Our city has bicycle parking minimums in place already, which is great! The only issue is they require half the capacity of car parking even though bikes already take up far less space. Bicycle parking minimums can be made equal to the minimums for cars without taking up too much space.





Recommendation Summary

Require as much bicycle parking as we do car parking.

Recommendation In-Depth

1. Table 19-A (Off-Street Parking Minimums), Update column "Bicycle":
    a. If recommendation 2 is approved "Dwelling units" otherwise "Single-, two-, or multi-family units": 1 space/dwelling unit
    b. Lodging house: 1 space/5 rooming units
    c. Special needs independent dwelling unit: 1 space/4 dwelling units, plus 1 space/staff member normally present at any one time
    d. Sheltered care group home: 1 space/2 employees
    e. Congregate care facilities: 1 space/3 dwelling units
    f. Emergency shelters: 1 space/2 employees

g. Long-term, extended care, and intermediate care facilities: 1 space/5 beds, plus 1 space/employee normally present, during weekday morning shift

h. Governmental uses: 1 space/400 SF of floor area

i. Hospitals and clinics: 1 space/500 SF of floor area

j. Places of assembly: 1 space/150 SF of floor area used for assembly purposes

k. Preschool facilities: 1 space/staff member normally present at any one time

l. Schools: 1 space/10 seats used for instruction purposes or, if no fixed seats, 1 space/100 SF used for instruction purposes

m. Bed and breakfasts: 1 space/2 guest rooms for first 4 guest rooms, plus 1 space/additional room thereafter

n. General offices: 1 space/400 SF of floor area

o. Hostels: 1 space/8 beds

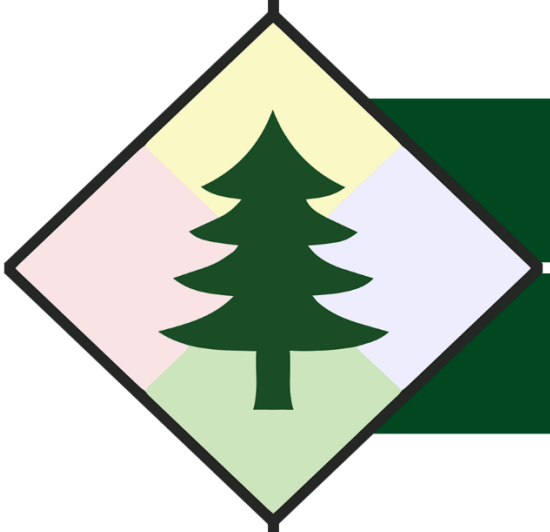
p. Hotels: 1 space/4 guest rooms

q. Retail: 1 space/200 SF of first floor area in excess of 2,000 SF, plus 1 space/700 SF for each floor above

r. Restaurants and bars: 1 space/150 SF of floor area

s. Theaters, performance halls, funeral homes: 1 space/5 seats or, if no fixed seats, 1 space/100 SF of assembly space

t. Industrial uses: 1 space/1,000 SF of floor area in excess of 3,000 SF not including area catering to retail

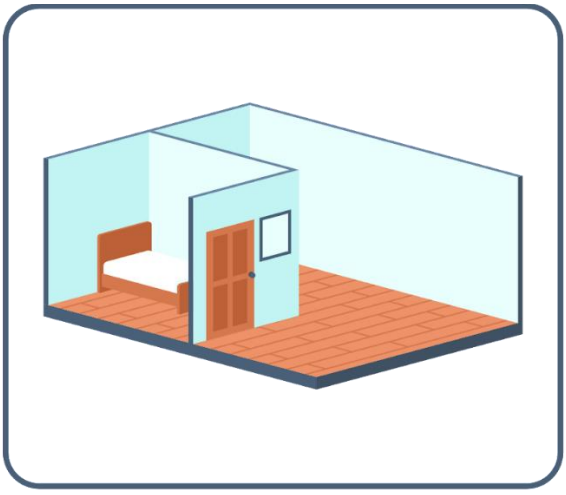


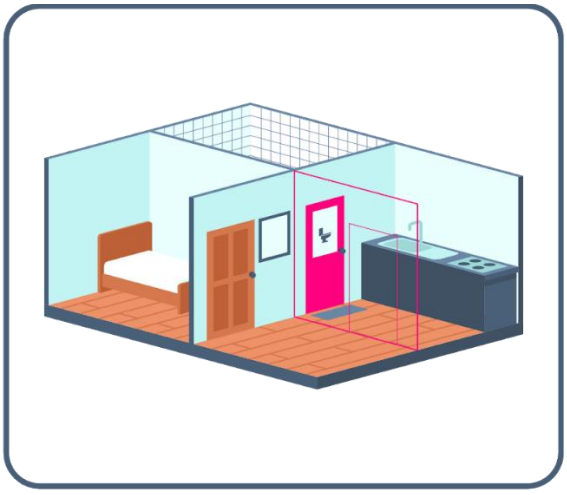
9

Renting Rooms with New Kitchens and Bathrooms

Allow Renting Rooms with New Kitchens and Bathrooms

Wherever you live in Portland, you are allowed to rent out up to two rooms in your home. These sorts of rentals are a great way to provide low cost housing and help people afford to stay in their homes and age in place. Unfortunately, there is a strange limitation where you can't rent out a room of your home if you added a bathroom or kitchen within the last two years. This is an arbitrary limitation that only serves to prevent people from providing amenities to their tenants or discourage them from opening up housing at all. This rule change will not help facilitate short term rentals – not only do all short-term rental restrictions still apply, but this rule only applies to rooms within a single housing unit which means this won't help people take housing out of the long-term housing supply and move it to the short-term market.





Recommendation Summary

Remove the ban on renting out a room in your house if you've added a new bathroom or kitchen in the last two years.

Recommendation In-Depth

1. Section 6.6 (Accessory Uses) 2 (Standards for specific accessory uses) G (Letting of rooms)
    a. Remove item 3 “There shall be no increase in the bathroom and/or kitchen facilities in the dwelling, and no such facility shall have been constructed in the immediately preceding two years.”

10

Four-Story Buildings

Allow More Four-Story Buildings

Right now, only one of our main residential zones allows four-story buildings (about four percent of the city). The rest of the residential zones in the city allow only three stories. The neighborhoods that allow these four-story buildings are Munjoy Hill and the West End. These neighborhoods are beautiful and livable. Adding that one additional story can provide more housing, or a larger housing unit, while maintaining a desirable neighborhood with plenty of light and green space. A four-story building is not even considered mid-rise. We can provide more housing by allowing this extra story in our next most dense zone (about 10 percent of the city).

Recommendation Summary

Increase height minimums in R-5, R-5a, and R-3 zones to allow for four stories instead of three.

Recommendation In-Depth

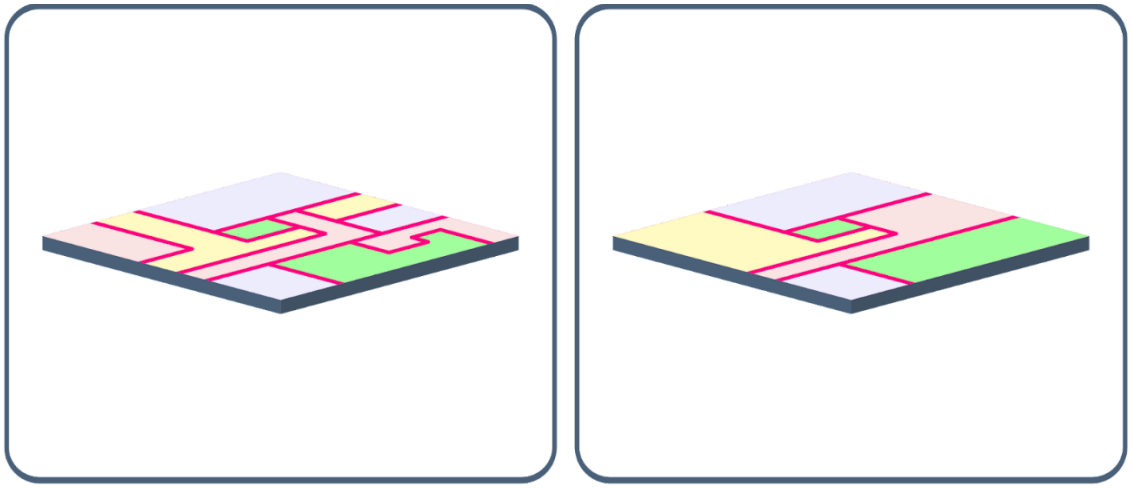
1. Table 7-A (Residential Zone Dimensional Standards)
    a. Update row “Structure height (max.)”
        i. R-5: If recommendation 4 is approved “50 ft.” - otherwise “45 ft.” (If recommendation 11 C is approved this column will be removed)
        ii. R-5a: If recommendation 4 is approved “50 ft.” - otherwise “45 ft.” (If recommendation 11 C is approved this column will be removed)
        iii. R-3: If recommendation 4 is approved “50 ft.” - otherwise “45 ft.”
    b. Update row “Stepbacks (above 35 ft. when property line abuts a residential zone)(min.)”
        i. R-5: 10 ft. from side property line and 15 ft. from rear property line” (If recommendation 11 C is approved this column will be removed)
        ii. R-5a: 10 ft. from side property line and 15 ft. from rear property line” (If recommendation 11 C is approved this column will be removed)
        iii. R-3: 10 ft. from side property line and 15 ft. from rear property line”
    c. Add footnote 11 to row “Stepbacks (above 35 ft. when property line abuts a residential zone)(min.)” columns R-5 and R-5a (If recommendation 11 C is approved this column will be removed and this item is not necessary)

11

Simplify Zones

Simplify Zones

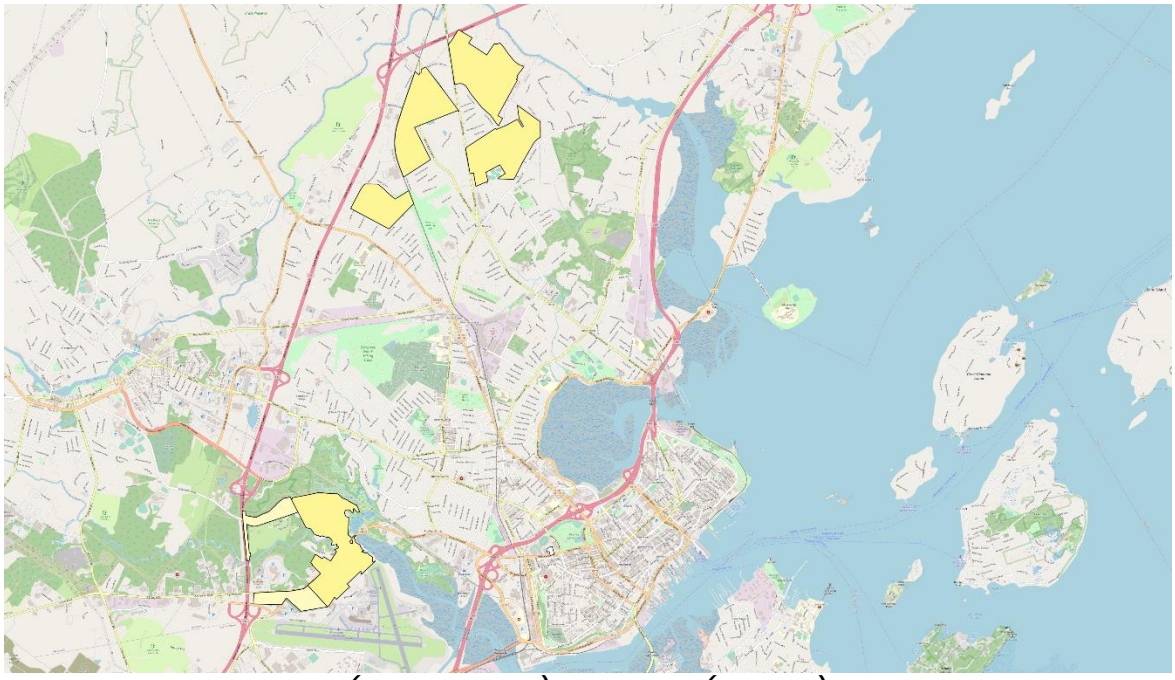
Our zoning code is complicated. We have dozens of zones with hundreds of pages. Some of our zones are very small and encompass a single property, while others have very minor distinctions between them. Many zones are arbitrarily split between on and off the peninsula. By combining our low-density zones into a single zone and our medium-density zones into a single zone, we can preserve the form of areas of the city with far fewer requirements.



See Appendix A for a full list of ordinance text that would be impacted by these consolidations.

Merge A – Zone R-1 into R-2

The R-1 and R-2 zones have identical purpose statements and very similar regulations. There is only a tiny amount of R-1 and it is directly near R-2. The zoning code could be simplified without substantial changes by merging these two zones.



All zone R-1 (light yellow) and R-2 (yellow) parcels

Merge A Summary

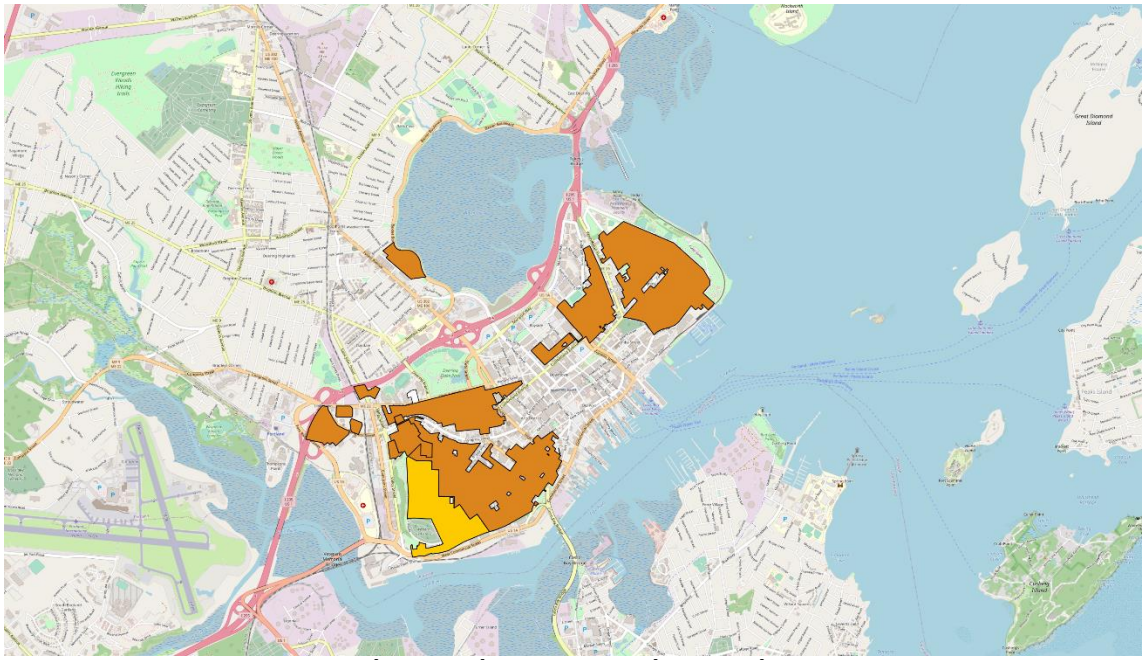
Eliminate the R-1 zone and zone all land currently zoned as R-1 as R-2.

Merge A In-Depth

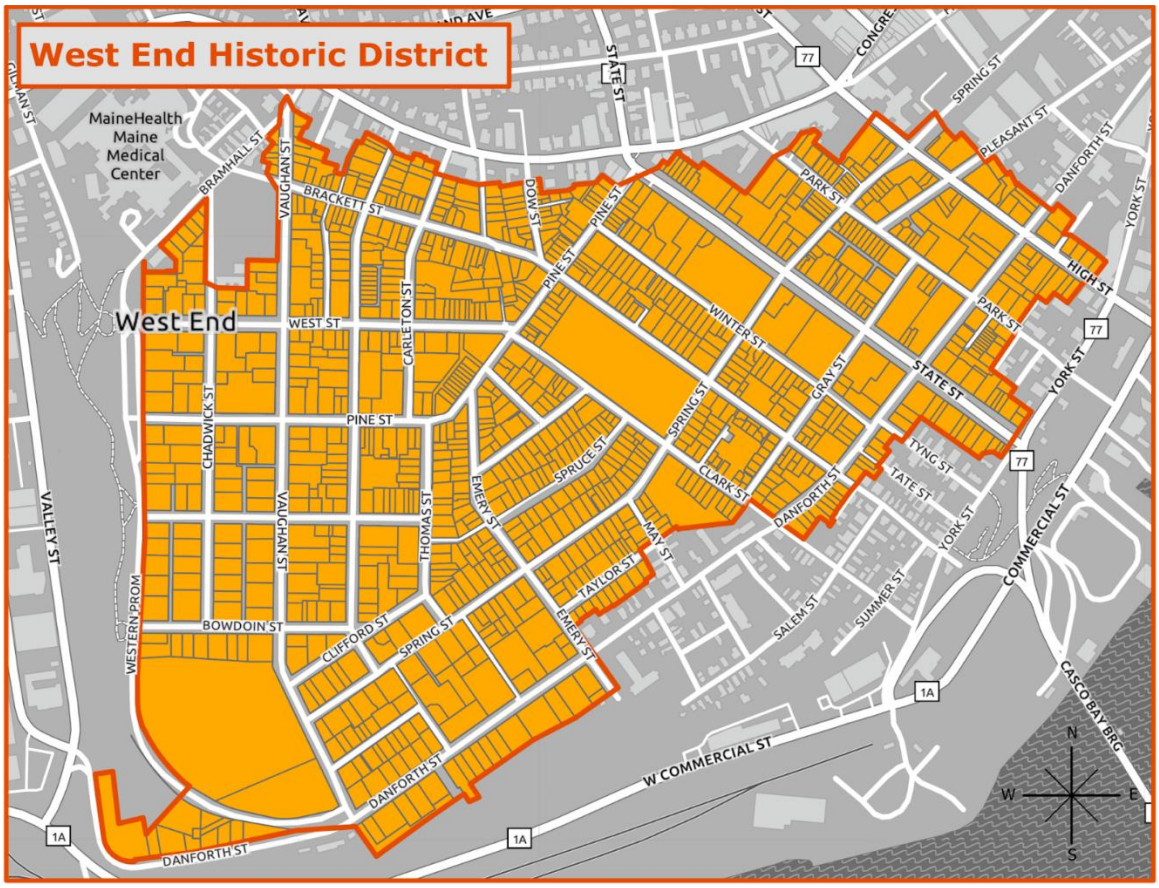
1. Remove all instances of the R-1 zone as cataloged in appendix A. Replace them with R-2 where relevant or remove said reference if it is no longer relevant.
2. Remove R-1 from the zoning map and expand R-2 to the former area of R-1

Merge B – Zone R-4 into R-6

The R-4 zone is a small zone located entirely near the Western Promenade with the intent to "preserve the unique character of the Western Promenade area". While we applaud the efforts made to protect the historic West End from the damaging effects of urban renewal, the entire R-4 zone and beyond is now covered by the West End Historic District. Meanwhile, the R-4 zone contains standards that are actually out of character with what is already in the neighborhood. For example, there are multi-family middle density buildings in the neighborhood – they are even mentioned in the purpose statement of the zone – but they are not allowed, even as a conditional use. Though the neighborhood resembles the neighboring R-6 zone to the point where most would not be able to tell when they crossed from one into the other, the setbacks and height requirements in the R-4 are more in line with typical suburban standards than what exists in the neighborhood today. The historic district already protects not only all of R-4 but also much of the neighboring R-6 zone from development that is not in character with the neighborhood, so we feel it is time to retire this zone and let the historic district protect this unique neighborhood.



All R-4 (yellow) and R-6 (brown) parcels



Merge B Summary

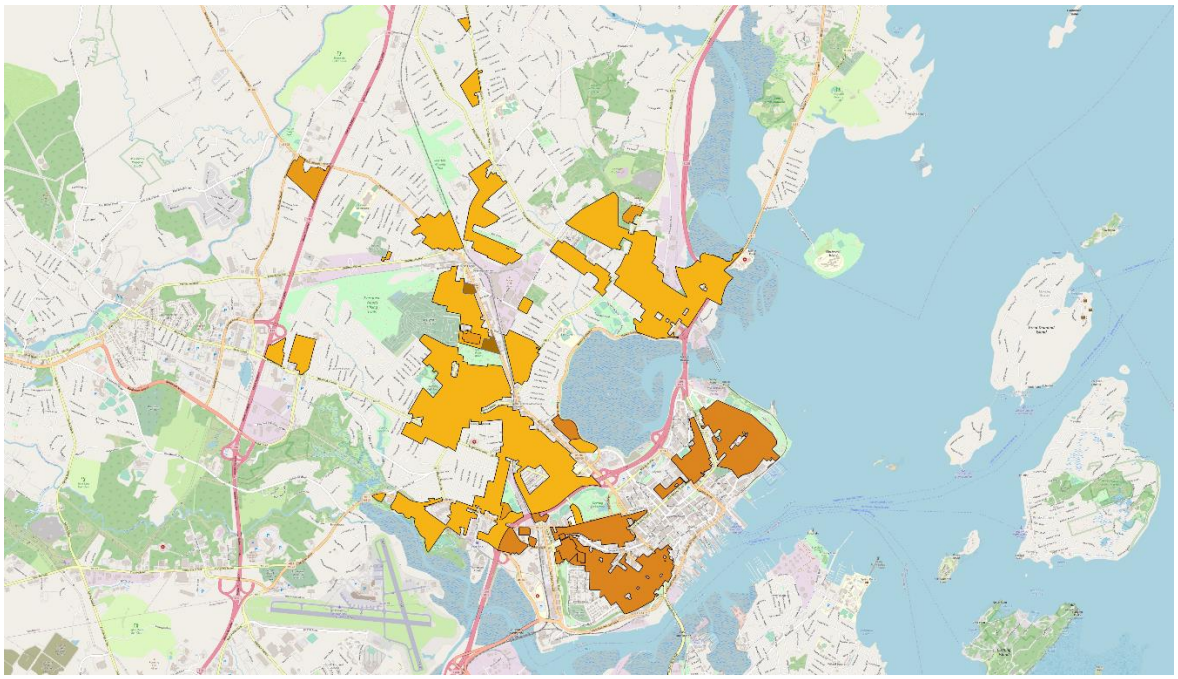
Eliminate the R-4 zone and zone all land currently zoned R-4 as R-6.

Merge B In-Depth

1. Remove all instances of the R-4 zone as cataloged in appendix A. Replace them with R-6 where relevant or remove said reference if it is no longer relevant.
2. Remove R-4 from the zoning map and expand R-6 to the former area of R-4

Merge C – Zone R-5 into R-6

The R-5 zone is the second-densest residential zone and is mostly located along major corridors, like Congress Street, Deering Avenue, and Forest Avenue. While it is Portland's second most dense residential zone, it only allows low-density housing stock. Much of the housing in R-5 areas predates the land use code and is non-conforming with the zone's standards. Combining this zone with R-6 would ensure the zoning map better reflects the built environment and will simplify the code overall.



All R-5 (yellow) and R-6 (brown) parcels

Merge C Summary

Eliminate the R-5 zone and zone all land currently zoned R-5 as R-6.

Merge C In-Depth

1. Remove all instances of the R-5 zone as cataloged in appendix A. Replace them with R-6 where relevant or remove said reference if it is no longer relevant.
2. Remove R-5 from the zoning map and expand R-6 to the former area of R-5
3. Remove all instances of the R-5a zone as cataloged in appendix A. Replace them with R-6a where relevant or remove said reference if it is no longer relevant.
4. Remove R-5a from the zoning map and expand R-6a to the former area of R-5a

12

Empowering Neighbors to Reduce Setbacks

Empower Neighbors to Reduce Setbacks Together

Front setbacks requirements require you to build your buildings back a certain amount from the street. In our zoning code today, front setbacks minimums can already be substituted for an average of the setbacks of your neighbors. This makes sense because the effects of your setback are felt by your immediate neighbors. The only problem with this is that neighbors can't do it proactively, it has to be the average of their existing setbacks. We can provide a block with more flexibility by allowing neighbors on a block to come together and decide to reduce the setback minimums for their own block if they wish. This provides people with flexibility while ensuring they can't ignore the wishes of their neighbors who will be affected.

Recommendation Summary

Allow people to reduce their own setbacks if they have unanimous agreement from their neighbors.

Recommendation In-Depth

1. Table 7-A (Residential Zone Dimensional Standards)
    a. Create a footnote: “Can be reduced if unanimously agreed upon by all adjacent property owners with setbacks less than the proposed setback.”

13

Transportation Demand Management

Ease the Transportation Demand Management Plan Requirement

In ReCode Phase One, parking minimums were removed for all new buildings near a transit stop. This is a great step towards reducing our car dependence, but to receive this benefit builders are currently required to spend a lot of time and money producing a Transportation Demand Management plan. This is administrative overhead that may push builders towards building parking instead and provides little benefit. Removing this requirement will make it even easier for builders to build less parking and encourage transit ridership. The requirement will remain in place for very large developments.

Recommendation Summary

No longer require a Transportation Demand Management plan to benefit from the transit proximity exception to parking minimums. Plans will still be required for very large developments as before, this just removes it as a condition for that exception.

Recommendation In-Depth

1. Table 19-B (Categorical Exceptions to Off-Street Parking Minimums)
    a. Update row “Transit proximate development and uses”, remove “New uses or changes of use of more than 10,000 SF taking advantage of this exception shall be required to provide a Transportation Demand Management Plan if they use this provision in lieu of parking requirements.”
2. Section 14.6.1 (Transportation standards) E (Transportation Demand Management (TDM)) 1.b
    a. Append “Unless the mixed-use development is commercial first floor and residential above.”

14

Renting More Rooms

Allow Renting More Rooms

Renting out rooms in your home is a great way to help homeowners remain in their homes, age in place, and provide low-cost housing options. Many of the single-family homes in Portland are large enough to rent out more than two rooms comfortably, without changing the character of the home. We should allow people to make the most of their homes by renting out a few more rooms if they have the space.

Recommendation Summary

Allow renting up to four rooms per dwelling unit instead of two.

Recommendations Detailed

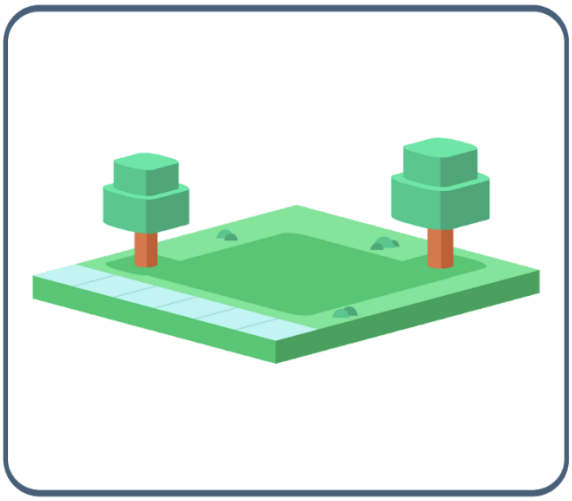
1. Section 6.6 (Accessory Uses) 2 (Standards for specific accessory uses) G (Letting of rooms)
    a. Update item 2: replace “There shall be not more than two rooms per dwelling unit occupied for such use.” with “There shall be not more than four rooms per dwelling unit occupied for such use.”

15

Co-Living

Allow Co-Living

Coliving buildings create access to affordable, flexible housing by allowing people to rent a room with access to shared amenities. Rooms in these buildings are typically rented out a month at a time and are pre-furnished. These are somewhat similar to “lodging houses,” which exist in our code today. However, the requirements for lodging houses enforce a very specific configuration where every piece of common space must be available to every tenant, while also regulating the conversion of part of an existing building into a lodging house. This reflects the typical lodging house structure of the past where an owner would convert a portion of their home into a lodging house.



In contrast, coliving spaces are typically purpose-built buildings with a suite-style configuration, i.e. a single common area may be shared by multiple bedrooms, but not by every bedroom in the building. It is vital to ensure that every tenant has access to the same level of amenities, but there is no reason to prevent this more modern configuration.

Recommendation Summary

Create a new use called “coliving buildings” that is similar to lodging houses with the crucial difference of allowing separated common spaces. Ensure that the total amount of space available to each resident with the new configuration conforms to the standards for lodging houses.

Recommendation In-Depth

1. Page 3-3: Update definition “Common areas” to: “Portions of a lodging house or coliving building which are available for use by multiple residents. Common areas shall include, but are not limited to, one or more of the following: kitchens, living rooms, recreation rooms, improved basements, and finished porches. Bathrooms, stairways, hallways, and storage areas shall not be counted as common areas.”
2. Add definition: “Coliving building: A building containing two or more rooming units with shared amenities such as a bathroom, kitchen, or living area and providing such units to individuals on not less than a monthly basis for compensation”
3. Table 6-A (Permitted and Conditional Uses in Residential Zones) Add row “Coliving buildings” as a normal use in
    a. R-6/R-6a
    b. R-5/R-5a (If recommendation 11 C is approved this column will be removed)
    c. R-4 (If recommendation 11 B is approved this column will be removed)
    d. R-3
4. Table 6-C (Permitted and Conditional Uses in Mixed-Use Zones): add row “Coliving buildings” as a normal use in all zones except B-6, apply footnote 2 to B1-B
5. 6.4: Add a new supplemental use standard “Coliving buildings”

a. Coliving spaces shall provide shared amenities to all residents including a kitchen. A kitchen need not be available where all meals are provided on a daily basis.

b. Lodging houses shall provide a minimum of 200 square feet of combined rooming unit and common area accessible to that unit per rooming unit. To compute this value, sum the area of each rooming unit as well as the area of common space accessible to that rooming unit then divide the total by the number of rooming units. For example, if the coliving space consists of two two unit suites with 100 square foot rooming units and each suite has 400 square feet of common area then the value would be 4 (100 + 400) / 4 = 500 square feet per unit.

c. Each individual rooming unit shall be a minimum of 70 square feet.

6. Table 7-A (Residential Zone Dimensional Standards)

   a. Under "Lot area (min.)": Rename row "Lodging house" to "Lodging House or Coliving building"

      i. R-5: 6,000 SF (If recommendation 11 C is approved this column will be removed)

      ii. R-5a: 6,000 SF (If recommendation 11 C is approved this column will be removed)

      iii. R-4: 6,000 SF (If recommendation 11 B is approved this column will be removed)

      iv. R-3: 6,500 SF

   b. Lot area per rooming unit (min.)

      i. R-5a: 1,000 SF (If recommendation 11 C is approved this column will be removed)

      ii. R-4: 1,000 SF (If recommendation 11 B is approved this column will be removed)

      iii. R-3: 2,000 SF

7. 10.3.5 (Prohibited uses) B: add "coliving buildings"

8. 14.6.4 (Site design standards) I (Design Standards) e.v: Add "coliving buildings" to the list of types

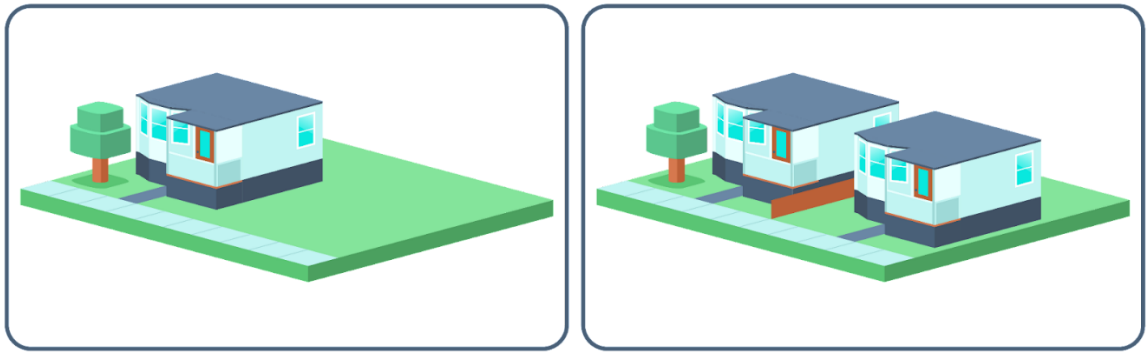
9. 18.1.2 (Applicability) A: Add “coliving buildings” to the list
10. Table 19-A (Off-Street Parking Minimums): Add row “Coliving building” with value “1 space/5 rooming units”
11. If recommendation 7 is approved and in section 19 there is a parking maximums table add row “Coliving building” with value “1 space/rooming unit”

16

Smaller Lots

Allow Smaller Lots

Currently, our residential lot size minimums are not only very large, but very unevenly distributed amongst zones. The R-6 zone, home to many pleasant neighborhoods, has a minimum lot size requirement of 2,000 square feet. Meanwhile, the next most dense zone is three times that. By the time you reach the R-1 zone, it takes more than seven R-6 lots to make up just one lot in R-1. Current residential zoning is designed for a suburban development pattern which is inconsistent with Portland's original development pattern. Minimum lot sizes make housing more expensive because they require homeowners to own a significant amount of land just to own a home, while at the same time multiplying the build and maintenance costs of municipal infrastructure, at times causing up to a tenfold increase.



The result is significantly higher property tax rates and an artificially limited pool of taxpayers who are responsible for paying these increasing municipal maintenance costs. These lot size requirements are not what maintains the ratio of houses to yards – we already have a separate rule for maximum lot coverage percentage. A lot size minimum is simply a land ownership requirement for housing. We can ease this requirement by reducing lot size minimums by half. Unless a subdivision creates a second parcel of useful land, this change will not help anyone in practice. Reducing these values by half allows an existing lot to be split once.

Recommendation Summary

Cut all existing lot area minimums in residential zones except those in the R-6 zone in half, allowing all existing lots to be split. In cases where the lot area per dwelling unit is identical to the minimum lot size it serves as a de-facto minimum lot size so it is also reduced to match the new minimum lot size. Lot width is also divided by slightly more than halfway to allow for splitting. Street frontage minimums are reduced to 20 ft across the board to allow for a configuration where you split the back of your lot and allow access to the street via a thin path or driveway.

Recommendation In-Depth

1. Table 7-A (Residential Zone Dimensional Standards)
    a. Row “Lot area (min.)” Subrow “Residential”
        i. R-1: 5,000 SF (If recommendation 11 A is approved this column will be removed)
        ii. R-2: 5,000 SF
        iii. R-3: 3,000 SF
        iv. R-4: 3,000 SF (If recommendation 11 B is approved this column will be removed)
        v. R-5: 3,000 SF (If recommendation 11 C is approved this column will be removed)
        vi. R-5a: 3,000 SF/2 ac. max[5] (If recommendation 11 C is approved this column will be removed)
        vii. R-6a: 2,000 SF
    b. Row “Lot area per dwelling unit (min.)”
        i. R-1: 5,000 SF (If recommendation 11 A is approved this column will be removed)
        ii. R-2: 5,000 SF
        iii. R-3: 3,000 SF
    c. Row “Street frontage (min.)”

i. R-1: 20 ft. (If recommendation 11 A is approved this column will be removed)

ii. R-2: 20 ft.

iii. R-3: 20 ft.

iv. R-4: 20 ft. (If recommendation 11 B is approved this column will be removed)

v. R-5: 20 ft. (If recommendation 11 C is approved this column will be removed)

vi. R-5a: 20 ft. (If recommendation 11 C is approved this column will be removed)

d. Row "Lot width (min.)"

i. R-1: 45 ft. (If recommendation 11 A is approved this column will be removed)

ii. R-2: 35 ft.

iii. R-3: 25 ft.

iv. R-4: 25 ft. (If recommendation 11 B is approved this column will be removed)

v. R-5: 25 ft. (If recommendation 11 C is approved this column will be removed)

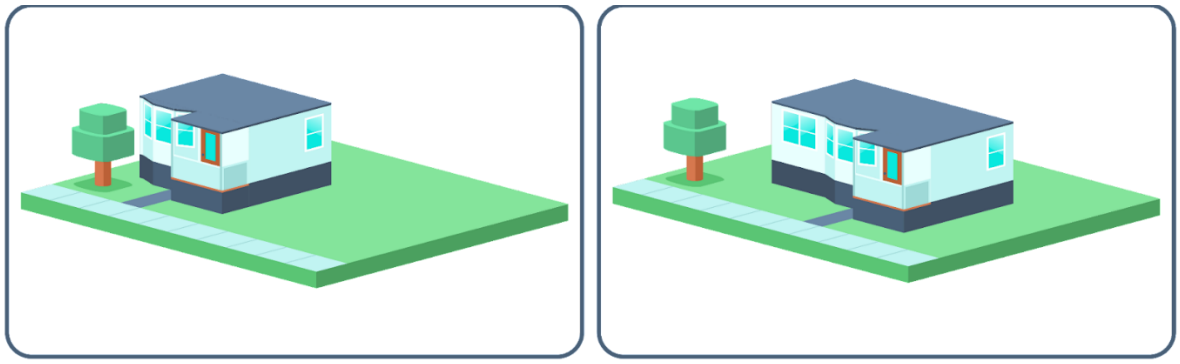
vi. R-5a: 25 ft. (If recommendation 11 C is approved this column will be removed)

17

Lot Coverage

Allow More Lot Coverage

Lot coverage maximums are more sensible than lot size minimums, but in most of the city they are too low. Lot coverage maximums do restrict impermeable surfaces and allow for green space, but when taken to an extreme they can also limit homeownership to only the wealthy. In most of the residential land in Portland today, you can only build on less than 35% of your lot. While permeable surfaces and trees are essential, requiring the majority of a lot to be greenspace means that we have less contiguous land area for public parks and other green spaces that are much more beneficial to a community and wildlife.



By gently easing these requirements, we can meet the need for green space and permeable surfaces while making it less difficult for people to afford housing.

Recommendation Summary

Increase all lot coverage minimums in residential zones except those in the R-6 zone. Increases are designed to gently increase coverage as zones increase in density.

Recommendation In-Depth

1. Table 7-A (Residential Zone Dimensional Standards) Row “Lot coverage (max.)”
    a. R-1: 40% (If recommendation 11 A is approved this column will be removed)
    b. R-2: 40%
    c. R-3: 50%
    d. R-4: 60% (If recommendation 11 B is approved this column will be removed)
    e. R-5: 60% (If recommendation 11 C is approved this column will be removed)
    f. R-5a: 60% (If recommendation 11 C is approved this column will be removed)

Appendices

Appendix A - Land Use Code Items Referencing Defunct Zones

The following is an exhaustive list of those items (sections and tables) of the Land Use Code which reference residential zones that are proposed to be merged into another zone. Should these consolidations be made, these items should be revised simply to delete references to these zones. This would not affect the substance of the code, but these revisions would be best practice for minimizing confusion.

Item in Land Use Code	Page	R-1	R-4	R-5
2.3.11e	2-15	x	x	x
4.2.2d	4-2	x		
4.3.1a	4-2	x	x	x
4.3.1b	4-2	x	x	x
4.4.6c	4-6		x	x
Table 5-A	5-1	x	x	x
Table 5-B	5-4	x	x	x
Table 6-A	6-2	x	x	x
6.4.10b	6-12	x	x	x
6.4.12b	6-13			x
6.5.6f	6-24			x
6.5.6g	6-25			x
6.5.6h	6-26		x	x
Table 7-A	7-3, 7-4	x	x	x
Table 7-B	7-5			x

Cont'd.

Item in Land Use Code	Page	R-1	R-4	R-5
Table 7-C	7-5			x
7.5.5g	7-24	x	x	x
8.11.3b	8-34		x	
8.11.11	8-36		x	
14.3.2a	14-1			x
14.6.4i	14-18			x
18.2.2c	18-5	x		
Table 19-A	19-2			x
Table 20-B	20-8	x	x	x
Table 20-F	20-17	x	x	

Urbanist Coalition of Portland

Suggestions re: ReCode

0 views
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Christian MilNeil
Oct 12, 2023, 1:48:02 PM (19 hours ago)
to recodep...@portlandmaine.gov, pb...@googlegroups.com

Hi Portland planning folks,

Thanks for all your hard work on ReCode. I think it will make a positive difference in our ability to build more walkable neighborhoods and more affordable housing, and I'd like to offer some general suggestions to advance those goals further.

My first request is that the City consider **minimum density** thresholds – e.g. a minimum of 1 housing unit per 2000 square feet of built gross floor area – for the R-6 and R-7 zones. In the past decade, I've witnessed a number of previously-affordable rental properties on the peninsula converted from multifamily to single-family. This is not an appropriate land use for the peninsula: we shouldn't allow high-wealth households to hoard real estate and reduce housing opportunities in some of Maine's only walkable neighborhoods.

While the city has made a lot of positive progress on reforming zoning to make affordable housing practical under the zoning code (at least on the peninsula), we're increasingly finding that the bigger barriers, now, are financial. The high real estate costs of property acquisition, which are driven upwards by the high end of the market, make building new housing impractical for low- and middle-income price points, even if it's otherwise allowed under the zoning code.

There are plenty of residential zones in Maine – pretty much all of them – where high-income people can build 3000 square-foot McMansions. So there's no good reason to permit them in the R6 and R7 zones, especially when we consider that those McMansions block other people from living here.

In a similar vein, I'd like the city to consider **maximum off-street parking limits**, especially in the new TOD zones and in the R6, R7, B1, B2, B3, and B7 zones – the zones where Metro provides bus service and mixed-use development is encouraged. Similar to how we've seen large single-family homes monopolize valuable land in transit-accessible neighborhoods, we've also seen, in recent years, high-end development projects with exorbitant off-street parking ratios in buildings that otherwise could have accommodated more productive uses (see, for instance, the latest iteration of the Portland Foreside development).

Off-street parking is allowed, subsidized, and mandated everywhere else in Maine. But to meet our climate goals, Portland needs to build more neighborhoods where driving and car ownership are optional. Off-street parking takes up too much space and costs too much money in the service of undermining those goals.

The City of Boston recently adopted maximum parking ratios for new development that are calculated as a function of access to transit, jobs, and services like grocery stores. While Boston does have a better transit system in general, the city's rules still apply in more suburban neighborhoods like West Roxbury and Hyde Park, where land uses and transit service are similar to Portland's (in those neighborhoods, developers can build, at most, 1 new off-street parking space per apartment). I encourage the City of Portland to consider a similar approach to help ensure that car-free households can still afford to live in our most transit-accessible neighborhoods.

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PORTLAND HOUSING DEVELOPMENT CORPORATION

970 Baxter Boulevard
Portland, ME 04103
Office: 207-773-4753
Fax: 207-761-5886

10/12/2023

Christine Grimando, Director of Planning & Urban Development
Kevin Kraft, Deputy Director of Planning & Urban Development
City of Portland
389 Congress Street, 4th Floor
Portland, Maine 04101

Re: First Wave ReCode Feedback and Recommendations

Dear Christine and Kevin,

Thank you for your strong commitment to and continuing efforts on the ReCode Project. Portland Housing Authority & Portland Housing Development Corporation are excited to see many of these changes go into effect, and fully support the City's goal of creating significant new housing opportunities across a variety of contexts and neighborhoods.

While we support most of the proposed changes in First Wave ReCode and recognize the purpose of these standards to create context sensitive design, as written they present significant challenges to current affordable housing development. We have identified a handful of issues that would impede or prevent the development of new affordable homes in the City. We have listed the primary items we flagged below.

1) Maximum Building Length in RN-5 and RN-7 set at 75'

- IMPACT/EFFECT: This new requirement would severely hinder – and potentially cripple – future mid-rise multifamily development in these zones. Affordable projects would be particularly harmed because they depend on economies of scale gained from multifamily's efficient construction approach and dense use of land. Buildings would need to be significantly smaller and shorter to comply, thereby losing those efficiencies. This regulation would have disallowed many valuable multifamily buildings that were recently built. PHA's new developments in East Bayside have been well over the proposed 75' building length standard, including Bayside Anchor (±144') and Solterra Apartments (±135'). **The result of this regulation would be fewer affordable projects and significantly fewer affordable units built in the RN-5 and RN-7 districts.**
- RECOMMENDATION: A standard of 75' is unrealistically short and arbitrary. We recommend the City eliminate all Maximum Building Length requirements for affordable multifamily projects. If this standard must remain, we encourage the City to a) create an exception process for affordable housing projects; b) significantly increase Max Building Length standards; and/or c) remove this requirement from ReCode and include it in the Design Manual.

2) **Height Stepback in RN-5 and RN-7 above 35'**
   - IMPACT/EFFECT: This new requirement would harm the financial feasibility of 4-story or taller buildings and significantly raise the cost of mid-rise multifamily development. Efficient multifamily construction depends on "stacking" units so floor plans are consistent vertically throughout building, as well as minimizing unnecessary envelope detailing. Typical affordable multifamily construction targets 4-6 story buildings for cost and construction efficiency reasons. This change to height stepbacks would interrupt "stacking" on buildings with 4-6 stories, thereby complicating simple building envelopes and increasing design and construction costs at a time when affordable housing resources are scarce and construction costs are rising rapidly. PHA's Bayside Anchor (4-stories) and Solterra Apartments (6-stories) were only financially feasible because there were no required height stepbacks. **The result of this regulation would be fewer affordable homes built in the RN-5 and RN-7 districts.**
   - RECOMMENDATION: We recommend the City eliminate all Height Stepback requirements for affordable multifamily projects. If this standard must remain, we encourage the City to a) create an exception process for affordable housing projects and/or b) significantly increase the height at which the stepback standard is triggered.

3) **Height Maximum in B-2 district at 50' when within 25' of RN-4**
   - IMPACT/EFFECT: This regulation would limit the future development potential in certain corridors. In particular, PHA is concerned this would curtail future affordable housing projects at Sagamore Village along Brighton Ave., which we anticipate will be rezoned to B-2. This location is adjacent to a major corridor with existing infrastructure and transit available and could support redevelopment with increased density of new affordable apartments. **The result of this regulation may be somewhat fewer new affordable homes built at Sagamore Village and elsewhere within the B-2 district.**
   - RECOMMENDATION: We recommend that the City eliminate the height restriction in the B-2 when abutting within 25' of RN-4 for affordable multifamily projects, or allow for an exception for affordable housing projects.

4) **Max Lot Coverage of 60% in RN-5 and RN-7; and 40% in RN-4**
   - IMPACT/EFFECT: This Lot Coverage Max would restrict dense development of walkable neighborhoods, especially in East Bayside and at Sagamore Village. This would severely crimp a multifamily project's ability to utilize the entire parcel for affordable housing construction. In lieu of building more homes, this regulation would likely push developers to build more surface parking lots on the unused land and no net decrease in impervious area would occur. **This regulation would likely result in fewer affordable homes built and increased vehicular surface parking, and would not necessarily decrease stormwater runoff.**
   - RECOMMENDATION: We recommend the City eliminate all Lot Coverage requirements for affordable multifamily buildings in RN-5, RN-7 and RN-4 districts. If these standards must remain, we encourage City to a) create an exception process for affordable housing projects; b) significantly increase max lot coverage percentages; and/or c) remove this requirement from ReCode and include it in the Design Manual or Technical Manual. We also encourage the City to handle stormwater management via calculations and not through limits on lot coverage.

Please reach out to Sarah Tatarczuk at statarczuk@porthouse.org or (207) 221-8034 with any questions. Thank you for your time and consideration and we look forward to continuing to be involved in the ReCode public process.

Best,

Jay Waterman
Director of Real Estate Development
Portland Housing Authority/Portland Housing Development Corporation

ReCode edits

0 views

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James Pratt
Oct 12, 2023, 3:52:13 PM (17 hours ago)

to recodep...@portlandmaine.gov

After looking over the proposed edits, it appears you are making the Side Setback, corner more restrictive than it was previously. The new standards list a dimension or the depth of abutting lot, whichever is greater. The old table listed a dimension or the depth of the front yard directly abutting the lot. Am I understanding this correctly? Won't this potentially make many new nonconforming structures? If something was previously allowed to be built to the depth of abutting front yard but these new rules require a greater setback, you have essentially reduced the use of the property.

As an owner of a corner lot in Portland, it concerns me that you are making tighter restrictions to corner lots when I thought part of the point of recode is to make more sensible rules and reduce non-conformance. Why shouldn't the minimum setback of a corner lot still be determined by the depth of the front yard abutting the lot? Shouldn't it be reworded to read a set dimension or the depth of adjacent front yard, whichever is less?

New Standards

Side setback (min.)	<1.5 stories to 1.5 stories	12 ft.	12 ft.	8 ft.	10 ft.	8 ft.	10 ft.		height: 10 ft.
	2 stories	14 ft.	14 ft.	14 ft.	14 ft.	12 ft.	14 ft.		
	2.5 stories	16 ft.	16 ft.	16 ft.	16 ft.	14 ft.	16 ft.	5 ft.[10]	>45 ft. in height: 15 ft.
	Detached accessory (< 250 SF footprint)	5 ft.	5 ft.	5 ft.	5 ft.	5 ft.	5 ft.		
	On side street (min.)	20 ft.	20 ft.	20 ft.	20 ft.	15 ft.	20 ft.	None	
		Or depth of front yard directly abutting the lot.							

Old Standards

Side setback (min.)	<1.5 stories to 1.5 stories	12 ft.	12 ft.	8 ft.	10 ft.	8 ft.	10 ft.		height: 10 ft.
	2 stories	14 ft.	14 ft.	14 ft.	14 ft.	12 ft.	14 ft.		
	2.5 stories	16 ft.	16 ft.	16 ft.	16 ft.	14 ft.	16 ft.	5 ft.[10]	>45 ft. in height: 15 ft.
	Detached accessory (< 250 SF footprint)	5 ft.	5 ft.	5 ft.	5 ft.	5 ft.	5 ft.		
	On side street (min.)	20 ft.	20 ft.	20 ft.	20 ft.	15 ft.	20 ft.	None	
		Or depth of front yard directly abutting the lot.							

Thanks,

James Pratt

Eliminating Parking Minimums

1 view

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Cary Tyson
6:49 AM (2 hours ago)

to ReCode Portland

Hello there -

I’m reaching out in support of eliminating parking minimums as a part of ReCode.

Thank you,

Cary Tyson

FORESIDE
PORTLAND, MAINE
110 Thames Street, Suite 200, Portland, Maine 04101

October 13, 2023

Christine Grimando
Director of Planning & Urban Development
City of Portland
389 Congress Street
Portland, ME 04101

RE: Public Comment | RECODE Phase 2

Dear Christine:

I am writing on behalf of Foreside Development Company (PFDC) regarding RECODE Phase 2 that is currently underway in the City of Portland. After reviewing the documentation available, we would like to submit the following comments:

- **Section 7.7.1. Height:** E. Exceptions for Rooftop appurtenances. Unless otherwise noted, rooftop appurtenances for the housing of elevators, stairways, tanks, fans, or other building operating equipment not intended for human occupancy, deck railings or guards, pedestal paver roof deck systems, skylights, steeples, flag poles, chimneys, smokestacks, radio or television masts, water tanks, or silos may be erected above the height limitations herein prescribed. Rooftop pools and associated infrastruture, shade structures, unenclosed structures, attached furnishings and other appurtenances associated with rooftop occupancy may also be erected above the height limitations provided they do not exceed the height of the rooftop penthouse or other approved parapet for screening of rooftop mechanical systems.

- **Add a new definition to Section 3 - Pedestal paver roof deck system:** Flooring system consisting of pavers which are laid over a pedestal support (fixed or adjustable height) which raises the tiles or pavers off the existing surface to create a level, elevated deck.

- Propose that the City consider, as a resiliency measure, allowing developers to convert height restrictions in feet to a maximum number of stories. This change would allow for the increase in floor to floor height of lower floors (thereby providing mitigation from the impacts of flooding) and encourage the thoughtful placement of mechanicals without negatively impacting uses and floors above. To qualify for additional height, a project should be required to demonstrate that the extra height is used for resiliency measures. The City could consider requiring that certain other sustainable development practices be met as well.

- **Use & Use Standards**
  - **1B - The Code should address additional creative uses not currently listed** - We offer support for the idea of "creative uses" not currently listed including but not limited to roof top gardens, roof decks, food and beverage offerings at marinas, etc.

- **1D - Consider revising the definition of "agriculture" to include modern agricultural activities** - Adding to the definition of agriculture some urban agriculture concepts could include elements like rooftop gardens and amenities.
- **1G - A comprehensive set of temporary uses should be addressed in the Code** - Temporary events should not only be modified but also more inclusive. The Temporary Event language in the Eastern Waterfront Port Zone is something that could be modified to focus on the whole Zoning District along with the City owned Ocean Gateway.

- **Dimensional & Design**
  - **2A - Consider developing bonus provisions within the residential and mixed-use zones to encourage sustainable construction and/or a walkable, urban environment** – Regulatory incentive (density bonuses and/or height increases), Tax (TIFs), economic, financial (grant programs, support for infrastructure) should be considered for projects that include a mix of uses and prioritize walkability.
  - **2B – Evaluate dimensional standards and uses permitted throughout the city in the context of risk and resilience.** Developing regulatory incentives and requirements for projects in low risk and high risk areas should be differentiated. Resiliency overlay zones should be flexible and dynamic due to and consider flood zones, stormwater and heat islands. Including flood tolerant landscaping, requiring utility systems to be flood resistant are examples of some regulatory options.
  - **2G - Explore opportunities to encourage transit oriented development within appropriate areas of the city, in coordination with regional transit planning** - Consider the idea of adopting a TOD ordinance that creates incentives (density, height bonuses, tax incentives) or requires certain types of development to meet specific criteria that is focused on TOD.
  - **2H - Consider opportunities to refine height controls within the Land Use Code's mixed-use zones** – Instead of just thinking about refining height controls, think about where additional density and height makes sense for the urban fabric and walkability of the City and allow flexibility for certain types of projects or projects that meet specific requirements.

- **Zones**
  - **3A - Identify barriers, and explore options and implications related to allowing for a greater diversity of housing types within the City's residential zones** – Consider a diversity of housing types for all Zones, but when doing so, also think about transportation options that serve each zone and a variety of transportation choices that are and can be offered.
  - **3C - Evaluate and refine the City's mixed-use zones to ensure they support the city's thriving mixed-use areas, and continue to enable modern, sustainable, walkable development in line with the City's vision for the future –** To further encourage mixed-use redevelopment, support new development and redevelopment in areas of the City that can occur and is already happening. Incentives and support can be tax, economic, financial, or regulatory. We support simplifying the regulations in the B6 Zone. We encourage the City to require that the majority of a street fronting ground floor in any of the urban mixed-use zones be open to the public (hotel lobby, retail, etc.) to support active pedestrian/public uses.
  - **3G - Ensure that the City's waterfront zones continue to function effectively.** To acknowledge and support prioritizing the mix of marine and non-marine uses in the EWPZ, while prioritizing the health and operational needs of the working waterfront, consider zoning text modifications that allow for the general public to more fully experience the area (see our proposed Zoning Text Amendment on page 1).

- **3H - Consider the continued applicability of the Land Use Code's overlay zones** – Consider eliminating the Munjoy Hill Neighborhood Conservation Overlay Zone now that the Munjoy Hill Historic District has been adopted.

- **General Development Standards**
  - **4B - A comprehensive set of accessory structures and uses should be clearly defined within the Code** – This should include temporary accessory structures that could be renewed with certain time intervals.

- **Parking, Loading & Access**
  - **5C - Consider enhancing the Transportation Demand Management (TDM) Plan requirements to incorporate recommendations within One Climate Future** – There is also a need to update the TDM requirements so that consideration is given to the bigger picture of projects and activities within the City and not just the project requiring the TDM. There should be more consideration and collaboration given to what is going on with TDM as a whole.

- **Landscape**
  - **6A - Landscape requirements should address all aspects of site development, from preservation to screening and buffering** – Landscaping standards should be modified to include consideration of current landscaping on adjacent properties and consistency within an area of the City or neighborhood. Consideration should also be given to incentivizing techniques that can be used to support resiliency and flood mitigation.

Thank you for the opportunity to provide comment on ReCode Phase II.
Sincerely,

Mary McCrann
Digitally signed by Mary McCrann
DN: C=US, E=mcm@portlandforeside.com, CN=Mary McCrann
Date: 2023.10.13 15:49:19-04'00'

Mary McCrann, AICP
Director of Strategic Initiatives

ACORN ENGINEERING, INC.

Planning and Urban Development Department
Attn: Nell Donaldson, Director of Special
City of Portland, Maine
389 Congress Street, 4th Floor
Portland, ME 04101

October 13, 2023

Subject: ReCode - First Wave Review

Nell:

We appreciate the opportunity to provide our collective feedback on the First Wave of ReCode.

Revisions:

- Strongly encourage increasing the 60% allowable Lot Coverage (which includes all structures on a lot including sheds/decks/balconies) in the RN-5 (previous R-6) to promote housing over parking. Stormwater management will still be held to the same standard and the allowable impervious area would not change. This revision would simply result in more housing.

- Strongly encourage increasing or eliminating the max 75' building length in the RN-5. This is a new dimensional standard and would negatively affect certain projects (especially those with a high ratio of lot frontage to lot depth) causing either a smaller building and thus less housing units, or would require the developer to build two buildings on one lot, which would be cost prohibitive in many cases because it is much less efficient to build 2 buildings vs 1. Instead, rely on the measures already in place such as stepbacks, height limits, and the City's Design Standards to guide the appropriate scale and massing. Ultimately, this new standard will result in less housing units being constructed, while creating a nonconforming condition for a multitude of projects that have already been constructed.

- Strongly encourage Table 18-C be revised to include height and setback bonuses for residential districts such as RN-5 so that affordable housing projects can have the tools they need to get enough floor area to support the density that's currently being promoted by the City and the State's new legislation under LD 2003, effective January 1, 2024.

- Encourage taller height limits across most zoning districts. This recommendation is due to the new average grade calculation. While the new definition/calculation does provide a more consistent measurement and makes sense from a policy standpoint, it will likely result in lower average grade planes, and thus shorter buildings. The recommendation for taller heights is also being made because of the need for housing and the limited horizontal space available on most lots available for multifamily development.

- Encourage allowing additional uses within the RN-5 such as office and small retail uses on the ground floor that have a similar (or less) impact than allowable uses in the B-1 zone with similar performance standards such as hours of operation. This provision does not compete with housing, but rather it encourages complete neighborhoods where certain goods and services can be accessed by foot or bike, while promoting mixed-use smart growth

development.

- Encourage increasing the 30% allowable Lot Coverage in the RN-6 (previous R-5a) to promote housing over parking.

- Encourage reducing the 10' rear setback in the RN-5 to 5' in tandem with an increased lot coverage allowance.

Questions:

- 6.4.26 Neighborhood Nonresidential Reuse
  - When would the effective date be for locking in an existing neighborhood nonresidential reuse? Does this make it an "existing structure" under this section?
  - Under 6.4.26.A, does an "existing structure that is nonresidential in its current use" include a building that has a principal use of housing, but a subordinate use of commercial?
- 7.4 Alternative Residential Development Options
  - Would the City consider Private Roads to meet the City Frontage requirements? Given the goals of this section, and potentially elsewhere, it may be advantageous for the City (and Developer) to construct a private street to provide access, utilities, stormwater, street frontage, etc while not being constrained to 50' ROW widths and technical standards. The ownership and maintenance of the private roadway would be the responsibility of a homeowner's association.

Closing:

Overall, we commend Planning Staff for all the hard work, reconciliation, and modernization of the codes. We believe that these revisions are generally headed in the right direction, but could benefit from some additional tools/flexibility to allow projects (particularly housing) to move forward at a time when we so desperately need to add housing stock to the City/State, albeit in extremely challenging construction and housing markets. Given the volume of work our firm has completed (and will complete) in the City of Portland, most often as the lead project manager and permitting agent, we have a unique perspective on how the various codes come together to influence redevelopment projects, and are happy to continue providing our time and insights in an effort to help produce the best possible version of the Zoning code that is both grounded in smart growth principles, yet flexible enough to allow projects that are consistent with the Comprehensive Plan to move forward and pencil out.

We would appreciate the opportunity to revisit these sections under the "First Wave" once the draft language for key ordinance sections such as Section 18.2 Affordable Housing, as well as the revised Zoning Map are available to review. We believe a comprehensive review as one complete code should ultimately be completed prior to formal adoption, otherwise a siloed approach could have negative, unintended consequences.

Sincerely,

Sam Lebel, P.E.
Project Manager
Acorn Engineering, Inc.

William H. Savage, P.E.
Principal
Acorn Engineering, Inc.

Comments on Proposed Zoning Changes

0 views
Subscribe

Joe Walsh
Oct 13, 2023, 1:07:58 PM (2 days ago)
to recodep...@portlandmaine.gov

Hi ReCode Committee,

Thank you for your work on this wave of changes. I've read through the Zone summaries you sent and it's very helpful. I'm sorry I haven't been able to be more involved in the conversation to date. This is an issue I care about as a citizen and property owner (I own both residential and commercial in the City) but haven't had the bandwidth to devote time to it.

I am generally highly supportive of the direction in which these changes are moving.

A few comments:
1. Lot sizes: I'm happy to see the 15,000 SF minimum of R1 be eliminated as part of this zone's merging with R-2. Why not make RN-2 and RN-3 lot sizes both 6,000SF - why 500sf more for RN-2? Just thinking about streamlining, and maybe it gently opens the possibility for a bit more density.
2. Setbacks: I'm very much in support of reducing setbacks wherever possible and glad to see it happening in several zones with these changes - it's frustrating to see good lots go unused, or gentle increases in density not happen, because of a few feet of setback. Particularly, excessive front setbacks, which are detrimental to a human-scale streetscape.
3. Missing Middle Housing: I'm so happy to see the inclusion of duplexes and tri-plexes in many of these zones. I haven't seen the lot area per dwelling unit requirements, but I would submit that they need to be set such that at least a duplex is possible by-right on any lot where a single-family can be built. So in RN-3, for example, with a min lot size of 6,000 SF, lot area per DU ought to be no more than 3,000SF. It ought to be even lower if we really want to encourage the building of triplexes and four-plexes. Given the cost of construction and land, I see duplexes as a key element of solving the housing crisis.
What can the city do to encourage triplexes and four-plexes? Often, these projects don't get built because of sprinkler requirements, min lot sizes and setbacks. If I understand correctly, some of the sprinkler requirements are set at the state level, but I hope we are doing all we can to lessen/streamline this particular burden wherever possible. I know we have to be conscious of safety, but there are diminishing returns at some point and safety needs to be balanced with cost.
4. B-4 Zone Draft: I am highly supportive of allowing multi-family development in this zone. I am a property owner in a B-4 zone on Warren Ave and there is so much vacant land out here that could be housing, and would be suitable for large apartment buildings. And having no setbacks opens lots more possibilities. What is the proposed minimum area/du?
Again, I bring up the question of missing middle housing. Large apartment complexes will certainly be built if this change passes. But how about 4-plexes on the smaller lots in this zone? What can the City do to encourage this type of housing?
5. B-1 Zone draft - Our City needs more of this type of Zone. Why not eliminate the single-family as a possibility in this zone? I would assume B-1 zones would be surrounded by RN-4, RN-5 and in some areas RN-1 & RN-2 zones - so to allow single family to be built by right in B-1 seems redundant.

Thank you again for your work and for the updates. I wish I could have made it to one of your neighborhood forums!

Regards,

--
Joe Walsh
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Please consider the environment before printing this email

Helen Donaldson <hcd@portlandmaine.gov>

Fwd: Recode Question

Rachel Conly <rachel@juniperdesignbuild.com> Fri, Oct 13, 2023 at 6:12 PM
To: Helen Donaldson <hcd@portlandmaine.gov>
Cc: Ann Machado <amachado@portlandmaine.gov>

Hi Nell,

I saw the final call for Recode comments. I know this is the eleventh hour, but I wanted to get some of my thoughts down about the Recode before the comment period closes. I appreciate all of the hard work you and your colleagues are doing to listen to the community and make positive changes. Since I know Peaks Island zoning best, my comments will focus on island zoning. In particular, the IR-2 zone, which is where I think the biggest impact could be made, with the least resistance from the community.

Generally speaking, I am so glad that the City has invested in this project. It is wonderful and I think the Recode changes are heading in the right direction. However, I think they need to be pushed further in order to make the kind of impact that I believe they are designed to have.

Comments Below:

Neighborhood Non-Residential Reuse
I think this is a great idea, but the reality is there are few, if any, buildings on Peaks that would benefit from this change.

Dimensional Standards for IR-2
The proposed changes are a nice gesture, but not impactful. Many of the lots in the IR-2 zone are very, very small (2,500SF, 3,000SF, 4,000 SF). The “small island lot” idea is great in concept, but not really helping. I think we need a bigger change on setbacks and a bigger change on lot coverage. The IR-2 Zone is not too dissimilar from other residential neighborhoods that border downtown. The IR-2 is more like Munjoy Hill, the West End, or parts of Deering. It is a residential neighborhood that houses people who work in Portland. The proposed 30% lot coverage is not enough to make an impact. If I use my own house as an example (1,200 SF, story and a half cottage), which is on a 4,200 SF lot (larger than several of my neighbors), I would only be able to add about 80SF of footprint based on lot coverage and even less if I am to meet the setbacks. I have no room for a shed, porch, ADU, etc… At minimum, I would like to see the allowable lot coverage increase to 35% (like Deering) or more ideal, up to 60% (like Munjoy Hill). I use my house as an example because I know it best. I believe it is representative of the majority of my neighbors in the IR-2 zone.

Accessory Structures
Following the current ADU regulations on Peaks, I would also like to see other accessory structures, which benefit the health and well being of people and the planet, be exempt from lot coverage requirements. Things such as greenhouses, sheds (for bikes and gardening, we don’t have garages out here, and most people don’t have basements), and porches (covered and uncovered) should be allowed to improve the health and well being of occupants. I would also argue that artist spaces and home offices should fall into this category. In addition to removing the barrier of lot coverage restrictions, I would also like to see the setback requirements either removed, or radically changed for these particular uses. Most properties cannot

add any of these accessory structures legally to the lot. This includes ADUs. While the ADU regulations removed lot coverage requirements, most IR-2 properties (which includes a population of people that could really use extra income and age in place) are still unable to add ADUs due to the setback restrictions. The lots in IR-2 are very small!!!

IB Zone

I know that revised maps have not yet been proposed, however, I want to also take this opportunity to make a comment about the IB Zone on Peaks Island. Business development is nearly impossible out here as a result of the geographic location of the IB zone which comprises mostly waterfront properties. The property values are far too high for most small scale entrepreneurs. I think allowing accessory structures (and uses) in the IR-2 as noted above could help, but I also think expansion of this zone is needed. The non-residential reuse proposal would not have much impact out here, if at all.

Thank you for your time. I am writing rather quickly to get this to you, but I would be happy to have a follow up conversation and elaborate if you would like.

Best, Rachel

[Quoted text hidden]

Helen Donaldson <hcd@portlandmaine.gov>

ReCode, short term rentals, housing needs assessment, shoreline access

Laura Glendening <lrglendening@gmail.com> Tue, Oct 17, 2023 at 2:11 PM
To: Helen Donaldson <hcd@portlandmaine.gov>
Cc: Anne Coughlin <annefcoughlin@gmail.com>

Hi Nell,

In addition to the ReCode feedback we sent in through the Peaks Island Council, we have a few questions and comments:

1. What is the City's position regarding limiting short term rentals such as Airbnbs? It seems as if short term rentals have had a negative influence on available housing stock on the island – as homes once owner occupied year-round are now being purchased for the business of short term rentals.

2. Are you aware of an official Housing Needs Assessment for Peaks Island that has been completed recently? Our committee is interested in seeing a needs assessment for the Island.

3. When will ReCode be publishing draft maps and will City owned shoreline access land and pathways be a part of this?

4. Regarding the PIC recommendation for a multi-units in all residential areas this committee recommends further investigation as the survey results did not show support for this allowance.

Thanks,
Laura Glendening
PIC Housing & Zoning Committee, Chair

Evaluation of Overlapping Proposals

In June 2023, the Urbanist Coalition of Portland published our recommendations for changes to Portland's land use code. With the July release of the city's ReCode Phase II First Wave Changes, we have been able to assess how the proposed changes drafted by City Staff measure up against our own detailed proposals and broader goals.

The ReCode Committee of the Urbanist Coalition of Portland has carefully analyzed the First Wave Changes to determine where our proposals overlap with to determine how they align with one another, and with our goals.

As an overview, we have grouped our 'ratings' of ReCode Portland's counterparts to our proposals into four broad at-a-glance categories, defined below. More detailed remarks follow this visual summary.

	City Staff's proposals meet or surpass our goals.
	City Staff's proposals move towards our goals, but falls substantially short of what we feel to be necessary.
	City Staff's proposals either have a mixed effect towards our goals, or address our goals in such a minute way that they prove misleading.
	City Staff's proposals either do not address or actively oppose our goals.

Note: ReCode Portland has not yet released its parking proposals, so we have excluded ours from this review as well. They also have not released their revised zoning map, so judgments have been based on knowledge available at this time.

How do City Staff's ReCode proposals compare to ours?

Allow Renting Rooms with New Kitchens and Bathrooms

Allow Renting More Rooms

Allow Gentle Density

Simplify Zones

Allow Smaller Lots

Allow More Four-Story Buildings

Allow Multi-Family Housing

Reduce Setback Requirements

Empower Neighbors to Reduce Setbacks

Allow Co-Living

Allow More Lot Coverage

Allow Neighborhood Business

Allow Higher Quality Floors

Measure Height from Sidewalks

Allow Renting Rooms with New Kitchens and Bathrooms

UCP Proposal	City Staff Proposal
Remove the restriction on renting rooms in your home if you have added a kitchen or bathroom in the last two years.	Completely remove use standards around renting rooms.

We prefer the City Staff Proposal to our own in this case.

Allow Renting More Rooms

UCP Proposal	City Staff Proposal
Allow renting up to four rooms per dwelling unit instead of two.	Completely remove use standards around renting rooms.

We prefer the City Staff Proposal to our own in this case.

Allow Gentle Density

UCP Proposal	City Staff Proposal
Remove minimum lot area per dwelling unit requirements. If your units are large enough and if your building fits within the height, lot coverage, and other dimensional requirements, you can build it.	• Merge lot area per dwelling unit requirements with minimum lot sizes in residential zones. These combined rules allow for a maximum of either two or four units per minimum lot size in the majority of residential areas. • Remove lot area per dwelling unit requirements in mixed-use zones.

We fully support removing the lot area per dwelling unit requirements in mixed-use areas. We would also like to see this extended to residential areas. The City Staff Proposal simply updates the minimums in these areas to be in line with the newly allowed number of units. See our recommendation to “Allow Multi-Family Housing” below for further comments.

Simplify Zones

UCP Proposal	City Staff Proposal
• Merge R-1 into R-2, combining our two least dense residential zones. R-1 is very rarely used and very similar to R-2. • Merge R-4 into R-6. R-4 is specific to the Western Promenade but its purpose is very similar to R-6, the zone of the rest of the West End. • Merge R-5 into R-6. R-5 is denser areas off-peninsula while R-6 is the most common on-peninsula residential zone.	• Merge R-1 into R-2, combining our two least dense residential zones. R-1 is very rarely used and very similar to R-2. • Merge B-7 into B-3. B-7 is the primary zone of the Bayside Neighborhood while B-3 is the Downtown zone. Emergency shelters will not be permitted north of Oxford Street so this zone change will not allow Emergency Shelters in Bayside.

The UCP and City Staff proposals are in full agreement regarding merging R-1 into R-2. We feel our other proposed mergers will simplify zoning, remove some arbitrary distinctions between areas on- and off-peninsula, and allow for more density in places where it makes sense.

We are generally neutral about the B-7 and B-3 merger as the zones are already somewhat similar. However, preserving the shadow of B-7 via the emergency shelter Oxford Street rule creates a shadow zone and adds additional complexity. It also bans emergency shelters in a portion of the already small area where they are currently allowed.

Allow Smaller Lots

UCP Proposal	City Staff Proposal
Allow all residential lots (except R-6) to be cut in half from their current sizes.	• Reduce R-1 minimum lot size due to its proposed merger with R-2, as R-2 allows slightly smaller lots. (R-2 currently requires 10,000 SF while R-1 requires 15,000 SF.) • Reduce R-5 minimum lot size to 5,000 SF by default. (R-5 currently requires 6,000 SF with 5,000 SF allowed in certain cases.) • No change to the remaining residential lot size minimums. In certain residential zones, lot size minimums are now based solely on a required lot area per unit.

While the small reductions in lot size minimums proposed by City Staff are a step in the right direction, these changes will impact relatively few homeowners. Lot splitting is a great way to provide more housing and allow homeowners to convert some of their equity into cash and lower their tax bill, all of which makes it easier for people to remain in their homes. Without more significant reductions, very few homeowners will be enabled to split their lots.

Allow More Four-Story Buildings

UCP Proposal	City Staff Proposal
Allow four-story buildings in R-5 and R-3 (around three-quarters of the residential area of the city).	• Reduce allowed height in R-6 for buildings with one or two units. • Increase height maximums in non-residential zones. • No change to height maximums in residential zones.

We support City Staff's proposed height increases in non-residential zones. However, we urge the city to also allow for four-story buildings in R-3 and R-5. Instead of encouraging very tall buildings in our downtown and restricting height everywhere else, we want to allow larger areas of moderate heights in order to fill in the missing middle in our housing supply. The R-3 zone is the largest residential zone in the city and R-5 is the second largest – together they represent three-quarters of Portland's residential land. This is the perfect place for middle-density housing that will allow our city to grow out naturally instead of with an extreme height imbalance.

Allow Multi-Family Housing

UCP Proposal	City Staff Proposal
Remove all limitations based on number of units. If your units are large enough and if your building fits within the height, lot coverage, and other dimensional requirements, you can build it.	• Allow up to two units per lot in most of the residential areas of the city (around 60% of land area). • Allow up to four units per lot in the remaining residential areas where unit limits are in place.

We feel City Staff's proposal is a step in the right direction but still insufficient to meet the housing needs of the city, build high-quality neighborhoods, and comply with LD2003. State law LD2003 requires local zoning rules to allow a minimum of four units per lot in all areas with public water. City Staff's proposal sticks to the minimum required by law in some areas of the city and is not up to the standard in more than half of our residentially zoned land. Portland should be a leader in the state for tackling our housing challenges and in building complete, walkable neighborhoods. Small apartment buildings with 6-8 units already exist in many residential neighborhoods across the city and fit perfectly well in those contexts – there is no reason not to allow more of this form of housing.

Reduce Setback Requirements

UCP Proposal	City Staff Proposal

• Reduce front and side setback requirements in residential areas depending on the zone.
  ○ Reduce front setbacks from 5-25 ft to 5-15 ft.
  ○ Reduce side setbacks from 5-12 ft to 5-8 ft.
• Retain current option allowing front setbacks to alternatively be calculated as the average of adjacent yards.
	• Reduce front setbacks in the least dense residential areas of the city from 25 to 20 ft.
	• Measure all other front setbacks in residential areas as an average of neighboring front yards +/- 5 ft.
	• Remove side setbacks for the newly defined townhouse use. (Side setbacks are otherwise largely unchanged.)

Reducing setbacks is an important part of creating more pedestrian friendly neighborhoods as well as more housing. Defining setbacks as the average of adjacent setbacks will lock our current setbacks in place. It also creates unnecessary complexity and ambiguity, making it more difficult to determine what your own setback minimum actually is. Furthermore, if your neighbor builds their house further back than they need to, you may actually lose some of the buildable area of your lot. We also feel that 20 feet is still a larger front setback than is reasonable in any zone.

Empower Neighbors to Reduce Setbacks

UCP Proposal	City Staff Proposal
• Allow people to reduce their own setbacks if they have unanimous agreement from their neighbors. • Continue to define specific numeric distances for setback minimums in cases where there is no agreement.	Measure front setbacks as the average of neighboring front yards +/- 5 ft.

Though in some ways these proposals sound similar, we feel our proposal has several major advantages over the City Staff proposal. For one, neighbors would never be able to build their own house in such a way that it takes away from the buildable area of their neighbors. Our proposal also allows neighbors to make their own decisions about what they care about, instead of forcing everyone to accept the street corridor that already exists. Lastly, maintaining a numeric minimum as a fallback gives everyone a clear and simple answer regarding what they will be guaranteed to be able to build.

Allow Co-Living

UCP Proposal	City Staff Proposal
Create a new coliving use that allows for individual bedroom units around shared common amenities like kitchens or bathrooms.	• Remove the lot area per rooming unit minimums that would limit the number of rooming units in coliving spaces. • Does not otherwise create a coliving use.

We approve of City Staff's proposal to remove limits on rooming units. However, we feel that coliving arrangements allow for flexible, affordable housing options and believe that they should be formally allowed.

Allow More Lot Coverage

UCP Proposal	City Staff Proposal
Increase the maximums on the amount of your lot you are allowed to cover from 20%-60% to 40%-60%, depending on the zone.	• Increase the maximums on the amount of your lot you are allowed to cover from 20%-60% to 25%-60%, depending on the zone. • Add a landscaped open space requirement to all residential zones (currently this requirement exists only for R-6, the most dense residential zone). These percentages are generally 10-20 percentage points less than the portion of the lot required to be left uncovered.

We feel that City Staff's proposed increases are too small. Being able to cover anything less than 40% of your lot is extremely limiting. In City Staff's proposal, homeowners are limited to 40% coverage or less in every residential zone but one. Covering 60% of your lot still leaves plenty of room for green space and permeable surfaces.

Allow Neighborhood Business

UCP Proposal	City Staff Proposal

• Allow neighborhood-scale businesses and places of assembly in all residential areas of the city.
  ○ Neighborhood-scale businesses are first-floor, small, low impact businesses.
  ○ This was done by using the standards of the existing lowest-impact neighborhood businesses zone (B-1b) across the city. However, hotels and bed and breakfasts were not allowed everywhere in the city so the (B-1b) zone was kept in place to allow them where they are currently allowed.
	• Allow small offices, services, restaurants, shops, specialty food services, and studios in residential zones only in structures that are already non-residential or in existing structures that were originally built for a non-residential purpose.
	  ○ Existing structures are defined by when the changes go into effect, so this will not apply to any new buildings.
	  ○ This will be allowed in all residential areas in the city, but only conditionally. People will need to apply for permission if they want to use this for the first time for a structure, as well as any time they want to change to one of the other allowed uses.
	• Dissolve the lowest-impact neighborhood business zone (B-1b) and merge into neighboring residential zones.
	  ○ The businesses already in these areas are non-residential so they remain compliant. However, if a business owner were to switch between permitted uses they

	would now need to apply for a conditional use where they would not have had to before. o A few uses have been removed, such as clinics and bed and breakfasts. Others have been removed but are allowed in residential areas with their own separate conditions, such as places of assembly and schools. • Create separate conditions for places of assembly in residential areas. o The definition of place of assembly has been expanded to include places where as few as 8 people assemble (currently the cutoff is 15). This means that you will need to apply for a conditional use if 8 or more people will be assembling. o They are only allowed on major roads, unless the building is non-residential in its current use or original construction. o In the B-1, I-L, and I-Lb zones they are limited to 10,000 SF (the limit from the B-1b zone).

We feel the City Staff's proposal is a step in the wrong direction. Portland's Comprehensive Plan sets a goal to have "high-quality and affordable housing, schools and other civic functions, food, open space, other amenities and services - within a walkable, bikeable distance." Our change encourages this, while City Staff's proposal does not.

Though the City Staff's proposal ostensibly expands neighborhood businesses, it allows these businesses in only a tiny handful of buildings, namely buildings that a)

are already being used for a non-residential use, or b) were originally built for a non-residential purpose. This means that neighborhood businesses are limited to existing buildings in specific locations decided for arbitrary historical reasons. These buildings are by definition both old and already being used for something else. In many ways, this proposal adds more restrictions on neighborhood businesses than currently exist: it removes uses that are currently allowed in the neighborhood zone; it makes owners of these buildings apply for conditional uses when they did not need to before; and it adds needless restrictions on places of assembly. If a qualifying structure is torn down and a residential structure is built in its place afterwards, it will never again qualify to be a neighborhood business or place of assembly.

Allow Higher Quality Floors

UCP Proposal	City Staff Proposal
Add a small amount of extra height per floor to allow for more natural light, better insulation, and ventilation. This was done by translating height requirements into the number of possible stories, then re-calculating height requirements based on slightly taller stories. This added five feet to height maximums in residential zones.	• Reduce allowed height in R-6 for buildings with one or two units. • No change to height maximums in residential zones.

Our existing height maximums are out-of-date with modern building science and construction methods. A three-story building built to today's standards of energy efficiency, indoor air quality, and sound insulation is slightly taller than a three-story building of the past. Thicker roof insulation is one of the easiest and most cost-effective things you can do to make a building more energy efficient, but current height limits often mean choosing between this energy efficiency and an entire floor of housing. An extra five feet of height is hardly noticeable from the outside but can make a world of difference in terms of the quality and climate resiliency of our housing stock.

Measure Height from Sidewalks

UCP Proposal	City Staff Proposal
Allow building height to be measured from the sidewalk of its front entrance (currently height is measured from the average height of the lot).	No change, though a clarification of the current definition of height is added.

City Staff's proposal to clarify the definition of height is a great addition. However, the impacts of building height are experienced from the street level. We feel that it does not make sense to increase or decrease the building height that is experienced from the sidewalk and street simply because of the slope of its lot.

From: Virginie Stanley <Unknown>
Date: Thursday, October 19, 2023 at 2:48:22 PM UTC-4
Subject: RE: Recode
To: Christine Grimando <Unknown>
Cc: ReCode Portland <Unknown>

It is super helpful to know this information this way I can advice clients to submit and not wait for the ReCode to come out. Much appreciated Christine!

Thank you,

Ginny

Virginie Stanley, Architect, Principal

INVIVID ARCHITECTURE

631 Stevens Avenue, Suite 200

Portland, Maine, 04103

207.939.7602

From: Christine Grimando <cdg@portlandmaine.gov>
Sent: Wednesday, October 18, 2023 8:14 PM
To: Virginie Stanley <virginie@invividarchitecture.com>
Cc: ReCode Portland <recodeportland@portlandmaine.gov>
Subject: Re: Recode

Hi Ginny,

It's safe to say it won't be approved in the next 3 months and that the public review schedule will take us into 2024.

Christine

On Wed, Oct 18, 2023 at 1:58 PM Virginie Stanley <virginie@invividarchitecture.com> wrote:

> Thank you very much for the clarification, Christine. It sounds it quite a process to get it approved, so probably no final adoption in the next 3 months, right?
>
> Ginny
>
> Virginie Stanley, Architect, Principal
>
> INVIVID ARCHITECTURE

631 Stevens Avenue, Suite 200

Portland, Maine, 04103

207.939.7602

From: Christine Grimando <cdg@portlandmaine.gov>
Sent: Wednesday, October 18, 2023 10:25 AM
To: Virginie Stanley <virginie@invividarchitecture.com>
Cc: ReCode Portland <recodeportland@portlandmaine.gov>
Subject: Re: Recode

Hi Virginie,

Thanks for the question. We don't have a date just yet, but when we release the next batch of draft amendments, we'll include a schedule. Final adoption date will be subject to change for a while, as there's always some variability as it moves through the public review process, but we should be able to give people a reasonable sense for an adoption timeline soon.

Christine

Christine Grimando, AICP
Director

Planning & Urban Development Department
389 Congress Street
Portland, Maine 04101
cdg@portlandmaine.gov

www.portlandmaine.gov

https://www.recodeportland.me

On Tue, Oct 17, 2023 at 4:50 PM Virginie Stanley <virginie@invividarchitecture.com> wrote:

> Hi Christine,
>
> I hope you are doing well. Just a question do you happen to know when the Recode might go into effect, or is it so political that it is had to say?

Thanks,

Ginny

Virginie Stanley, Architect, Principal

INVIVID ARCHITECTURE

631 Stevens Avenue, Suite 200

Portland, Maine, 04103

207.939.7602

From: ReCode Portland <Unknown>
Date: Friday, October 20, 2023 at 4:46:54 PM UTC-4
Subject: Re: 4 Oramel Ave
To: David Lehman <Unknown>
Cc: plan...@portlandmaine.gov <Unknown>, ReCode Portland <Unknown>

Hi David,

Thanks for writing. I appreciate your interest, and agree that increasing the overall supply of housing is very important. I actually had trouble pulling up 4 Oramel in our system here for some reason, so I can't tell you too much about that lot in particular, but I can point you to what's allowed in that area of the city currently. That street is in the R-3 zone, and the City's Land Use Code (https://content.civicplus.com/api/assets/e27b9933-d54c-4988-ba26-db4df8eb9954#page=56) describes what can happen in each zone, both in terms of what uses are allowed, and what sort of land area and dimensional requirements there are. There are also affordable housing regulations in there, as well as Accessory Dwelling Unit provisions, which may be of interest. There's a helpful public GIS system with maps of all the zoning and other layers (https://portlandme.maps.arcgis.com/home/index.html). If you have specific questions about zoning and what you can do on a lot, often the Zoning division is a good place to start (zoning@portlandmaine.gov). As far as advocating for change, we have major zoning initiatives underway right now, including ReCode which recommends increased creating housing opportunities through zoning changes city-wide, as well as amendments currently being reviewed to comply with a recent state law, LD 2003, which requires certain housing options be allowed in communities across the state - the Planning Board is reviewing these at their Tuesday meeting, and materials will be posted in the City's Agenda Center, on the City of Portland website. We welcome your comments on either or both.

The 2022 Housing Report is a good snapshot of recent housing activity if you really want to dig into the topic.

If I can provide any additional information, please don't hesitate to let me know.

Christine Grimando, AICP
Director
Planning & Urban Development Department
389 Congress Street
Portland, Maine 04101
cdg@portlandmaine.gov
www.portlandmaine.gov
https://www.recodeportland.me

planning
& urban
development

On Thu, Oct 19, 2023 at 11:00 PM David Lehman <dr.david.lehman@gmail.com> wrote:

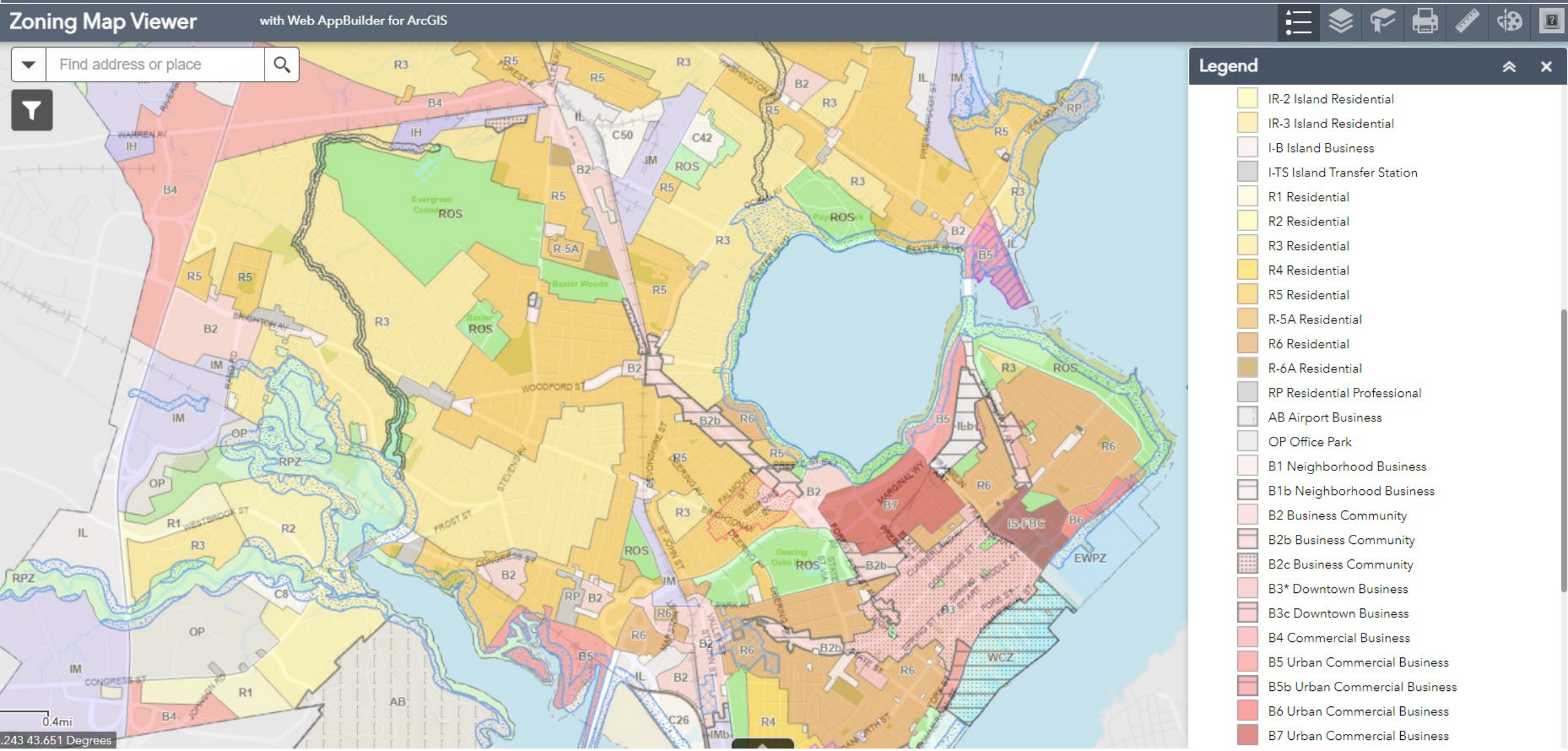
> Hello Christine,
>
> I hope you are doing well. My wife and I moved to Maine last June for my Residency training at Maine Medical Center, and we were surprised by how difficult it was to find affordable housing. After having seven offers on different homes in the greater Portland area rejected we were extremely lucky to purchase a home in north Westbrook. Since that time I have been thinking about others that are in a similar situation that weren't as lucky. I strongly want to help create opportunities for others that simply cannot due to lack of inventory in the market. I have been looking for land to create an affordable housing subdivision with the goal being to create a community of 1-2 bedroom homes with 800-1200 sqft per home in an effort to help as many as possible. I have talked with 50+ young medical trainee's and nurses who are currently renting who would do anything to have the chance to buy a home. Would a project like this be feasible for the property at 4 Oramel Ave? Are there zoning restrictions? If so, how can I participate in advocating for

changing zoning laws? Or, are there other areas that you know of that would be able to accommodate a subdivision like this?

Thank you so much for your time!

David Lehman

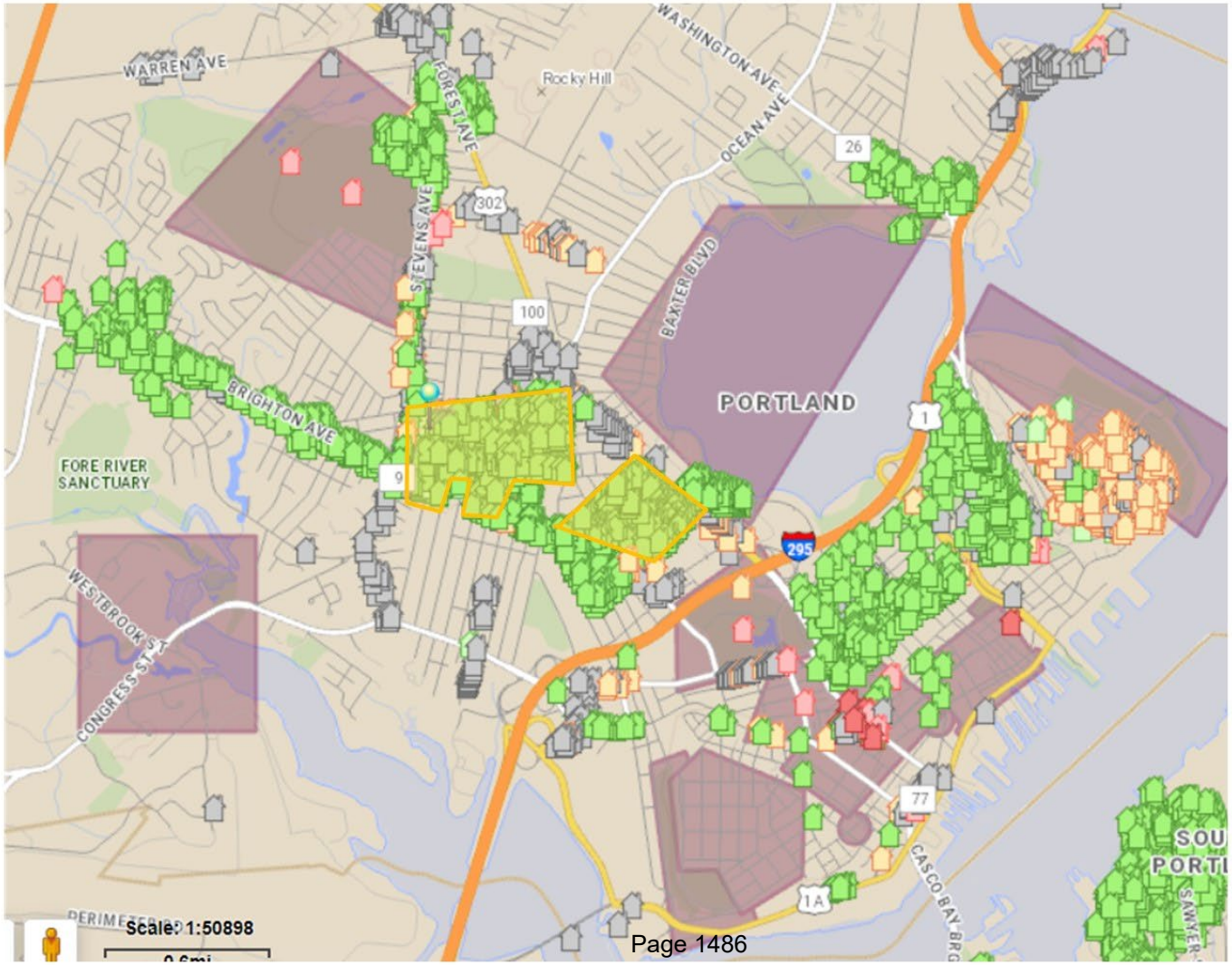
PORTLAND'S EXISTING ZONING MAP (*no new map yet proposed*)



ELIGIBLE Historic Districts and Landmarks:

National Register of Historic Places
MHPC Documentation

NRHP Individual Listed
NRHP District Listed
NRHP Eligible
Surveyed



FRONT SETBACK Proposed Language: *Average of adjacent front yards +/- 5 feet*

- Applies RN-2 (old R-3: 25’), RN-3 (old R-4: 25’), RN-4 (old R-5: 20’), RN-5 (old-R-6: 5’)

92 William Street: Proposed RN-4

45 Merrill Street: Proposed RN-5

- With extra height, being at the sidewalk exacerbates the feeling of a dwelling being out of context –” looming over neighbors”
- Highlights the need for design standards which include transitional elements like porches, stoops, etc.

Suggested Edit: Front setback for new structures that exceed the height of adjacent structures by 15% or more shall be 5’ or the average setback of adjacent structures, whichever is greater.

EXISTING 100’ RULE for review adjacent to Historic Districts and Landmarks:

55 Sherman Street: Proposed RN-7

Existing 7-unit & Lot Size 120’ x 95 +/- = 11400 SF

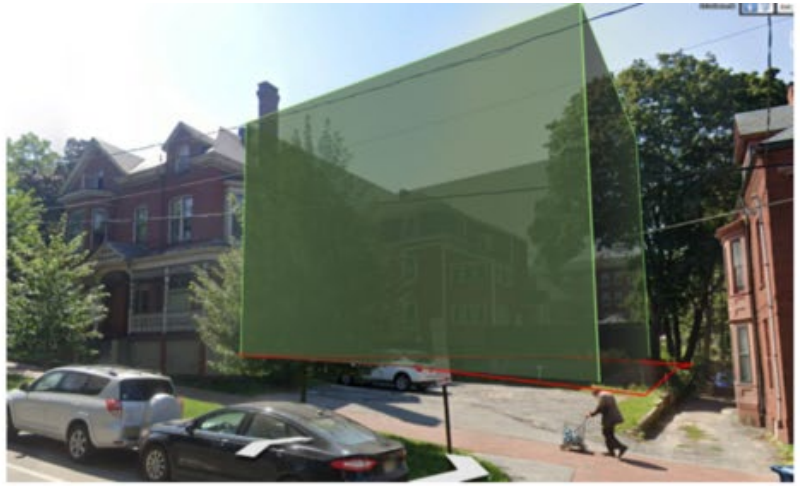
Unit/Lot = 26 Unit Multi-family

Max. Lot 60% Coverage = Buildable Area 6840 SF or 75’x 90’

	R-7	RN-7
Min Lot Size	2000 SF	2000 SF
Lot Coverage	60%	60%
Area/Unit	435 SF/Unit	TH = 1200 SF/Unit MF= 435 SF/Unit
Height	50’	65’ *
Street Frontage	20’	TH = 15’/Unit MF= 20’
Front Setback	0’	0’
Side Setback	5’	5’ or 0’ if combined set-backs = 10’
Rear Setback	5’	5’

*This is also a sloped lot - that would affect how the height is measured.

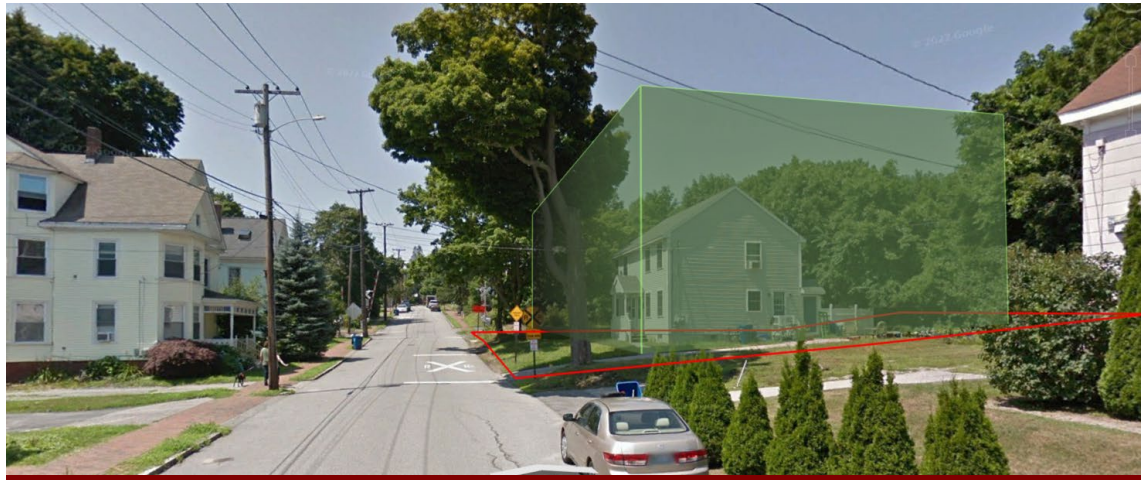
View From State Street HD Existing Height Limit



View From State Street HD Proposed Height

IMPORTANCE OF DESIGN GUIDELINES

15-19 Cedar Street: Proposed RN-5



55 Lincoln Street: Proposed RN-4

ENCOURAGING TEARDOWNS
30 Riggs Street

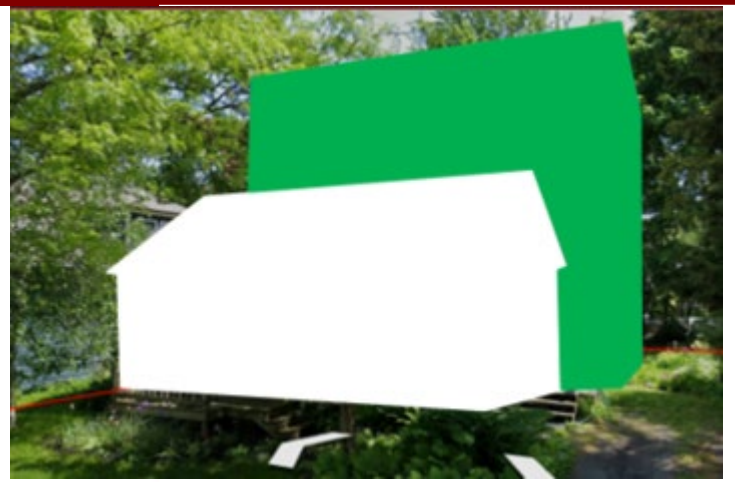
Existing Dwelling & Lot 80' x 100 +/- = 8000 SF **(tear down)**
Unit/Lot = 1or 2-Family or MF 6-unit
Max. Lot 35% Coverage = Build. Area 2800 SF or 60'x 46'

	R-3	RN-2
Min Lot Size	6500 SF	6500 SF
Lot Coverage	35%	35%
Area/Unit	6500 SF/Unit	6500 SF/Unit (MF=1200 SF/Unit)
Height	35'	35'
Street Frontage	50'	40'
Front Setback	25'	Average of adj. front yards +/- 5'
Side Setback	12', 14', 16' for 1.5, 2 & 2.5 stories	8'
Rear Setback	25'	25'

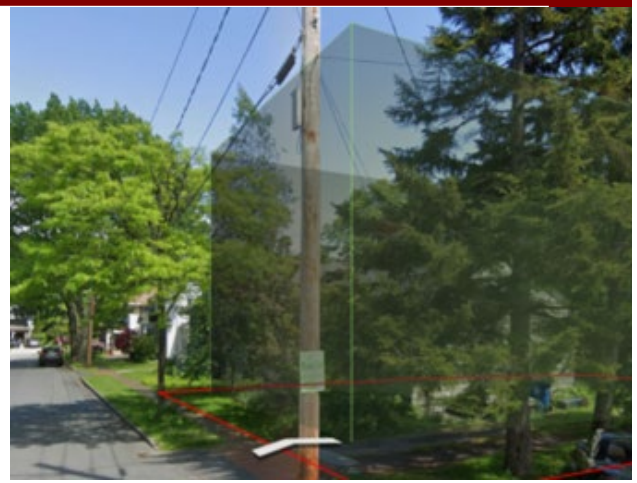
ENCOURAGING TEARDOWNS
16 Prospect Street

Existing Dwelling & Lot 64' x 110 +/- = 7040SF **(45'x45' addition)**
Unit/Lot = Three-family or MF 5 unit
Max. Lot 40% Coverage = Build. Area 2816 SF or 48'x 58'

	R-5	RN-4
Min Lot Size	6000 SF	5000 SF
Lot Coverage	40%	40%
Area/Unit	3000 SF/Unit	2000 SF/Unit (MF=1200 SF/Unit)
Height	45'	35'
Street Frontage	20'	20'
Front Setback	5'	Average of adj. front yards +/- 5'
Side Setback	8', 12', 14' for 1.5, 2 & 2.5 stories	8' or 5' if combined set-backs = 16'+
Rear Setback	10'	20'



Existing SF & Potential 2-unit Addition



Potential teardown – New 5-unit Multifamily

Helen Donaldson <hcd@portlandmaine.gov>

Re: ReCode Review - Acorn Engineering

Sam Lebel <slebel@acorn-engineering.com> Mon, Nov 6, 2023 at 1:14 PM
To: Helen Donaldson <hcd@portlandmaine.gov>, ReCode Portland <recodeportland@portlandmaine.gov>
Cc: William Savage <wsavage@acorn-engineering.com>

Hi Nell – one more comment I wanted to add:

The current R-3 zone allows for ground-up construction of multifamily under the PRUD when you hit the min lot size of 3 acres. Because the PRUD is being eliminated under ReCode, an R-3 lot that is currently 3+ acres today and is eligible for multifamily development via the PRUD will no longer be able to build new multifamily projects. I do appreciate the 1,200 SF density for CU multifamily in R-3 (renovation of existing nonresidential building); however, I think these conversions will be relatively rare and as such, would advocate for perhaps a less dense option with ground-up new multifamily being a permitted by-right land use in the R-3, otherwise, in a sense this zoning district is going backwards in the pursuit of housing for the larger lots.

Thank you for your consideration and continued hard work on these important policies!

Sam

[Quoted text hidden]

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Form Submission - Contact us Re:Code - ReCode on Peaks Island

0 views
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Squarespace
Nov 14, 2023, 2:41:07 PM (2 days ago)

to recodep...@portlandmaine.gov

Sent via form submission from *ReCode Portland*

Name: Rhonda Berg

Email Address: brhonda1@gmail.com

Subject: ReCode on Peaks Island

Message: When will new set-back and lot size rules go in to effect? Our lot is in the IR-1 zone. The public sewer stops one house short of ours. 7 houses all with bigger lots could benefit from public sewer on Pleasant Avenue. Is there any plan to extend it? Would it make a difference if the property owners say they are willing to add ADUs should the be able to hook-up to the sewer? Thank you.

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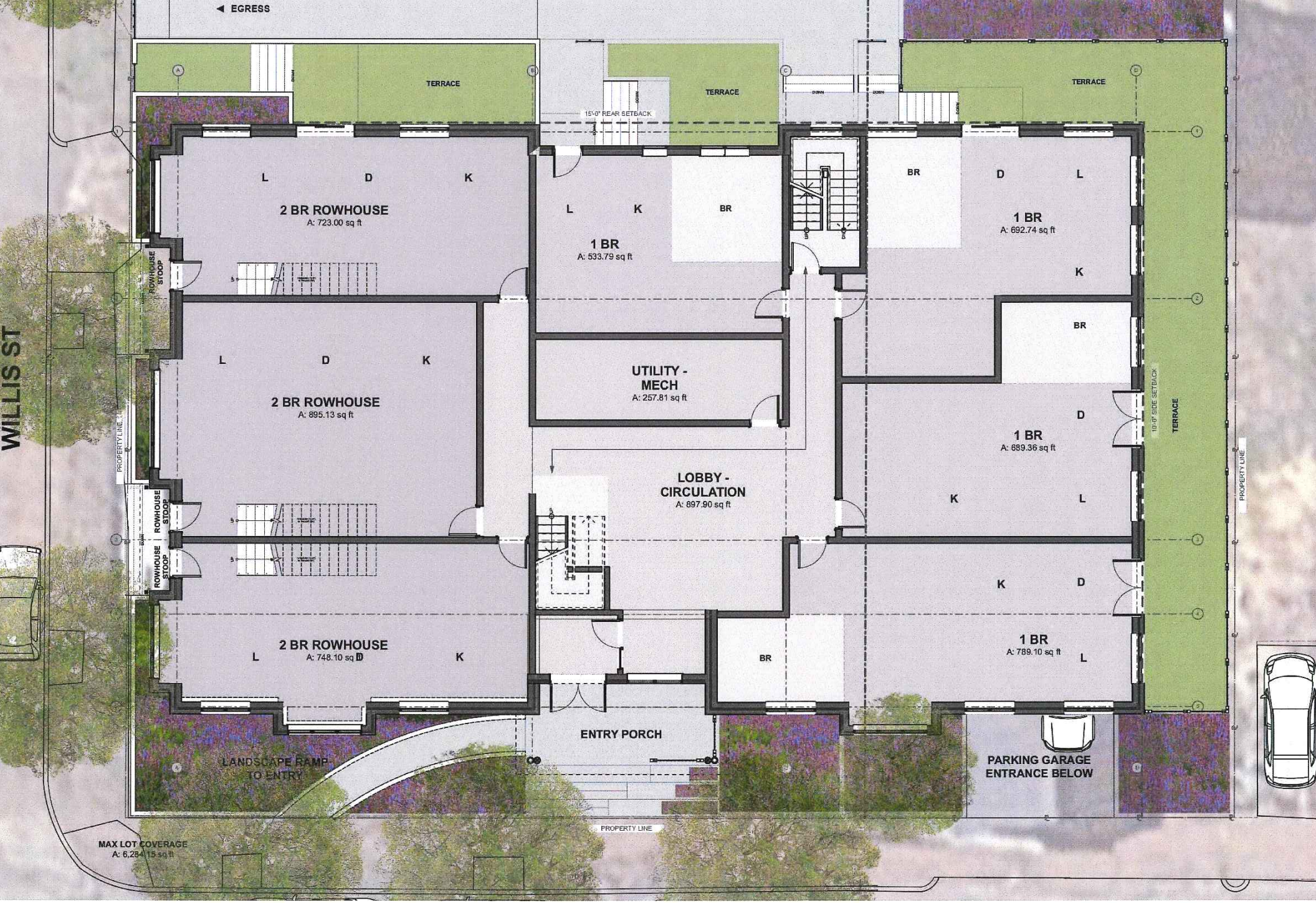

GROUND FLOOR PLAN

VIEW FROM MONTREAL STREET

VIEW DOWN WILLIS STREET

VIEW FROM ALCYER MONTREAL STREET

FW: FW: Holiday Inn By The Bay

0 views

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Michael Erickson

Nov 21, 2023, 6:48:32 PM (17 hours ago)

to recodep...@portlandmaine.gov

Hello,

My name is Mike Erickson and I am the General Manager of Holiday Inn By The Bay (88 Spring St). I recently learned that the city is considering increasing some downtown height limits, and I am writing in hopes of having our parcel included in said height increase. This increase would allow us to activate our rooftop and open a great space to enjoy views of Casco Bay. We hope to add to the city's food and drink scene by making our space available to both visitors and locals while operating in our existing footprint. Please let me know if there are any more formal steps I can take to support this, or if you have any questions for me. Have a great day!

-Mike

MICHAEL ERICKSON GENERAL MANAGER

HOLIDAY INN BY THE BAY

88 SPRING STREET, PORTLAND, ME 04101

P 207-775-2311 | F 207-761-8224

E merickson@innbythebay.com W www.innbythebay.com

Form Submission - Contact us Re:Code - ReCode Portland comments - sea level rise trajectories

0 views
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Squarespace
Nov 27, 2023, 9:25:48 AM (yesterday)
to recodep...@portlandmaine.gov

Sent via form submission from *ReCode Portland*

Name: Hannah Baranes

Email Address: hbaranes@gmri.org

Subject: ReCode Portland comments - sea level rise trajectories

Message: Hi ReCode Portland Team,

I'm a sea level rise and coastal flooding researcher at Gulf of Maine Research Institute. This is fantastic work, and I'm sorry for submitting comments a few days past the deadline. Thank you for so clearly laying out your process and proposed solution.

I think this plan for coastal design flood elevations is a great starting point. My only comment is around how land use code will continue to dynamically adapt over the next 20 as the future trajectory of sea level rise becomes more clear.

In a future consistent with NOAA's Intermediate scenario, the rate of sea level rise at the end of this century (around 2100) will be faster than 1 foot every 20 years, and sea level will continue to rise at that extremely rapid rate for centuries. Therefore planning for 4 feet of sea level rise buys time for coastal infrastructure, but if sea level rise ever actually does reach 4 feet, whatever infrastructure is built to withstand that level of rise will become flooded within a couple of decades.

We will likely know whether we are on this trajectory by mid-century, and if we are, we will need to have the flexibility to adapt land use code.

Thank you again for your work and for asking for input.

Sincerely,
Hannah Barananes

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Does this submission look like spam? Report it here.

Helen Donaldson <hcd@portlandmaine.gov>

Fwd: Follow up from our meeting

2 messages

Kevin Kraft <kkraft@portlandmaine.gov> Fri, Dec 1, 2023 at 12:09 PM
To: Helen Donaldson <hcd@portlandmaine.gov>, Christine Grimando <cdg@portlandmaine.gov>

---------- Forwarded message ---------
From: **Alan Thibeault** <athibeault@une.edu>
Date: Fri, Dec 1, 2023 at 12:07 PM
Subject: RE: Follow up from our meeting
To: Kevin Kraft <kkraft@portlandmaine.gov>, Andrew Philippe <aphilippe@une.edu>

This message was sent securely using Zix®

In regards to Recode Portland, I didn't see an active way to submit comments so thought I would forward them to you. In my review of the proposed revisions to the Use Standards I had a couple of comments for consideration.

In regards to revisions noted in section 6.4.31.B Post-Secondary Schools, that now states in "In any residential zone, a new post-secondary school or an expansion on an existing post-secondary school shall not cause displacement or conversion of existing residential uses".

This is in contrast with the deleted version on page 6-39, which stated "The proposed use shall not cause significant displacement or conversion of residential uses as of June 1, 1983, or July 15 in the IR1 and IR2 zones, or thereafter."

This revision is too restrictive and the word "significant" should be reinserted in the proposed text. I can see a situation where we might acquire a residential property and need to convert it to another institutional use, which would be prohibited under the new text. We actually surround three residential properties that could never be repurposed should we ever acquire them. If this is considered in the greater context and we have added a residential facility to accommodate 100 students, this would be overly restrictive and not allow for any growth.

A second concern is related to section 6.5.6.F.8 Institutional Uses, which currently reads:

8. In the case of a post-secondary school within the R-5 zone and not including the USM Overlay Zone, such school may build principal structures to a height of 55 feet if the following standards can be met: USE STANDARDS CITY OF PORTLAND LAND USE CODE | 6-25 a. Minimum lot size: 10 acres which may include adjacent land owned by the institution on both sides of a public street. b. Minimum setback between buildings on-site: 20 feet. c. Minimum setback from external property boundary: 30 feet, except that parking garages over 35 feet in height must be located 50 feet from external property boundaries when adjacent to an adjoining residential use. d. The area between the structure and

adjoining residential uses must be adequately screened with appropriate landscaping or other features to buffer the building and effects thereof (i.e. noise, light, etc.) from abutting properties.

UNE lobbied to have this exemption inserted into the code and feel we would be extremely limited in our ability to construct institutional style buildings without it. Our Pharmacy, Oral Health Center and new Medical School buildings were only able to be constructed because of this clause.

Thanks

AT

From: Kevin Kraft <kkraft@portlandmaine.gov>
Sent: Wednesday, November 29, 2023 8:03 PM
To: Alan Thibeault <athibeault@une.edu>; Andrew Philippe <aphilippe@une.edu>
Subject: Follow up from our meeting

Alan & Andrew,

Great meeting with you today. We're looking forward to hearing from you concerning the IOZ when you're ready to restart that process.

Following up on today's meeting here's the ReCode website I mentioned. https://www.recodeportland.me/.

Also the city's new arborist is Mark Reiland. Mark's email is mreiland@portlandmaine.gov.

Feel free to get in touch with me about ReCode or other questions you may have.

Best,

Kevin

--

Kevin Kraft, AICP
Deputy Director Planning & Urban Development Department

389 Congress Street
Portland, Maine 04101

Phone: 207.874.8430

kkraft@portlandmaine.gov

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--
Kevin Kraft, AICP
Deputy Director Planning & Urban Development Department
389 Congress Street
Portland, Maine 04101
Phone: 207.874.8430
kkraft@portlandmaine.gov

Helen Donaldson <hcd@portlandmaine.gov> Fri, Dec 1, 2023 at 1:28 PM
To: Kevin Kraft <kkraft@portlandmaine.gov>
Cc: Christine Grimando <cdg@portlandmaine.gov>

Interesting. I think the idea is that they get what they need through their IOZ and they don't need these base zoning provisions, right?

Either way, I will get these comments into the record.

Nell
[Quoted text hidden]

--
Nell Donaldson
Director of Special Projects
City of Portland
(207) 874-8723
hcd@portlandmaine.gov

Greater Portland Landmarks
Historic character enriches our lives

PO Box 17533, Portland, ME 04112

10 December 2023

RE: RECODE Phase II

Christine, Kevin and Nell,

I am sorry that I was unable to attend the Advocacy meeting last month. Committee co-chair Sally Oldham has updated me on what was apparently a very productive meeting. We all want to thank you for coming to Landmarks to discuss the ongoing RECODE project. We know it's a huge undertaking for your office at a time when the planning office is busy with ongoing development projects, so we appreciate you all taking the time to visit with us. As discussed at the meeting, we have a few comments on the changes proposed in the first wave of proposed edits, but we are also looking forward to the next wave of proposed edits and appreciate you telling us a little about your intentions as you work on those sections.

While much of the conversation has been on how the proposed changes might catalyze new construction, equally important to us is how the new rules will 'legalize' non-conforming historic buildings, especially in older neighborhoods off the peninsula. The land use code should incentivize retention of existing residential structures, in furtherance of sustainability and protection of local fabric.

In those limited circumstances when new construction is appropriate in older neighborhoods (vacant lots, non-residential structures, non-contributing structures) our concern is that new construction should not just fill the permitted building envelope, but should integrate into the existing fabric, even if it is larger in height or mass. The design standards, their focus on the examination of context, and their application will be crucial to facilitating that integration. We look forward to seeing the updated design standards manual in the new year and hope they will be brought forth for adoption in tandem with the land use code. We also feel strongly that referencing the design standards explicitly within the dimensional standards section will be important to alert any developer or building owner that both sets of standards must be met.

We agree with the statement in the Camiros' Recode Phase II Land Use Code Evaluation Report

"*Further, it can include thinking carefully about the design and context of development in Portland, helping to ensure that the essential historic fabric of the city remains intact and that — though architectural styles may vary — new development remains authentic to the local character and complementary to the Portland vernacular."*

We also agree with the goals of encouraging "compatibility and context sensitivity" which are referenced in the draft residential neighborhoods purpose statements. But we find that that those concepts are only partially operationalized in the current draft and note that they are particularly absent int the proposed RN-5 zone. As noted above, an essential part of the operationalization requires finalizing the updated design standards and incorporating them into the land use code by appropriate references stating that a proposed development must meet both zoning dimensional standards and the design standards.

We also offer the following comments:

- *Chapter 7 Dimensional Standards, Rules of Measurement*

We feel strongly that the definition and/or rules of measurement for building height should be measured from predevelopment grade, to ensure that no development can game the system and achieve a height vastly out of

scale with its neighbors. We referenced the Bangor LUC language as an example of another Maine community's handling of this issue:

> "*Height is measured from the vertical distance from the top of the highest roof beams of a flat roof or the mean level of the highest gable or slope of a hip roof to the average grade adjoining the building footprint prior to construction*."

- *Table 7A Residential Neighborhood Zone Dimensional Standards*

The proposed front setback language of "average of adjacent front yards, +/- 5 feet", along with extra height allowances has the potential to exacerbate the feeling of a new dwelling being out of context. We suggest some additional language, for example:

> " *Front setbacks for new structures that exceed the height of adjacent structures by 15% or more shall be 5 feet or the average setback of adjacent structures, whichever is greater*."

- *Sustainability & Diversity*

Two recent planning initiatives, Portland's Plan 2030 and One Climate Future, identify sustainability as a key goal and priority for the city's future. We are concerned that the more permissive dimensional standards may, as the city experienced on Munjoy Hill after the 2015 zoning changes, unintentionally encourage teardowns and exacerbate the loss of diverse affordable housing options in the city's residential neighborhoods. Teardowns also have adverse environmental effects, including increased solid waste and energy impacts that do not support the City's sustainability goals.

- *Modeling Impacts*

The zoning guides and additional graphics in the proposed sections are very useful for helping citizens understand the proposed changes. We feel strongly that modeling the proposed changes in various zones, as was done during the FBC changes in the India Street neighborhood, would also be helpful for those that don't follow zoning as closely as city staff and those in the development community.

- *Undesignated Historic Neighborhoods and Buildings*

In addition to locally designated historic districts and buildings, the Maine Historic Preservation Commission has designated neighborhoods and some individual buildings as eligible for the National Register of Historic Places. We feel strongly that design standards are important for these areas as well to ensure adjacent new construction will enhance the setting of those historic places. MHPC's database, CARMA, is available on their website. We are also curious to learn if MHPC's GIS layer could be added to the city's GIS system, to flag any eligible buildings when a demolition or building permit application is made?

Although we have identified several areas of concern above, we also have areas of the proposed land use code revisions that we support. We support proposed dimensional changes that build upon the characteristics of Portland's neighborhood's that were of necessity built close to a variety of destinations, including public transit. We believe neighborhoods like those off Brighton, Washington, and Forest Avenues are good models for a more transit-oriented city. These neighborhoods contain examples of multi-family and mixed-use buildings that support the city's goals to create opportunities for a variety of housing types and denser neighborhoods. We also support proposed changes that would permit commercial uses at strategic locations in residential neighborhoods to recreate the historic mix of land uses that organically developed in Portland's neighborhoods in the late 19th and early 20th centuries.

Thank you once again for taking the time to meet with us and for considering our views,

Carol De Tine

Carol De Tine
Vice President of the Board of Trustees
Greater Portland Landmarks

Form Submission - Contact us Re:Code - Resilience planning

0 views
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Squarespace
Dec 12, 2023, 5:20:01 PM (17 hours ago)
to recodep...@portlandmaine.gov

Sent via form submission from *ReCode Portland*

Name: Barbara Vestal

Email Address: vestal@chesterandvestal.com

Subject: Resilience planning

Message: I tried to leave comments within the Resilience plan but it would not accept comments. It seems to me that the plan should propose to limit the amount of new construction in the most vulnerable areas to only the uses that need to be there -- e.g. water dependent uses. There is no justification for new construction for residential uses, daycare facilities, etc. It makes sense to require the minimum elevation to be elevated, but it is unclear how that melds with the maximum height limits. I would measure height from the existing grade (not post-development) and require the elevated minimum elevation to be absorbed within the existing height limit. I would not support giving a proposed development additional height within which to accommodate the resilience measures. We should be avoiding putting new structures in harms way except where they have no choice about location, such as water dependent uses.

Manage Submissions

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Recode Resilience Questions

1 view

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Karen Snyder

Dec 15, 2023, 3:08:21 PM (3 days ago)

to ReCode Portland, recodep...@portlandmaine.gov, Mark Dion, Anna Trevorrow, Victoria Pelletier, Roberto Rodríguez, rphi...@portlandmaine.gov, ksy...@portlandmaine.gov, Pious Ali, April Fournier, abul...@portlandmaine.gov, Christine Grimando

Dear City of Portland Planning Dept and Recode Team,

Since there is no ability to send a question from the Portland Resilience Zoning webpage of Portland Resilience Zoning - Proposed Approach for Public Review (squarespace.com) I would appreciate if the Planning Dept/Recode personnel would answer the below questions.

Question #1: How is the General Public supposed to provide feedback to following link when there is no clarity or ability to send comments or questions from the link? Portland Resilience Zoning - Proposed Approach for Public Review (squarespace.com)

On 12/15/2023, it was stated by Planning Director, Christine Grimando, that questions can be sent to email to recodeportland@gmail.com However, I asked her why this email is not on this link for the public to know to send questions to. However, she did not respond.

Question #2: Who are the Portland Recode Resilience Stakeholders?

Planning Department indicated that the Recode Resilience proposal was made using input from the stakeholders. However, there is no transparency as to who the stakeholders are on this link. Portland Resilience Zoning - Proposed Approach for Public Review (squarespace.com)

Question #3: Can the Developers still easily get a waiver of $400/tree which allows them to opt out of planting trees like they have in the past which ironically caused the urban heat islands in the first place?

On Page 34 of 46 of Portland Resilience Zoning - Proposed Approach for Public Review (squarespace.com), the Planning Dept points out the urban heat islands. Currently, in the City of Portland technical manual, developers can easily apply for a waiver and pay $400/tree to opt out in planting a tree on their site. City of Portland Technical Manual (civicplus.com) (Page 4 of 20)

However, it is NOT clear in the Planning Dept's resilience proposal if the developers are required to plant trees with no exceptions or can they simply and easily get waivers like they have in the past.

Question #4: How Can This Resilience Proposal Be Taken Seriously Regarding Stormwater Reduction when there is currently a Proposal to Expand Surface Parking Lots at the Jetport and Destroy Surrounding Wetlands?

On page 40 of 46 of Portland Resilience Zoning - Proposed Approach for Public Review (squarespace.com), the Planning Dept states the intent to reduce storm water runoff by planting trees around surface parking lots and to protect wetlands.

There was a neighborhood meeting held on Tuesday, 12/12/2023 by the City of Portland Jetport to expand surface parking by destroying wetlands that must have had Planning Dept input? Portland residents ask jetport to increase parking without paving over woodland (pressherald.com)

I find it amazing this plan is even being proposed when there is plenty of surface parking at the jetport that could be built up rather than out. It also begs the questions, who thought this was a good idea to propose this from the Planning Dept and who would be paying and benefitting from this the City of Portland Jetport proposal of destroying wetlands for surface parking?

Unfortunately, this Recode Resilience link is just another example of the City of Portland Planning Dept's disingenuous efforts to appear that they care about public comment but yet they don't hold public meetings to collect public feedback BEFORE their proposals but yet make it difficult for the public to respond after the recommendations have been made.

This link appears to be another "feel good" recode document which seems to still allow developers to do what want as they always have done which is creating an unsustainable urbanized quality of life for Portland residents and the environment all in the name of "progress". One should question who is ultimately benefitting from this "progress"?

So, basically... business as usual .....

Regards,

Karen Snyder
D1

Helen Donaldson <hcd@portlandmaine.gov>

Peaks Island recommendation and queries

Peter McLaughlin <pmclaughlin@portlandmaine.gov> Mon, Jan 8, 2024 at 10:25 PM
To: Helen Donaldson <hcd@portlandmaine.gov>

Hi Nell,

We did discuss this at our 12/20 meeting and had good community feedback as well.

In response to the points in your 11/22 email...

Small Island Lots
The PIC voted unanimously in favor of recommending a 2,500 sq ft lot size for small island allowance. Our Housing & Zoning committee supported us in this decision as well. In examining lot sizes throughout the most dense year-round residential streets on the island, we see 2,500 sq ft as reasonable in keeping with the current neighborhood lay-outs. It would not bring all lots into conformity, as there are many under 2,000 sq ft, but it would make some progress there, as well.

Residential Use Permissions
The PIC opted not to put forward detailed recommendations for use permissions for now, as it is a complex issue that we need to spend further time on. As you all know, this is certainly something that the community is interested in, as there are unique complexities to running businesses on Peaks Island.

Light Industrial Zoning
While the PIC has not deeply investigated this topic yet, our Housing & Zoning Committee has suggested the Planning Department look at light industrial zoning by the Transfer Station with the creation of a city-owned parking area in the same area that will allow for the permitted parking of industrial vehicles.

Short Term Rentals
This is obviously a major issue on the island, and one with a great diversity of opinions, as the Casco Bay Islands are the only part of the city that has effectively no regulation of STRs. After a great deal of community lobbying, the PIC has made a commitment to examining this issue closely through a new committee. There is interest among the Housing & Zoning Committee for ReCode to take a look at STRs on the island, however the PIC's approach may end up leading straight to city council and the ordinance revision process.

Paper Roads
It is unlikely that there is a higher density of unresolved paper roads anywhere else in the city than there is on Peaks, due to convoluted decades of city planning (...unplanning, deplanning, replanning...) and the intersection of shoreline access. This is a critical issue to many islanders and one the PIC is continuing to look at. As it intersects with the Planning Dept's work, do keep us in loop.

Thanks for your time and engagement on all these issues.

Best,
Peter

[Quoted text hidden]

Helen Donaldson <hcd@portlandmaine.gov>

Zoning Map changes

David Eaton <deaton@totalmortgage.com> Mon, Jan 8, 2024 at 2:45 PM
To: "hcd@portlandmaine.gov" <hcd@portlandmaine.gov>

Hello Nell. I am working with a developer on a multi unit apartment project on Saunders Street near Woodfords Corner. The current zoning is B-2, except the parcel is partially split into the R-5 zone. With what we know about ReCode, the potential to add up to 15 units to this 30 unit project with the proposed new 65' height limits, is affected by the new requirement for a 50 foot setback from the zoning boundary for floors above 45', which would prohibit about half of the additional units if the zoning line is not moved to the property line. Will situations such as this be addressed in the zoning map boundaries as part of recode? Should we be seeking a map amendment in the meantime? You can call me at 841-5894 if you would like to talk about it.

I've attached a site plan that illustrates this issue. Thanks!

David

David Eaton

Mortgage Banker- NMLS# 2095536

470 Forest Ave

Portland, ME 04101

c: 207.841.5894

total mortgage

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us against any losses or expenses, including attorney's fees that we may incur as a result of any unauthorized use or disclosure of this data due to your acts or omissions. If a party other than the intended recipient receives this e-mail, you are requested to instantly notify us of the erroneous delivery and return to us all data so delivered.

Screenshot 2024-01-08 144128.png
193K

Form Submission - Contact us Re:Code - recode - Definitions - low impact industrial - B-1, B-1b

0 views
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Squarespace
Feb 13, 2024, 5:50:07 PM (17 hours ago)
to recodep...@portlandmaine.gov

Sent via form submission from *ReCode Portland*

Name: jeffrey curran

Email Address: newscapes@msn.com

Subject: recode - Definitions - low impact industrial - B-1, B-1b

Message: low impact industrial - Please include the use of a "Small Maine Brewery" and a "Small Maine Distillery" in the definition of low impact industrial.

And, or, add the uses of a Small Maine Brewery, and a Small Maine Distillery to the list of allowable uses in the B-1, and B-1b zones.

Thank you.

Manage Submissions

Does this submission look like spam? Report it here.

Helen Donaldson <hcd@portlandmaine.gov>

RN 2 Zone

Alex Coupe <alex@danandersonrealestate.com> Thu, Apr 4, 2024 at 1:31 PM
To: "recodeportland@portlandmaine.gov" <recodeportland@portlandmaine.gov>

Good Afternoon,

I would like to comment that multifamily construction should be considered in this zone (RN-2) on a conditional basis only. Rather than just existing buildings looking to convert. The need for housing is dire, and any lots close to a corridor and serviced by public water and sewer would not be able to be developed in alignment with the cities comprehensive plan. I have 1.5 acres behind Morans market with frontage on Forest ave that I would like to develop into new construction multifamily….of course I suggest as a conditional use to allow the city to monitor the aspects of the project to make sure they meet the cities comprehensive plan.

Thank you

Alex Coupe
Associate Broker & Licensed Real Estate Appraiser

alex@danandersonrealestate.com

C: 207-838-4546

D:207-835-0034

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Appraisals, Brokerage, & Consulting Services

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1326 Washington Ave
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O: 207-878-3206
info@danandersonrealestate.com

2 attachments

RN-2 Zone.pdf
1339K

41969 LOT SPLIT Boundary (1).pdf
1573K

Helen Donaldson <hcd@portlandmaine.gov>

Recode comment re ADU above garage

Tanya Seredin <Tseredin@mohrseredin.com> Fri, Apr 5, 2024 at 1:37 PM
To: "recodeportland@portlandmaine.gov" <recodeportland@portlandmaine.gov>

Hello!

Regarding section 6.6.2 - ADU standards, paragraph 7.

This allows an ADU above an existing garage to have a maximum height of 25'. We are exploring the idea of building a new garage with an ADU above it. For an 18' wide garage, there would be very little headroom on the second floor with an average building height of 18', and it would be much more successful if the average height allowed is the same as for existing. It would be more feasible even if the allowed height were 22'. Would that be a possible adjustment?

Thank you!

Tanya Seredin
207-838-0698

Sent from my iPad

Form Submission - Contact us Re:Code - Re-code questions.

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Squarespace
Apr 5, 2024, 4:33:59 PM (3 days ago)
to recodep...@portlandmaine.gov

Sent via form submission from *ReCode Portland*

Name: Marion Snyder

Email Address: mart99fish@gmail.com

Subject: Re-code questions.

Message: Very confusing. What is the re-code for Nason's Corner? And what actually does it mean to re-code the area? Please be specific in the answers and don't direct us back to the map.

Manage Submissions

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Form Submission - Contact us Re:Code - RN4 Zoning between Canco and Ocean

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Squarespace
Apr 5, 2024, 7:36:13 PM (3 days ago)

to recodep...@portlandmaine.gov

Sent via form submission from *ReCode Portland*

Name: Alan Platner

Email Address: platnera@gmail.com

Subject: RN4 Zoning between Canco and Ocean

Message: I am really excited for this next wave of changes to become Portland's new land use code. I especially like the use of the RN4 zone applied to parts of the neighborhood between Canco and Ocean. Unless there is a compelling reason to do otherwise, I think it should be applied to the the RN2 areas in the neighborhood as well.

Thanks for all your hard work with the recode process.

Manage Submissions

Does this submission look like spam? Report it here.

Helen Donaldson <hcd@portlandmaine.gov>

Business zoning

Charles Oliver <islander.oliver@gmail.com> Sat, Apr 6, 2024 at 11:40 AM
To: recodeportland@portlandmaine.gov

Hello. My name is Bill Oliver and I live at 8 Central Ave. on Peaks island. My wife and I have lived on the island for 37 years. I am writing in regard to the rezone of 18 Central Ave. into a business zone. Although this change could benefit my wife and I in regard to our property by expanding our business zone area (we are currently zoned for commercial although we choose to keep our home a residence) we would like to request that this change be dropped. If you visit our street you will see that it is a quiet residential neighborhood. The commercial buildings are located along Island avenue. Our island has a great need for affordable housing. We would very much ;like to see this street kept as a residential neighborhood. Thank you for considering my thoughts.

Bill Oliver. 8 Central Ave. Peaks Island islander.oliver @gmail.com

Form Submission - Contact us Re:Code - Recode Zoning Boundary Suggestion

0 views

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Squarespace
Apr 6, 2024, 12:51:49 PM (2 days ago)

to recodep...@portlandmaine.gov

Sent via form submission from *ReCode Portland*

Name: Amy Johnson

Email Address: amyfjohn@gmail.com

Subject: Recode Zoning Boundary Suggestion

Message: In the second wave of changes, you proposed a boundary change that will negatively affect our plans to build housing on a prime lot in a growth area. Parcels 379 F010001 and 379 F011001 (291 Auburn St and the vacant parcel to the rear) are currently a mix of R-2-and R-3. In cleaning up the boundaries, you placed both parcels in the more restrictive RN-1. This severely impacts our plans to redraw the parcel boundaries and create a 7200 sq ft buildable lot in the area currently zoned R-3 at the north end of the plot (it would become subject to a 10,000 sq ft minimum). We respectfully request that you either:
1. Include both parcels in the less restrictive RN-2 zone, or
2. Leave the current messy boundary line as is so that the parcels are a mix of r-2 (future RN1) and r-3 (future RN2). When we eventually apply for a map amendment, this will allow us to make a strong case for assigning the new parcel to RN2 as it will be more than 95% in that zone.
Amy Johnson & Ben Johnson (owner)
207-632-4768

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Question on Recode 2.0

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David Boneparth
Apr 7, 2024, 10:43:16 PM (14 hours ago)

to recodep...@portlandmaine.gov

Hi,

It looks like there is no change to the setback rules for many residential areas. My understanding was that a total quantity of 14ft setback would be required in rn-4 but could be flexible. Was that scrapped? If so, why?

Thanks,

David

Helen Donaldson <hcd@portlandmaine.gov>

Re: Question on Recode 2.0

David Boneparth <dboneparth@gmail.com> Mon, Apr 8, 2024 at 12:44 PM
To: Helen Donaldson <hcd@portlandmaine.gov>
Cc: ReCode Portland <recodeportland@portlandmaine.gov>

Thanks Nell!

The issue that I saw was the infographic is showing 8ft setback for rn-4 for the updated version which was just posted. I sent the email prior to reading through the doc, which I did last night, and found the details you posted below.

Thanks so much for the quick response and clarification. We need as much housing as possible and this is a small, yet needed, step in the right direction. I do believe all setbacks should be removed so we can increase the quantity of housing and the tax base.

Happy Eclipse Day!

-David

[Quoted text hidden]

> [Quoted text hidden]
> Notice: Under Maine law, documents - including e-mails - in the possession of public officials or city employees about government business may be classified as public records. There are very few exceptions. As a result, please be advised that what is written in an e-mail could be released to the public and/or the media if requested.

Megan Cindrich <mcindrich@portlandmaine.gov>

Fwd: ReCode Comment

---------- Forwarded message ---------
From: Cheryl Leeman <Unknown>
Date: Monday, April 8, 2024 at 9:46:24 AM UTC-4
Subject: ReCode Comment
To: recodep...@portlandmaine.gov <Unknown>

It appears that the current R-5 (RN-4) has been expanded into some of the current R-3 (RN-2) zones.

If so, will those residents be notified of the zone change? Please provide a list of streets by neighborhood affected by the proposed map changes and locations for other map changes. Thank you!

Tried to submit this comment in the Map Text box and got an “Error Code 400 – failed…”

Sent from Mail for Windows

Megan Cindrich <mcindrich@portlandmaine.gov>

Fwd: Recode

Megan Cindrich <mcindrich@portlandmaine.gov> Wed, Apr 10, 2024 at 10:50 AM
To: recodeportland@portlandmaine.gov

---------- Forwarded message ---------
From: Jacqueline Cohen <jackicohen316@gmail.com>
Date: Wednesday, April 10, 2024 at 10:30:17 AM UTC-4
Subject: Recode
To: planning@portlandmaine.gov <planning@portlandmaine.gov>

I have reviewed the proposed reasoning map and I do not understand why you have upzoned Torrey Street and Wellwood street and the streets off the latter from R3 to RN4. These streets have small lots and small houses and are dead end streets. Read Street has larger lots and larger houses and it is rezoned from R5 to RN3. I would appreciate your response. I would be happy to meet with you to discuss this.
207-650-8758.
Sent from my iPad

Peaks Island IR2

Subscribe

Edward Ezzard
unread,
Apr 10, 2024, 1:38:56 PM (12 days ago)

to recodep...@portlandmaine.gov

Can you give any example of what might be a Select nonresidential uses may also be permitted in the RN-2 zone?

Or, must a non residential use first be requested before it could be considered?

Thanks,
Ed Ezzard

Megan Cindrich <mcindrich@portlandmaine.gov>

Re: Form Submission - Contact us Re:Code - recode proposed zoning map

On Thursday, April 11, 2024 at 12:30:10 PM UTC-4 Squarespace wrote:

> Sent via form submission from *ReCode Portland*
>
> **Name:** jeffrey curran
>
> **Email Address:** newscapesbrewing@gmail.com
>
> **Subject:** recode proposed zoning map
>
> **Message:** I Jeffrey a Curran, owner of 163 Washington Ave., would like to be included in the B2-B zone change that is proposed at the adjacent property located at 165 Washington Ave..
>
> Manage Submissions
>
> Does this submission look like spam? Report it here.

Form Submission - Contact us Re:Code - On-street parking

1 view

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Squarespace
unread,

Apr 12, 2024, 3:54:48 PM (10 days ago)

to recodep...@portlandmaine.gov

Sent via form submission from *ReCode Portland*

Name: Micah Edelblut

Email Address: micah.edelblut@gmail.com

Subject: On-street parking

Message: I did not see anything in section 18 of the new land use code regarding on-street parking. Is this out of scope for the land use code or an oversight not to include information or guidance about street parking?

Manage Submissions

Does this submission look like spam? Report it here.

Megan Cindrich <mcindrich@portlandmaine.gov>

Second Wave ReCode Map Peaks Island

Laura Glendening <lrglendening@gmail.com> Tue, Apr 16, 2024 at 1:10 PM
To: Helen Donaldson <hcd@portlandmaine.gov>, recodeportland@portlandmaine.gov

Hi Nell and ReCode team,

I write today as the neighbor directly north of the building at 18 Central Ave on Peaks Island. I noticed that in the Second Wave draft map the business zone has been extended to include 18 Central Ave. I have concerns about this.

The Catholic Church got a variance to build 18 Central Ave with significantly reduced setbacks. I read the text in the Second Wave stating that the business zone has been increased to reflect the built environment, but in this case a variance was granted for 18 Central to exist in an established one family neighborhood. Now a few years down the road City Planning is proposing that now that 18 Central Ave looks like a business zone, because of the setback variance granted by City Planning, it should be. This seems contrary to good policy and a corruption of the methodology of zoning.

A variance should be a variance -- something that is different but exists in the present environment. It should not be something that is granted to then allow a property to begin a process to become something that is drastically inconsistent with the neighborhood.

Is there a reason other than the built environment that City Planning granted a variance for, that has resulted in 18 Central Ave now being proposed as a business zone?

I also noticed in the Second Wave draft map that Central Ave is the only street where City Planning has proposed extending the business zone with the sole purpose to include a property that is a distance from the present business zone. This seems out of alignment with the criteria used on other streets running off of Island Ave. For example the proposed new business zone is not extended further east on other side streets (other than to include a whole lot where the lot was only partially in the present business zone). There are no proposed business zone extensions on Epps, Willow, Lower A, Sterling, Luther, or Elizabeth. The same criteria should apply equitably to all side streets.

Because of the variance for 18 Central Ave that allowed for the significantly reduced setbacks my property would be adversely affected by it being in the business zone including a reduction of my property value. Therefore I ask you to remove 18 Central Ave from the proposed business zone as shown in the Second Wave ReCode map.

Sincerely,
Laura Glendening
17 Sterling St, Peaks Island

Helen Donaldson <hcd@portlandmaine.gov>

ReCode

Sara McKee <sara@sarammckee.com> Wed, Apr 17, 2024 at 10:11 AM
To: "recodeportland@portlandmaine.gov" <recodeportland@portlandmaine.gov>

Hi there,

Just checking in on when we could expect to see Recode show up on an agenda for a meeting?

Thanks!
Sara
207.807.3299

Hanover st recode

2 views

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Peter Markoe
unread,

Apr 18, 2024, 8:00:01 AM (4 days ago)

to recodep...@portlandmaine.gov

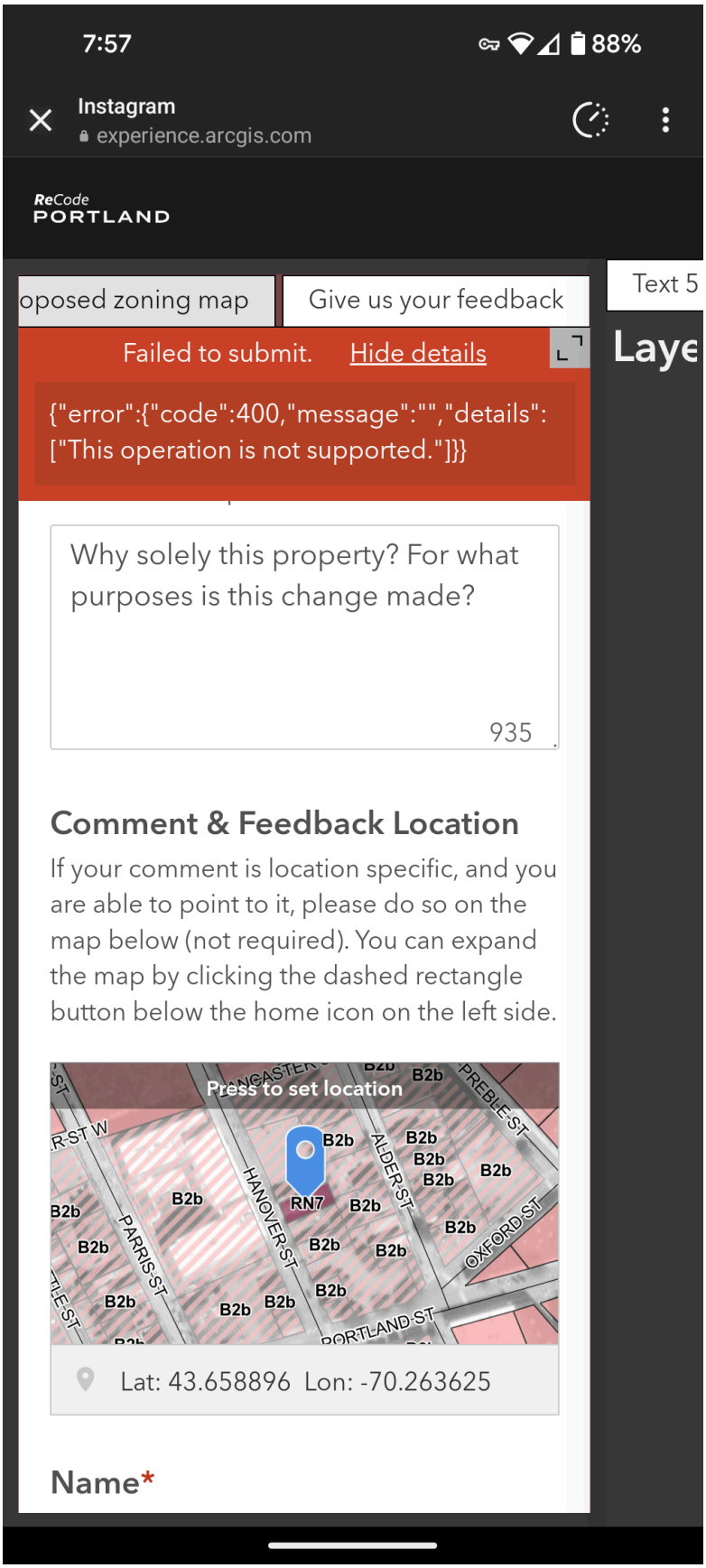
Hello,

Neighbor to the below mentioned property.

Interested in what changes are planned here.

Please respond to this email or my cell: 2073140684

Peter Markoe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Text 5
Laye
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Hide details
{"error":{"code":400,"message":"","details":["This operation is not supported."]}}
Why solely this property? For what purposes is this change made?
935
Comment & Feedback Location
If your comment is location specific, and you are able to point to it, please do so on the map below (not required). You can expand the map by clicking the dashed rectangle button below the home icon on the left side.
Press to set location
B2b
RN7
HANOVER ST
ALDER ST
PARRIS ST
OXFORD ST
PREBLE ST
PORTLAND ST
Lat: 43.658896 Lon: -70.263625
Name*

Form Submission - Contact us Re:Code - RN-7 zone

1 view

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Squarespace
Apr 19, 2024, 11:11:13 AM (3 days ago)

to recodep...@portlandmaine.gov

Sent via form submission from *ReCode Portland*

Name: Jeff Levine

Email Address: blumlevine@gmail.com

Subject: RN-7 zone

Message: The RN-7 zone that replaces the R-7 zone seems counter to the goal of cleaning up the code here. The R-7 zones were always stopgap measures intended as a work-around from the limitations of the R-6 zone.

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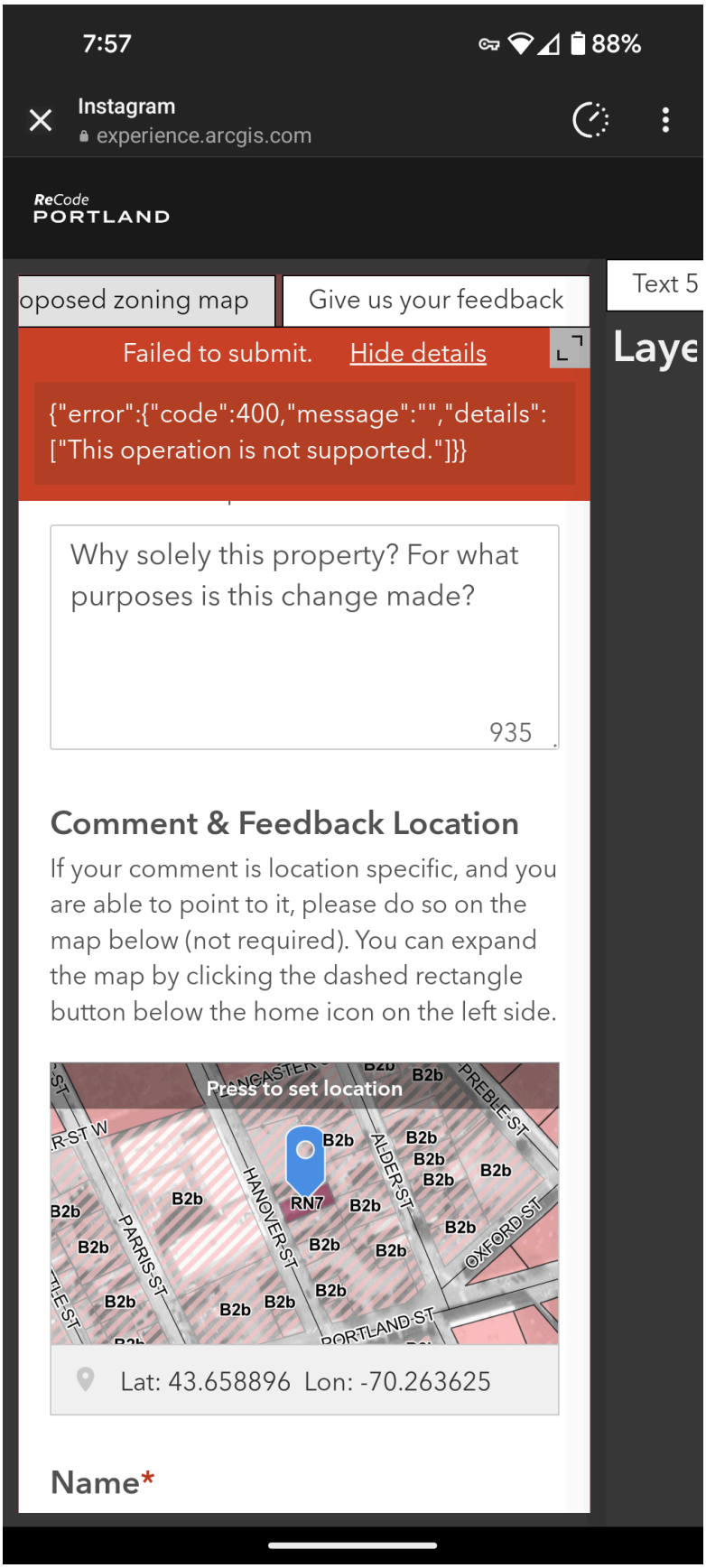
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ReCode
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Give us your feedback
Text 5
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Failed to submit.
Hide details
{"error":{"code":400,"message":"","details":["This operation is not supported."]}}
Why solely this property? For what purposes is this change made?
935
Comment & Feedback Location
If your comment is location specific, and you are able to point to it, please do so on the map below (not required). You can expand the map by clicking the dashed rectangle button below the home icon on the left side.
Press to set location
RN7
HANOVER ST
ALDER ST
PARRIS ST
OXFORD ST
PORTLAND ST
PREBLE ST
B2b
Lat: 43.658896 Lon: -70.263625
Name*

Fwd: RECODE

3 views

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M

Megan Cindrich
unread,

8:42 AM (3 hours ago)

to ReCode Portland

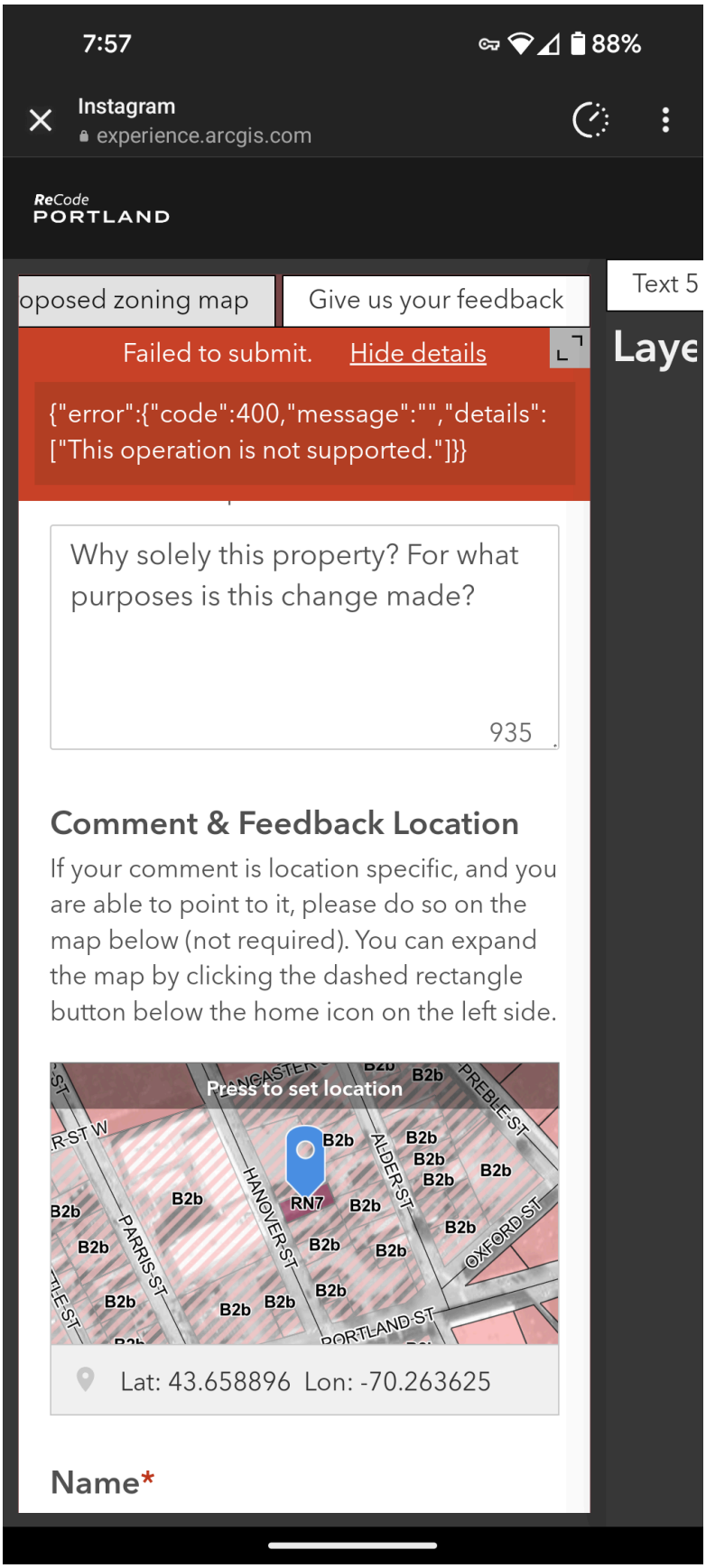
---------- Forwarded message ---------
From: Robert Kahn <rhkahnme@gmail.com>
Date: Friday, April 19, 2024 at 12:01:05 PM UTC-4
Subject: RECODE
To: planning@portlandmaine.gov <planning@portlandmaine.gov>

If I understand the ReCode Wave2 correctly, the physical and visual implications to off-peninsula residential neighborhoods would be major to extreme.

The density and reduced setbacks would look like the multi-family units on Park Ave. across from Deering Oaks. These multi-family units are so close together, that on side elevations they are looking into each other's windows. And think about building fire codes and the cost of fire protection to build so close together (masonry construction, only). Also, can the fire department maneuver fire trucks around this density of buildings? Bring the Portland Fire Dept. into this review before passing the changes.

I suggest that computer generated examples of what is being proposed in the new code be compared to the multi-family buildings on Park Ave., and other neighborhoods, that way citizens can visualize what the physical impact of these changes would mean. These design ideas seem to be imported from other places to achieve more housing at any cost. But the cost to build this way could be expensive, visually out of place and should be discussed.

Robert Kahn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experience.arcgis.com
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oposed zoning map
Give us your feedback
Text 5
Laye
Failed to submit.
Hide details
{"error":{"code":400,"message":"","details":["This operation is not supported."]}}
Why solely this property? For what purposes is this change made?
935
Comment & Feedback Location
If your comment is location specific, and you are able to point to it, please do so on the map below (not required). You can expand the map by clicking the dashed rectangle button below the home icon on the left side.
Press to set location
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RN7
HANOVER ST
ALDER ST
PARRIS ST
OXFORD ST
PREBLE ST
PORTLAND ST
Lat: 43.658896 Lon: -70.263625
Name*

Form Submission - Contact us Re:Code - Dust Emissions

0 views

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Squarespace
unread,

Apr 23, 2024, 12:04:37 PM (2 days ago)

to recodep...@portlandmaine.gov

Sent via form submission from *ReCode Portland*

Name: Robert Bergeron

Email Address: rob@hascallhall.com

Subject: Dust Emissions

Message: I have a property on Presumpscot Street and have been here for over 40 years, over the last few years a new business has moved into the old railroad location and has changed the use to a lay down area for all kinds of different materials from asphalt debris to loam and stone. we have been in communication with the permitting department as well as the DEP regarding copious amount of uncontrolled dust blowing all over my property and employees vehicles, its become so bad that we can't open our windows during the summer. I would request that there be wording inserted in the new code requiring these types of locations monitor and control their emissions so as not to affect surrounding properties.

Manage Submissions

Does this submission look like spam? Report it here.

Helen Donaldson <hcd@portlandmaine.gov>

FW: ReCode comment

Tanya Seredin <Tseredin@mohrseredin.com> Wed, Apr 24, 2024 at 12:49 PM
To: Helen Donaldson <hcd@portlandmaine.gov>

Hi Nell,

See below for a comment about the proposed 3' side setback in the IR2 on Peaks that I sent to the PIC.

Thanks,

Tanya

Tanya Seredin

Mohr & Seredin, Landscape Architects, Inc.

(207) 871-0003

From: Tanya Seredin
Sent: Wednesday, April 24, 2024 12:24 PM
To: pic@portlandmaine.gov
Cc: gfox@portlandmaine.gov; smohler@portlandmaine.gov; fsomers@portlandmaine.gov; sreiser@portlandmaine.gov; jsylvester@portlandmaine.gov; pmclaughlin@portlandmaine.gov
Subject: ReCode comment

Dear Council Members,

I have a concern about the proposed 3' side setback in the R2 zone that is proposed in the second wave of the ReCode draft. While I applaud the reduced setbacks, I feel that the 3' dimension is too close to abutting properties and, based on a brief exploration of property dimensions on the tax map, I don't believe that a larger setback (6' or 8') will adversely affect the buildability of the lot.

The ReCode draft allows encroachments up to 2' into the setback by chimneys, bay windows, eaves, etc., and this would mean that structures would be allowed 1' away from the property line. This means that roof drainage and snow dumping could be on the abutter's property.

Most Peaks Island lots are 50' wide; very few are narrower. However, even a 40' wide lot would allow a house that's 28' wide with 6' side setbacks, and a 24' wide house at 8' setbacks. My preference would be to require an 8' side setback.

This would provide adequate space for roof overhangs, doorways with steps, and drainage, and it would provide enough space for maintenance and construction without disturbing the abutting property.

Thank you,

Tanya Seredin

76 Elizabeth Street

Peaks Island

Helen Donaldson <hcd@portlandmaine.gov>

Fw: Re-Code: Peaks Island

1 message

thaea@aol.com <thaea@aol.com> Wed, Apr 24, 2024 at 3:44 PM
To: "hcd@portlandmaine.gov" <hcd@portlandmaine.gov>

Helen Donaldson
Acting Deputy Director
City of Portland, Department of Planning and Urban Development

Acting Deputy Director Donaldson,

My name is Bob Harville. I am a retired Landscape Architect/Land Planner living at 43 Willow St., Peaks Island. I have been following the City's Re-Code process with great interest. Looking at the proposed revisions, I find a lot to like but also areas of concern. My apologies in advance regarding the length of this email. The issues are complex and hit close to home.

Positives: Reducing the setbacks and allowing Small Island Lots (3,000s.f. min.) in the IR-2 Zoning District better reflect the Island's historical development pattern. This initiative will also help address housing affordability by creating new opportunities for residential construction.

Concerns:
1. IR-2 Zoning District - The proposed allowable uses include "Neighborhood non-residential uses". I can find no outline of what would be allowable "Neighborhood non-residential" uses. To understand the impact of this proposed change, more clarity is required. The implications could be positive or negative. There is not enough information to allow island residents to understand the impact of this proposed broadening of allowable land uses. This change should not go forward without additional clarification and discussion.
2. Expansion of the I-B Zoning District - I am very concerned about the proposed significant expansion of the I-B Zoning District. The current I-B district generally runs along Island Avenue, which corresponds with the area of highest pedestrian/vehicular traffic. The proposed change extends the I-B district down Central Ave., Willow St., Epps St., Brackett Ave., Welsh St. and Adams St. This is a very significant expansion of I-B zoning into areas into residential areas. The proposed modification greatly increases the potential for land-use conflicts. It results in peninsulas of I-B zoning projecting into IR-2(residential) areas. There is no demonstrable demand for additional I-B zoning. Much of the land in the current I-B district is underutilized and would allow for re purposing or redevelopment to address any emerging uses allowed under the I-B district into the foreseeable future.
One of the stated objectives of the redrawing of the zoning lines is to align district lines with parcel lines. In theory this sounds logical but in practice doesn't recognize the implications on the ground. I live on Willow St, which serves as a perfect example. #5 Willow St has a 32.05' frontage on Island Ave. and extends 502.28' down Willow St. The existing I-B district on #5 extends from Island Ave. about 100' along Willow. This depth generally matches the depth of 79 Island Ave., the lot that contains Baba's Cafe (an existing business establishment). The remaining 400' of #5 Willow is currently zoned IR-2 and adjoins IR-2 zoned lots. Willow St is a very narrow gravel drive and is an iconic island residential street. The proposed I-B zoning expansion would extend business zoning from Island Ave 502' up Willow St, which is 2/3 of its total length. This would be a 5 fold expansion of business zoning on Willow St. The effect could

irreparable alter the residential character of the street. The only benifit of the proposed aligning of the I-B district with the lot lines of #5 Willow St is make the zoning line easier to administrate. The result would be to significantly increase the likelihood of land-use conflicts and to irreparably harm the residential character of the street.

An identical argument can be made about Epps St. Lot #14 on Epps St has only about 20' of frontage on Island Ave and 246' of frontage on Epps St. #14 is essentially a flag lot. The existing I-B zoning overlays the flag portion of the lot and roughly corresponding to the depth of #79 Island Ave, the lot containing the existing retail establishment Baba's Cafe to the north and the Richard Boyd Gallery to the south on the opposite side of Epps St. Both Baba's and the Boyde Gallery have frontage on Island Ave. By revising the I-B zoning limits to correspond to the lot lines of #14 Epps St, business zoning would be projected down a residential street. There is no need for additional I-B zoning in this area. The modification is being proposed for primarily "administrative purposes".

In order to be fully transparent, I have had an issue with Island Zoning in the past. I had extensive communication with Ann Machado (Zoning Administrator, Permitting and Inspections Dept.) regarding a land-use issue adjoining my lot. My issue revolved around what is an allowable use within IR-2 Residential District. The owner of Mike's Carts was using the rear of #5 Willow St as a staging and storage area for his rental golf carts. This resulted in golf carts comming and going for hours at a time every morning and evening, infringing on our peaceful enjoyment of our porch and yard. Working with Ms. Machado, it was determined that rental golf carts could only be stored on property zoned for business. Rental carts could not be staged/stored on residentially zoned land. After a great deal of anguish and time, Mike's Carts are no longer staged/stored at the rear of #5 Willow St. This issue unfortunately had a negatives effect on neighborly relations. Under the law of unintended consequences, the owner of #5 Willow is now using the rear of the lot as a storage yard for an assortment stuff, including 4 boats (belonging to the lot owner as well as others), a truck, camper van, a retail oyster sales cart, and other assorted stuff. We are concerned that if the I-B zoning line is shifted to include all of #5 Willow, we will soon see rental golf cards once again staged/stored up against our residential lot.

Please reconsider the expansion of the I-B district. The proposed modification does not address a need for additional business zoning and will have a negative effect on our islands character. I look forward to the oppertunity to discuss this issue with you.

Please confirm receipt of this email.

Sincerly,
Robert (Bob) Harville
43 Willow St., Peaks Island
Mobile: 770-354-7138

Helen Donaldson <hcd@portlandmaine.gov>

Re: Form Submission - Contact us Re:Code - Dust Emissions

Rob Bergeron <Rob@hascallhall.com> Fri, Apr 26, 2024 at 9:19 AM
To: Helen Donaldson <hcd@portlandmaine.gov>, ReCode Portland <recodeportland@portlandmaine.gov>
Cc: Squarespace <form-submission@squarespace.info>

Thank you for getting g back to me. Yes I have seen that and I just don't see it as being strong enough and I'll tell you why. Over the last 2-3 years we have been having issues with our next door neighbor, who just starting using the sight as a lay down area for all sorts of debris, they very seldom, if at all , use dust control. We can't open window all my employees cars are covered with a layer of dust at the end of the day and we need to replace HVAC filters way more often then we have ever had too.

If the dust we are experiencing were blowing 180 degrees it would be covering the Presumpscot street School and there would be no way the City of Portland would allow it, so why allow it for us?

Any more strength to the emissions section would be greatly appreciated.

Respectfully, Rob Bergeron

[Quoted text hidden]

Notice: Under Maine law, documents - including e-mails - in the possession of public officials or city employees about government business may be classified as public records. There are very few exceptions. As a result, please be advised that what is written in an e-mail could be released to the public and/or the media if requested.

Helen Donaldson <hcd@portlandmaine.gov>

Re: Find out what's in the second wave of ReCode edits!

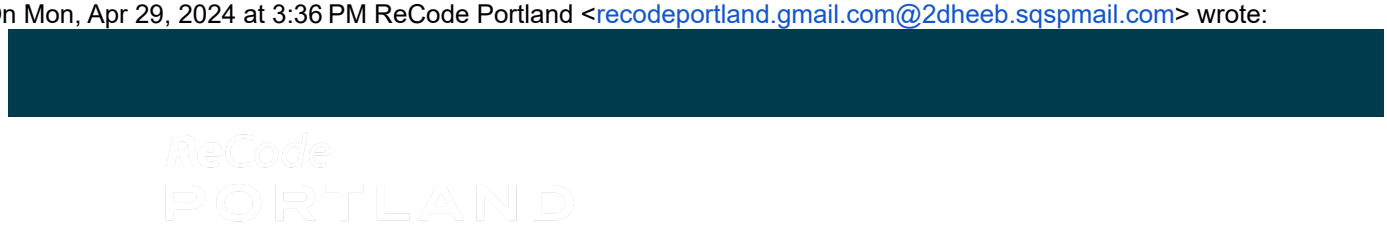
Elizabeth Remage-Healey <remagehealey@gmail.com> Mon, Apr 29, 2024 at 5:49 PM
To: recodeportland@gmail.com, Helen Donaldson <hcd@portlandmaine.gov>

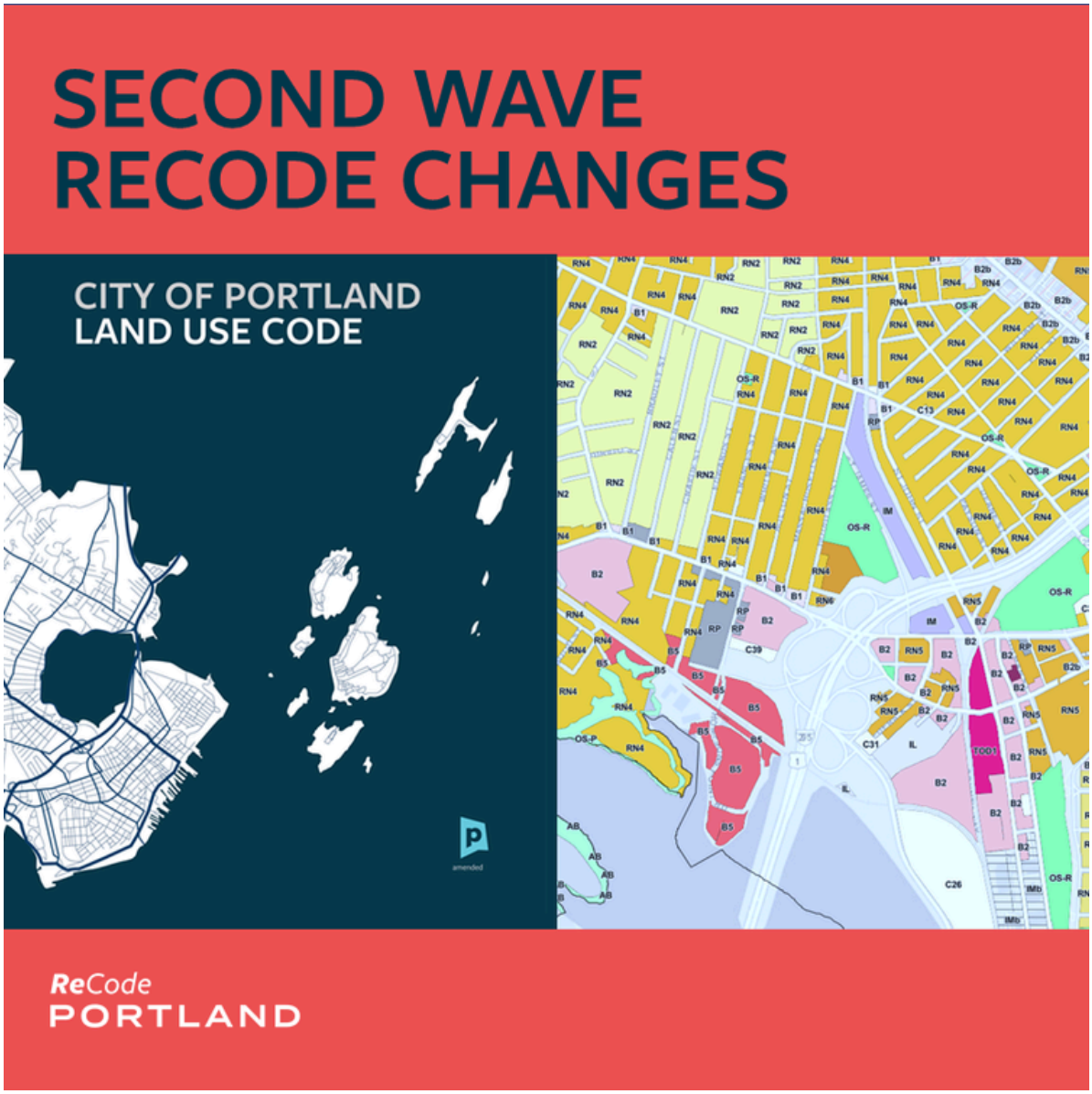
My particular concern is about the proposed zoning change to business for 18 Central Ave. on Peaks Island. Originally it was offered by the City to my organization, Home Start, to develop 3 much needed units of affordable housing. Then at the last minute we were derailed by a US Supreme Court decision mandating that owners of property lost to back taxes must be given the option to request the property be sold on the open market.
And there it sits waiting for the listing and we sit with fingers crossed that we can manage to be the high bidder.

I worry that a well heeled developer will note the prospect of it becoming zoned for business and plunk down $500k to hold it until that comes to pass. Which rules us out, and kills the prospect of affordable housing.

Betsey Remage-Healey
President
Home Start

On Mon, Apr 29, 2024 at 3:36 PM ReCode Portland <recodeportland.gmail.com@2dheeb.sqspmail.com> wrote:





Reminder: We want your comments on the second wave of draft edits!

Since we released the second wave of ReCode edits, we've seen a steady stream of comments from residents, businesses, and community members. But we're looking for more! This second wave represents the sum total of ReCode changes, reflecting the city's efforts to support housing creation and affordability, climate resilience, complete neighborhoods, and transit-oriented development, so it's critical to the future of Portland, and we need your input!

Read and comment directly on our changes to the land use code and changes to the zoning map. And stay tuned for more information on other ways to get involved soon!

العربية Español Français Português

ReCode Portland
389 Congress Street
Portland, ME, 04101
United States

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Zoning Story Map

0 views

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Sam Lebel
unread,
Apr 30, 2024, 11:13:19 AM (21 hours ago)
to Helen Donaldson, Kevin Kraft, recodep...@portlandmaine.gov

Nell/Kevin, et al. – just wanted to drop a quick note to say this story map is brilliant! Super impressive how slick it is to visually understand the What and Why. Really well done.

https://storymaps.arcgis.com/stories/b818a90868ed441388224d9a321662d1

Sam Lebel, P.E.

Project Manager

Licensed in Maine

Acorn Engineering, Inc.

PO Box 3372

Portland, Maine 04104

Website | Instagram | LinkedIn

B. 207.775.2655

C. 207.478.4327

Form Submission - Contact us Re:Code - General comment

1 view

Squarespace
to recodep...@portlandmaine.gov

May 1, 2024, 5:56:52 PM (6 days ago)

Sent via form submission from *ReCode Portland*

Name: Matthew Sherburne

Email Address: giggle.chain.0l@icloud.com

Subject: General comment

Message: NEW multi family should be allowed as a conditional use In the rn2 zone

Manage Submissions

Does this submission look like spam? Report it here.

Form Submission - Contact us Re:Code - Multifamily conditional use

1 view

Squarespace

to recodep...@portlandmaine.gov

May 1, 2024, 5:32:28 PM (6 days ago)

Sent via form submission from *ReCode Portland*

Name: Gina Frustaci

Email Address: g.emargo14@gmail.com

Subject: Multifamily conditional use

Message: Good Evening, I am coming on to comment that new construction multi family should also become a conditional use in the RN2 zone and other zones for that matter, not just existing multi family. For the larger parcels out there, the city should be able to approve a project on a conditional basis if it meets the cities comprehensive plan. We are headed for a renters nation, let's get multi family units added where appropriate

Manage Submissions

Does this submission look like spam? Report it here.

Form Submission - Contact us Re:Code - zoning (M2)

1 view

Squarespace
to recodep...@portlandmaine.gov

May 1, 2024, 5:46:00 PM (6 days ago)

Sent via form submission from *ReCode Portland*

Name: Francis Oboy

Email Address: oboyf@hotmail.com

Subject: zoning (M2)

Message: There is a huge shortage of multi family properties in Portland. Any changes in zoning should allow more multi -family properties as a condition

Manage Submissions

Does this submission look like spam? Report it here.

Form Submission - Contact us Re:Code - RN2 multifamily

1 view

Squarespace
to recodep...@portlandmaine.gov

May 1, 2024, 5:47:24 PM (6 days ago)

Sent via form submission from *ReCode Portland*

Name: Sarah Coupe

Email Address: sarahcoupe@yahoo.com

Subject: RN2 multifamily

Message: Good Evening, I would like to comment that where appropriate, the city should allow conditional new construction multi family as a permitted use on parcels that are large enough. Conditional use gives the city the veto power to not approve a project if they don't feel it's appropriate.

Manage Submissions

Does this submission look like spam? Report it here.

Form Submission - Contact us Re:Code - New multi family zoning

1 view

Squarespace

to recodep...@portlandmaine.gov

May 1, 2024, 6:38:27 PM (6 days ago)

Sent via form submission from *ReCode Portland*

Name: Phil Coupe

Email Address: philbcoupe@gmail.com

Subject: New multi family zoning

Message: In the RN2 Zone, multi family housing should be an allowed conditional use. Thank you for your hard work to make Portland the best it can be.

Manage Submissions

Does this submission look like spam? Report it here.

Form Submission - Contact us Re:Code - Rn2

1 view

Squarespace
to recodep...@portlandmaine.gov

May 1, 2024, 7:22:20 PM (6 days ago)

Sent via form submission from *ReCode Portland*

Name: David White

Email Address: fishslayer22@gmail.com

Subject: Rn2

Message: I would like to comment that new multifamily should be a conditional use in this zone.

Manage Submissions

Does this submission look like spam? Report it here.

Form Submission - Contact us Re:Code - New Multi unit

1 view

Squarespace
to recodep...@portlandmaine.gov

May 1, 2024, 8:07:05 PM (6 days ago)

Sent via form submission from *ReCode Portland*

Name: S Preston

Email Address: SWPreston12@gmail.com

Subject: New Multi unit

Message: NEW multi family should be allowed as a conditional use In the rn2 zone

Manage Submissions

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Form Submission - Contact us Re:Code - Conditional Use in RN 2 zone

0 views

Squarespace
to recodep...@portlandmaine.gov

May 2, 2024, 1:18:53 PM (5 days ago)

Sent via form submission from *ReCode Portland*

Name: Lucia Anderson

Email Address: lucia.m.anderson@gmail.com

Subject: Conditional Use in RN 2 zone

Message: NEW multi families should be allowed as a conditional use in the RN 2 zone. Thanks!

Manage Submissions

Does this submission look like spam? Report it here.

Form Submission - Contact us Re:Code - Multi Family

0 views

Squarespace
to recodep...@portlandmaine.gov

May 2, 2024, 3:08:58 PM (5 days ago)

Sent via form submission from *ReCode Portland*

Name: Nicholas Nielsen

Email Address: nick.nielsen2015@gmail.com

Subject: Multi Family

Message: New Multi Family should be allowed as conditional use in the rn2 zone

Manage Submissions

Does this submission look like spam? Report it here.

Form Submission - Contact us Re:Code - RN2 0 views

Squarespace
to recodep...@portlandmaine.gov

May 2, 2024, 3:12:37 PM (5 days ago)

Sent via form submission from *ReCode Portland*

Name: Linda Coupe

Email Address: lindagcoupe@gmail.com

Subject: RN2

Message: Good Afternoon, I am curious why only existing multi family is a conditional use and not new multi family in the RN 2. I think it's important that we allow the opportunity for development of new units if the right project surfaces. Thank you

Manage Submissions

Does this submission look like spam? Report it here.

Helen Donaldson <hcd@portlandmaine.gov>

follow up on lodging house question

To: Helen Donaldson <hcd@portlandmaine.gov> Thu, May 2, 2024 at 11:38 AM

Thank you Nell for this quick follow-up to my questions!

It seems like the lodging house model that we thought might work to temporarily assist unhoused families until they can get permanent housing is almost impossible to get to work with the proposed zoning rules in Portland.

Here are some of my thoughts regarding "Lodging Houses" in Re-Code

I wonder why the number of bedrooms for lodging houses in the new proposed zoning would require a minimum of 5 bedrooms. I am not sure how the requirement of monthly payment would work for our non-profit model. In addition the zones Lodging Houses are actually allowed without a "conditional use" are extremely limited. It seems RN-6 zones are already occupied. I couldn't find anything labeled RN-7 on the map. The rest are business zones that might not be ideal for families and seem to have very limited opportunities.

I appreciate it's not easy to please everyone and realize that Portland is trying to work towards housing more people. It just appears the model of housing multiple families in one building with community dining and living space just doesn't seem to work with the city of Portland.

It appears Portland only would be applicable for shelters that have no privacy or we would need to house families in full apartment units which is not very cost effective for our transitional housing model.

[Quoted text hidden]

Question re proposed Recode of my Property at 173 Island Avenue

0 views

Lani Remick May 6, 2024, 12:31:01 PM (yesterday)

to recodep...@portlandmaine.gov

Hello -

I am a year-round resident of Peaks and own the property at 173 Island Avenue. Since I purchased the property and continuing to the present, the front part of the property is in the I-B zone, as with most properties on this side of Island Avenue in this area. In the latest draft of the Recode map, it seems like for other properties on this side of Island Avenue you extended the I-B zone to cover the entire property if it had only previously covered part of the property. For example, this appears to be the suggested approach as to the property of my immediate neighbor at 165 Island Avenue.

In the case of my property, however, instead of extending the I-B designation to cover the entire property, on the Interactive Draft Zoning map it seems like the I-B designation is removed, and the proposed zoning for the property is showing as entirely IR-2. (The Interactive Draft Zoning map also shows the "existing" zoning as IR-2, which is incorrect and perhaps this is the source of the error as to the proposed zoning?).

Can you please clarify the intent as to the proposed zoning of my property? I would oppose any change that would remove the existing I-B designation.

Thanks very much,
Lani Remick

Helen Donaldson <hcd@portlandmaine.gov>

Follow up on ReCode Comment

David Bateman <david@batemanpartnersllc.com> Tue, May 7, 2024 at 10:04 AM
To: "hcd@portlandmaine.gov" <hcd@portlandmaine.gov>
Cc: David Bateman <david@batemanpartnersllc.com>

Helen,

Thank you for your quick response to my comments regarding changing the entire Diamond Cove development from the current two (2) zones IR-3 and IR-1 into one newly proposed IR-1 zone.

As you know Diamond Cove was (and still might be) the most highly regulated residential subdivision approved at the local, state, and federal levels in the State of Maine.

The current zoning is also keyed to the two (2) phases that the project was divided into, both with very different restrictions and uses. The Declaration of Covenants and Restrictions provide an avenue for modifications within the IR-3 zone but require a 100% affirmative vote by IR-1 residents for changes within that zone (single family only).

Since its inception in 1986 the IR-3 zone has had several amendments, all voted on by association members and then approved by the City. This process has worked very well and given a sense of security and control to the membership (which is predominately seasonal).

My initial concerns with the proposed merger and additional uses as drafted are as follows:

- **Impacts to the Current IR-3 Zone**

  a.) Currently there are four (4) multi-family buildings which contain eight (8) residential units each. It appears that the proposed IR-1 zone (if it replaces the current IR-3 zone) would render these buildings non-conforming.

  b.) All of the structures within the current IR-3 zone are within a National Register Historic District. With the exception of specific commercial properties located separately from the "parade ground" area, all uses are residential and in keeping with the nature of this protected area. Including other uses such as agriculture, childcare centers, campgrounds, solar energy systems and accessory dwelling units would be totally incongruous. I also believe if changed as proposed it could create a situation in which members may claim a diminishment of property value.

In short the existing IR-3 zone was created for the purpose of preserving the historic nature of both the buildings and the environment in which they exist and should remain as currently regulated.

- **Impacts to the IR-1 Zone**

  a. The current D.E.P. site location permit for Phase II of the Diamond Cove development has a limitation of 39 single family homes. The inclusion of three family, two family, and neighborhood non-residential use would be completely at odds with the underlying land use approvals.
  b. Given the substantial investments made by the current residents within the existing IR-1 zone the likelihood of legal action, again based on diminishment of property values, increase exponentially.

In summary, the uses as proposed and merger of the current IR-3 and IR-1 zones makes no sense given the historic use, and existing state and federal regulations which govern this development. I applaud the City's initiative to simplify current zones but in this case I believe the proposed zone changes will further complicate a very unique development.

Sincerely,

David Bateman, President | Bateman Partners, LLC

470 Fore Street, Suite 400 | Portland, ME 04101 | (207) 772-2992

david@batemanpartnersllc.com

batemanpartnersllc.com

Form Submission - Contact us Re:Code - RN2 Zone

0 views

Squarespace

to recodep...@portlandmaine.gov

May 8, 2024, 7:19:14 PM (13 hours ago)

Sent via form submission from *ReCode Portland*

Name: Mark Civiello

Email Address: civiello@live.com

Subject: RN2 Zone

Message: I think that this zone should allow new construction as a conditional use. Only allowing existing dwellings closes the door it a responsible project came along that brought more housing on the market.

Manage Submissions

Does this submission look like spam? Report it here.

Helen Donaldson <hcd@portlandmaine.gov>

Second Wave Recode Questions

Rachel Conly <rachel@juniperdesignbuild.com> Thu, May 9, 2024 at 12:34 PM
To: Helen Donaldson <hcd@portlandmaine.gov>
Cc: Heather Thompson <heather@juniperdesignbuild.com>

Hi Nel,

I am hoping you can help me with some Second Wave ReCode questions I have regarding the new "small island lot" designation proposed for the Peaks Island IR-2 zone. My questions are below. Please let me know if it would be easier to set up a call to discuss.

Thank you! Rachel

- In the Second Wave ReCode, it looks like the "Lot of Record" designation has been removed and there are now only the requirements outlined in Section 4.3.1 Lot In Separate Ownership. Is this correct?
- Related to the above question, in the current code, Section 4.3.1 (A)3, it states "A lot of record as of July 15, 1985 may be considered a buildable lot in the IR-1 and IR-2 zones, provided the applicable setback dimensions can be met.....". In the Second Wave ReCode, does the "lot of record" date of July 15,1985 still apply, or do the current Lot of Record criteria simply not exist in the new ReCode? In Section 4.3.1 of the Second Wave ReCode, Lots In Separate Ownership, there is no reference date, so I am wondering if there is some other parameter I am missing for establishing a "small lot".
- In Section 7.6.3 (A)4 Small Island Lots, it notes "New small island lots may only be created by a single lot division of an existing lot, with the remaining developed portion meeting the standard dimensional requirements of the IR-2 zone. Further division of the remaining lot to create additional small island lots is prohibited." Does the "standard" dimensional requirement referenced include "small lots" 3,000 SF and greater? For instance, some properties consist of two or more small adjacent lots. I am wondering, as an example, if a property owner can divide two adjacent lots that are 3,000 SF? Or does the split have to result in one of the lots being 20,000 SF?
- Related to the above, I am also assuming that the reference to "a single lot division" means this is a one-time division opportunity?
- Related to above, can you still split a lot if it results in an increase in the nonconformity of dimensional standards, such as setbacks and lot coverage, of any home/structure remaining? I assume the answer is "no", but want to confirm.
- Can you please let me know where I can find a definition of a "cottage court development"? I could not find a definition.

--
Rachel Conly (she/her)
Owner/Design Director
Juniper Design + Build, LLC
207.766.5919
www.juniperdesignbuild.com

Change in Zoning for 18 Central Peaks Island 0 views

Mary Anne Mitchell 12:03 PM (4 minutes ago)

to recodep...@portlandmaine.gov

I live on Central Ave. and I am next to 18 Central. Our street is a residential street with a lot of pedestrian traffic and car traffic. I am opposed to changing 18 Central to be in the business district. Please consider what people on the street want for this property. Thank you. Mary Anne Mitchell

Helen Donaldson <hcd@portlandmaine.gov>

Zoning Revisions

Richard A. Molyneux <richardamolyneux@yahoo.com> Sun, May 12, 2024 at 1:00 PM
Reply-To: "Richard A. Molyneux" <richardamolyneux@yahoo.com>
To: "hcd@portlandmaine.gov" <hcd@portlandmaine.gov>
Cc: David Bateman <david@batemanpartnersllc.com>

Dear Ms. Donaldson

I am the current president of the Diamond Cove Homeowners Association, and have reviewed the City's new zoning outline. I also have shared it with the rest of the board members, and have to say that we are in total agreement with the comments that the original developer of Diamond Cove, David Bateman, made to you earlier.

Our existing IR-3 zone has been designed and managed to protect the National Historic Register components of Ft. McKinley, which was built approximately 120 years ago. We have very strict rules that apply to that area, controlled by our Declaration of Covenants, to insure that it will be properly preserved. Our IR-1 zone properties, which we refer to as Phase II properties, are all single family homes, which is the way it was designed, including related infrastructure. For example, Diamond Cove does not utilize the Portland sewer system; it operates its own, which has great limitations and cannot support more houses/units than we presently have.

The bottom line is, while we understand the wisdom and motivation of the proposed zoning simplifications, there will be some entities that won't fit into that general mould. Diamond Cove is one of those. Thus we would very much like to get this corrected before it gets too far along and lawsuits start flying. We have 142 units at Diamond Cove, and I'm sure 99% of them will go ballistic if this is forced upon them, and for good reason, as it will have a very negative impact on our community, its residences, and property values. We sincerely hope this will not be the case. Please advise if you need anything more from us, including responses from the individual homeowners.

Sincerely,
Richard Molyneux
President
Diamond Cove Homeowners Association

Comment on a zoning change on Peaks Island 0 views

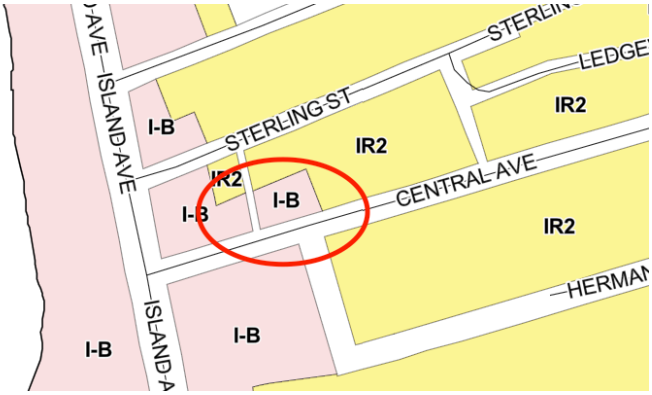
Will Crosby 10:28 AM (13 minutes ago)
to recodep...@portlandmaine.gov

Hello ReCode team;

I am a Peaks Island resident (at 92 Central Avenue). Through a neighbor, I became aware that 18 Central Avenue on Peaks Island is being considered to be changed from IR-2 to Commercial.

I strongly request that this change not be allowed. Central Avenue is a residential neighborhood; allowing a restaurant or other tourist magnet would change the culture of the street, dramatically impact several immediately-adjoining residences, and move Peaks in a direction that I believe most residents would not support.

I am registering a strong NO VOTE on changing the zoning status of 18 Central Avenue.



Thank you for you consideration,
Will Crosby

92 Central Avenue, Peaks Island
207 274-1473
hello@willcrosby.com

Form Submission - Contact us Re:Code - What is re-code? Is it zoning change? Please don't refer me to the websites or maps - too confusing.

0 views

Squarespace

to recodep...@portlandmaine.gov

1:26 PM (2 hours ago)

Sent via form submission from *ReCode Portland*

Name: Marion Snyder

Email Address: mart99fish@gmail.com

Subject: What is re-code? Is it zoning change? Please don't refer me to the websites or maps - too confusing.

Message: What exactly is re-code? Is that a zoning change? Please don't refer me to the websites or maps too confusing. How does this affect Nason's Corner and other neighborhoods? Did someone go around from your dept. and put up small orange plastic banner indicating what home zoning changes? Please let us know. Thank you.

Manage Submissions

Does this submission look like spam? Report it here.

Height Map Inquiry 0 views

Elizabeth Frazier
to recodep...@portlandmaine.gov

12:46 PM (27 minutes ago)

Hello,

I am going through the Wave II edits to ReCode for review by the Maine Real Estate and Development Association (MEREDA), and a question came up in my review of the base zone changes. Many reference the Portland Heigh Map as the standard source, and I was wondering if that is also being updated as part of ReCode?

Thank you!

Elizabeth

Elizabeth Frazier
PIERCE ATWOOD LLP

Merrill's Wharf
254 Commercial Street
Portland, ME 04101
PH 207.791.1155
FAX 207.791.1350

157 Capitol Street
Suite 3
Augusta, ME 04330
PH 207.622.6311
FAX 207.629.5955

efrazier@PierceAtwood.com
This e-mail was sent from Pierce Atwood. It may contain information that is privileged and confidential. If you suspect that you were not intended to receive it please delete it and notify us as soon as possible.

Helen Donaldson <hcd@portlandmaine.gov>

ReZone

MaryEllen FitzGerald <maryellenfitz@gmail.com> Tue, May 14, 2024 at 6:55 PM
To: hcd@portlandmaine.gov

Dear Ms. Donaldson:

I would like to register my concern at the proposed change in zoning categorization for Diamond Cove. As a former president of the Diamond Cove Homeowners Board, I urge you to reconsider this ill-advised revision, which will almost certainly result in swift and immediate resistance from our homeowner population.

As you know, Diamond Cove is essentially a gated seasonal community on Great Diamond Island. Although we have a small cadre of hardy year-round residents, fully 80% of our homeowners are seasonal residents who purchased or (in the case of Phase 2 owners) built their homes with the guarantee of very limited development on an island with tremendous historic significance. A major part of the appeal of Diamond Cove is the limited scope of residential development, and the presence of very limited commercial properties: The Inn at Diamond Cove, Diamond's Edge Restaurant and Marina, and the Crown Jewel. The only motorized vehicles allowed for homeowners at Diamond Cove are golf carts. This contributes to a tremendous sense of detachment from more congested, urban environments and allows homeowners to appreciate the historical significance and natural simplicity of our island community. The existing IR3 zoning is the critical underpinning for this community, and has been relied upon by homeowners since Diamond Cove's inception.

Rezoning to allow for a more simplified code throughout the city is an understandable and commendable effort. However, there will be situations in which the rezoning effort (such as that proposed for Diamond Cove) will not be a good fit, or in fact, will effectively destroy a community that has operated efficiently and effectively within heavily prescribed historic preservation restrictions. I urge you to reconsider this ill-advised rezoning effort. Allowing broader uses such as accessory dwelling units, campgrounds and similar incongruous developments will result in a huge degree of backlash from homeowners who will find the value of their island homes diminished and their experience of the siland negatively impacted.

Sincerely,
MaryEllen FitzGerald

Another Question - IZ 1 view

Elizabeth Frazier
to recodep...@portlandmaine.gov

May 14, 2024, 5:31:03 PM (20 hours ago)

Hello,

For MEREDA again, could you clarify for me whether the proposed changes modify the provisions of the Green New Deal related to 25% inclusion of affordable housing for all housing projects over 10 units? It looks like there are changes in the redline version with respect to unit integration, etc., but not to the base 25% mandate itself. I know there are timing considerations regarding the City's inability to modify a referendum for 5 years, but am curious as to whether you're proposing changes around the edges, and if so, have you thought about changing the mandate?

Thank you!

Beth

Elizabeth Frazier
PIERCE ATWOOD LLP

Merrill's Wharf
254 Commercial Street
Portland, ME 04101
PH 207.791.1155
FAX 207.791.1350

157 Capitol Street
Suite 3
Augusta, ME 04330
PH 207.622.6311
FAX 207.629.5955

efrazier@PierceAtwood.com
This e-mail was sent from Pierce Atwood. It may contain information that is privileged and confidential. If you suspect that you were not intended to receive it please delete it and notify us as soon as possible.

Megan Cindrich <mcindrich@portlandmaine.gov>

Fwd: 221 Congress Street, Map amendment/re-code

---------- Forwarded message ---------
From: **Travis Letellier** <travis@greenmars.com>
Date: Thu, May 16, 2024 at 9:06 AM
Subject: RE: 221 Congress Street, Map amendment/re-code
To: Kevin Kraft <kkraft@portlandmaine.gov>
Cc: Patrick Boothe <Patrick.boothe@woodhullmaine.com>, Chris Marshall <chris@greenmars.com>, Helen Donaldson <hcd@portlandmaine.gov>, Matthew Grooms <mgrooms@portlandmaine.gov>

Hi Kevin,

Thank you for your thoughtful response.

I have attached two documents that illustrate our re-zoning goals for the property. The first document shows historic, current and our proposed zoning of the property along with some arguments from Portland Comprehensive plan.

The second document establishes some dimensional restraints of the current zoning in comparison to what we would be able to accomplish with a zone change in terms of height, setbacks, and unit counts. This document was shared at the pre-app meeting we had last week.

We believe a change to b-2b would an overall benefit to the city in its goal for providing affordable and workforce housing. A portion of the property used to be in the b-2b before a previous zone change and would unite the western side of Washington Ave within the same zone.

Thank you for your consideration of this proposal and if you or anyone else at the city has any questions or comments about this request or attached documents, please don't hesitate to reach out.

Thanks again,

Travis

From: Kevin Kraft <kkraft@portlandmaine.gov>
Sent: Thursday, May 16, 2024 8:42 AM
To: Travis Letellier <travis@greenmars.com>
Cc: Patrick Boothe <Patrick.boothe@woodhullmaine.com>; Chris Marshall <chris@greenmars.com>; Helen Donaldson <hcd@portlandmaine.gov>; Ma hew Grooms <mgrooms@portlandmaine.gov>
Subject: Re: 221 Congress Street, Map amendment/re-code

Hi Travis,

Thanks for the additional information. We will consider the information shared in this email, as well as information shared during the 5/10 pre-application meeting, as public comment for ReCode. If you would like to email us your plans and any additional information, you're welcome to do so and we will include it in the public comment record. In summary, it sounds like the 35 foot stepback requirement from ineligible streets paired with the 15 stepback requirement along Congress Street limits the bonus floor area floor plate, and you believe that because B-2b is nearby, you can extend that zoning over your site so you can get additional height, reduced setbacks resulting in better floorplates and possibly more units.

We appreciate the feedback. At this time, I want to be respectful of everyone's time and schedules, therefore I don't think an additional meeting on this topic will be beneficial or productive, we understand the concern. As I mentioned, we'll consider this information as we make additional revisions based on feedback from the public and Planning Board.

Again, feel free to send us materials via email in addition to the pre-application materials we already have if you think we're missing something.

Best regards,

Kevin

On Fri, May 10, 2024 at 4:02 PM Travis Letellier <travis@greenmars.com> wrote:

> HI Kevin,
>
> Its not so much a dimensional issue, in a way it is, but we are looking to gain additional height within the building which will facilitate more units.
>
> In the current zoning we are limited to 62 feet with the bonus 5th level, however the top floor is severely limited by the 35-foot Washington Ave stepback.
>
> The B-2b, which runs up and down both sides of Washinton would give us the flexibility to go higher and ultimately add more units and more affordable units to this property.
>
> We would appreciate the opportunity to make our case in a meeting if you had the time over the next week, we certainly want to get this change into the re-code process as quickly as possible, please let us know the best way to make that possible.
>
> Thank you,
>
> Travis
>
> GreenMars

From: Kevin Kraft <kkraft@portlandmaine.gov>
Sent: Friday, May 10, 2024 1:53 PM
To: Travis Letellier <travis@greenmars.com>
Cc: Patrick Boothe <Patrick.boothe@woodhullmaine.com>; Chris Marshall <chris@greenmars.com>; Helen Donaldson <hcd@portlandmaine.gov>; Matthew Grooms <mgrooms@portlandmaine.gov>
Subject: Re: 221 Congress Street, Map amendment/re-code

Hi Travis,

Thanks for reaching out. With the release of ReCode Phase 2, Wave 2 we are not entertaining map amendments at the moment, given that ReCode is underway. We encourage you to send us comments on what dimensional issues you're running into with IS-FBC and why you feel B-2b is the most appropriate zone for this site. Feel free to send that information directly to me and we can incorporate into our ReCode public comments and take them into consideration as we make final recommendations.

Best regards,

Kevin

On Wed, May 8, 2024 at 1:47 PM Travis Letellier <travis@greenmars.com> wrote:

> Hi Kevin and Nell,
>
> I hope this message finds you well.
>
> We recently concluded a pre-application meeting regarding our project at 221 Congress Street. The decision reached was to pursue a map amendment for the property, transitioning it from its current IS-FBC zoning to B-2b.
>
> We were advised to reach out to both of you to discuss this proposed change, with the ultimate goal of having the city incorporate it into the re-code changes.
>
> We believe several factors are in our favor for this modification and would like to schedule a meeting to outline our plans for the property's redevelopment.
>
> Looking forward to your response and arranging a convenient time for our discussion.
>
> Thank you,
>
> Travis Letellier, P.E.
>
> GreenMars
>
> 207-205-0208

--

Kevin Kraft, AICP
Interim Director Planning & Urban Development Department

389 Congress Street
Portland, Maine 04101

Phone: 207.874.8430

kkraft@portlandmaine.gov

Notice: Under Maine law, documents - including e-mails - in the possession of public officials or city employees about government business may be classified as public records. There are very few exceptions. As a result, please be advised that what is written in an e-mail could be released to the public and/or the media if requested.

--

Kevin Kraft, AICP
Interim Director Planning & Urban Development Department

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--

Nell Donaldson
Director of Special Projects
City of Portland
(207) 874-8723
hcd@portlandmaine.gov

planning & urban development

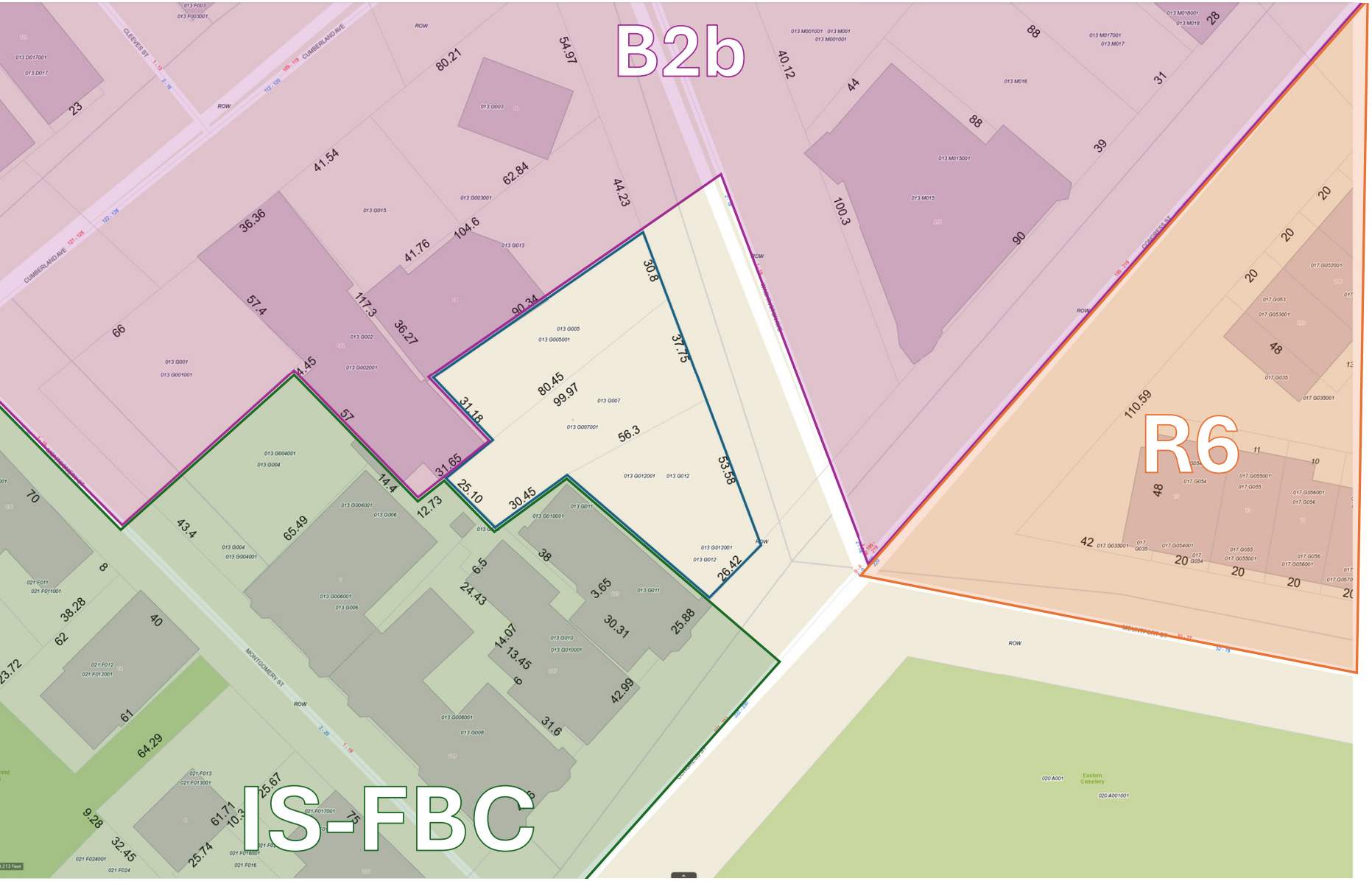
2 attachments

Comp Plan Research for Map Amendment.pdf
1458K

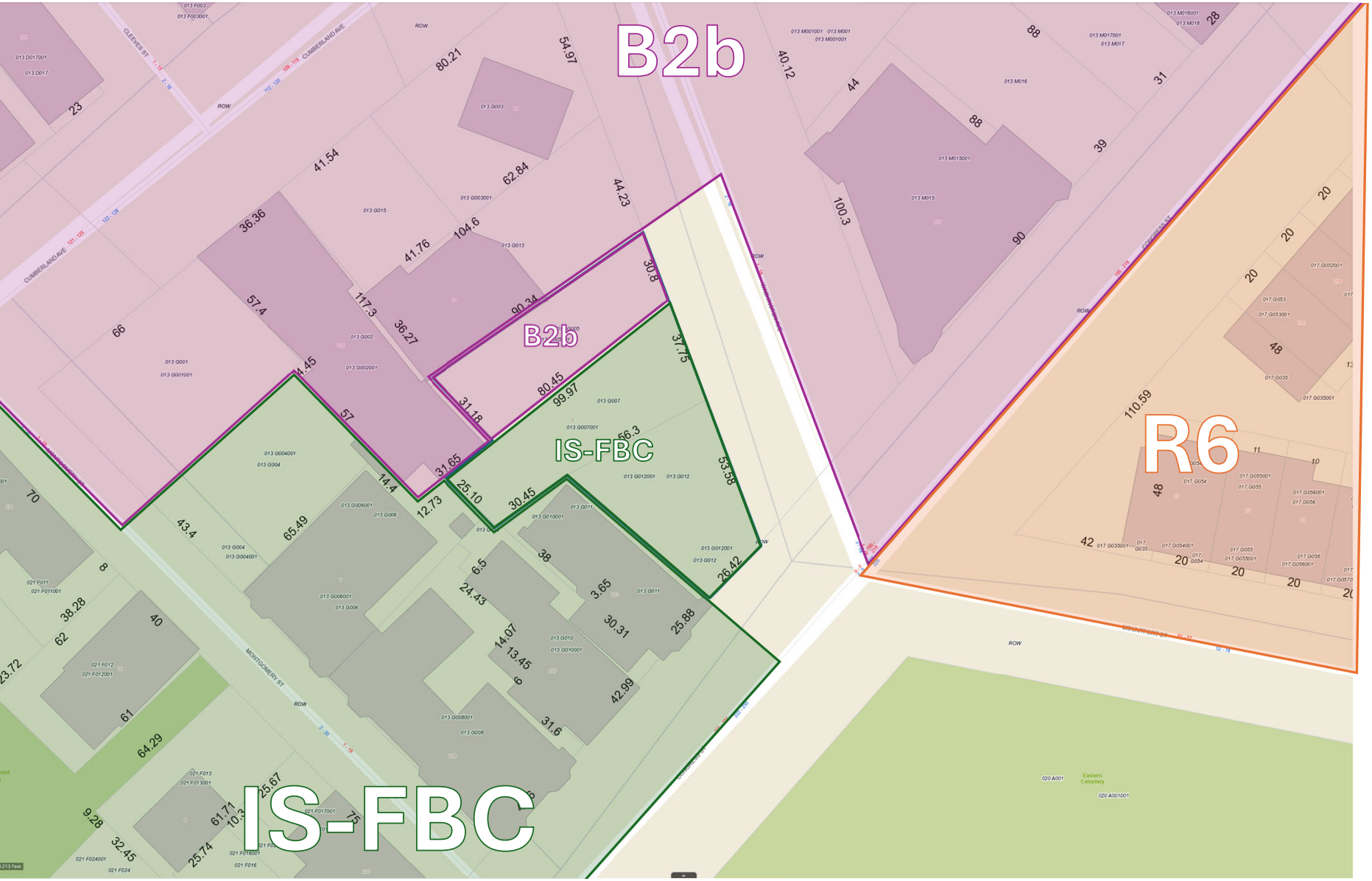
2024-05-08_221 Congress_Pre-App.pdf
1550K

Existing Property

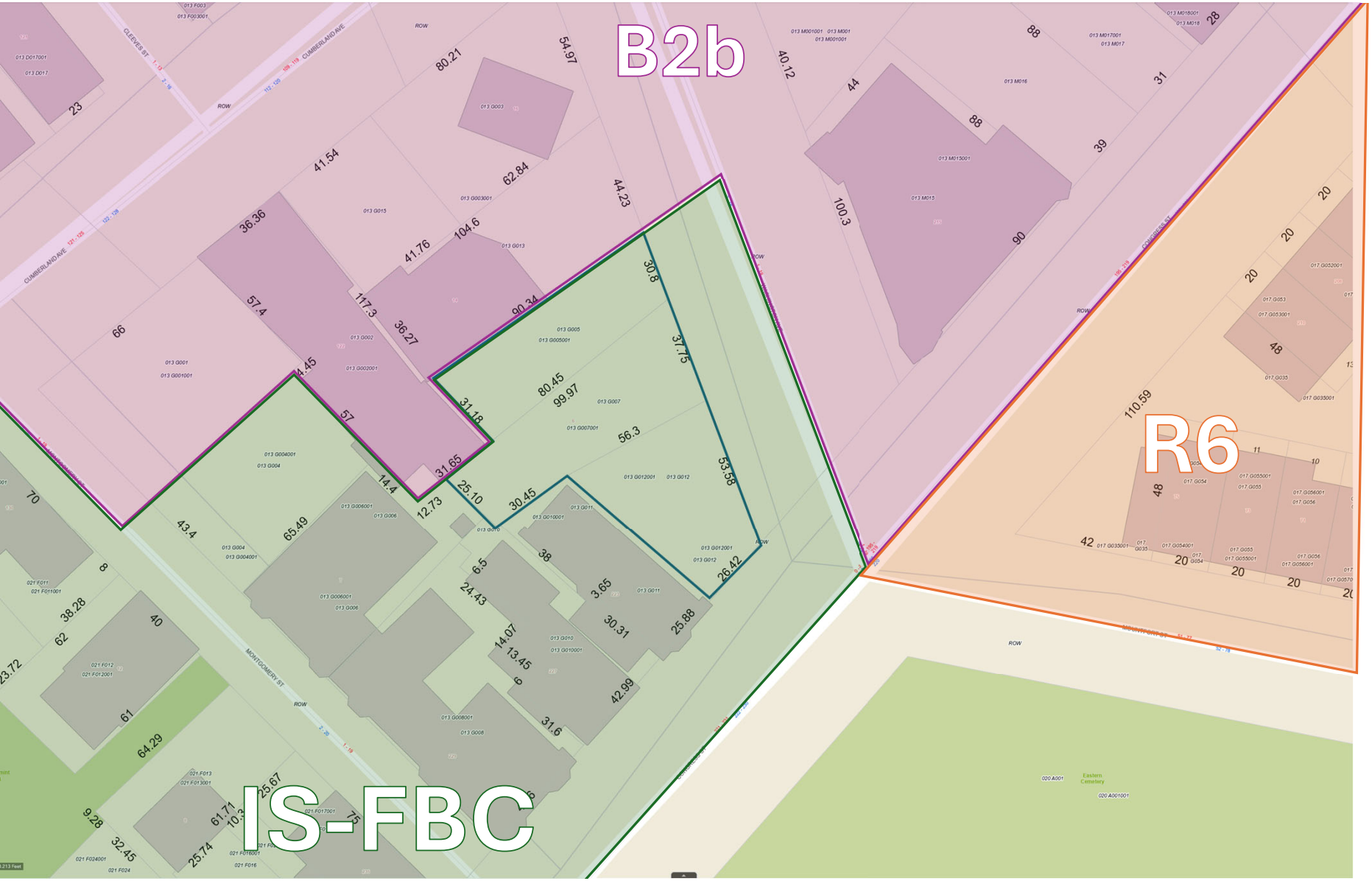
Surrounding Existing Zoning



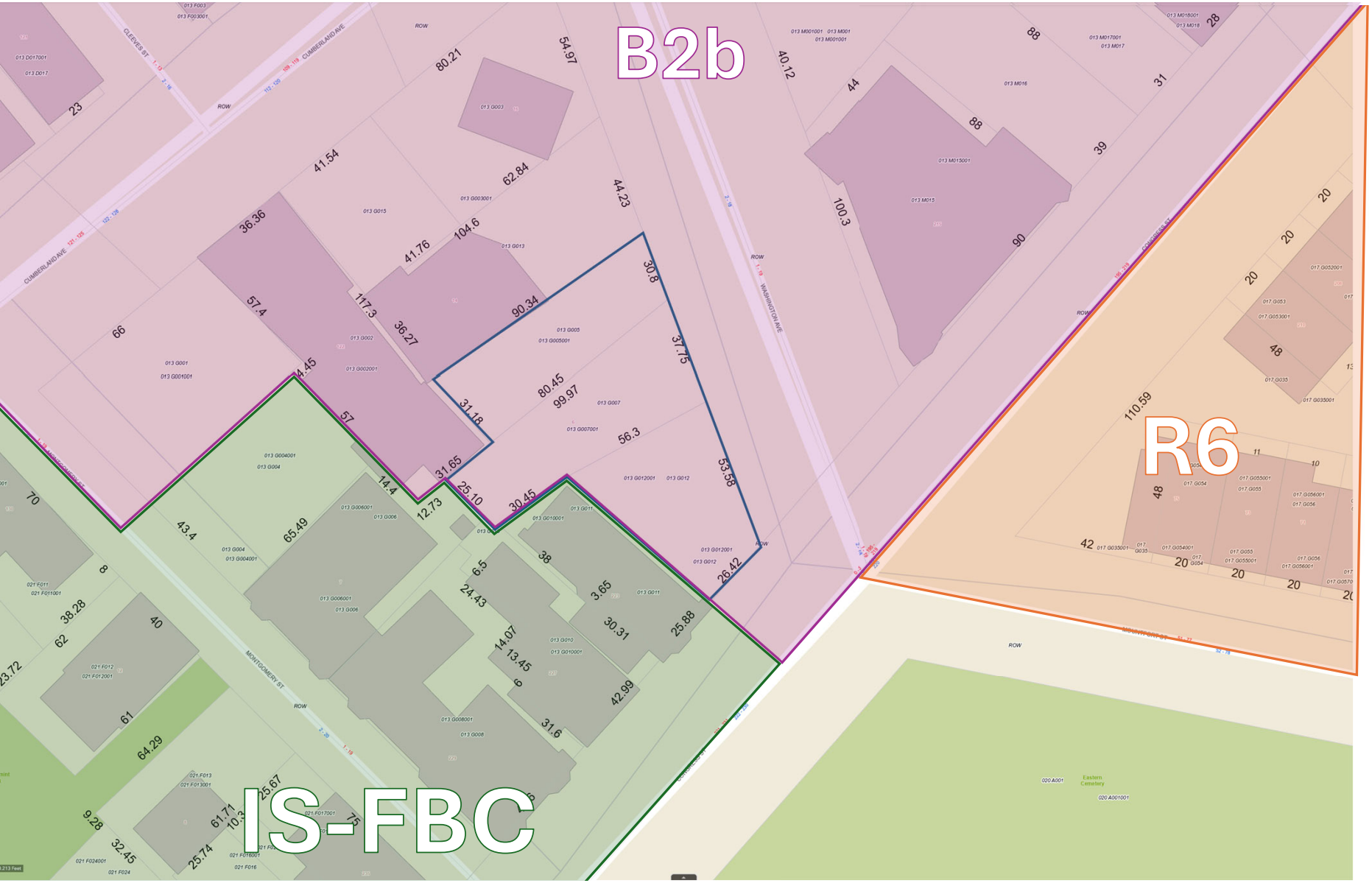
Previous Property Zoning



Existing Property Zoning



Proposed Property Zoning



PORTLAND'S PLAN2030

Page 54-61

Housing Policy Emphasis:
Portland's Plan emphasizes the need for diverse housing types to cater to a range of demographic and economic segments in the community. The increased density will allow for smaller, more affordable units, addressing issues of housing supply and affordability which are critical needs in Portland and broadly reflected in the comprehensive plan.

Page 62-69

Sustainable and Livable Communities:
The comprehensive plan promotes sustainable growth distributed fairly across the community. Higher density at 221 Congress Street supports this by optimizing land use in a central urban area, thus contributing to more sustainable urban form.

Page 16-22

Economic and Environmental Sustainability:
Denser housing contributes to a reduction in per capita energy and land use, aligning with the plan's goals for environmental sustainability. It supports economic sustainability by potentially increasing local spending and economic activity in the area.

Page 54-61

Equitable Access to Housing:
Increasing housing unit density can make home ownership more accessible to a wider range of incomes, thus promoting social equity, a key goal of the plan. This aligns with Portland's objectives to foster inclusive communities.

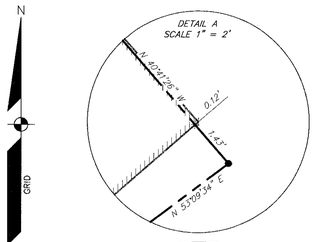
Page 70-71

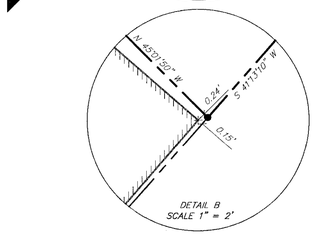
Supporting Public Transit and Reducing Congestion:
The comprehensive plan emphasizes the importance of supporting transit-oriented developments. Higher density at a central location like 221 Congress Street can leverage existing public transit infrastructure, thereby reducing traffic congestion and promoting the use of public transport.

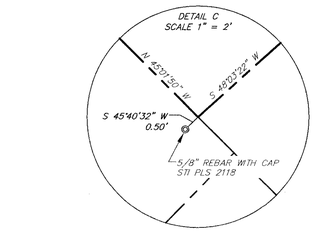
Page 62-69

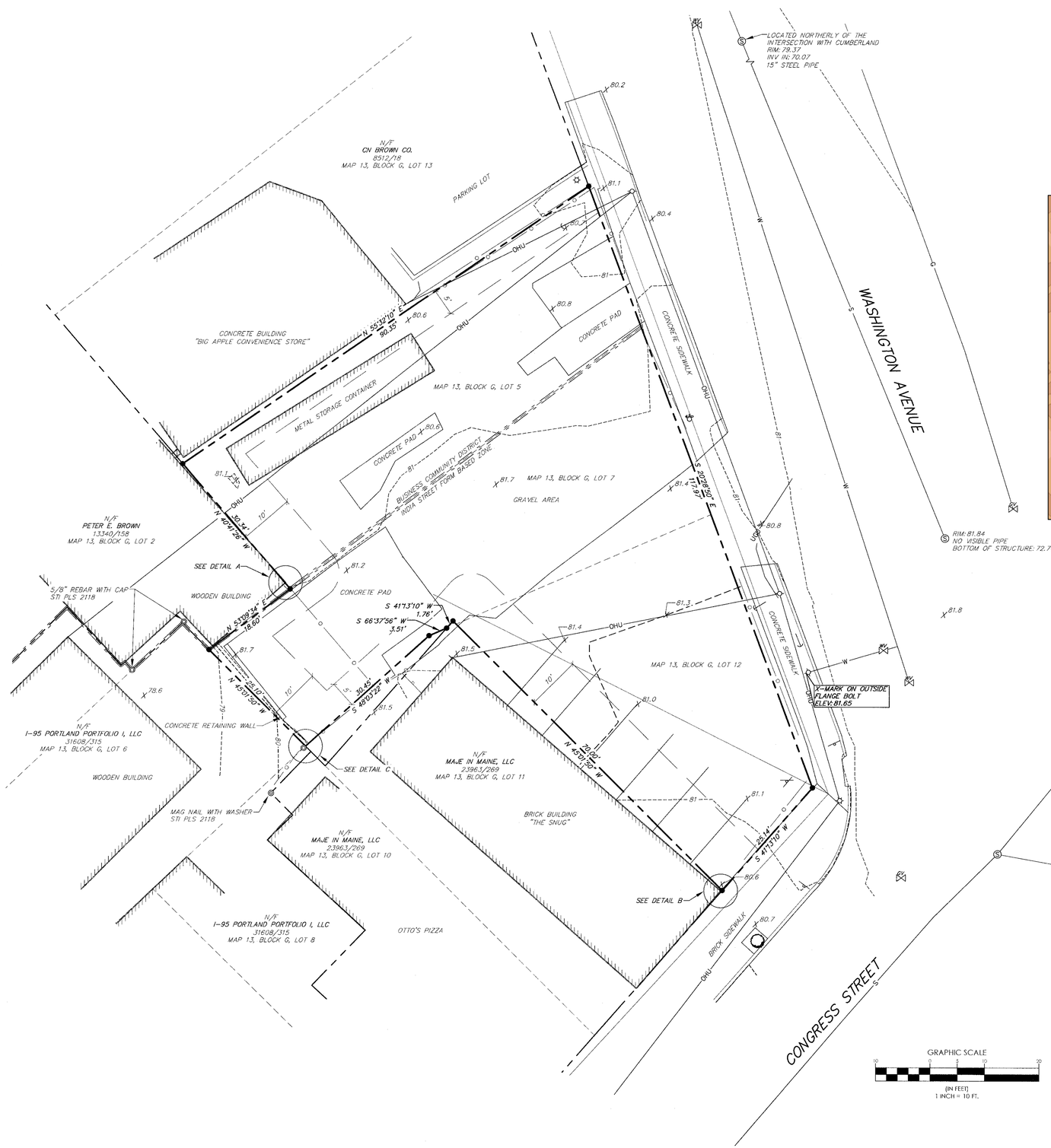
Enhancing Neighborhood Vibrancy:
Higher density can lead to increased vibrancy and vitality, contributing positively to neighborhood services and amenities. This supports the plan's goal of reinforcing the center and creating complete neighborhoods.

Child and Family
Services East End Center
Layers
2D









LEGEND

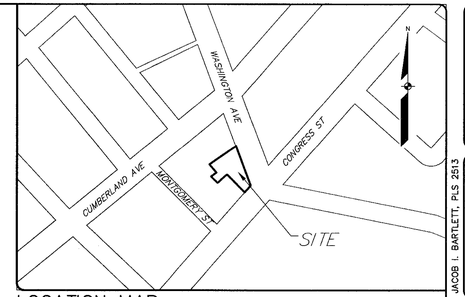
EXISTING

- PROPERTY LINE/R.O.W.
- REBAR SET WITH CAP MARKED "STI PLS 2513 NH RLS 1003"
- ABUTTER LINE/R.O.W.
- DEED LINE/R.O.W.
- ZONE LINE ON PL
- SETBACK
- BUILDING
- DECK/STEPS/ OVERHANG
- EDGE PAVEMENT
- PAVEMENT SAWCUT
- EDGE CONCRETE
- PAVEMENT PAINT
- CURB LINE
- CHAIN LINK FENCE
- WOODEN FENCE
- RETAINING WALL
- OHU — OVERHEAD UTILITY
- UGU — UNDERGROUND UTILITY
- S — SANITARY SEWER
- ZONE LINE
- G — GAS
- W — WATER
- 120 — 118 — CONTOURS
- ×120.00 SPOT GRADE
- MONUMENT
- IRON PIPE/ROD
- SIGN
- DECIDUOUS TREE
- GAS GATE VALVE
- WATER GATE VALVE
- WATER SHUT OFF
- HYDRANT
- SANITARY MANHOLE
- TELEPHONE MANHOLE
- LIGHT POLE
- UTILITY POLE
- GUY WIRE
- BENCHMARK DESCRIPTION WITH ELEVATION — BENCHMARK

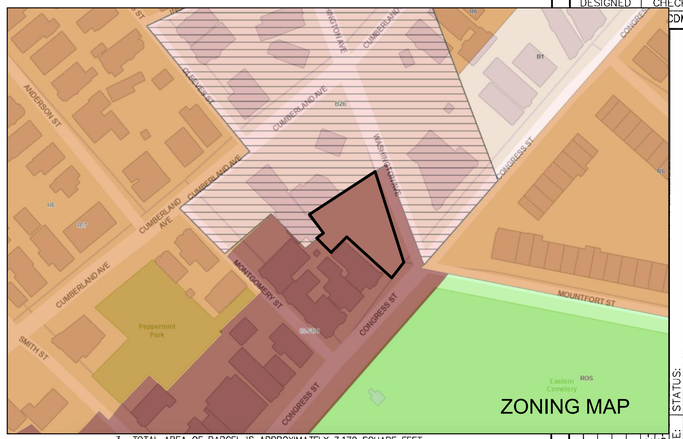
GRAPHIC SCALE

10 0 5 10 20

(IN FEET)
1 INCH = 10 FT.



LOCATION MAP N.T.S.



ZONING MAP

3. TOTAL AREA OF PARCEL IS APPROXIMATELY 7,170 SQUARE FEET.
4. BOUNDARY AND TOPOGRAPHIC INFORMATION SHOWN HEREON IS BASED UPON FIELD WORK PERFORMED BY SEBAGO TECHNICS INC. IN AUGUST 2016 AND JUNE 2014.
5. PLAN REFERENCES:
   A. LAND OF JOHN SWETT, ESQ. FILED AS PLAN 376/5 IN CITY OF PORTLAND PUBLIC WORKS ENGINEERING ARCHIVES.
   B. "6 WASHINGTON AVE. GREG'S PROPERTIES WASHAVE LLC." DATED OCTOBER 17, 2007, SURVEYED BY THOMAS J. RAYMOND, PLS 1021 AND FILED AS PLAN 1008/3 IN THE CITY OF PORTLAND PUBLIC WORKS DEPARTMENT ENGINEERING ARCHIVES.
   C. WASHINGTON AVENUE BLUE SHEET PAGE 1 FILED IN THE CITY OF PORTLAND PUBLIC WORKS DEPARTMENT ENGINEERING ARCHIVES.
   D. "STATE OF MAINE DEPARTMENT OF TRANSPORTATION RIGHT OF WAY MAP WASHINGTON AVENUE PORTLAND CUMBERLAND COUNTY FEDERAL AID PROJECT NO. M-0675(1)" DATED MARCH 1984 AND RECORDED IN THE CUMBERLAND COUNTY REGISTRY OF DEEDS IN PLAN BOOK 163, PAGE 19.
   E. FIELD NOTES IN RE-VALUATION FIELD BOOK VOLUME 1 FILED IN THE CITY OF PORTLAND PUBLIC WORKS DEPARTMENT ENGINEERING ARCHIVES.
   F. FIELD NOTES FOR "WASHINGTON AVE. FROM CONGRESS ST. TO TUKEY ST. LOCATION OF LINE & TIES TO MONS PAVING SURVEY" DATED APRIL 21, 1947, AND FILED IN LEVEL BOOK VOLUME 473, PAGE 2 IN THE CITY OF PORTLAND PUBLIC WORKS DEPARTMENT ENGINEERING ARCHIVES.
6. DEED REFERENCES (ALL BOOK AND PAGE REFERENCES ARE TO THE CUMBERLAND COUNTY REGISTRY OF DEEDS):
   A. JOSHUA RICHARDSON TO SAMUEL M. QUINCEY, DATED JULY 10, 1828, AND RECORDED IN BOOK 113, PAGE 352.
   B. JOSHUA RICHARDSON TO WILLIAM MOULTON, DATED AUGUST 21, 1828, AND RECORDED IN BOOK 115, PAGE 38.
   C. MARY A. HEAD & MARY A. SWETT TO EDWARD DUDDY, DATED OCTOBER 5, 1922, AND RECORDED IN BOOK 1118, PAGE 120.
   D. SIDNEY S. NASON, EUNICE NASON, ELIZA A. SMITH, AND ROSANNA COLLINS TO JOHN C. PRESTON, DATED NOVEMBER 16, 1881, AND RECORDED IN BOOK 482, PAGE 314.
   E. SIDNEY S. NASON TO JOHN F. PROCTOR, DATED JANUARY 21, 1890, AND RECORDED IN BOOK 560, PAGE 376.
   F. NOTICE OF LAYOUT AND TAKING, DATED APRIL 24, 1984 AND RECORDED IN BOOK 6444, PAGE 79.
7. PLAN ORIENTATION IS GRID NORTH, MAINE STATE PLANE COORDINATE SYSTEM, WEST ZONE 1802-NAD83, ELEVATIONS DEPICTED HEREON ARE NOVD29, CONVERTED (UTILIZING VERTCON FROM NOAA) FROM NAVD88, BASED ON DUAL FREQUENCY GPS OBSERVATIONS.
8. UTILITY INFORMATION DEPICTED HEREON IS COMPILED USING PHYSICAL EVIDENCE LOCATED IN THE FIELD AND WORK PERFORMED BY DIG SMART OF MAINE. UTILITIES DEPICTED HEREON MAY NOT NECESSARILY REPRESENT ALL EXISTING UTILITIES. CONTRACTORS AND/OR DESIGNERS NEED TO CONTACT DIG-SAFE SYSTEMS, INC. (1-888-DIG-SAFE) AND FIELD VERIFY EXISTING UTILITIES PRIOR TO CONSTRUCTION AND/OR EXCAVATION.

SURVEYOR'S STATEMENT

THIS SURVEY WAS PERFORMED UNDER MY DIRECT SUPERVISION AND TO THE BEST OF MY KNOWLEDGE AND BELIEF, IT WAS DONE IN ACCORDANCE WITH CHAPTER 90, PART 1 (PROFESSIONAL STANDARDS OF PRACTICE) AND PART 2 (TECHNICAL STANDARDS OF PRACTICE) OF THE MAINE BOARD OF LICENSURE FOR PROFESSIONAL LAND SURVEYORS.

JACOB I. BARTLETT, PLS 2513 — OCTOBER 12, 2016

JACOB I. BARTLETT, PLS 2513

STATE OF MAINE — JACOB BARTLETT 2513 — PROFESSIONAL LAND SURVEYOR

DESIGNED	CHECKED
	CDM

REV.:	BY:	DATE:
B	JIB	10-12
A	JIB	09-15

STATUS:

THIS PLAN SHALL NOT BE MODIFIED WITHOUT WRITTEN PERMISSION FROM SEBAGO TECHNICS, INC. ANY ALTERATIONS, AUTHORIZED OR OTHERWISE, SHALL BE AT THE USER'S SOLE RISK AND WITHOUT LIABILITY TO SEBAGO TECHNICS, INC.

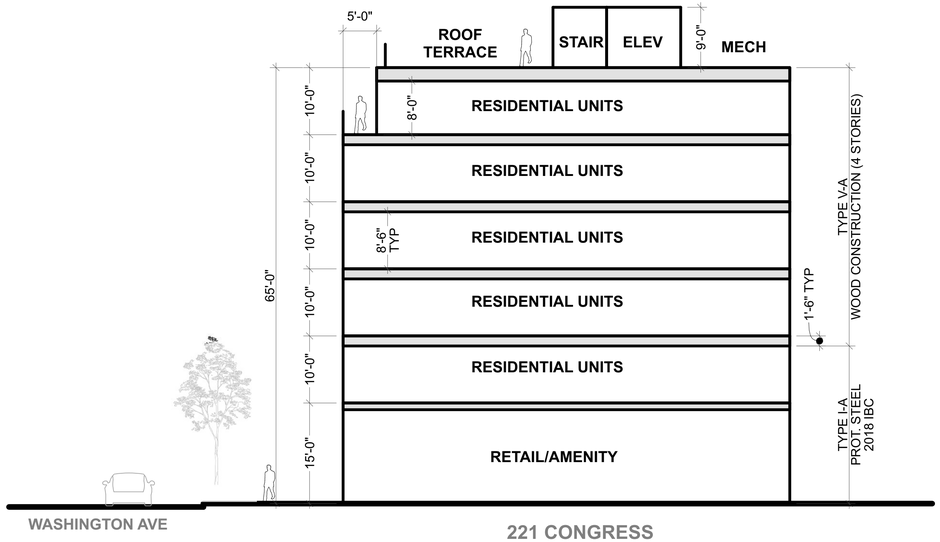
SEBAGO TECHNICS
WWW.SEBAGOTECHNICS.COM
75 John Roberts Rd. Suite 4A
South Portland, ME 04106
Tel. 207-200-2100
250 Goddard Rd.
Lewiston, ME 04240
Tel. 207-783-5656

EXISTING CONDITIONS SURVEY
OF LAND FOR RECORD OWNER:
GREG'S PROPERTIES WASHAVE LLC
221 CONGRESS STREET
PORTLAND, MAINE 04101
PREPARED FOR:
CALEB JOHNSON ARCHITECTS & BUILDERS
2065 MAIN STREET
BIDDEFORD, MAINE 04005

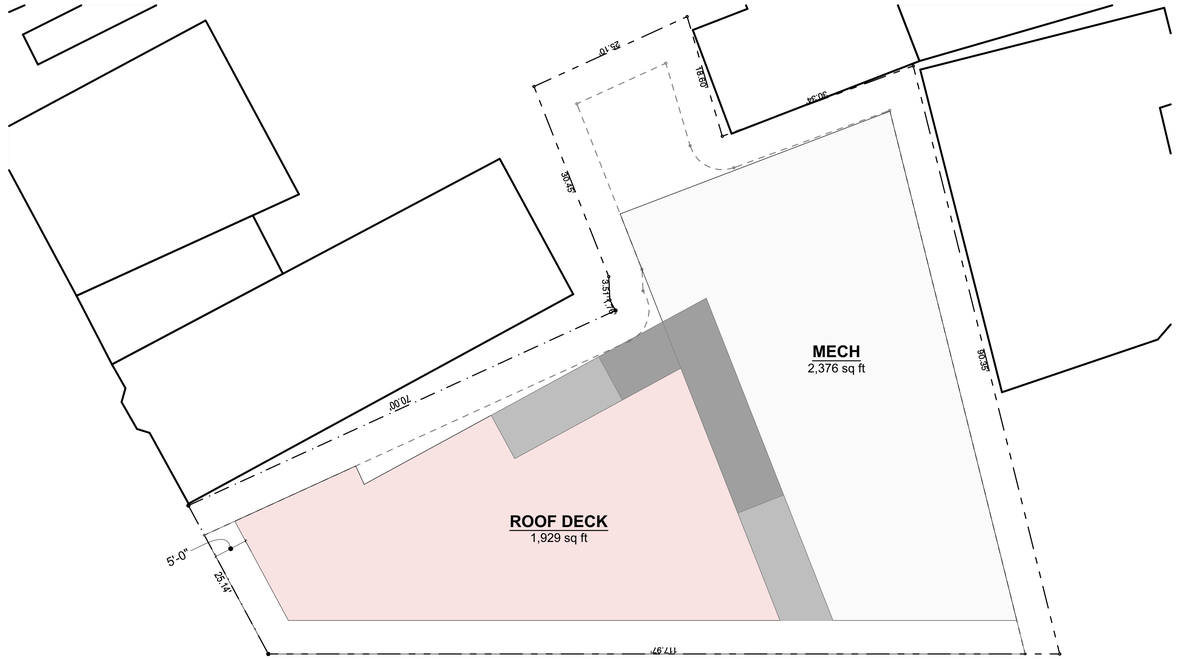
1631-BD.dwg T+B: 1631-EC

PROJECT NO.	SCALE
16314	1" = 10'

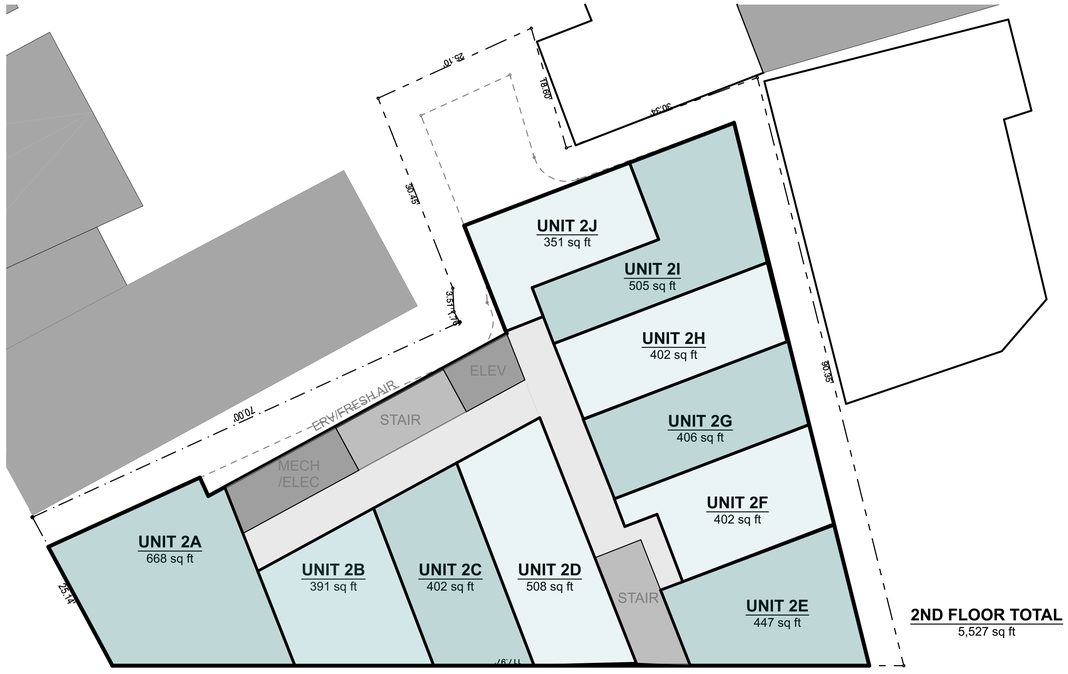
SHEET 1 OF 1



221 CONGRESS
(6 STORIES, B2b 65', VA with 2-Story Podium per 2018 IBC)



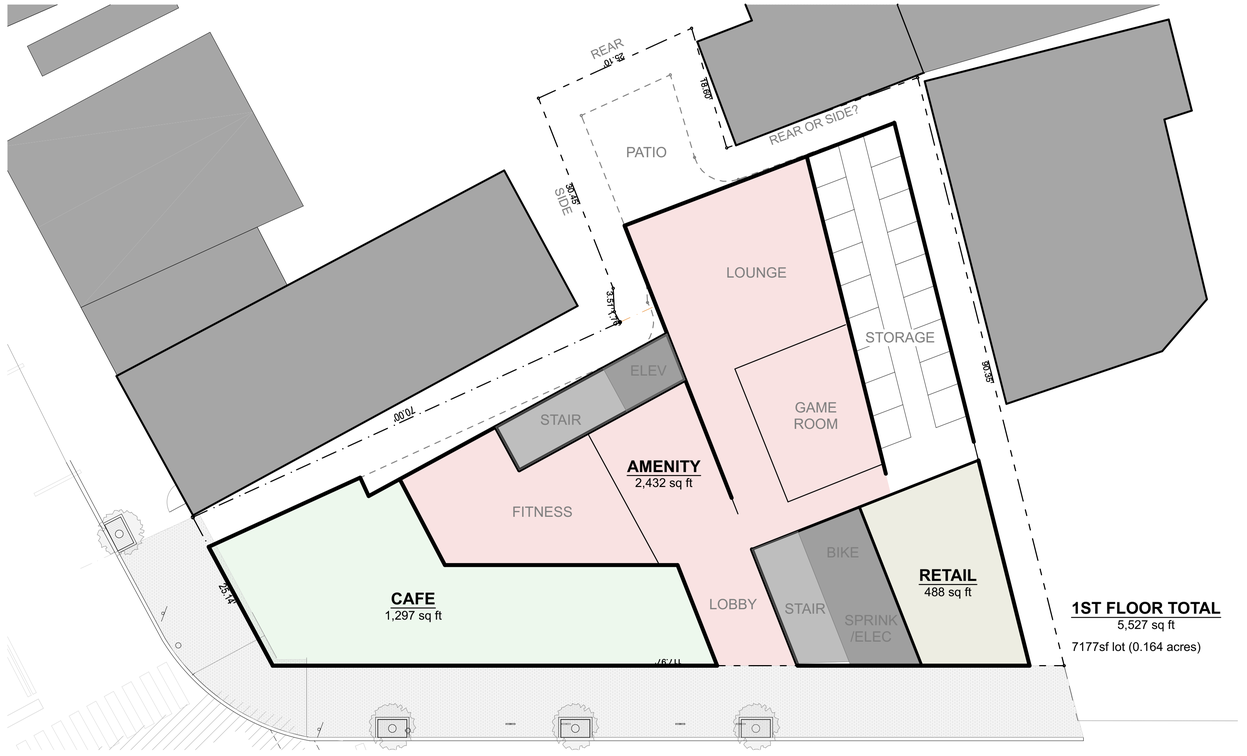
6 ROOF PLAN MICRO
SCALE: 3/32" = 1'-0"



2ND FLOOR TOTAL
5,527 sq ft

10 UNITS PER FLOOR

2 2ND THROUGH 5TH FLOOR TYPICAL
SCALE: 3/32" = 1'-0"



1ST FLOOR TOTAL
5,527 sq ft
7177sf lot (0.164 acres)

1 1ST FLOOR PLAN MICRO
SCALE: 3/32" = 1'-0"

WOODHULL
93 HIGH ST
207 283 8777
PORTLAND, ME 04101
woodhullmaine.com

MICRO UNIT CONCEPT PLANS

221 CONGRESS ST 5/7/24

221 CONGRESS STREET LOT ZONING COMPARISON			
	ISFBC-UA	**B2b**	**B2b (Recode Draft)**
Max Height	**62'-0"** *50' with 12' bonus for workforce housing per Table 9-C, min 20% workforce	**65'-0"** *50' with 15' bonus per Table 18-C if 50% Workforce	**80-0"** *65' with 15' bonus per Table 17-B if 50% Workforce
Stepback (At Washington Ave)	**35'-0"**	**5'-0"**	**0'-0"**
Max # Micro Units based on architectural studies	**30** *5th floor stepback makes units and egress stairs impractical on this lot	**41** *435sf/dwelling unit cap *2.5 density bonus per Table 18-C if 50% Workforce. Restricts to 41 units regardless of allowable building size	**60** *dwelling unit density cap removed in Recode

IS-FBC ZONE IS LARGELY THE SAME WITH RECODE

Form Submission - Contact us Re:Code - Peaks Island proposed expanded business district

0 views

Squarespace 12:44 PM (7 minutes ago)

to recodep...@portlandmaine.gov

Sent via form submission from *ReCode Portland*

Name: Alicia Kershaw

Email Address: alicia.kershaw.kerrose@gmail.com

Subject: Peaks Island proposed expanded business district

Message: I'm writing to support the expanded business district on Peaks Island, Local businesses need space for trucks and equipment and this will help keep large vehicles off street parking. I'm not commenting on the proposed location because I am concerned about the effect on residents there. But we do need more areas zoned for business

Manage Submissions

Does this submission look like spam? Report it here.

Re: 1772 Westbrook St - redevelopment/recode 1 view

Nancy Martin May 23, 2024, 8:44:42 AM (5 days ago)

to Paszyc, Chris, Gregory Watson, Kevin Kraft, recodep...@portlandmaine.gov

Dear Chris,

Thank you for your email and apologies for the delayed response.

I can confirm your preference for 1772 Westbrook Street to be zoned as RN2 has been received.

I have copied the Recode email address so this can be incorporated into the Recode feedback process.

Warm regards,
Nancy

Nancy L. Martin (she/her)
Business Programs Manager
Housing and Economic Development Department
City of Portland
389 Congress Street
Portland, ME 04101
nmartin@portlandmaine.gov
(207) 756-8019
www.portlandmaine.gov

On Mon, May 20, 2024 at 11:12 AM Paszyc, Chris <cpaszyc@boulos.com> wrote:

> Good morning Kevin, Greg, and Nancy – following up on our meeting regarding the recode process for 1772 Westbrook St., our preference would be to see it zoned RN2. Please confirm you've received this, and let me know if you have any issues. Thank you.
>
> Chris Paszyc, CCIM, SIOR
> Partner
> The Boulos Company
> 207.939.4147 (cell)
> Sent from my mobile device
>
> > On Apr 26, 2024, at 9:52 AM, Gregory Watson <gwatson@portlandmaine.gov> wrote:
> >
> > *****CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe *****
> >
> > 1772 Westbrook St - redevelopment/recode
> > You have been invited by Gregory Watson to attend an event named 1772 Westbrook St - redevelopment/recode on Thursday May 2, 2024 · 12pm – 1pm (Eastern Time - New York).
> >
> > This event has been updated
> > Changed: location

When
Thursday May 2, 2024 · 12pm – 1pm (Eastern Time - New York)
Location
CHANGED
City of Portland, Maine, 389 Congress St, Portland, ME 04101, USA
View map<https://www.google.com/maps/search/City+of+Portland,+Maine,+389+Congress+St,+Portland,+ME+04101,+USA?hl=en>
Guests
Gregory Watson<mailto:gwatson@portlandmaine.gov> - organizer
Nancy Martin<mailto:nmartin@portlandmaine.gov>
Kevin Kraft<mailto:kkraft@portlandmaine.gov>
cpaszyc@boulos.com<mailto:cpaszyc@boulos.com>
View all guest info<https://calendar.google.com/calendar/event?action=VIEW&eid=dTk3dGVpNnY4YjAybmp1YTJkN3VyMXJwcTggY3Bhc3p5Y0Bib3Vsb3MuY29t&tok=MjUjZ3dhdHNvbkBwb3J0bGFuZG1haW5lLmdvdmNjNjdjMDg1OTYwZjJhZTE2ODA5NGI2MDQxMGM3NGQyOTQ2N2Y5YzA&ctz=America%2FNew_York&hl=en&es=0>
Reply for cpaszyc@boulos.com<mailto:cpaszyc@boulos.com>
<https://calendar.google.com/calendar/event?action=RESPOND&eid=dTk3dGVpNnY4YjAybmp1YTJkN3VyMXJwcTggY3Bhc3p5Y0Bib3Vsb3MuY29t&rst=1&tok=MjUjZ3dhdHNvbkBwb3J0bGFuZG1haW5lLmdvdmNjNjdjMDg1OTYwZjJhZTE2ODA5NGI2MDQxMGM3NGQyOTQ2N2Y5YzA&ctz=America%2FNew_York&hl=en&es=0>
Yes
<https://calendar.google.com/calendar/event?action=RESPOND&eid=dTk3dGVpNnY4YjAybmp1YTJkN3VyMXJwcTggY3Bhc3p5Y0Bib3Vsb3MuY29t&rst=2&tok=MjUjZ3dhdHNvbkBwb3J0bGFuZG1haW5lLmdvdmNjNjdjMDg1OTYwZjJhZTE2ODA5NGI2MDQxMGM3NGQyOTQ2N2Y5YzA&ctz=America%2FNew_York&hl=en&es=0>
No
<https://calendar.google.com/calendar/event?action=RESPOND&eid=dTk3dGVpNnY4YjAybmp1YTJkN3VyMXJwcTggY3Bhc3p5Y0Bib3Vsb3MuY29t&rst=3&tok=MjUjZ3dhdHNvbkBwb3J0bGFuZG1haW5lLmdvdmNjNjdjMDg1OTYwZjJhZTE2ODA5NGI2MDQxMGM3NGQyOTQ2N2Y5YzA&ctz=America%2FNew_York&hl=en&es=0>
Maybe
<https://calendar.google.com/calendar/event?action=VIEW&eid=dTk3dGVpNnY4YjAybmp1YTJkN3VyMXJwcTggY3Bhc3p5Y0Bib3Vsb3MuY29t&tok=MjUjZ3dhdHNvbkBwb3J0bGFuZG1haW5lLmdvdmNjNjdjMDg1OTYwZjJhZTE2ODA5NGI2MDQxMGM3NGQyOTQ2N2Y5YzA&ctz=America%2FNew_York&hl=en&es=0>
More options

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You are receiving this email because you are an attendee on the event. To stop receiving future updates for this event, decline this event.

Forwarding this invitation could allow any recipient to send a response to the organizer, be added to the guest list, invite others regardless of their own invitation status, or modify your RSVP. Learn more<https://support.google.com/calendar/answer/37135#forwarding>

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<invite.ics>
<meeting.ics>

1239-1241 Congress St Portland 1 view

Diana Ellis May 21, 2024, 4:59:25 AM (7 days ago)

to recodep...@portlandmaine.gov

Hello

I was informed the zoning has changed for muti units. I have a two unit and would like to add a 3rd unit. I was told a couple of years ago due to the amount of land that was not possible. Has that changed? Thank u Diana ellis

Housing & Zoning Committee – Feedback from the May 18 ReCode information table.
About 20-25 people stopped by to gather handouts and give comments. People were very interested in sharing their concerns and feedback, and in learning more about ReCode.

1. Small Island Lot
    a. Many questions about the proposed limit on lot division that requires the primary lot to maintain 20,000 sq ft, so a lot would need to be 23,000 sq ft to carve off 3,000 sq ft.
    b. Interest in exploring a system where a land owner can divide their property and maintain the setbacks and lot size requirement of IR-2/Small Lot. Such as from a 6,000 sq ft lot making two small island lots of 3,000 (provided that the original lot/structure can maintain the Small Island lot setbacks and lot coverage).
    c. Concern about the business of short term rentals on Small Island Lots.

2. Questions about the Business zone
    a. In the ReCode effort to remedy the split lot scenario (business/IR-2) the proposed maps show lots that have a greater than average depth becoming Business zoned – this has created areas where the business zone intrudes on residential areas.
    b. Questions here:
        i. Can there be an additional measurement or percentage taken into account when remedying the split lots. Such as it can't extend more than 25% or 50% of the norm?
        ii. What happens when a newly proposed business zone abuts residential lots. Are there ways to reduce or remedy the impact?
        iii. Should the depth of the business zone be maintained equally on the east side of Island Ave?

    c. Need for new category of business zone for "soft businesses" that don't have the potential to have a large impact on neighbors for example:
        -that maintain the same setbacks as IR-2
        -that are 9:00-5:00 businesses such as galleries, antique shops, repair shops, shared office space – but not allowing hotels, restaurants, and such that have a big impact.

3. Water & Sewer capacity information should be taken into account.
    a. Concern about additional building where there is no city water & sewer.
    b. And concern about building where there is city water and sewer, but the present system seems to be at capacity.

4. Dimensional Standards:
    a. Concern about 5 ft side setbacks in IR-2 Small Lot that also allow for encroachment of 2 ft.

b. Lot coverage going from 20% to 60% a concern – would 40% be enough?
c. Support for reduced setback to allow additions.

5. Need for Commercial vehicle parking lot.

Greater Portland Landmarks
Historic character enriches our lives
PO Box 17533, Portland, ME 04112

24 May 2024

RE: Proposed Portland Historic Preservation Ordinance Changes

Chair O'Brien and Members of the Historic Preservation Board,

Greater Portland Landmarks has significant concerns about some of the proposed changes to Portland's Historic Preservation Ordinance as drafted in the staff's proposed Chapter 16 draft. We believe that a number of the changes do not meet the minimum standards set out in the *Guidelines for the Certified Local Government (CLG)Program in Maine*. We also have concerns that several deletions and language changes will have a significant impact on the Board's ability to fulfill its responsibilities under the ordinance and the historic preservation goals outlined in the City's Comprehensive Plan.

Enclosed is a copy of our comments. We have noted areas where we feel the changes specifically do not address CLG requirements for local legislation. We have forwarded a copy of this document to the Maine Historic Preservation Commission. We also have questions and comments on other areas of concern that are not specifically related to CLG requirements.

The staff proposed draft required a great deal of analysis to understand what was proposed as new language and not in the existing ordinance, what existing text was proposed to be relocated, and what text in the existing document was proposed to be removed altogether. We hope that our comments assist you in your deliberations at your workshop on Wednesday the 29th.

We would like to highlight some of our major concerns:

- Proposed language that would remove or alter the purpose of the board and its responsibilities as required by the *Guidelines for Certified Local Government Programs in Maine.*
- Proposed language that would alter or eliminate the definitions of standard historic preservation terms like site or landmark.
- Proposed language that would remove interim protections and project review during the designation process.
- Proposed language that would no longer regulate activities that don't require a building permit, including removing review of projects in the ROW that would have visual impact on historic districts.
- Proposed language that would allow the dimensional requirements of the underlying zoning to supersede the historic preservation review standards in all areas designated as historic, not just Congress Street, India Street, and at the Portland Company.
- Proposed language that moves authority to review and issue a Certificate of Hardship from the Zoning Board of Appeals to the Historic Preservation Board.

- Proposed language in the standards for recission or amendment that would allow the planning board or the city council to decide that a landmark or contributing building can be reclassified as noncontributing (and therefore demolished) based on goals, other than historic preservation, identified in the comprehensive plan.

The last item above we feel is the most significant staff proposed change that should be addressed. This is a significant change from existing and historic ordinance language and will disallow certification of this ordinance and lose CLG status for the city. Landmarks met with Planning staff on May 2, 2024 to begin to outline our concerns about proposed "Wave 2" changes to the historic preservation ordinance. Staff seemed to suggest that in 2020 changes had been made to the Rescission of Designation provision of the ordinance, and their proposed "Wave 2" language to allow the City Council to consider the comprehensive plan in rescission applications was merely reverting the ordinance back to how it was pre-2020. To the contrary, our research confirms that the substance of the current provision on amendment or rescission of a designation is largely unchanged from what was first enacted in 1990. We have attached pages from the 2019 Portland Zoning Ordinance, prior to the ReCode 2020 amendments, that clearly show the rescission standards were limited to the minimum criteria for designation and the integrity standard. Rescission standards did not include the goals of the comprehensive plan.

We hope that you will agree that the items summarized above and changes outlined in our attached comments, are indeed significant changes and that you will ask city staff to amend their proposal.

Thank you for considering our views,

Carol De Tine
Vice President of the Board of Trustees
Greater Portland Landmarks

Attachments:
Excerpted pages from 2019 Portland Zoning Code, Chapter 14
Research on evolution of the Amendment and Rescission of designation provision, 1990 to the present.
Landmarks specific comments on the staff proposed changes to Chapter 17 of the Land Use Code

Sec. 14-610. Minimum criteria for designation.

(a) The historic preservation board shall limit its consideration to the following criteria in making a determination on a proposed nomination of an area, site, structure or object for designation by ordinance as a landmark or district:

1. Its value as a significant example of the cultural, historic, architectural, archeological or related aspect of the heritage of the City of Portland, State of Maine, New England region, or the United States;

2. Its location as a site of a significant historic or prehistoric event or activity which may have taken place within or which involved the use of any existing structure on the property;

3. Its identification with a person or persons who significantly contributed to the cultural, historic, architectural, archeological or related aspect of the development of the City of Portland, State of Maine, New England region, or the United States;

4. Its exemplification of a significant architectural type, style or design distinguished by innovation, rarity, uniqueness or overall quality of design, detail, materials or craftsmanship;

5. Its identification as the work of an architect, designer, engineer or builder whose individual work is significant in the history or development of the City of Portland, the State of Maine, the New England region, or the United States; or

6. Its representation of a significant cultural, historic, architectural, archeological or related theme expressed through distinctive areas, sites, structures or objects that may or may not be contiguous.

(b) In the case of a nominated historic district, the historic preservation board shall also determine whether a substantial number of the properties, sites, structures or objects have a high degree of cultural, historic, architectural or archeological significance and integrity, many of which may qualify as landmarks, and which may also have within its boundaries other properties, sites, structures or objects which, while not of such

cultural, historic, architectural or archeological significance to qualify as landmarks, nevertheless contribute to the overall visual characteristics of the significant properties, sites, structures or objects located within it.

(c) In the case of a nominated historic landscape district, the historic preservation board shall also consider its significance as a geologic, natural or man-made landscape feature associated with the development, heritage or culture of the City of Portland, State of Maine, New England region, or the United States.

(d) The planning board and council shall apply the criteria of subsections (a), (b) and (c) but shall also consider the effect of such designation on other aspects of the comprehensive plan of the city.
(Ord. No. 235-90, 2-26-90)

Sec. 14-611. Integrity of landmarks and historic districts.

Any area, structure or object that meets the criteria in section 14-610 must also have sufficient integrity of location, design, condition, materials and workmanship to make it worthy of preservation or restoration.
(Ord. No. 235-90, 2-26-90)

Sec. 14-612. Designation of historic landscape districts.

An historic landscape district may be nominated and considered for designation only if the entire area of the district is owned by a unit of federal, state or local government, or any combination of such ownership.
(Ord. No. 235-90, 2-26-90; Ord. No. 220-93, § 2, 5-17-93)

Sec. 14-613. Reserved.

DIVISION 4. NOMINATION, CONSIDERATION AND DESIGNATION

Sec. 14-614. Procedure.

The provisions of this division shall govern the nomination, consideration and designation of landmarks and districts.
(Ord. No. 235-90, 2-26-90)

Sec. 14-615. Initiation of nomination.

(a) Nomination of an area, site, structure or object for consideration of designation as a landmark, historic district or

designation ordinance and design guidelines.

(d) Notice of council action to the same persons shall be sent within ten business days following the council action. A copy of each designation ordinance and design guidelines shall be sent to the planning board, the historic preservation board and the department. A complete schedule of all landmarks and districts, including design guidelines and a listing of landmark and contributing structures, shall be maintained by the department as part of the design manual and shall be available for public inspection and copying during ordinary business hours.
(Ord. No. 235-90, 2-26-90; Ord. No. 165-08/09, 3-16-09)

Sec. 14-623. Amendment and rescission of designation.

Amendment and rescission of any designation shall be upon the request of a person or persons authorized to nominate the property or properties affected, or upon request of the council, and shall follow the procedure set forth in division 4 for designation. The council may rescind or amend a designation only after all of these procedures have been followed. The standards for rescission or amendment applied by the committee, planning board and council shall be limited to those provided in section 14-610(a) and section 14-611. Amendments may include refinement or correction of design guidelines, maps, and other parts of any designation ordinance.
(Ord. No. 235-90, 2-26-90)

Sec. 14-624.- Sec. 14-627. Reserved.

***Editor's note –** Order No. 197-03/04 adopted 9/8/04, repealed §14-625 Projects of Special Merit in its entirety.

Sec. 14-628. Time limits.

(a) Any time limit specified for any step in the process for nomination or designation of a landmark may be extended with the consent of the property owner.

(b) Any time limit specified for any step in the process for nomination or designation of a district may be extended where at least ten (10) percent of the owners of property within the boundaries of the proposed district have given written consent to the extension.

(c) Failure to comply with any time limit in the nomination

Research on the evolution of the Amendment and Rescission of Designation provision, 1990 to present

Prepared for Greater Portland Landmarks, by Barbara Vestal, May 24, 2024

When Landmarks met with Planning staff on May 2, 2024 to begin to outline our concerns about proposed "Wave 2" changes to the historic preservation ordinance, they seemed to suggest that 2020 changes had been made to the Rescission of Designation provision of the ordinance, and that the Wave 2 proposal to allow the City Council to consider the comprehensive plan in rescission applications merely changed the ordinance back to how it was pre-2020. To the contrary, my research, outlined below, confirms that **the substance of the current provision on amendment or rescission of a designation is largely unchanged from what was first enacted in 1990.**

Following immediately below are excerpts from Portland's Historic Preservation Ordinance as it appeared City of Portland, Code of Ordinances, Land Use Code, Chapter 14, Rev. 6-21-12. (This is how it read in 2012, and as far as I believe, continued to read until 2020 ReCode I amendments.)

Sec. 14-623. Amendment and rescission of designation. Amendment and rescission of any designation shall be upon the request of a person or persons authorized to nominate the property or properties affected, or upon request of the council, and shall follow the procedure set forth in division 4 for designation. The council may rescind or amend a designation only after all of these procedures have been followed. The standards for rescission or amendment applied by the committee, planning board and council shall be limited to those provided in section 14-610(a) and section 14-611. Amendments may include refinement or correction of design guidelines, maps, and other parts of any designation ordinance. (Ord. No. 235-90, 2-26-90) (Vestal emphasis added)

Sec. 14-627. Reserved. -------

***Editor's note – Order No. 197-03/04 adopted 9/8/04, repealed §14-625 Projects of Special Merit in its entirety. -------**

14-623 states that the standards for rescission are limited to section 14-610(a) and section 14-611, which are reproduced from the 2012 document, below:

Sec. 14-610. Minimum criteria for designation.

(a) The historic preservation board shall limit its consideration to the following criteria in making a determination on a proposed nomination of an area, site, structure or object for designation by ordinance as a landmark or district:

> 1. Its value as a significant example of the cultural, historic, architectural, archeological or related aspect of the heritage of the City of Portland, State of Maine, New England region, or the United States; City of Portland Land Use Code of Ordinances Chapter 14 Sec. 14-610 Rev. 6-21-12 14-815

2. Its location as a site of a significant historic or prehistoric event or activity which may have taken place within or which involved the use of any existing structure on the property;

3. Its identification with a person or persons who significantly contributed to the cultural, historic, architectural, archeological or related aspect of the development of the City of Portland, State of Maine, New England region, or the United States;

4. Its exemplification of a significant architectural type, style or design distinguished by innovation, rarity, uniqueness or overall quality of design, detail, materials or craftsmanship;

5. Its identification as the work of an architect, designer, engineer or builder whose individual work is significant in the history or development of the City of Portland, the State of Maine, the New England region, or the United States; or

6. Its representation of a significant cultural, historic, architectural, archeological or related theme expressed through distinctive areas, sites, structures or objects that may or may not be contiguous.

*((b), (c) and (d), reproduced here, are **excluded** from consideration in a 14-623 rescission*)
(b) In the case of a nominated historic district, the historic preservation board shall also determine whether a substantial number of the properties, sites, structures or objects have a high degree of cultural, historic, architectural or archeological significance and integrity, many of which may qualify as landmarks, and which may also have within its boundaries other properties, sites, structures or objects which, while not of such cultural, historic, architectural or archeological significance to qualify as landmarks, nevertheless contribute to the overall visual characteristics of the significant properties, sites, structures or objects located within it.

(c) In the case of a nominated historic landscape district, the historic preservation board shall also consider its significance as a geologic, natural or man-made landscape feature associated with the development, heritage or culture of the City of Portland, State of Maine, New England region, or the United States. City of Portland Land Use Code of Ordinances Chapter 14 Sec. 14-610 Rev. 6-21-12 14-816

(d) The planning board and council shall apply the criteria of subsections (a), (b) and (c) but shall also consider the effect of such designation on other aspects of the comprehensive plan of the city. (Ord. No. 235-90, 2-26-90)

(This, from 2012, is also to be considered in a 14-623 rescission:)
Sec. 14-611. **Integrity of landmarks and historic districts**. Any area, structure or object that meets the criteria in section 14-610 must also have sufficient integrity of location, design, condition, materials and workmanship to make it worthy of preservation or restoration. (Ord. No. 235-90, 2-26-90)

Note that Sections 14-623, 14-610 and 14-611 as shown in these 2012 excerpts are exactly the same as were adopted by Order Number 235-90 on February 26, 1990 as part of the original ordinance. As of 6/21/12 they had not been amended. The 2012 version of the ordinance also notes that the "Projects of Special Merit" was repealed in its entirety 9/8/04. I don't believe they were amended between 2012 and 2020.

COMPARISON TO CURRENT VERSION OF THE CODE, AFTER RECODE I AMENDMENTS IN 2020:

After the ReCode I package of amendments were adopted in 2020, the rescission provision read as follows: (changes from 1990 are underlined or struck through)

17.5.9 Amendment or rescission of designation Amendment or rescission of any designation shall be upon the request of a person or persons authorized to nominate the property or properties affected, or upon request of the *City C*ouncil, and shall follow the procedure set forth in *Section 17.5* for designation. The *City C*ouncil may rescind or amend a designation only after all of these procedures have been followed. The standards for rescission or amendment applied by the *Historic Preservation Board*, *P*lanning *B*oard, and *City C*ouncil shall be limited to those provided in *Subs*ections *17.4.1(A) and (B)* and *Subsection 17.4.2*. Amendments may include *reclassification of a portion of a contributing property to noncontributing status*, refinement or correction of design guidelines, maps, and other parts of any designation ~~ordinance~~.

The underlining and strikeout show the changes that were made between the 1990 version and the current (post-ReCode I 2020 amendments) version. This is the operative law today. They changes are as follows:

1. In 1990, Division 4 was "DIVISION 4. NOMINATION, CONSIDERATION AND DESIGNATION". In 2020, it was renumbered 17.5 NOMINATION, CONSIDERATION AND DESIGNATION. No substantive change.

2. In 1990, what is now the Historic Preservation Board had lesser powers and was called the Historic Preservation Committee.

3. **There do appear to be two substantive changes made in 2020. 17.4.1 (B) was added to what could be considered in a rescission.**

4. **And "reclassification of a portion of a contributing property to noncontributing status" was specifically added to the list of examples of amendments that could be made.** The list is not intended to be exhaustive; it says "amendments may include." This would not preclude reclassification of an entire property to noncontributing status.

The current criteria of 17.4.1(A) and 17.4.2, reproduced below, seem unchanged from the 1990 criteria:

17.4.1 Minimum criteria for designation *(Same as 14-610(a))*

A. The Historic Preservation Board shall limit its consideration to the following criteria in making a determination on a proposed nomination of an area, site, structure, or object for designation by ordinance as a landmark or district:

1. Its value as a significant example of the cultural, historic, architectural, archaeological, or related aspect of the heritage of the City of Portland, State of Maine, New England region, or the United States.

2. Its location as a site of a significant historic or prehistoric event or activity which may have taken place within or which involved the use of any existing structure on the property.

3. Its identification with a person or persons who significantly contributed to the cultural, historic, architectural, archaeological, or related aspect of the development of the City of Portland, State of Maine, New England region, or the United States.

4. Its exemplification of a significant architectural type, style, or design distinguished by innovation, rarity, uniqueness, or overall quality of design, detail, materials, or craftsmanship.

5. Its identification as the work of an architect, designer, engineer, or builder whose individual work is significant in the history or development of the City of Portland, the State of Maine, the New England region, or the United States.

5. Its representation of a significant cultural, historic, architectural, archaeological, or related theme expressed through distinctive areas, sites, structures, or objects that may or may not be contiguous.

And also unchanged except for the numerical references:

17.4.2 Integrity of landmarks and historic districts (Same as 14-611)

Any area, structure, or object that meets the criteria in Section 17.4.1 must also have sufficient integrity of location, design, condition, materials, and workmanship to make it worthy of preservation or restoration.

The new section that was added for consideration in the event of a rescission in the 2020 amendments is 17.4.1(B), which states as follows:

B. In the case of a nominated historic district, the Historic Preservation Board shall also determine whether there is an interrelationship of resources within it which creates an identifiable entity, even if composed of a wide variety of resources. A district must convey a visual sense of the overall historic environment or be a grouping of historically or functionally related properties. A historic district can comprise both individually distinctive historic resources and historic resources that may lack individual distinction but which contribute to the significance and visual character of the district as a whole.

SUMMARY:

According to my analysis, the ordinance provision addressing amendment or rescission of designation is largely unchanged from the original provision adopted in 1990. References to code sections have been updated as part of the 2020 ReCode renumbering of the entire ordinance. Identifications of entities have been updated (e.g. council became City Council). There are only two substantive changes that appear to have been made between 1990 and now, both in connection with ReCode I amendments in 2020. "Interrelationship of resources within a district to create an identifiable entity" has been added to "Minimum criteria for designation" and "Integrity" as another standard that may be considered by Historic Preservation, Planning and the City Council in weighing a request for rescission. And reclassification of a portion of a structure from contributing to noncontributing has been clarified being a type of amendment that could, theoretically, be a permissible rescission.

In my opinion, there is no basis to believe that exclusion of the comprehensive plan from the standards to be considered in a rescission application is a new development. The exclusion of the comprehensive plan in a rescission decision has been in place since the original adoption of the ordinance in 1990.

Existing H.P. Ordinance (Chapter 17)	Staff Proposed H.P. Ordinance	Greater Portland Landmark's Comments
		General Comment: The existing ordinance has been divided across three chapters, Chapter 2: Administration, Chapter 3, Definitions, and the remaining sections of the ordinance are proposed as the new Chapter 16. We have outlined our comments below in order of the proposed draft chapters.
	CHAPTER 2. ADMINISTRATION	
2.2.8. Responsibilities 2.2.8.C Includes "investigating" places to nominate 2.2.8.D Keeping a register 2.2.8.E. to advise and assist property owners 2.2.8.H to seek CLG funding 2.2.8.I Section 106 participation 2.2.8 J. education of residents 2.2.8 N to advise city council on easements 2.2.8.O to advise the PB on gifts and grants, etc. 2.2.8.Q recognition thru plaques, etc.	**2.2.9. Jurisdiction and Authority** Proposes to delete those responsibilities noted in the column to the left:	The existing ordinance includes several responsibilities for the Historic Preservation Board such as investigating places to nominate and keeping a register, as well as advising the city and public on historic preservation related issues. The staff proposed amendment includes a new Jurisdiction and Authority section which has removed several responsibilities for the Historic Preservation Board. Our concern with the proposed language is that it would remove several responsibilities for the Historic Preservation Board which are minimum requirements for a Local Review Commission per the *Guidelines for the CLG Program in Maine* *From 3.b. Duties of Local Review Commissions:* *4) conducting or causing to be conducted a continuing survey of cultural resources in the community according to guidelines established by the MHPC*; 17.2.2.8.C "investigating places to nominate" meets the "continuing survey" minimum required duty of a Local Review Commission and its omission would be a loss of authority. We believe the responsibility for survey should remain a duty of the Historic Preservation program. *5) making recommendation for designation of local landmarks and historic districts to the appropriate local governing body and keeping records of such decisions;* 17.2.2.8.D "Keeping a register" meets the "keeping records" minimum required duty of a Local Review Commission and its omission would be a loss of authority. *7) acting in an advisory role to other officials and departments of local government regarding the protection of local cultural resources;* 17.2.2.8.N. and 17.2.2.8.O. meet this minimum required duty of a Local Review Commission, the language regarding what topics they should provide advice (easements, grants, etc) could be altered, but losing the authority to "advise" on those protection measures would be a loss of authority. *8) acting as a liaison on behalf of the local government to individuals and organizations concerned with historic preservation; and* 17.2.2.8.E. and 17.2.2.8.J. meet this minimum required duty of a Local Review Commission, losing the authority to "advise and assist property owners" and "educate residents" would be a loss of authority. *9) working toward the continuing education of citizens within the CLG's jurisdiction regarding historic preservation issues and concerns*. 17.2.2.8.J. meets this minimum required duty of a Local Review Commission, and its omission would be a loss of authority.

Existing H.P. Ordinance (Chapter 17)	Staff Proposed H.P. Ordinance	Greater Portland Landmark's Comments
2.2.8.L Certificate of Economic Hardship: to provide testimony at Board of Appeals	**2.2.9E Certificate of Economic Hardship:** to review applications and issue or deny CEH.	The existing ordinance delegates authority for economic hardship hearings to the Zoning Board of Appeals. The staff proposed language assigns that duty to the Historic Preservation Board. This is a change from the current practice (which city staff claim has never been used). Our question is, do other Maine CLG communities assign this duty to Historic Preservation Boards/Committees/Commissions? If so, does MHPC know how well it has worked?
	CHAPTER 3. DEFINITIONS	
		General Comment: The impact of deleting several of the definitions cited below or using alternative definitions that are more appropriate for general land use standards appears to have not been thoroughly considered. Some definitions have been inserted as text into the body of the ordinance, which seems reasonable. However, in the relocation of the definitions, their meaning has been altered. Other definitions as noted below are no longer defined.
From Chap. 17 - Alteration. Any act or process requiring a building permit and <u>any other act or process not requiring a building permit but specifically listed in this article as a reviewable action,</u> including without limitation the repair, reconstruction, demolition, or relocation of any structure or object, or any part of a structure or object. **From Chap. 3 - Building alteration.** A change or rearrangement in the structural supports, exterior appearance, or removing from or otherwise affecting the exterior appearance of a building.	**Chap. 3 - Building alteration.** A change or rearrangement in the structural supports, exterior appearance, or removal of features otherwise affecting the exterior appearance of a building.	The existing historic preservation ordinance defines Alteration as distinct from the definition of Building Alteration in the general zoning. The staff proposed language would use the general definition for all chapters of the ordinance. Our concern with the proposed amendment is that deleting the current definition of "Alteration" in the historic preservation ordinance (which included specifically listed non-building permit changes) and the use of the standard land use definition of "Building Alteration" is problematic. The definition of "Alteration" informed the current definition of Certificate of Appropriateness (required for "alteration"). The deletion of "any other act or process not requiring a building permit specifically listed in this article as a reviewable action" changes the applicability standard so that **a Certificate of Appropriateness would only be required for work that would otherwise require a building permit**. Alterations like painting brick, replacement of siding, re-roofing, heat pump installation, solar panel installation, installation of landscaping improvements, and projects in the ROW that do not require a building permit would not be reviewable. This is a <u>significant change</u> and does not appear to meet the minimum requirements for a Local Review Commission per the *Guidelines for the CLG Program in Maine* to review alterations, relocation, demolition, and other actions affecting designated historic properties under its jurisdiction.
Certificate of Appropriateness.	*Not defined*	The existing historic preservation ordinance defines certificate of appropriateness, while the staff proposed draft removes this definition. Our concern is that "Certificate of Appropriateness" is a term-of-art and that there is value in retaining the definition.
Certificate of Economic Hardship.	*Not defined*	
Certificate of Non-Applicability.	*Not defined*	

Existing H.P. Ordinance (Chapter 17)	Staff Proposed H.P. Ordinance	Greater Portland Landmark's Comments
Contributing. A classification applied to a site, structure, or object within a historic district signifying that it contributes generally to the qualities that give the historic district cultural, historic, architectural, or archaeological significance as embodied in the criteria for designating a historic district.	***See 16.2.3.B.*** A contributing classification shall only be applied to an area, site, structure, or object which: 1) ~~Were~~ Was built at least 50 years prior to the date of district designation or ~~were~~ was built within a period of significance specified in the designation application. 2) ~~Are~~ Is found to have a relationship with or physically embod~~ies~~es the qualities that give the historic designation cultural, historic, architectural, or archaeological significance as embodied in the minimum criteria specified in the designation report; and 3) Retain sufficient integrity to communicate that significance as defined in Subsection 16.2.2(B).	The existing ordinance definition of "contributing" has been removed in the staff proposal. Instead, new language is proposed within the body of the ordinance. Our concerns with the proposed amendment are: a) That the new language lacks clarity in *Section 16.2.3. Classifications within historic designations*. Would the term "contributing" apply to historic designations generally (including individual landmarks?) or only to resources in historic districts? b) Section 16.2.3 omits "landmark" as a classification in a historic district. c) Refers to the "designation report". *Section 16.3. Nomination, Consideration, and Historic Designation* references "report" several times but those references should be clarified to be "designation report" in order to be consistent. The minimum requirements for local legislation (A.2.) in the *Guidelines for the CLG Program in Maine* specifically state that Local legislation for designation and protection of historic properties by CLGs in Maine must contain, at a minimum, the definitions of designation and protection (ie. Historic District, Historic Landmark, Historic Site) that meet federal statutory definitions. We believe the term 'contributing' should be a defined term in Chapter 3 and suggest the following definition: From the *Guidelines for the CLG Program in Maine:* A property or resource that has historical significance through location, design, setting, materials, workmanship, feeling, or association, and adds to the sense of time and place and historical development in a historic property. Minor edit – verb tense in paragraphs 16.2.3.B.1. &2. (see GPL proposed corrections to the left in red)
Demolition. Any act or process that partially or totally destroys a structure or object.	***Chap.16.32.6,* Demolition,** including any act or process that totally destroys any landmark or contributing structure or object.	The existing ordinance definition includes partial demolition. The staff proposed ordinance is missing 'partially or'. Our concern with the proposed language is since partial demolitions tend to occur more often than total demolitions. reference to partial demolition, not just removal of features, really should be specified in the ordinance. City staff have indicated that the proposed new definition of alteration encompasses partial demolitions with the phrase "removal of features". That does not seem sufficient.
District.	*Not defined*	

Existing H.P. Ordinance (Chapter 17)	Staff Proposed H.P. Ordinance	Greater Portland Landmark's Comments
Historic district. A geographically definable area possessing a significant concentration, linkage, or continuity of sites, buildings, structures, or objects united historically or by past events or aesthetically by plan or physical development. A district may also comprise individual elements separated geographically but linked by association or history.	***Chap. 16.2.1,* Historic district.** A geographically defined area possessing a significant concentration, linkage, or continuity of sites, structures, or objects united historically or aesthetically by design, plan, or physical development. The defined area may comprise individual elements separated geographically but linked by association or history.	The existing definition includes the phrase united "by past events". The proposed staff ordinance removes the definition and instead incorporates the definition of historic district into the body of the ordinance. Section *16.2.1.* removes the phrase " united by past events". Those left out words are important in defining how objects, sites, or structures may be categorically united and is included in the National Parks Service's definition: NPS definition: **Historic District -** A geographically definable area, urban or rural, possessing a significant concentration, linkage, or continuity of sites, landscapes, structures, or objects, unified by past events or aesthetically by plan or physical developments. A district may also be composed of individual elements separated geographically but linked by association or history. We believe the existing definition or the NPS definition is the appropriate definition to use.
Historic landscape district. A geographically definable area possessing a significant concentration, linkage, or continuity of landscape components which are united by human use and past events or aesthetically by design, plan or physical development.	***Chap. 16.2.1,* Historic landscape district.** A geographically defined area possessing a significant concentration, linkage, or continuity of natural or man-made landscape components which are united by past events, or aesthetically by design, plan or physical development. The defined area shall be owned in its entirety by a unit of federal, state, or local government, or any combination of such ownership at the time of nomination.	The staff proposes to add language to the definition of historic landscape district which is taken from 17.4.3. It seems appropriate to include it within the definition of HLDs, which staff proposes to include within the body of the ordinance.
Historic Resources Design Manual.	*Not defined*	In the staff proposed draft the manual is vaguely defined in the body of the text. We believe a definition is important – or greater clarity in the body of the text is needed. See 16.6.7 and Section 16.7 for additional comments on the Historic Resources Design Manual.
		General Note: We believe that integrity, which is not defined in either the existing ordinance or in the proposed staff draft, is important to define. Other CLG communities in Maine use the following: **HISTORIC INTEGRITY:** The authenticity of a property's historic identity as evidenced by the survival of physical characteristics (location, design, setting, materials, workmanship and association) that existed during the property's prehistoric or historic period.

Existing H.P. Ordinance (Chapter 17)	Staff Proposed H.P. Ordinance	Greater Portland Landmark's Comments
Landmark. Any property, site, structure, or object of particular historic, architectural, or archaeological significance to Portland, the State of Maine and/or the United States relating to its cultural, social, economic, political, or architectural heritage, or which is associated with historic persons, important events or themes in local, state, or national history.	***In Chapter 16.2.1,* Landmark.** A discrete site, structure, or object and any associated area found to have particular or individual significance or prominence. Landmarks may be in or outside of historic districts or historic landscape districts.	1) The existing definition includes "historic, architectural or archeological" as a modifier for particular. The staff proposes removing the definition and imbedding it within the body of the text. However, the definition of landmark incorporated in *16.2.1.A*. leaves out "historic, architectural or archeological" as a modifier for particular, leaving it to read "particular or individual significance." The left-out words are important in defining what type of significance a Landmark possesses. We believe this needs to be added back to the text either as stated in the existing definition or as defined in the *Guidelines for the CLG Program in Maine*. From the *Guidelines for the CLG Program in Maine:* Any site, building, or structure of particular archaeological, historic or architectural significance to the municipality relating to its heritage, cultural, social, economic or political history, or which is associated with historic personages or important events in local, state or national history which has been designated in accordance with the municipality's historic preservation ordinance. 2) The staff proposed definition of Landmark states that landmarks may be in historic districts, yet in Section 16.2.3 "Classifications within Historic Designations", Section 16.2.3 A. states that the sites, structures, or objects within a nominated historic designation may be classified as contributing or noncontributing. This is in conflict with the definition of Landmark and current practice in Portland, and it should be clarified that within historic districts, resources may be classified as Landmark, contributing, or non-contributing.
New construction.	*Not defined*	
Noncontributing. A classification applied to a site, structure, object, or portion thereof, within a historic district signifying that: 1) it does not contribute generally to the qualities that give the historic district cultural, historic, architectural, or archaeological significance as embodied in the criteria for designating a historic district; 2) was built within 50 years of the date of district designation unless otherwise designated in the historic resources inventory; or	**See 16.2.3. C.** If an area, site, structure, or object does not meet the above (in 16.2.3.B) it will be categorized as noncontributing. *From 16.2.3.B - Contributing* 1) Were built at least 50 years prior to the date of district designation or were built within a period of significance specified in the designation application. 2) Are found to have a relationship with or physically embody the qualities that give the historic designation cultural, historic, architectural, or archaeological	The existing definition includes three ways a resource can be considered non-contributing. The last paragraph in the existing definition includes the ability for the board to determine a portion of a building is non-contributing. The new definition is proposed by staff to be imbedded into the body of the text. The proposed definition has been altered through defining contributing buildings in section 16.2.3.B. and ceding all other buildings that do not meet the criteria in 16.2.3.B will be non-contributing. However, the removed language from the third paragraph of the existing definition removes the ability of the Historic Preservation Board to designate a portion of a site or structure as non-contributing. Having the Board retain the option to designate a portion of a site or structure as non-contributing is useful as they review proposed rehabilitation or alteration proposals. The opportunity of the Board to make this determination should not be lost and should be included either as new language in 16.2.3.B or added to 16.2.3.C.

Existing H.P. Ordinance (Chapter 17)	Staff Proposed H.P. Ordinance	Greater Portland Landmark's Comments
3) where the location, design, setting, materials, workmanship, and association have been so altered or have so deteriorated that the overall integrity of the site, structure, or object has been irretrievably lost. A portion of an otherwise contributing or landmark structure may be determined by the Historic Preservation Board to be non-contributing if it meets one or more of the above conditions.	significance as embodied in the minimum criteria specified in the designation report; and 3) Retain sufficient integrity to communicate that significance as defined in Subsection 16.2.2(B).	
Object.	*Not defined*	
Ordinary maintenance.	*Defined in 16.6.1 Applicability.*	
Preservation.	*Not defined*	While not defined in the current ordinance, we believe strongly that "preservation" should be defined. If it is included in the general definition section, it should clarify that the definition pertains to its use in Chapter 16 and matters in other chapters pertaining to historic preservation. The minimum requirements for local legislation (A.2.) in the *Guidelines for the CLG Program in Maine* specifically state that Local legislation for designation and protection of historic properties by CLGs in Maine must contain, at a minimum, the definitions of designation and protection (ie. Historic District, Historic Landmark, Historic Site) that meet federal statutory definitions. We also believe they should include the definitions for the four treatment standards, Preservation, Rehabilitation, Restoration, and Reconstruction.
Rehabilitation. The act or process of returning a property to a state of utility through repair or alteration which makes possible an efficient contemporary use while preserving those portions or features of the property which are significant to its historical, architectural, and cultural value.	**Chap. 3 - Historic rehabilitation.** The act or process of making possible a compatible use for a property through repair, alterations, and additions while preserving those portions or features which convey its historical, cultural, or architectural values.	*The existing definition is the same as the definition from the Guidelines for the CLG Program in Maine:* **Rehabilitation.** The act or process of returning a property to a state of utility through repair or alteration which makes possible an efficient contemporary use while preserving those portions of features of the property which are significant to its historical, architectural, and cultural values. We are unclear why the new term "historic rehabilitation" and the new definition proposed by staff, that is virtually the same length as the current definition, is changed from that included in the *Guidelines for the CLG Program in Maine.* The term "historic rehabilitation" does not appear in Chapter 16, only "rehabilitation". We believe the existing definition is sufficient and the prevailing definition at federal, state, and local levels. The term itself should be consistent used within the body of the ordinance and in the definition section for clarity.
Relocation. Any removal or relocation of a structure on its site or to another site.	**Chap. 3 - Relocation.** The act or process of taking a structure or object and moving it from its current location or orientation to a new location or orientation.	This is a good, revised definition, as it addresses a resource's orientation.

Existing H.P. Ordinance (Chapter 17)	Staff Proposed H.P. Ordinance	Greater Portland Landmark's Comments
From Chap. 17 - Site. The location of a significant event, an archaeological site, a landscape or traditional cultural property, or a building or structure, whether standing, ruined or vanished, where the location itself maintains historical or archaeological value regardless of the value of any existing structure. **From Chap. 3 - Site**. All contiguous land under the same ownership or control, whether proposed for development or not, except where development is limited to a lot or lots within a subdivision.	**Chap. 3 - Site**. All contiguous land under the same ownership or control, whether proposed for development or not, except where development is limited to a lot or lots within a subdivision.	The existing historic preservation ordinance defines "Site" as distinct from the definition of "Site" in the general zoning. The staff proposed language would use the general definition for all chapters of the ordinance. These are really two very different meanings, and in the 43 occurrences of the term 'site' found in the staff proposed Chapter 16 the meaning is significantly changed from the existing ordinance. It is problematic to have the definition of "site" that is used in the general ordinance, in a historic preservation context. In addition to the lack of clarity stated above, the minimum requirements for local legislation (A.2.) in the *Guidelines for the CLG Program in Maine* specifically state that Local legislation for designation and protection of historic properties by CLGs in Maine must contain, at a minimum, the definitions of designation and protection (ie. Historic District, Historic Landmark, **Historic Site**) that meet federal statutory definitions. We would support adding either definition below within Chapter 3. *The NPS definition:* **Historic Site -** The site of a significant event, prehistoric or historic occupation or activity, or structure or landscape (extant or vanished), where the site itself possesses historical, cultural, or archeological value apart from the value of any existing structure or landscape. *From the Guidelines for the CLG Program in Maine:* **Site.** The location of a significant event; an Archaeological Site; a landscape or traditional cultural property; or a building or structure, whether standing, ruined, or vanished, where the location itself maintains historical or archeological value regardless of the value of any existing structure. Other Maine cities and the NPS use "Historic Site" to differentiate the terms, which would require editing the body of the historic preservation ordinance at the 43 occurrences of the term "site". That may be awkward, and if so, we would support a definition in Chapter 3 that included the historic preservation definition as a second meaning that ONLY applied to chapter 16 and instances in other chapters where "site" is used in the context of historic preservation.
Restoration.	*Not defined*	We believe strongly this should be defined. The minimum requirements for local legislation (A.2.) in the *Guidelines for the CLG Program in Maine* specifically state that Local legislation for designation and protection of historic properties by CLGs in Maine must contain, at a minimum, the definitions of designation and protection (ie. Historic District, Historic Landmark, Historic Site) that meet federal statutory definitions. We also believe they should include the definitions for the four treatment standards, Preservation, Rehabilitation, Restoration, and Reconstruction.

Existing H.P. Ordinance (Chapter 17)	Staff Proposed H.P. Ordinance	Greater Portland Landmark's Comments
	CHAPTER 16. HISTORIC PRESERVATION	
17.1 Purpose Includes 8 paragraphs establishing purpose: fostering civic pride, resource of expertise, protecting and enhancing neighborhoods, fostering preservation etc.	**16.1 Purpose** Retains first paragraph and adds: establishing standards for the review of construction within and affecting designated historic properties to encourage preservation, restoration, rehabilitation, and new construction that respects the historic, cultural, architectural, and archaeological significance of distinctive areas, sites, structures, and objects.	The language in the existing ordinance's purpose statement has been significantly abbreviated in the staff proposed draft. Although the added language is useful, the minimum requirements for local legislation (A.2.) in the *Guidelines for the CLG Program in Maine* specifically state that a statement of purpose should give an overview of why the ordinance was created and its intent. We believe several of the paragraphs in 17.1 should remain because as stated in the *Guidelines*, a statement of purpose may be used to determine whether a decision related to the ordinance is justifiable. We believe the existing statements establishing purpose that describe fostering civic pride, resource of expertise, protecting and enhancing neighborhoods, fostering preservation, etc. should remain. We also believe a purpose statement should include advising other city boards and the City Council on land use matters related to historic preservation.
17.2 Definitions	Removed to Chapter 2, but just a select few definitions were moved – the rest deleted.	The elimination of virtually all of the definitions in the ordinance raises the opportunity for a lot of (perhaps unintentional) misinterpretation because the ordinance was carefully crafted to build on the basic definitions. See Chapter 3 Comments above.
17.3 Administrative Procedures		
17.3.3 Notices & Public Comment *Paragraph C.* The Planning Authority shall advise the Historic Preservation Board and the Planning Board of any demolition permit application received by the Planning Authority as to structures or objects that have been classified as noncontributing within nominated or designated districts, but there shall be no Historic Preservation Board review of such permit applications.	*No equivalent section in this chapter or Chapter 2*	*The existing notice requirement for non-contributing structures in a nominated or designated district has been removed in the staff proposed draft.* *This seems like a reasonable public notice requirement to advise the board at a regular board meeting that a demolition will be occurring in a historic district, as the public may not be aware of a building's designation status and have questions as to why a demolition is occurring. Additionally, this provision seems to meet the intent of the CLG requirements regarding public participation.*

Existing H.P. Ordinance (Chapter 17)	Staff Proposed H.P. Ordinance	Greater Portland Landmark's Comments
17.4 Categories & Criteria for Designation	**16.2 Historic Designations**	
No equivalent Section (definitions)	**16.2.1 Categories of Designations:** A) Landmark. A discrete site, structure, or object and any associated area…. B) Historic district. A geographically defined area possessing a significant concentration, linkage, or continuity of sites, buildings~~,~~ structures, or objects united historically or aesthetically by design, plan, or physical development. The defined area may comprise individual elements separated geographically but linked by association or history.	While the existing ordinance has definitions for many terms, the staff proposal imbeds several definitions within the body of the ordinance. This is reasonable, but the alteration of the definitions in some cases is problematic. For instance, it is problematic to have the wrong definition of "site" in the general ordinance, not "site" in a HP context in this section. The definition of landmark in 16.2.1.A differs from the existing definition by removing "property" and keeping "site" which is defined as all contiguous land in common ownership in the general ordinance. *See also comments on Chapter 3 above.* In addition, the definition of landmark incorporated in 16.2.1.A leaves out from the current definition "historic, architectural or archeological" as a modifier for "particular", leaving it to read "particular or individual significance." Those left out words seem to be important and should remain. 16.2.1 B in defining historic district leaves out the word "buildings" from the current definition. It should remain.
17.4.1 A. Minimum Criteria, limits consideration to those six areas in making the determination:	**16.2.2.A. Criteria for consideration** *Significant aspect of heritage.* *Significant events or activities.* *Significant persons.* *Significant architecture.* *Significant designer.* *Significant theme.*	The existing ordinance defines the criteria for consideration as "minimum criteria", while the staff proposed language in 16.2.2 strikes "minimum" from criteria for designation, but later references in the document (16.2.3.B.2) are made to minimum criteria. It is confusing. The terminology should be consistent throughout, using "minimum criteria".
17.4.2 Integrity of landmarks & HDs Any area, structure, or object that meets the criteria in Section 17.4.1 must also have sufficient integrity of location, design, condition, materials, and workmanship to make it worthy of preservation or restoration.	**16.2.2.B** Inserts Integrity paragraph from 17.4.2, but omits "condition" as a criteria of integrity. It also alters language at the end of the paragraph to: "...to convey its significance with respect to the applicable criteria as defined in Subsection 16.2.2."	The existing ordinance includes "condition" as an aspect of integrity. The staff proposed language in 16.2.2.B discussing integrity omits the term "condition". "Condition" should be considered with any discussion of integrity, as this is a national and state standard. The language in 17.4.2 omitted from the staff proposal "make it worthy of preservation or restoration" is standard preservation language when discussing integrity in historic preservation ordinances. The language should be returned to its original phrasing. We also believe "integrity" should be defined. The citation at the end of the proposed paragraph 16.2.2.B. should cite "appliable criteria as defined in Subsection 16.2.2.A."

Existing H.P. Ordinance (Chapter 17)	Staff Proposed H.P. Ordinance	Greater Portland Landmark's Comments
17.4.1.B Criteria for HDs In the case of a nominated historic district, the Historic Preservation Board shall also determine whether there is an interrelationship of resources within it which creates an identifiable entity, even if composed of a wide variety of resources. A district must convey a visual sense of the overall historic environment or be a grouping of historically or functionally related properties. A historic district can comprise both individually distinctive historic resources and historic resources that may lack individual distinction, but which contribute to the significance and visual character of the district as a whole.	*Deleted, does not appear to be an equivalent paragraph*	This is an important criterion for evaluating historic districts. We are unclear why this was deleted. It appears to address the National Parks Service's Standards for evaluating significance within registered historic districts.
17.4.1.C Criteria for HLDs: In the case of a nominated historic landscape district, the Historic Preservation Board shall also consider its significance as a geological, natural, or designed landscape associated with the development, heritage, or culture of the City of Portland, State of Maine, New England region, or the United States.	*Deleted, does not appear to be an equivalent paragraph*	This too is an important criterion for evaluating historic landscape districts. We are unclear why this was deleted, especially as Portland has five HLDs: Evergreen Cemetery, Eastern Prom, Deering Oaks, Western Prom, and Lincoln Park.
17.4.1.D The Planning Board and City Council shall apply the criteria of (A), (B), and (C) above as well as historic preservation goals included in the Comprehensive Plan, but shall also consider the effect of such designation on other aspects of the Comprehensive Plan of the City.	**16.2.2.C.** The Planning Board and City Council shall also consider the effect of the proposed historic designation within the framework of the Comprehensive Plan when making a recommendation or decision on a nomination.	The existing ordinance instructs the two bodies to apply the historic preservation goals and other aspects of the comprehensive plan. The staff proposed draft in 16.2.2 C, simplifies the reference to the comp plan by calling out the comp plan in general and eliminating that a designation should consider the "historic preservation goals included in the comp plan". We believe that the designation process should specifically consider "historic preservation goals", along with consideration of other goals in the comp plan.

Existing H.P. Ordinance (Chapter 17)	Staff Proposed H.P. Ordinance	Greater Portland Landmark's Comments
No equivalent Section	**16.2.3 Classifications within historic designations**	Does "historic designations" = historic districts? Or does it encompass HDs, HLDs, and individual landmarks? This is confusing language throughout 16.2.
	16.2.3 A. The sites, structures, or objects within a nominated historic designation may be classified as contributing or noncontributing.	In the staff proposed language "landmark" classification seems to be inappropriately omitted. Currently certified local historic districts include landmark, contributing, and non-contributing resources and we believe this should be amended to include "landmark"
***From 17.2 Definitions,* Contributing:** A classification applied to a site, structure, or object within a historic district signifying that it contributes generally to the qualities that give the historic district cultural, historic, architectural, or archaeological significance as embodied in the criteria for designating a historic district.	**16.2.3.B** Contributing: Were built at least 50 years prior to the date of district designation, or were built within a period of significance specified in the designation application; 2. Are found to have a relationship with or physically embody the qualities that give the historic designation cultural, historic, architectural, or archaeological significance as embodied in the minimum criteria specified in the designation report; and 3. Retain sufficient integrity to communicate that significance as defined in Subsection 16.2.2(B).	We think there would be greater clarity if the term "contributing" were defined in Chapter 3 with a general definition such as "A contributing resource means and includes any building, other structure or site that by age, location, design, setting, materials, workmanship or association adds to the district's sense of time and place and historical development or is capable of yielding important information about an historically significant period." Chapter 16.2.3.B. would then set out the criteria for contributing (older than 50, sufficient integrity, etc.) The entirety of Section 16.2.3 is confusing because it seems to apply to historic designations generally, but the language seems to be discussing historic district designation, not individual landmarks. Is section 16.2.3 A. and 16.2.3 B. attempting to say that within a "nominated historic designation" like a Landmark, the term contributing would be applied? In a "nominated historic designation" like a Landmark, if there are multiple resources (like House Island for example) the designation is considered a district. This needs clarity, see our comment in 16.2.3 above. Landmarks are also an existing classification within a district, and there is no discussion of that classification in this section. Chapter 3. 16.2.3.B.2. refers to the "minimum criteria" in the "designation report". The "designation report" contents are not clearly articulated in the staff proposed draft, contrary to the detailed contents contained in the existing ordinance, see Chap. 17.5.4.A. We believe clearly outlining the contents of the designation report is important. Also, there is inconsistent use of the term "report" and "designation report" in the proposed document that needs to be made consistent.

Existing H.P. Ordinance (Chapter 17)	Staff Proposed H.P. Ordinance	Greater Portland Landmark's Comments
***From 17.2 Definitions* - Noncontributing.** A classification applied to a site, structure, object, or portion thereof, within a historic district signifying that: 1) it does not contribute generally to the qualities that give the historic district cultural, historic, architectural, or archaeological significance as embodied in the criteria for designating a historic district; 2) was built within 50 years of the date of district designation unless otherwise designated in the historic resources inventory; or 3) where the location, design, setting, materials, workmanship, and association have been so altered or have so deteriorated that the overall integrity of the site, structure, or object has been irretrievably lost. A portion of an otherwise contributing or landmark structure may be determined by the Historic Preservation Board to be non-contributing if it meets one or more of the above conditions.	**16.2.3.C** If an area, site, structure, or object does not meet the above it will be categorized as noncontributing.	The definition included in the staff proposed text has altered the existing ordinance through defining contributing buildings in section 16.2.3.B. and ceding all other buildings will be non-contributing. The altered language removes the ability of the historic preservation board to designate a portion of a site or structure as non-contributing. Designating a portion of a site or structure is useful for historic preservation board as they review proposed rehabilitation or alteration proposals.

Existing H.P. Ordinance (Chapter 17)	Staff Proposed H.P. Ordinance	Greater Portland Landmark's Comments
17.5 Nomination, Consideration and Historic Designation	**16.3 Nomination, Consideration and Historic Designation**	
17.5.2.B. requires nominations signatures to be submitted	Not in **16.3.2 Submittals**.	The existing ordinance requires nominations to be submitted with signature. There is also language in the existing ordinance which allows the historic preservation board members to make a nomination at a meeting, in writing, and then complete further information before it is processed. The staff proposed language in 16.3.2.A lists all the information that should be included in a nomination, but 16.3.2.C says a nomination can be made "verbally" at a HP meeting. It is inconsistent to have a verbal nomination allowed if all of the information in 16.3.2.A is required. This inconsistency should be resolved. We believe at a minimum a letter signed by at least two members of the historic preservation board should be required, and signatures for public nominations should be a minimum requirement.
General Note: This procedure currently has time limits to move the process along.	**General Note:** Time frames seem to have been eliminated.	
17.5.2.E gives opportunity for demolition during the designation consideration process with a determination as a non-contributing resource.	No such exception.	The existing ordinance language allows for HP determination of a demolition request for a non-contributing resource during the designation process, which can take months. During the designation process, the owner of a building deemed a non-contributing building by the HP Board should be entitled to the same provisions they would have if the district was already designated.
17.6.1.A Interim protections ….Upon final action of the Historic Preservation Board recommending designation, the site, structure, object, or area nominated shall be subject to all of the protections of this article until a final decision on designation by the City Council becomes effective. If the City Council rejects designation or fails to designate a property, that property shall no longer be subject to the provisions of Sections 17.9 and 17.10 of this article.	This language has been deleted.	The staff proposed draft is missing the existing interim protections that go into effect upon HPB determination and would only require minimum maintenance and protection from demolition throughout the designation review process. As proposed to be amended by staff, there would be no HPB or staff review of proposed projects while a district is being considered by the Planning Board or City Council. It is extremely important that the full interim protections enumerated in the current ordinance (17.6) upon HPB determination are retained. As we found with the Munjoy Hill Local Historic District, review of projects began as soon as the HPB determination began and projects were expediently approved, with the public having the opportunity to comment. This significantly calmed fears about the onerous nature of the review process expressed by opponents and gave members of the public that wanted a say in their neighborhood's development, an opportunity to do so.

Existing H.P. Ordinance (Chapter 17)	Staff Proposed H.P. Ordinance	Greater Portland Landmark's Comments
17.5.3 one or more workshops scheduled by HPB	**16.3.3** HPB review – 1 workshop, additional workshops require consent of nominators.	The existing ordinance allows for multiple workshops during the designation process, while the staff proposed language would limit workshops to one, unless the nominators provide consent. A historic district can be nominated by members of the public and then sponsored by two members of the historic preservation board. It is unclear if the staff proposal is to require consent by all nominators (members of the public) or the two members of the HPB. Requiring all public nominators consent to additional meetings for a large district nomination would be unduly complicated. What would that process be if they were not all present at the first workshop? The intention in the proposed language is not clear. Designations might only require one workshop, particularly for individual nominations, but a large district would likely require multiple workshops to allow for public comment and time to discuss additional information that might be required during the process. We propose that Language be included that nominations should be pursued expeditiously to clearly signal the process should not be unduly drawn out.
17.5.4 explicitly states required information in the report.	**16.3.3.D** very general language about the report to be completed.	The staff proposed language in 16.3.3.D refers to findings by HPB as to whether the criteria have been met. Is this supposed to be the designation report? There are later references to a HPB report as well. Chapter 16.2.3.B.2. refers to the "minimum criteria" in the "designation report". The designation report contents are not clearly articulated in this proposed redraft, contrary to the level of detail contained in the existing ordinance, see Chap. 17.5.4.A. We believe clearly outlining the contents of the designation report is important so that the public, staff, and members of the board are aware of the content needed. Comparing 16.3.3.D to the existing ordinance there is a provision (17.5.5.B), that if the HPB votes not to designate, a new designation cannot be brought back for at least a year. That is struck from the proposed text.
General Note: The existing designation procedure currently requires notifications sent to owner(s) at points of determinations by HP and PB.	**General Note:** The proposed procedure does not seem to require notifications sent to owner(s) at points of determinations by HP and PB.	Can MHPC provide information on how other Maine CLG communities handle public notice? During several recent district nominations, like House Island and Munjoy Hill, properties have been sold during the designation process. New residents/owners that arrive during the process deserve public notice so they may participate in the process at the next public meeting. Notifications should be sent to owner(s) at the various points of determination by HP and PB.
17.5.9 Amendment or rescission of designation The standards for rescission or amendment applied by the Historic Preservation Board, Planning Board, and City Council shall be limited to those provided in Subsections 17.4.1(A) and (B) and Subsection 17.4.2.	**16.3.7 Amendment or rescission of designation** Amendment or rescission shall follow the procedure set forth in Section 16.3 for designation. The standards for rescission or amendment shall be limited to those provided in Section 16.2.	The language in staff proposed 16.3.7 Amendment or rescission of designation is a significant change from the existing language in 17.5.9. By referring to 16.2 as a whole in referencing standards for rescission or amendment, it allows the planning board or the city council to decide that a landmark or contributing building can be reclassified as noncontributing (and therefore demolished) based on goals, other than historic preservation, identified in the comprehensive plan. Proposing to amend the ordinance to introduce consideration of the comprehensive plan in amendments or rescission decisions is misguided and tantamount to reintroducing the "projects of special merit" provision that had to be removed from the ordinance in 2004 to qualify Portland's HP ordinance for CLG certification. Comprehensive plans are general scoping documents and city ordinances are the regulatory implementation of those general goals. Once the district or individual designation has been made, a rescission or amendment should be based on new evidence and the application of the enumerated standards and criteria of the ordinance, rather than broad policy goals in the comprehensive plan. This proposed language appears NOT to meet the minimum requirements for a Local Review Commission per the *Guidelines for the CLG Program in Maine*.

Existing H.P. Ordinance (Chapter 17)	Staff Proposed H.P. Ordinance	Greater Portland Landmark's Comments
		In addition, as proposed in 16.3.7.A there is no application of amendment possible with this process for reclassification to a landmark designation downward to contributing or non-contributing (if say there was a fire or other disaster that altered its exterior appearance) because it explicitly calls out contributing and noncontributing. Is the only option in case of a landmark to remove the designation completely as a rescission? Would that potentially create a 'donut hole" in a district boundary, which is generally to be avoided? What is MHPC position on this? We believe there should be a mechanism for all designation categories and that a rescission or amendment should be based on new evidence and the application of the standards and criteria of the ordinance, as intended by the minimum requirements for a Local Review Commission per the *Guidelines for the CLG Program in Maine*.
17.7.1 There shall be a rebuttable presumption that all structures within a district shall be contributing unless the designation report and Historic Resources Inventory expressly identifies otherwise. Where the Planning Authority or the owner believes that the identification is erroneous, the Historic Preservation Board shall determine whether the structure is noncontributing**.**	**16.3.8 Presumption of contributing classification** Where the designation classifies an area or site as contributing, but does not specify the classification of a structure or object in the area or on the site, there shall be a presumption that the structure or object is contributing, unless: A. Documentation can be provided to the Planning Authority that a structure or object was constructed within 50 years of or after the date of historic designation, or after the stated period of significance, or B. The Historic Preservation Board holds a public hearing and finds that the structure or object has been substantially altered within 50 years of or after the date of historic designation, or after the stated period of significance.	What is the definition of area in the staff proposed language? A district? What about buildings and structures? The staff proposed language in 16.3.8 differs from the existing ordinance in that it provides exceptions to the presumption of contributing status. 16.3.8.B, proposes an exception to the presumption of a contributing classification if the structure was substantially altered within 50 years. We believe there should be some requirement that it was lawfully altered, particularly if it was altered after the date of designation. An applicant should not be able to significantly alter a building without the necessary permits and still qualify for the exemption. This does not appear to meet the minimum requirements for a Local Review Commission per the *Guidelines for the CLG Program in Maine*.
17.5.10 Time Limits	*No equivalent paragraph*	We believe general language that will move the process along in good faith or expeditiously should be included.

Existing H.P. Ordinance (Chapter 17)	Staff Proposed H.P. Ordinance	Greater Portland Landmark's Comments
17.6. Interim Protections 1 - Upon final action of the Historic Preservation Board recommending designation, the site, structure, object, or area nominated shall be subject to all of the protections of this article until a final decision on designation by the City Council… 2- outlines process for pending applications and pending building permits.	**16.4 Interim Protections** only requiring minimum maintenance and protection from demolition until City Council decision.	The staff proposed language differs from the existing ordinance by altering the Interim protections. As proposed only minimum maintenance and protections from demolition would apply from nomination until City Council action. It proposed to delete the full protections that currently are in place as soon as the HPB recommends designation to the PB. Staff's proposal will encourage major alterations as soon as a resource is nominated but before final designation by the City Council, which can be an extended process in the case of a historic district. We believe the language "Upon final action of the Historic Preservation Board recommending designation, the site, structure, object, or area nominated shall be subject to all of the protections of this article until a final decision on designation by the City Council" should be included.
17.6.2 AND 17.6.3 National Register Listed and Eligible properties. NRHP listings become automatic nominations.	**16.5 Protections for Properties listed on the National Register of Historic Places.** Upon receipt of notice from the NPS or MHPC that a property or area has been listed on the National Register of Historic Places or has been determined to be eligible for listing on the NRHP…. Exception D. The City Council has held a public hearing at the request of the owner and determined that demolition of the structure or object is consistent with the goals of the Comprehensive Plan.	Again, what does "area" in this context mean? Historic District? Be consistent with terminology to provide clarity. This section in particular needs review by MHPC. The proposed language states that NRHP listings or properties with a DOE are not allowed to be demolished, with exceptions. The proposed language does not provide review of relocation, alterations or other actions for those properties. We confirmed that MHPC is passing DOEs along to the city, but this staff proposed language doesn't state if newly listed (or eligible) National Register properties fall under the ordinance once they are listed or as stated in the existing ordinance, that a nomination is deemed submitted and the procedures for nomination should be followed. We understand that the city has not been routinely following the existing requirement of the ordinance for local nomination. The *Guidelines for the CLG Program in Maine* set out minimum duties of the local review commission to "review alterations, relocation, demolition, and other actions affecting **designated historic properties** under its jurisdiction". *Guidelines for the CLG Program in Maine* sets out that minimum requirements for local legislation include "mandatory review of alterations, demolition, building relocation or new construction (Certificates of Appropriateness)- within the boundaries of designated individual landmarks or districts or which may affect such landmarks or districts". We believe that new NRHP designations should be considered by the HPB as a nomination for local designation as the existing ordinance requires or in some other manner be protected from alterations by the ordinance as they are **designated historic properties.** This exception does not include any preservation criteria related to significance or integrity, nor does it weigh in the reuse potential of a building. By this standard for example, Deering High school, a NRHP-eligible building could be demolished for a new consolidated high school or any other use. We believe this does NOT meet the CLG guidelines and should be removed as an exception.

Existing H.P. Ordinance (Chapter 17)	Staff Proposed H.P. Ordinance	Greater Portland Landmark's Comments
17.7.1.A. Certificate of Appropriateness spells out explicitly what requires a CoA	**16.6.1 Applicability**	The existing ordinance is explicit in what activities require a CoA. The staff proposed language in 16.6.1 only seems to apply if a permit is otherwise required. This would no longer regulate activities that don't require a building permit. This language is a major change. With this staff-proposed language and the deletion of the current definition of "Alteration" (which included specifically listed non-building permit changes) a Certificate of Appropriateness would only be needed for work that would require a building permit. The changes to the definition of alteration which informed the current definition of Certificate of Appropriateness, which has also been removed is problematic and has significant impacts. This would be a significant change and does not appear to meet the minimum requirements for a Local Review Commission per the *Guidelines for the CLG Program in Maine* to review alterations, relocation, demolition, and other actions affecting designated historic properties under its jurisdiction
17.7.2 Exceptions to Requirement of Certificate of Appropriateness *Exceptions:* **17.7.2 B.** Where the work consists solely of ordinary maintenance and/or restoration, provided that there is no substitution of materials or alteration of architectural details.	**16.6.1 Applicability** *Exemptions:* 16.6.1 A. Work consisting solely of ordinary maintenance, being acts of upkeep or repair which do not include a change in the design, material, or outer appearance of a site structure, or object, such as repainting of previously painted surfaces or in-kind replacement of materials or plantings. Adds 8 Exemptions: including work in City ROW, public art, vegetation in HLDs, roof mounted solar, temp structures (8 months), demolition and relocation on non-contributing structures.	What is the reasoning behind these new exemptions? Solar installations, heat pumps, and public art should be reviewed to ensure they are installed in a manner that is reversible and removable without damaging character defining features, including historic materials. ROW exceptions: This is not the current practice and is inconsistent with the requirements in **16.7.3.C.4. Streetscape, pedestrian improvements:** *Streetscape and pedestrian improvements and any change in the appearance thereof located adjacent to or on a landmark, within a historic district, or within a historic landscape district which is readily visible from any street or open space shall not be incongruous to the historic character of the landmark or district and shall comply with the criteria and guidelines specified in the Historic Resources Design Manual.* This would remove review of historic materials used in crosswalks, the stone gutters in Baxter Boulevard, and Belgian pavers where they exist in the ROW. We believe that the ROW exemption should be removed to preserve historic materials where possible.
No equivalent Section	**16.6.2 Review Classifications (and Table 16-A)**	• How were the numerical limitations determined? For instance, 25% could be the storefront of a 4-story or less building. Is the intention that a storefront alteration could be a staff review? • What about Landmark building reviews – are they to all be Board reviews? • Signage – does "all" include new construction? Often the board provides guidance on building signage design concepts as part of the overall design scheme.

Existing H.P. Ordinance (Chapter 17)	Staff Proposed H.P. Ordinance	Greater Portland Landmark's Comments
No equivalent Section	**16.6.2 Review Classifications (and Table 16-A)**	We believe some of the potential staff reviews as laid out in Table 16-A should have the opportunity for public comment and review by the board, as they can alter a significant portion of a structure.
No equivalent Section	**16.6.3 Historic Preservation Pre-App Meeting**	This is a good addition.
17.7.4 Applications for CoA	**16.6.4 Applications**	
17.3.1.A. Any project may be subject to fees as established by the City Council to cover administrative costs and the costs of Historic Preservation Board review. Applicants shall also pay a fee to cover the professional and administrative costs for analysis associated with project review, including but not limited to planning, legal, or other services. The fee shall be based on the hours of review and processing time and prevailing hourly rate for reimbursement of City costs. The City shall periodically invoice the applicant for such costs incurred by the City, which invoice shall be paid promptly by the applicant. **17.3.1.B** Every applicant shall bear the entire expense of giving notice by mail and publication in accordance with this article.	**16.6.5 Costs** review. Applicants are also required to pay fees to cover the professional and administrative costs for analysis associated with project review, including but not limited to planning, legal, or other services as needed.	Does this change reflect similar board language for ZBA or PB?
17.7.4.F Once a completed application has been submitted, it shall be diligently pursued. Failure of an applicant to attend two or more Historic Preservation Board meetings at which an application is scheduled for review shall cause the application to expire and to be deemed null and void, unless the Planning Authority determines that good cause is shown	**16.6.6 Lapse in Application** An application for a certificate of appropriateness shall be diligently pursued from the date of submission. Applicants shall provide additional information as requested by the Planning Authority or Historic Preservation Board when determined to be reasonably necessary to make any	Does this change reflect similar board language for ZBA or PB?

Existing H.P. Ordinance (Chapter 17)	Staff Proposed H.P. Ordinance	Greater Portland Landmark's Comments
for the failure to attend. Where good cause is shown for a failure to attend, the Historic Preservation Board shall table an application to a date mutually agreed upon in writing.	determination required by this article. Failure of an applicant to provide a response to the request for additional information within 120 days of the date upon which the written request was made shall cause the application to expire and be deemed null and void.	
17.7.5 Review Process for Certificates of Appropriateness. **17.7.5.A.** … shall be reviewed by the Planning Authority for compliance with the standards of Section 17.8 and the *Historic Resources Design Manual*.	**16.6.7 Administrative Review** … shall be reviewed by the Planning Authority for compliance with the standards of Section 16.7.	The existing ordinance states that a project must meet the standards of Section 17.8 and the *Historic Resources Design Manuel.* The staff proposed language in Section 16.7.1.A**,** states the Historic Resources Design Manual supplements the ordinance. Although similar language exists in 17.8.1. removing the "AND" in this earlier section and just referencing Section 16.7 has changed the standards for review. We believe that projects should comply with the standards in the ordinance AND *Historic Resources Design Manual,* which may include additional standards specific to a designated property as part of a designation report. The Historic Resources Design Manual should be specifically incorporated by reference into the review standards, and should not just vaguely be said to "supplement" the ordinance as in the staff proposal.
17.7.5.A.2 Staff may elect to forward to the board an application found by staff to meet review standards but for which board confirmation is sought. The application shall be placed upon the next consent agenda of the Historic Preservation Board. Any member of the Historic Preservation Board may remove an application from the consent agenda for the purpose of giving it a public hearing.	*deleted*	Why is staff proposing to eliminate the option to use the consent agenda with staff reviews?
	16.6.8 Historic Preservation Board Review A) An application for a certificate of appropriateness subject to Historic Preservation Board review shall be reviewed by the Historic Preservation Board for compliance with the standards of Section 16.7.	Please see our comment in 16.6.7 above. This section provides an opportunity to provide clear concise language about the required standards. The most comprehensive existing language is in 17.8.2. "In considering an application for a Certificate of Appropriateness involving alteration, the Historic Preservation Board and the Planning Board shall apply the following general standards, as further described in the *Historic Resources Design Manual,* and any design guidelines accompanying the specific designation" This seems like the standard to use, not just those enumerated in Section 16.7. As mentioned in our comments above, the staff language proposed in this draft is not as explicit as the existing ordinance regarding what information is in the Historic Resources Design Manual and that the manual may include resource specific criteria (See 17.8.1 and 17.8.2)

Existing H.P. Ordinance (Chapter 17)	Staff Proposed H.P. Ordinance	Greater Portland Landmark's Comments
	16.6.12. Issuance of a CoA	Currently a 14-day time period, proposed to be removed.
17.3.1.C No Certificate of Appropriateness, building, demolition, or other permit shall issue until all current charges due under this article have been paid. The balance of any remaining review and administrative costs invoiced or incurred after a permit has been issued shall be paid in full by the developer prior the issuance of any temporary or permanent certificate of occupancy.	**16.6.12.A** No certificate of appropriateness, building, demolition, or other permit shall issue until all current charges due under this article have been paid. The balance of any remaining review and administrative costs invoiced or incurred after a permit has been issued shall be paid in full by the developer prior the issuance of any temporary or permanent certificate of occupancy.	Currently located under 17.3 Administration, Section 1 'Costs'.
17.7.6 B Unless work authorized by a Certificate of Appropriateness shall be commenced within <u>six months</u> of the date of issuance of the Certificate of Appropriateness, the Certificate of Appropriateness shall expire and shall become null and void. The Planning Authority may approve <u>additional extensions of this six month period, not to exceed a total of two years,</u> provided that a written request for extension is received prior to the expiration date of the Certificate of Appropriateness. In the event of litigation arising out of the granting of a Certificate of Appropriateness, the certificate shall remain valid until one year after the entry of final judgment in the	**16.6.13 Expiration of approvals** A. Unless work authorized by a certificate of appropriateness is commenced or a building permit for the same is issued within <u>three years</u> of the initial date of issuance of the certificate of appropriateness, the certificate of appropriateness shall expire and shall become null and void. B. When the approved work also requires a site plan approval under Article 13, the expiration of the certificate of appropriateness shall be concurrent with the site plan expiration. C. In the event of litigation arising out of the granting of a certificate of appropriateness, the certificate shall remain valid until one year after the entry of final judgment in the	The expiration is proposed to change from six months to three years. This seems like a dramatic extension. Does it reflect a current administrative problem of approvals running out for projects often? Perhaps it makes sense to require that work commence within two years, the current not-to exceed amount, with the opportunity to extend for another 12-months. Is this current practice? Or does it clear up a current administrative issue? Does this change reflect similar board language for PB?

Existing H.P. Ordinance (Chapter 17)	Staff Proposed H.P. Ordinance	Greater Portland Landmark's Comments
litigation or until the end of the two-year period, whichever is later.	litigation or until the end of the three-year period, whichever is later.	
17.7.8 Amendments to approved CoA	**16.6.14 Amendments**	The staff proposed language in 16.6.14.B. and 16.6.14.C. is not language in the existing ordinance but seems to represent current process. We believe providing this clarifying language will help to avoid potential confusion regarding what constitutes a minor or major amendment to an approved plan and what the review process for amending an approved plan will be.
17.7.7 Cert. of Non-Applicability	*No equivalent section*	
	16.7 Standards for Review of Application for Certificate of Appropriateness	The Historic Resources Design Manual is only partially incorporated. Sections 16.7.1 and 16.7.2. describe what the Historic Resources Design Manual is, but unhelpfully say the manual supplements the ordinance and deletes the portion of the standard that says "**in review of alterations they shall review in accordance with the Historic Resources Design Manual** AND any design guidelines accompanying the specific designation". There should be consistent terminology used to define what the review standards are within the proposed text of Chapter 16. The design manual is incorporated more completely in relation to signage (19.3.4 and 16.7.3B5) and streetscapes (16.7.3 C4). Please see our comments regarding 16.6.7 and 16.6.8. above.
17.8.2.A Standards for Review of Alterations – Compatible Use Every reasonable effort shall be made to provide a compatible use for a property which requires minimal alteration to the character defining features of the structure, object, or site and its environment or to use a property for its originally intended purpose.	**16.7.2.A. Compatible Use** In the case of a change of use of a property from its originally-intended purpose, every reasonable effort shall be made to minimize the alteration of the character defining features of the structure, object, or site and its environment as they relate to the original use.	This staff proposed language is unclear. If the paragraph in the existing ordinance needed to be edited for brevity, we would propose that the staff proposed draft use the following NPS language, it's succinct, less words than proposed, and standard preservation language. "A property will be used as it was historically or be given a new use that requires minimal change to its distinctive materials, features, spaces and spatial relationships."
17.8.3. Standards for Review of New Construction: *6. Applicability to Congress Street Historic District.* In the Congress Street Historic District, for new construction within the B- 3 zone, the Historic Preservation Board shall not impose conditions more restrictive than the dimensional requirements of the B-3 zone.	**16.7.3 Standards for Review of New Construction: 16.7.3.A.6 Applicability of underlying zoning** The review standards above shall not supersede the dimensional requirements of the underlying zoning.	This would be a major change in the review standards so that the zoning dimensional standard always trumps historic preservation board considerations in all historic districts, where currently it only applies in three specific locations: For Congress Street, with the variety of height in the district and the downtown height study, it was reasonable to let the underlying zoning determine height. The India Street Historic District and Portland Company Historic District similarly were in areas where a height study had been undertaken to examine the existing context and create a framework for the underlying zoning dimensional standards. This kind of assessment has not been done on a broad scale in other zoning districts where historic resources are located.

Existing H.P. Ordinance (Chapter 17)	Staff Proposed H.P. Ordinance	Greater Portland Landmark's Comments
7. *Applicability to India Street Historic District.* For new construction within the India Street Historic District, the Historic Preservation Board shall not impose conditions more restrictive than the dimensional requirements of the IS-FBC zone, except for in the case of a building addition which proposes to change the height of a contributing historic structure. 8. *Applicability to the Portland Company Historic District.* For new construction within the Portland Company Historic District, the height requirements of the B-6 Building Height Overlay & Building Envelopes map shall be controlling and the Historic Preservation Board shall not impose conditions more restrictive than the building height requirements of the B- 6 zone.		The Historic Preservation Board needs the flexibility to require design approaches that minimize the non-compatible scale and form that sometimes occurs when old and new structures are juxtaposed in order to meet the compatibility requirements of the ordinance. We strongly believe that the standards for review of new construction should remain as is, currently allowing discretion to restrict a new construction project to less than the maximum dimensions allowed by the underlying zoning, with the retention only of these three notable existing exceptions (Congress Street, India Street and Portland Company). A height and massing assessment has not been done on a broad scale in other zoning districts where historic resources are located. "New construction" is without a definition in proposed 16.7.3. Currently the definition includes "comprehensive redesign/renovation of an existing structure." This is a proposed change, and we believe a definition in Chapter 3, or definition within the text of Chapter 16 could help to provide clarity lost with the elimination of the definition.
	16.7.3*C. 4 .Streetscape, pedestrian improvements.* Streetscape and pedestrian improvements and any change in the appearance thereof located adjacent to or on a landmark, within a historic district, or within a historic landscape district which is readily visible from any street or open space shall not be incongruous to the historic character of the landmark or district and shall comply with the criteria and guidelines specified in the *Historic.*	This proposed provision is inconsistent with the proposed language in Section 16.6.1 "Applicability". This is an appropriate provision to remain in the proposed draft and Section 16.6.1 should be revised to be made consistent with this provision. We believe that streetscape features, furniture, paving materials, and other pedestrian improvements in historic districts should continue to be reviewable. While modern streetscape elements like bus stops, crosswalks ATMs etc. have been approved, their review of location has been important and allows for public comment on projects that would not otherwise have public input. Even if the review is at the staff level, it codifies a working relationship between the Historic Preservation Program, Public Works, Transportation Planning, and others with interest in the ROW. In addition, projects like the Wharf Street paving project impact a significant character defining feature of the Old Port, and while not all the materials there are historic, it is a prominent streetscape that is valued by locals and tourists, providing an operational function for businesses and a positive pedestrian experience with outdoor dining options. Not reviewing a project such as that and as well not offering the opportunity for public input is problematic.

Existing H.P. Ordinance (Chapter 17)	Staff Proposed H.P. Ordinance	Greater Portland Landmark's Comments
17.9 Certificate of Economic Hardship To be approved by Board of Appeals	**16.8 Certificate of Economic Hardship** To be approved by Historic Preservation Board	This is a significant change. How do other Maine CLG communities handle this provision?

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May 27, 2024, 2:13:47 PM (2 days ago)

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Name: Kate Hambley

Email Address: kate@landformlaw.com

Subject: Redline?

Message: Hi. I tried to make a comment directly on the second-wave draft, but I keep getting an error message. Anyway, I'm wondering if you're planning to make a redline version of the changes available? It's very difficult to review and comment on changes without a redline. Thanks!

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MAP AMENDMENT 2- Between Bayside and Downtown

The area comprised of Lancaster Street to the north, Wilmot Street to the east, Cumberland Avenue to the south, and Elm Street to the west is defined in Portland's Plan 2030 as a priority node area to enhance (page 86)

"Priority nodes and corridors indicate areas that would be appropriate for new development to provide needed housing, businesses, and services proximate to transit, or areas that otherwise warrant some examination of potential for positive change in form and/or function." (Portland's Plan 2030, pg. 82)

This is a very small cluster of RN5, B2b, and R7 that is completely surrounded by B3. The location of this district is within walking distance of the downtown district. There is alot of undeveloped land to the north (Bayside) and looking at growth patterns and development, this will likely be the next area to see substantial growth. It is on 1 block away from Congress Street (a priority corridor) which means it could benefit from high density and mixed-use that is only possible in a business district.

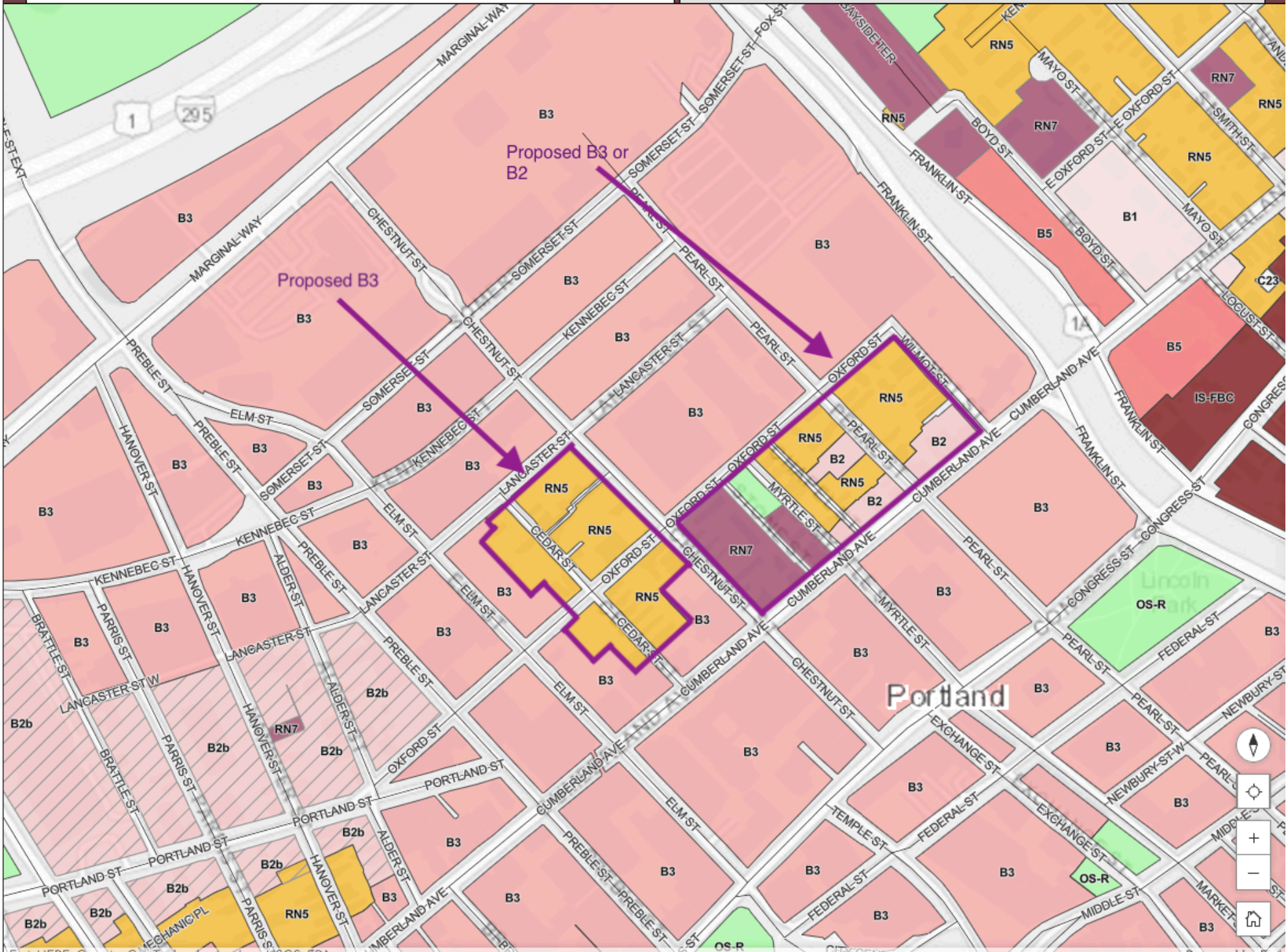
Our proposal is that this area become a B-3 zone. It is closer in proximity to the downtown than it's neighborhood to the North, Bayside Neighborhood and therefore it creates a closer link to the downtown. It is one of the most walkable locations in Portland and it would only benefit from a zone with higher density.

*B-3 To maintain and **enhance the role of the downtown** as the business and commercial center of the region, and to enhance and promote the orderly expansion of retail and service businesses downtown, satisfying the related needs of the city's resident, working, and visitor populations. The B-3 zone encourages **increased housing opportunities downtown, including three-family, four-family, townhouse, and multi-family structures to accommodate Portland's diverse residential population**, and supports an active, walkable pedestrian environment through the encouragement of intensive mixed-use activities, enhancement and maintenance of public and private open space, and the enlivenment and increased attractiveness of the street environment. Standards of the B-3 zone require excellence in urban design, to preserve and capitalize on the unique character and historic fabric of downtown Portland by encouraging reuse of significant existing structures and providing opportunities for an enhanced presence and integration of arts and cultural activities. The zone reinforces the role of downtown as a meeting place for community residents and visitors alike from all walks of life and all socio- economic groups by prioritizing access via multiple modes of transportation and enhancing and protecting the pedestrian environment.*

ReCode PORTLAND

Interactive Draft Zoning Map

View the proposed zoning map | Give us your feedback



Liv Chase (5/28/24)

6.4 SUPPLEMENTAL USE STANDARDS

This section of the land use code originated from the previous Chapter 14- Land Use Code, Section 14-403. The intention of this section of the code was to define guidelines for unaccepted city streets. Many of these streets were considered paper streets at the time this section was written (1968) and it was important for the city to define the guidelines for the creation of new streets. It was also important for unaccepted city streets to come up to a standard, Chapter 25 Article III- Street Acceptances.

Street width as related to fire and life safety. One of the main concerns regarding street width stems from the ability to get to the location in the event of a fire or other emergency. Attachment C shows the guidelines set forth by the NFPA regarding the minimum clearance necessary for a fire truck to access. This minimum clear width is 10'.
Additionally, all new construction in the City of Portland is required to have a sprinkler system installed. This in itself makes new construction much safer than existing construction.

Street condition, existing infrastructure and city services.

Under Portland's Plan 2030: Policy Guide: Economy, page 44, the City's future goal is to invest in infrastructure. Attachment E
Accepted city streets already have city services. i.e. water/sewer, plowing, general upkeep etc. As property owned by the city, the city already holds the responsibility/cost foe maintaining these streets. Adding additional buildings to a street with city services does not unreasonably impair these services because these services are already in place.

Definition of Accepted City Streets. An accepted city street is a public way established or maintained under the public authority which appears on the official map of the city. These streets contain existing buildings which are serviced by public utilities and maintained by the city of Portland's public works department. Accepted city streets on the peninsula have been streets since the 1800s. The peninsula is home to the highest density of building infrastructure in Portland.

Impact. If this section of the code continues to not be revised, it will affect 53 streets on Portland's peninsula. Attachment A and Link B. These are all areas where the City is encouraging growth. They are all walkable locations that can benefit from high density and more housing.

History. Despite the current land use code, large scale development projects were permitted on streets that did not meet the minimum width. Attachment D.
The city is still approving projects with limited street width as seen in the current townhouse development by Newheight Redfern LLC on Winter Street, a street with a width of only 23.8 feet.

Conclusion. Section 6.4 Supplemental Use Standards should not apply to any accepted city street. The revision attached reflects the intent of this section as it applies to unaccepted city streets.

Additional Points:

Section 6.4 as written directly effects property owners rights and the value of the land. The inability to develop or expand on an existing developed parcel decreases its value.

There is no section in the proposed land use code that addresses unaccepted city streets. As previously stated, it is in the best interest of the City to define this.

TABLE 6-G: PERMITTED AND CONDITIONAL USES IN OPEN SPACE ZONES

		OS-R[1]	OS-P	Use Standards
Other	Cemeteries	●		
	Cultural facilities	◐		
	Marinas	●		
	Parks and open space	●	●	6.4.29
	Solar energy system (minor)	◐		6.4.38, 6.5.6
	Solar energy system (major)	◐		
	Sports complexes	◐		6.5.6
	Stadiums	◐		6.5.6
	Utility substations	●/◐		6.4.39, 6.5.6
	Wharves, piers, docks, and landing ramps	●	◐	
	Wind energy system (minor)	◐		6.4.41, 6.5.6

Key: ● = permitted | ◐ = conditional | Blank = not permitted | ●/◐ = permitted or conditional per use standards

[1] Accessory uses within structures of 2,500 SF or more shall be treated as a conditional use under subsection 6.5.6.

6.4 SUPPLEMENTAL USE STANDARDS

These standards shall apply to the following uses as indicated in Tables 6-A to 6-G, whether permitted or conditional. Where a use is allowed as conditional, these standards apply in addition to the general conditional use standards in Section 6.5.

6.4.1 In general

A. Street access. A building or structure may only be constructed on or moved onto a lot, or a dwelling unit added to a lot, if one of the following conditions is met. These standards apply to all buildings and structures unless specifically exempted by this section.

1. *Existing, ~~accepted streets.~~* unaccepted streets

a. The lot meets minimum street frontage requirements on a paved and unaccepted ~~accepted~~ City street with a minimum width of 20 feet for single-family or two-family dwellings or 28 feet for structures for all other uses, measured from curb to curb. In the absence of a curb, the minimum clear paved width shall be measured from the edge of the pavement, excluding sidewalks.

b. The lot meets minimum street frontage requirements on ~~an accepted~~ an unaccepted or continued street on an island in Casco Bay that meets a minimum width of 16 feet, measured from the edge of the pavement, or from the edge of the built surface if unpaved.

c. The required minimum width may be reduced, or the requirement waived on the islands only, if the Fire Chief and the Public Works Director or their designee(s) jointly determine that meeting the minimum width is impracticable and the City's ability to provide services will not be unreasonably impaired by a reduction in width.

2. *Streets to be improved in connection with development.* The owner or developer of a lot that is not located on an existing, ~~accepted~~ unaccepted (or in the case of the islands, continued) street that meets the minimum criteria established above shall improve the street in accordance with the following.

a. The street, between the lot and the nearest existing, accepted City street and including the frontage of the lot itself, shall be improved to meet the standards adopted elsewhere in this Code, including those adopted by the Public Works Authority and the Planning Authority. In the case of a corner lot, this shall apply to the frontage of the lot from which access is taken.

b. The street may be improved to an alternative standard if the Fire Chief and the Public Works Director or their designee(s) jointly determine that:

i. Meeting the standards adopted elsewhere in this Code is impracticable;

ii. There is limited potential for further development on the street or for further connections to the City's existing street network; and

iii. The City's ability to provide services will not be unreasonably impaired by a modification of the standards of this Code.

c. The owner or developer shall take all necessary steps under Chapter 25, Article III, of the City Code to dedicate the improved portion of the street to the City for acceptance. This shall include provision of a waiver of any claim for damages that may result from acceptance.

3. *Exceptions.* On lots with an existing, inhabited structure or structures on an unaccepted City street, the following buildings and structures are exempt from the requirements of this subsection.

a. Accessory buildings not intended for habitation.

b. The addition of one accessory dwelling unit within an existing single-family dwelling.

6.4.2 Adult business establishments

A. Adult business establishments shall be located at least 1,000 feet from any other adult business establishment, and at least 500 feet from any residential zone, as measured in a straight line from the nearest point of the lot line on the lot which the use is proposed to the nearest point of the lot line on the lot where the other use or zone is located, without regard to intervening structures or objects.

B. No sexually explicit materials, entertainment, or activity shall be visible from the exterior of the premises.

6.4.3 Agriculture

A. No animals shall be kept on any lot less than three acres or closer than 100 feet to any street or lot line, except domesticated chickens as regulated in Chapter 5 of the City of Portland Code of Ordinances.

B. Raising of domesticated animals as a component of any agricultural use shall not create any odor, noise, health, or safety

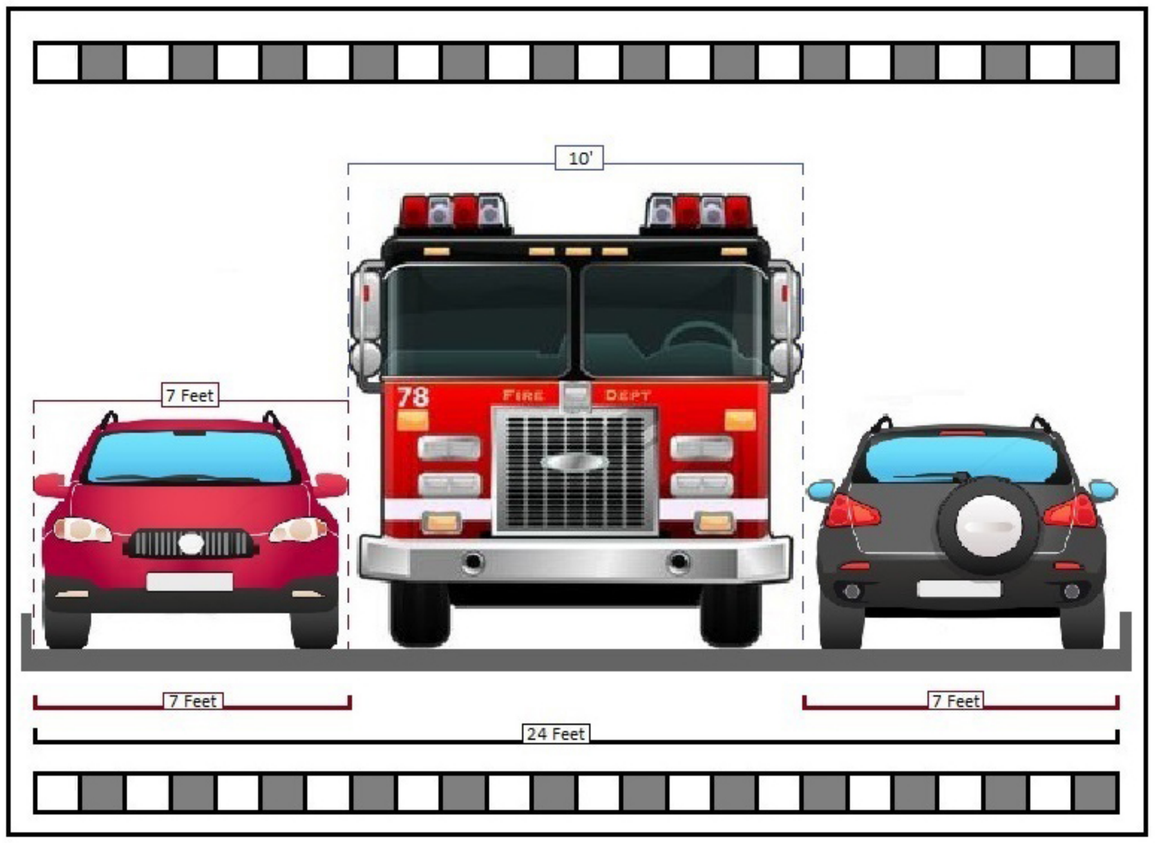
street widths as measured from curb to curb

street name	street width (feet)		street name	street width (feet)
guilford court	10.3		bramhall place	21
horton place	11.7		myrtle street	21
chapel street	12.4		market street	21.1
russel street	12.5		summer street	21.4
joy place	13		alder street	22
tate street	13.8		forest street	22.3
throwbridge place	13.8		south street	23.1
fletcher street	14.7		winthrop street	23.1
maple street	15.3		may street	22.4
montgomery street	15.5		stetson court	22.5
marshall street	16		dow street	22.7
orange street	16		mountfort street	23.4
nye street	16.1		winter street	23.8
stone street	16.2		oak street	24.5
bond street	16.4		neal street	24.9
storer street	16.6		orchard street	25.5
stratton place	18.8		hampshire street	25.9
marion street	19.1		sheridan street	26.1
briggs street	19.4		howard street	26.2
romasco street	19.4		wilmot street	26.6
school street	19.6		clifford street	26.6
brown street	20.2		park street	26.8
locust street	20.8		emerson street	27.2
casco street	20.8		chestnut street	27.3
cedar street	20.9		carlton street	27.7
boynton street	20.9		gray street	27.9
			hammond street	27.9

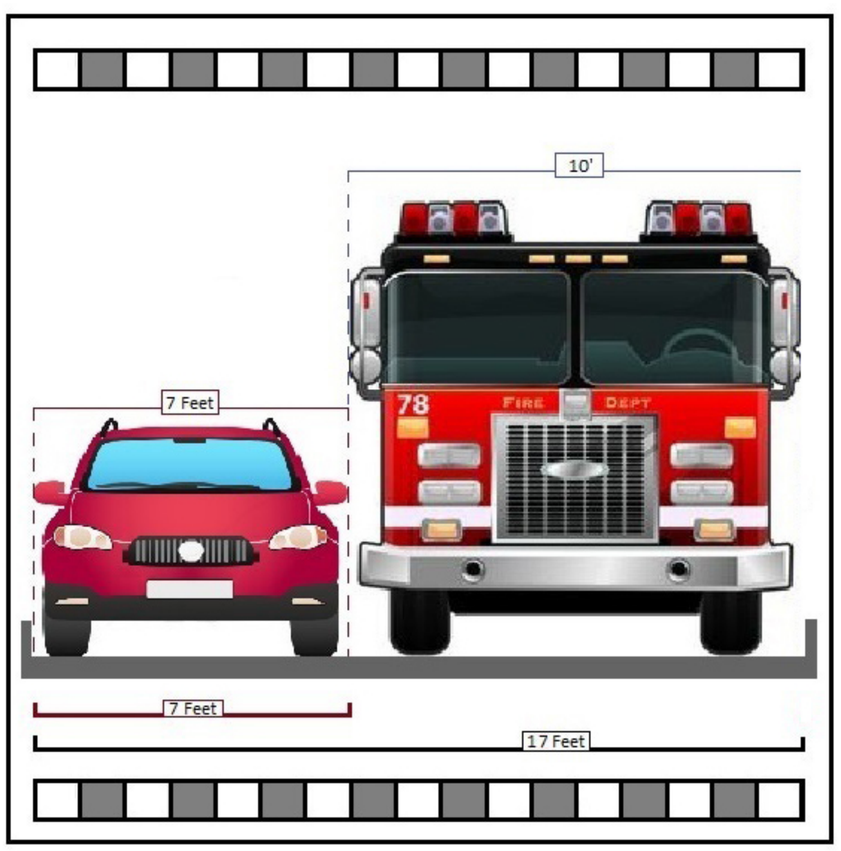
There are 53 streets that are less than 28' in width

ATTACHMENT C

Fire and Life Safety-



Parking on both sides of the street



Parking on one side of the street

No parking on either side of the street

7 feet is the minimum width necessary for parallel parking space. The measurement was based on average vehicle widths and design standards for on-street (parallel) parking space in other municipalities, including the City of Chicago

ATTACHMENT D

72 Oak Street

Year Built: 2011
Use: 37 Units
Street Width: 24.5 feet

Parking on 2 sides =
clear width for fire truck 10.5 feet

50 Myrtle Street

Year Built: 2014
Use: Single Family
Street Width: 21 feet

Parking on 1 side =
clear width for fire truck 14 feet

5 Briggs Street

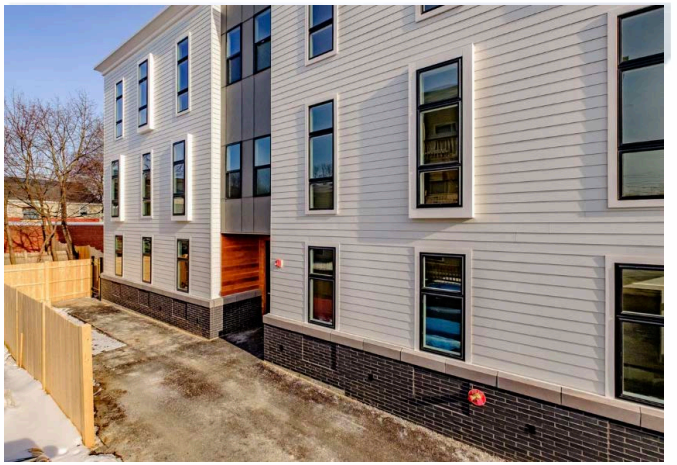
Year Built: 2016
Use: 3 units
Street Width: 19.4 feet

Parking on 1 side =
clear width for fire truck 12.4 feet

22 Tate Street

Year Built: 2016
Use: 8 Condominiums
Street Width: 13.8 feet

No on street parking =
clear width for fire truck 13.8 feet



1 Joy Place

Year Built: 2018
Use: 12 Condominiums
Street Width: 13 feet
Street Condition: Dirt Path

Fire truck access = ?

ATTACHMENT E

FUTURE STRATEGIES

1. ADOPT MEASURABLE OBJECTIVES

- Track economic indicators and periodically issue performance reports to keep the staff, City leadership, and the public apprised of performance.
- Consider regional and national best practices in developing metrics.

2. SUPPORT LOCAL BUSINESS RETENTION AND RECRUITMENT

- Pursue policies that create, nurture, and retain local businesses.
- Support job creation and business growth through public initiatives and private, institutional, and regional partnerships.
- Strengthen City programs and services that support business development.
- Develop programs that support industries with high-growth/high-value potential such as life sciences, food production, information technology, and marine-related industries.

3. INVEST IN INFRASTRUCTURE

- Make physical improvements and expansions to below- and above-grade infrastructure, including utilities, stormwater, transit, parking, and streets, to maintain and accommodate new growth.
- Coordinate interdepartmental planning and investment strategies, which may involve strategic public investment, private investment, or public/private partnerships.
- Examine ways that the sharing economy can be leveraged to serve Portland residents effectively and innovatively.
- Encourage investment in mobile technology infrastructure for all residents.

4. INVEST IN PEOPLE

- Prepare our current and future residents to compete in an increasingly knowledge-based economy.
- Invest in educational institutions and training as a means of attracting, developing, and retaining an educated workforce.
- Establish a new City office to address issues of economic opportunity and workforce integration.
- Identify and invest in current and future entrepreneurs to anchor startups.

5. TARGET AREAS FOR JOB GROWTH

- Ensure that new employment can be accommodated in priority growth areas across the city.
- Evaluate zoning and the condition of existing infrastructure in priority areas — downtown, identified neighborhood nodes, and along transit corridors — to ensure that employment and housing growth can be supported.
- Expand possibilities for live/work spaces — residential living space with integrated creative work space.
- Modify ordinances and make strategic investments to better promote business development and job creation in priority areas.

Liv Chase (5/28/24)

MAP AMENDMENT 1- Washington Avenue

Washington Avenue is defined in Portland's Plan 2030 as a priority corridor (Future Land Use, page 86) It is a very dynamic street with many businesses already in place. It is extremely walkable which makes it very desirable. It is well suited for high density.

"Priority corridors are major arterials that often see heavy vehicular traffic, but also have the capacity to improve mobility by capitalizing on their potential for increased walking, bicycling, and transit use. Priority corridors can also serve as areas of additional mixed-use, higher density growth to take advantage of the transit benefits and services that well-designed, diverse corridors can offer." (Portland's Plan 2030, pg. 84)

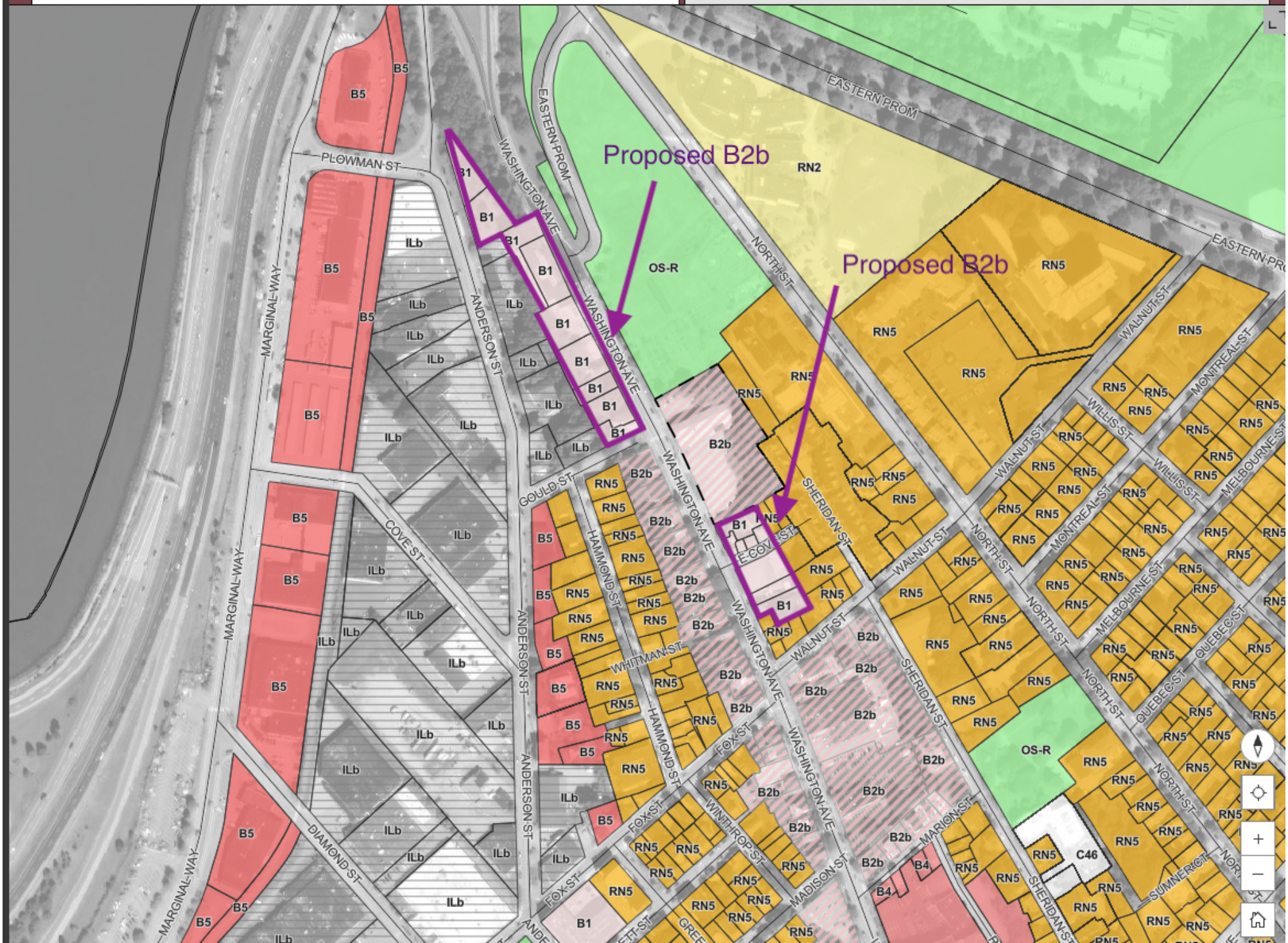
Almost all of the land bordering Washington Avenue is in the B2-b district. Our proposal is that all of the land boarding Washington Avenue should be B2-b to encourage the area to grow at higher density as defined below.

B-2b *To provide neighborhood and community retail, business and service establishments that are oriented to and built close to the street.* ***The B-2b zone is suitable in areas where a more compact urban development pattern exists or where a neighborhood-compatible commercial district is established which exhibits a pedestrian scale and character.*** *Such locations may include the peninsula and other arterials and intersections with an existing urban or neighborhood-oriented building pattern. The B-2b zone encourages mixed-use development, and provides locations for* ***moderate to high-density housing in urban neighborhoods along arterials****.*

ReCode PORTLAND

Interactive Draft Zoning Map

View the proposed zoning map | Give us your feedback



Form Submission - Contact us Re:Code - More housing!

1 view

Squarespace

to recodep...@portlandmaine.gov

May 28, 2024, 6:21:49 PM (21 hours ago)

Sent via form submission from *ReCode Portland*

Name: Eliav Bitan

Email Address: ebitan@gmail.com

Subject: More housing!

Message: My wife and I are Mainers who left and came back. We have great jobs and good incomes. We got priced out of living in Portland because there is not enough housing. Please increase housing supply so we can afford to move back! We want to live someplace walkable. We think there are too many restrictions and limits to building in Portland. The current plan is a step in the right direction but needs to go further

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Regional Chamber of Commerce

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May 29, 2024

Chair O'Brien and Members of the Portland Historic Preservation Board,

We welcome the opportunity to provide written comments on behalf of our members regarding the proposed amendments to Article 16 of the City of Portland's Land Use Code being advanced under the ReCode initiative. Increasing the production of housing of all types is the top policy initiative of the Chamber, and as you know, your Board plays an important role in the permitting of housing within Portland's historic districts. It is imperative that the amendments advanced to Article 16 through ReCode affirmatively further the goals of our comprehensive plan and the priorities of our elected officials, both of which strongly prioritize the creation of thousands of units of housing over the next decade.

The draft before you from staff advances several key changes that we believe will streamline review of alterations, adaptive reuse, and new construction within Portland's historic districts. Most importantly, the clarification of standards of review and scope of jurisdiction are welcome amendments that will go a long way towards removing subjectivity from the current process that leads to delays that cost applicants considerable amounts of time and money. Additionally, we appreciate the elimination of the existing criteria for designation on Page 55 of the redline PDF that currently allow for historic districts to be assembled through the amalgamation of various building types regardless of the individual merit of structures and even if the proposed district is "composed of a wide variety of resources". This change significantly limits potential for abuse in the designation of districts which do not contain any sufficient cohesiveness among style, period, or type of building, and which are only currently able to be designated based off this vague standard. Finally, we appreciate the addition of the new criteria in 16.2.2.C that clarifies the applicability of all sections of the comprehensive plan when making designation decisions.

With that said, we do want to raise some concerns that persist with the current draft. The largest disappointment in this draft as written is that it continues to provide jurisdiction to the Board for review authority over new construction and alterations to non-contributing buildings where more than 40% of the façade is altered. The Board rightly has jurisdiction around alterations and additions to historic structures which we do not question. However, in recent years the subjective deliberativeness that the Board has applied to new construction within historic districts has significantly exacerbated permitting delays and cost increases for developers of new housing, such that policymakers would be wise to revisit if these applications are still well suited to come before it for review. Since 2020, the Board has reviewed 19 applications for new construction within historic districts, nine of which have involved at least three meetings with the board, and four of which have not come back to the board after having been put through one to two workshops. That means that of those 19 applications, just six were processed in what can be considered a reasonable review period of one workshop and one public hearing. In some cases, applicants have had to come to the board more than four times for projects as small a five-unit multifamily building. These unacceptable delays present considerable cost challenges for developers of small multifamily buildings within historic districts, undermining citywide goals of increasing production of this type of gentle density within our historic neighborhoods.

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Additional recommendations that will streamline permitting in historic districts to aid in the production of housing include:

- **16.6.8.C:** Consider adding to the end of the subsection "and provide direction to the applicant regarding issues to be addressed to bring the application into compliance with the relevant standards of Section 16.7." This necessary addition will clarify that the Board must provide feedback at workshops specific to the standards. In several recent cases of the Board feedback, the applicant has been left with subjective criticisms from various Board members that do not directly address which standards the member believes the applicant is not complying with, creating confusion that leads to needless additional rounds of workshops. Board feedback in workshops must be explicitly tied to the relevant standards to reduce the number of workshops needed.
- **16.7.3.A:** Strike all standards in this section except for 16.7.3.A.6. That subsection is a welcome addition to the code, but its addition obviates the need for subsections 16.7.3.A.1-16.7.3.A.5. This draft wisely makes clear that the Board is unable to impose standards on the applicant that would require reductions to the building envelope beyond restrictions present in the base zoning, and thus there no longer need to be standards that even mention the ability for the Board to analyze dimensional components of a building like height and width. This current source of confusion has been a key driver to the lengthy review process the Board has undertaken on applications for new construction and making explicit that the Board cannot force an applicant to reduce height and width or increase setbacks and step backs must be clear and enforceable. If the Board is to continue to have jurisdiction over new construction, the standards in sections 16.7.3.B & 16.7.3.C are more than sufficient to ensure compatibility with the aims of a historic district.

Additional questions we have that we would appreciate answers to in upcoming review workshops before the Historic Preservation Board and the Planning Board include:

- In the draft proposed 16.2.2.B why is "condition" being removed as a criteria for a nominated area, site, structure or object?
- In the draft proposed 16.3.8 why is there a presumption that structures or objects in an area or site are contributing? Shouldn't all structures have the test of the standards in 16.2.2 applied and explicitly listed in the City Council order before they are locked into a potentially irreversible designation as contributing?
- This draft removes all references to the *Historic Design Manual*. Is the intent that this manual will no longer be applied as a consideration when reviewing an application and that only the standards within the code will be applied?

We thank the Board for your service to the City of Portland and we trust that you will review this draft with an utmost focus on what is best for the future shared prosperity of the City of Portland and its residents.

Sincerely,

Quincy Hentzel
President & CEO

To the City of Portland,

On behalf of Maine Policy Institute, thank you for considering public comments and reducing regulatory burdens on Portland homeowners, renters, and property developers. While some of the changes in ReCode Portland's First and Second Waves show movement in the right direction, they are not as far-reaching or effective as they could be.

Generally speaking, many changes involve shifting only one regulatory variable, such as height or setback. Height restrictions, setback restrictions, and land use restrictions generally restrict the housing supply, which can lead to artificially inflated property values and increased homelessness and poverty. However, studies have shown that only shifting a single regulatory factor while the others remain the same can significantly reduce positive development effects.[1] Additionally, it should be noted that the continued existence of policies that have a chilling effect on development, like rent control and inclusionary zoning, will also reduce the positive impact these reforms will have on Portland's housing market.

The analysis of the changes to specific zones, and how these changes can be improved, follows.

The shift in regulation from the current R-1 and R-2 zones to the new RN-1 zone allows low-density residential neighborhoods to take advantage of reduced setbacks and, for ex-R-2 properties, a minimum lot size reduction from 15,000 square feet to the new zone's 10,000 minimum. However, the zone's height, use, and lot size regulations remain unchanged, which will impact development and housing regulation in this zone. Allowing multifamily dwellings might encourage a housing supply shift, but failing to enable innovation in these other categories will reduce the impact of this change.

The new RN-2 zone allows more flexibility than RN-1, but this is largely a result of preexisting zoning rules rather than current reform. Reducing frontage requirements from 25 feet to a five-foot average with adjacent yards is a great reform. Still, without significant change in other categories, this change and the increased allowed property uses will also have a reduced impact.

RN-3, similar to RN-2, only reforms regulations on setbacks and property usage, leaving other regulatory factors the same. Like the above categories, this change may have some positive effects. Still, it does not go far enough to remove the regulations that substantially contribute to Portland's housing crisis.

The draft rules reform RN-4 far more than the above zones, likely because the city is attempting to focus regulatory reform around transit corridors. These reforms would reduce minimum lot sizes from 6,000 square feet to 5,000, as well as lowering setbacks significantly but keeping the maximum height at 35 feet. While most of these changes increase the flexibility of the use of these parcels, the refusal to change the height maximum will mean that multifamily residences will have to get narrower without getting taller, thus reducing the efficiency of this reform.

RN-5 is one of the zones with the most disappointing changes. The draft rules' reduced setback regulations are a good improvement, and the preexisting restrictions were quite flexible. However, the changes to this zone are almost nonexistent, and the new rules reduce the maximum height for 1-2 unit properties from 45 feet to 35. Additionally, this more permissive zone is not expanded at all in the new map, and many zone borders throughout the city remain unchanged.

RN-6 and RN-7 are both zones that encourage many high-density residential uses, and some of the reforms here are good in reducing minimum lot area and encouraging variable uses. However, these zones cover a tiny number of parcels throughout the city, and thus, the flexibility these zones and their reforms allow will have limited effects.

B-1, B-2, and B-2b are all zones in the mixed-use category, and the ReCode Portland Second Wave removes a lot of regulatory restrictions, such as minimum lot area and an increase in maximum height for specific properties. While these deregulations, coupled with an increase in allowed uses and a reduction in setbacks, combine to encourage property development effectively, these parcels are few and far between. Portland's emphasis on transit corridors means that only a narrow portion of the city will be affected by these reforms, reducing the efficacy of any proposed rules. This is where something good occurred, but the impact area is too small. These zones should be expanded.

B-3 is similar in its light-handed approach to building regulation. While the above zones are focused on transit corridors, B3 is focused on the downtown area. Besides increased allowance of various high-density residential uses, very little reform happened in this zone though. The impact this zone has on Portland's housing crisis would be larger if the zone were larger as well.

B-4 is a zone where allowing more variable uses and reducing setbacks are helpful, pro-market reforms. However, while the zone's preexisting 65-foot max height allows for flexible development, the same can not be said for the 10,000-square-foot lot minimum and 60-foot street frontage minimum. As stated earlier, altering one or two factors in a zone without a change in a variety of regulations will significantly chill the effects of zoning reform.

For B-5 and B-6, the increased number of residential uses and low building height, setback, and area restrictions are preferable. While the purpose of these zones is to encourage urban development near the downtown waterfront, large parts of the downtown area would benefit from similar mixed-use and market-driven zoning.

The solitary reforms that occur in some zones without bigger changes will not significantly improve Portland's housing market. In RN-1, multi-family units and increased uses are allowed, but setbacks are changed only slightly, and the maximum height is still only 35 feet. In RN-2, increased uses are allowed and setbacks are reduced, but the same 35-foot maximum applies.

Both of these reforms make small changes but fail to meaningfully change minimum lot size, maximum height, or setbacks. Thus, all these reforms do is let Portlanders build smaller residential buildings rather than larger ones, which is what multifamily properties truly need. Allowing multifamily uses on paper while making it incredibly difficult to build them will not effectively combat Portland's housing crisis. These zone reforms are two clear examples of how Portland's reforms are well intended but do very little in isolation from more impactful policies. When facing a housing crisis of this magnitude, Portland should be building up but it is still refusing to do so.

Generally, Maine Policy Institute has several recommendations on how to improve these draft rules. First, reductions in only one or two regulatory factors in a zone are highly ineffective, and reforms in height restrictions or setback requirements should be paired with reducing other regulations in the same zones. Second, greater shifting of zone borders should occur, as the reforms focus too much on transit corridors which will reduce the overall impact the reforms will have on housing quantity and pricing. Lastly, these zoning reforms should be paired with the removal of rent control and inclusionary zoning throughout the city.

Rent control and inclusionary zoning both have chilling effects on the development of multifamily properties and high-density housing. Inclusionary zoning reduces the ability of developers to guarantee profitability from new housing projects, especially middle-class apartments, compared to lower-income or luxury housing.[2] Rent control also reduces the ability of landlords to adjust rent to inflation and demand and, therefore, discourages the creation of new rental units.[3] While reducing the cost of housing is certainly a laudable goal, a large body of evidence shows that these policies reduce the availability of affordable housing rather than increase it.[4]

Please consider these comments when drafting Portland's new zoning codes.

Best,
Harris Van Pate
Policy Analyst
Maine Policy Institute

[1] "How to Increase Housing Affordability: Understanding Local Deterrents to Building Multifamily Housing" Amrita Kulka, et al., Federal Reserve Bank of Boston, https://www.bostonfed.org/publications/research-department-working-paper/2022/how-to-increase-housing-affordability-understanding-local-deterrents-to-building-multifamily-housing.aspx
[2] "Modeling Inclusionary Zoning's Impact on Housing Production in Los Angeles: Tradeoffs and Policy Implications" Shane Phillips, Terner Center at Berkeley, https://ternercenter.berkeley.edu/research-and-policy/inclusionary-zoning-housing-production-modeling/
[3] "What does economic evidence tell us about the effects of rent control?" Rebecca Diamond, Brooking Institution,

https://www.brookings.edu/articles/what-does-economic-evidence-tell-us-about-the-effects-of-rent-control/

[4] "Rent control effects through the lens of empirical research: An almost complete review of the literature" Konstantin A. Kholodilin, Journal of Housing Economics, https://www.sciencedirect.com/science/article/pii/S1051137724000020#:~:text=Rent%20control%20can%20also%20negatively,participants%3A%20both%20tenants%20and%20homeowners

This comment has also been submitted through the Recode Portland website portal.

Helen Donaldson <hcd@portlandmaine.gov>

Re: Question re proposed Recode of my Property at 173 Island Avenue

Lani Remick <laniaremick@gmail.com> Wed, May 29, 2024 at 2:35 PM
To: Helen Donaldson <hcd@portlandmaine.gov>

Hello Helen -

Thank you for your response.

The 1-B designation is an important part of the value of the property -- generally, the more potential uses a property has, the more valuable it is. It would be a detriment to the value of my property to remove the ability to use the property for business purposes that has long run with the property.

Your explanation does not seem to match with my review:
- While many properties have had the 1-B designation *extended* to cover the entire legal parcel, I do not see any properties other than mine from which the 1-B designation has been entirely *removed* due to residential being the "predominant zoning designation."
- Several residential properties which previously had no 1-B designation are now designated 1-B.
- Many properties on the opposite side of Island Ave from mine have maintained their 1-B designation even though, like mine, their "current use of record is residential."
- The property directly across the street from mine maintains the 1-B designation, raising the possibility of that property being used for some commercial purpose while mine could not be if the 1-B designation is removed.

Accordingly, I ask that you please alter your draft plan to maintain or extend the current 1-B designation on my property at 173 Island Avenue, thank you.

Thanks very much,
Lani Remick

[Quoted text hidden]

[Quoted text hidden]
Notice: Under Maine law, documents - including e-mails - in the possession of public officials or city employees about government business may be classified as public records. There are very few exceptions. As a result, please be advised that what is written in an e-mail could be released to the public and/or the media if requested.

Form Submission - Contact us Re:Code - Historic preservation, do better

2 views

Squarespace May 31, 2024, 1:10:37 PM (6 days ago)

to recodep...@portlandmaine.gov

Sent via form submission from *ReCode Portland*

Name: Brian Scios

Email Address: sighos@gmail.com

Subject: Historic preservation, do better

Message: I'm writing to voice my strong opposition to the rewriting of ReCode that would essentially put historic preservation at risk in Portland. If you decide to move forward with existing language that would weaken the oversight of the Historic Preservation Board, many damages caused by this will be IRREVERSIBLE and I'm afraid the treasured history and soul of Portland will be at risk.

Time and time again we've seen other cities maintain a high bar for historical preservation while balancing the need for growth, development and tax revenue. I urge you to use those cities as examples to model off of for our own great city of Portland.

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Comment on Section 6.4.1 1 view

Andrew Schiller Jun 3, 2024, 9:25:34 AM (3 days ago)

to recodep...@portlandmaine.gov

Regarding 6.4.1.

Dear Friends, given that the minimum street width requirements are for public safety. And given that Portland Fire Prevention Leadership, the Portland Fire Chief, and Department Staff including Planning & Urban Development reviewed and concurred that a corner lot with 20 foot minimum street width presents "zero concern" for safety and accessibility, it makes good sense for corner lot requirements to be a minimum of 20 foot street width for structures for all uses rather than 28 foot minimum width for non-corner lots.

Portland Fire noted that corner lots offer access from multiple directions that non corner lots do not, and a wider paved intersection that makes them easier for equipment to maneuver. Adopting this simple adjustment allows a more streamlined review for the creation of much needed housing in Portland, while maintaining high public safety standards.

In the interest of assisting ReCode Portland advance the goals of the city's comprehensive plan, I offer the following language [added text denoted by **bold**]:

6.4.1 In General

A. Street Access.

1. *Existing, accepted streets.*

> a. The lot meets minimum street frontage requirements on a paved and accepted City street with a minimum width of 20 feet for single-family or two-family dwellings or 28 feet for structures for all other uses, measured from curb to curb. **In the case of a corner lot, a minimum street width of 20 feet for structures for all uses is satisfactory.** In the absence of a curb, the minimum clear paved width shall be measured from the edge of the pavement, excluding sidewalks.

Thank you for giving this full attention.

Warmly yours,

Andrew Schiller

Portland's ReCode: A promising start but insufficient to address our city's needs

The Urbanist Coalition of Portland (UCP) supports efforts to modernize Portland's land use code (ReCode). However, we feel the current proposal is insufficient to address the needs of our city today and into the future. The current proposal does not adequately remove barriers to addressing our housing crisis and building the walkable, bikeable, transit-accessible neighborhoods that we need to address our climate crisis. Below is a summary of our analysis of the Portland Planning Department's proposed Phase II ReCode changes.

Learn more at **urbanistportland.me/policy/recode**!

What's good

- **Streamlined housing options added by LD2003**: Allowing three and four unit housing types in all zones and approving them through the simpler minor site plan process maintains and streamlines the work that was done by LD2003 to increase housing options.
- **Streamlined Zones**: Combining some zones simplifies the code and allows for a more responsive housing market.
- **Transit-oriented development (TOD) zone type**: The new TOD zones encourage walkable and sustainable neighborhoods.
- **Removing parking minimums**: This barrier to housing has been removed city-wide.

What's concerning

- **Limited transit-oriented zoning**: The entire new transit-oriented zone category will only apply to three specific properties and the denser of the zones is not used at all. This is not a comprehensive plan for transit-oriented development in our city. It is spot zoning for specific projects while other, equally transit accessible, sites have their potential restricted.
- **New length maximums limit multi-family housing**: The new building length maximums will make multi-family housing more difficult to build in areas where it is currently allowed because these limits will make it difficult to fit more units alongside multiple staircases and elevators.
- **Multi-family housing limited to four units**: The new three- and four-family designations add complexity to the code in order to limit gently dense housing options.

Urbanist Coalition of Portland

- **Limited neighborhood businesses**: The proposed changes to allow for more neighborhood businesses are limited to just a handful of buildings and are complicated to comply with.
- **New restrictions on places of assembly:** Limiting places of assembly like religious centers to major roads is unnecessarily restrictive and removes the possibility of small walkable community gathering places.
- **Lack of Transparency and Predictability**: Zoning decisions lack clear justification and create confusion.

What's missing

- **Removing barriers to housing**: Setbacks, density limits, height restrictions, and minimum lot size reductions are needed to create walkable neighborhoods.
- **Overall code simplification**: The code remains complex and difficult to navigate.
- **Industrial land reform**: Underutilized industrial land could be revitalized with mixed-use development.
- **Streamlined approval process**: Allowing more housing types to go through the simpler minor site plan process could make it faster and easier for more projects to get approved.
- **Future-oriented planning**: Zoning should be based on data and future needs, not just catching up with current demand.

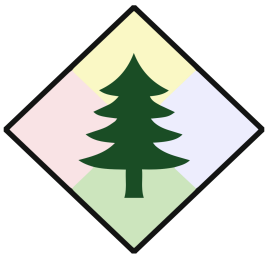
Take action

Portland deserves better than the status quo. ReCode should deliver meaningful change for a more affordable, livable, and sustainable city. The UCP urges city officials push for a ReCode that includes:

- **Housing**: Reduce barriers to building more housing such as building length, setbacks, and minimum lot size.
- **Transit**: Allow for transit oriented development along all of Portland's major transit corridors
- **Simplicity**: Further simplify the land use code by combining more residential zones and allowing more small multi-family projects to be considered minor site plans
- **Complete Neighborhoods**: Allow a neighborhood-scale mixture of uses in all residential zones

The UCP will provide detailed policy recommendations in the coming weeks. We urge you to join us in demanding the reform Portland needs.

Urbanist Coalition of Portland



Urbanist Coalition of Portland
ReCode Committee
urbanistportland.me/policy/recode

June 3, 2024
For Public Release

MEMORANDUM

Re: Urbanist Coalition of Portland's Preliminary Analysis Of Recode Phase II Second Wave Draft Changes

Background on Recode
Recently, the city of Portland's Planning & Urban Development Department released the second wave of "ReCode Portland Phase II" draft changes. ReCode is the city's effort to modify and modernize Portland's Land Use Code, the set of rules which govern the construction, renovation, and use of all buildings in the city. ReCode began in 2017, its "Phase I" changes were adopted by the City Council in 2020, and the first wave of "Phase II" changes were released for public review in June 2023. After ten months of hearing and analyzing public responses to these changes, this second wave revises some of the first wave changes in response to community feedback, and covers parts of the Land Use Code which the first wave had not yet addressed.

Who We Are
The Urbanist Coalition of Portland (UCP) supports middle density housing, mixed-use neighborhoods, useful transit and cycling infrastructure, protecting our environment, ensuring affordable housing options, and overall working to make our city a more pleasant and safe place to live and work. We have been providing our own data-based and pro-housing policy recommendations to the city since before the release of Phase II's first wave, and are currently undertaking a thorough analysis of the second wave changes. While we expect to offer detailed proposals and our open research to city officials in response to the second wave over the coming months, it is the UCP's intention to provide both officials and the public with a broad overview of the new proposals. In particular, we'd like to highlight those suggestions from the

Planning Department which are clearly beneficial, identify those which ought to be explained or reconsidered, and demystify the underlying policy goals which motivate the entire ReCode process.

The Good

Among the motivations for ReCode, even back in 2017 when it first began, was to simplify and liberalize the code in response to modern demands for affordable housing, environmental protection, and walkable communities. It's taken us many years to reach this point, but the changes put forward by the Planning Department thus far do work towards these goals in several ways.

Fully Embracing LD2003 and Maintaining Affordability Bonuses
At the outset, the Planning Department embraced the progressive vision adopted by the City Council in living up to the spirit of LD2003, a recently-passed state law designed to promote abundant housing construction. While the Planning Department supported a very narrow interpretation of the state law, amendments sponsored by Councilor Rodriguez in collaboration with the UCP were embraced by the City Council last December, allowing for up to four-unit housing construction across the mainland. This incorporation of amendments also maintains the expanded affordability bonuses the city has had since the LD2003 reforms. The Second Wave changes embrace and integrate this landmark pro-housing reform into the proposed changes, demonstrating wisdom, grace, and respect for the democratic process.

Consolidation into Fewer Residential Zones
The re-categorization of residential zones, (from R-1, R-2, …, R-6, with an R-7 overlay, to RN-1, RN-2, …, RN-6,) represents a good start towards liberalizing residential areas in response to demand. While the number of zones being only slightly reduced in number is a missed opportunity to more significantly streamline the code, the character of the consolidations is much more gratifying, effecting a moderate but general 'pulling up' of neighborhoods towards greater density. In particular, the released maps reflect a number of incremental upzones from low- to medium- and high-density areas, and these seem both sensible and exciting.

New Transit Oriented Development (TOD) Zones
The addition of new TOD (Transit-Oriented Development) zones does, again, represent a missed opportunity to *reduce* the total number of zones, but otherwise represent a positive direction for land use in Portland. With car ownership being an expensive, risky, and environmentally-hazardous factor in many Mainers' lives, the enabling of car-light and car-free households to thrive in Portland is more important than ever. Reforms in dimensional standards, as well as initiatives from the Planning Department like instituting parking maximums across the city, will go further towards this goal.

The Concerning

Reduction in Allowed Building Heights
Several elements of the new changes, however, raise alarm bells at the UCP. As a prime example, one of the few notable revisions made to the first wave changes (now reflected in the second wave) was a walking-back of height increases in several zones across the city. The current height restrictions in Portland's Land Use Code are quite limiting for a city of our character, and the moderate increases proposed in the first wave changes were very nearly the sensible minimum to raise them. Despite this, the height increases apparently alarmed those segments of the public concerned about such things enough that they convinced the Planning Department to, essentially, return to the restrictive status quo.

This is a doubly concerning move, not only are the stricter height limits bad for working Portlanders, but this may also indicate an unwillingness on the part of planning staff to stand by their own proposals in the face of a small minority's criticisms. Raising height limits is far from the most important part of the ReCode process, but we encourage the city to stand by their original, data-driven assessment and proposals in this case.

Division into *More* Residential Uses
In the current code, there are three basic types of residence: single-family, two-family, and multi-family. The proposed changes shift this to single-family, two-family, three-family, four-family, and *then* multi-family. Besides the obvious redundancy – there are no functional differences between three- and four-family use permissions, and single- and two-family exclusive zones have effectively been abolished – this also indicates a concerning motivation. Despite the pressure from the state and elsewhere to allow more multi-family development, carving out unique permissions for three- and four-member buildings may mean that middle-density buildings (such as the six- and eight-unit structures essential to organic affordability) will continue to be frozen out of Portland.

Not Allowing Neighborhood Businesses
Permitting low-impact neighborhood business (e.g. grocers, childcare, or clinics) is key to creating walkable neighborhoods, and this has been recognized throughout the ReCode process. However, while the second-wave changes include a measure clearly intended to give the impression of supporting these businesses, in fact virtually nothing would change. The "Neighborhood nonresidential reuse" proposed in Phase II is touted as a means to reintroduce such amenities, but by UCP analysis, this "reuse" has such strict requirements for application that no more than a handful of lots across the entire city would qualify. Despite the "reuse" receiving front-page billing from the ReCode Portland team, it would – more likely than not – result in zero new neighborhoods business openings.

In response to concerns by the public that this "reuse" would do little (or nothing) to permit new neighborhood businesses, planning staff replied that "neighborhood business needs are addressed within the B-1, B-2 or other zones" dedicated to commercial uses. This confidence in the "B" zones to adequately serve neighborhood needs does raise the question of why the "reuse" was added at all, if it is both highly restricted and (apparently) unnecessary. This is

precisely the sort of complex, flashy, but ultimately fruitless measure which should not be allowed to further litter the land use code.

Need for More Setback Reductions
Setbacks are how far a building can be built from the property line. There are some improvements here – e.g. instead of having side setbacks increase in relation to building height, they stay static – but we still have front and rear setbacks in R3 and other zones that are 20-25 feet. This makes it functionally impractical to build a backyard Accessory Dwelling unit, and has no evident utility.

Walkable neighborhoods, communities where households can thrive with little-to-no driving necessary, have become a central plank for Portland's urban politicians. The UCP strongly believes that legalizing the development of such neighborhoods can save Portlanders money, make our city more beautiful, and alleviate the effects of climate change. To do this, one need only look at Portland's most delightfully walkable districts which exist now, such as those in downtown Portland, on Munjoy Hill, or in the West End. One of the key features of these neighborhoods is a dynamic streetscape with building fronts close to the street and building sides close to one another. Enabling this requires a substantial reduction in setback minimums, which have not been adequately addressed in these draft changes.

Too Many Restrictions on Places of Assembly
Places of Assembly, the most common use designated for churches and other places of worship, have been redefined in the Phase II proposals to apply to congregations of more than 8 people, a drastic reduction from 15 people in the current land use code. This broader requirement, which affects multiple small religious bodies, has been paired with a new restriction which bans places of assembly from non-major roadways. In other words, while a group of ten Jews, Christians, Muslims, or any other religious (or indeed non-religious) congregants are currently permitted to assemble freely nearly anywhere in Portland, under the proposed Phase II changes, they'd be restricted to upzoned parcels on major roads only.

While the justification provided for this change is an anodyne attempt at standardization with other definitions, the impact of this change on community groups and congregations should not be understated. It may even rise to the level of violating first amendment rights. This change is capricious and unnecessary, and should not be pursued. You've probably hosted or attended a gathering at a home with more than eight people yourself, why should this be any different?

The Missing

It's *Still* Too Long & Complicated
Beyond the changes which have been proposed, both for better and for worse, there are also those changes which haven't been proposed – or seemingly even addressed. As has already been made clear, despite one of the original goals laid out for ReCode being to simplify the very complex code, relatively few opportunities have been taken to attempt this. While at several points redundant or overly specific language has been streamlined, the overall character of the code remains much the same. There are still dozens of zones, the maps still look astonishingly

complicated, and the number of conditional and provisional uses still leave homeowners, tenants, builders, and others guessing as to what is allowed and what isn't. Cities should be walkable, and land use codes should be readable.

Where is TOD-2?
One of the most baffling apparent omissions, if it is an omission, is the lack of implementation of TOD-2, one of the two new transit-oriented zones. In the maps released by the Planning Department, not a single parcel appears to be designated TOD-2, despite the introduction of the high-density zone into the proposals. It's unclear why this zone hasn't been utilized; it may be that the proper use of this zone is still being considered internally at City Hall. However, if the purpose is in fact to treat the new zone as a special designation – not something to be baked into the maps but rather something to be requested by interested developers – then this would be very troubling. This is the sort of unpredictable spot-zoning which has given many local governments in Maine the reputation for obscurity, favoritism, and delay. We trust that this is not the case, and that a revised map will utilize the new zone and be released in the future.

No Remedy for Languishing Industrial Land
Much land in Portland is zoned and regarded by Portland's planners as dedicated to industrial use. This practice is a relic of an older economy, no longer relevant to the needs of Portland as a whole, and it would be an ideal area of reform in ReCode. Much of this land is vacant or deeply underutilized, but could hold great potential for development into housing, commercial, and other business uses. Despite this clear opportunity, only vague and minor adjustments to the land in question are included in the proposals. While the restrictions may keep land prices artificially low for the favored businesses in this market, these minority interests should not prevail against the general good.

How Will the City Streamline Approvals?
Another conspicuous absence from the ReCode conversation is all the more notable for how prominently it featured in Mayor Mark Dion's campaign – a significant streamlining of approvals. While there are many costs which go into building and renovating in Portland, one which should not be underestimated is the time and uncertainty involved in getting the appropriate permits and approvals from various city government organs. This bureaucratic slog is one of the primary factors driving builders elsewhere in the northeast, and one that Portland's administration ought to be seriously reckoning with. Yet, little evidence of such reckoning can be found here.

Transparency and Elegance
Lastly, the most important omission from ReCode is any commitment towards transparency. Why are the lots on one street zoned for low-density residential, while another similar street's lots are for dense mixed-use? Why are the borders where they are, and why are the zones restricted in the ways which they are? Even when planning staff do make attempts to explain the rationales behind their decisions, they tend to leave many assumptions unexamined. What's more, planning has consistently played catch-up with the city, only latently approving uses for which there is *already* great demand. While it's easy to forget, the very term "planning" necessitates a focus on the future: future needs, future demand, future growth. For too long, planning in Portland has been focused on, at best, the present – and often it's been stuck in the past.

Portland's land use code and zoning map ought to be based on concrete, rational decisions motivated by data. If zoning restrictions cannot be justified by solid material concerns, then they ought not be applied. Any sufficiently-motivated resident – with no advanced degrees or experience – ought to be able to look at the zoning map and understand why the zones of Portland are where they are, and why they are how they are, right across the city.

A natural corollary to this is that the zoning map should not look like a Jackson Pollock painting. When an individual lot is classified as a unique zone from all the land which immediately surrounds it, can that really be justified by reason? Maybe sometimes – but typically, "spot-zoning" and similar practices ought to be avoided at all costs. Zoning should not be a shadowy court of appeals where land use is decided by arbitrary boundaries, special interests, unspoken motivations, and unpredictable administrators. It should be a clear-cut, sensible process with which any homeowner can become comfortable. So far, Phase II looks to continue, and in some ways even worsen, the status quo of complexity and opacity.

Conclusion: The Mediocre is the Enemy of the Good

In the daunting pile of documents which have been released as Phase II, which UCP analysts are still reviewing in detail, there is much good work. Some of the most important updates are the simple standardizations and minor fixes, which is tedious work to compile (and makes no headlines) but is absolutely necessary. Many of the most important issues facing Portland's land use have been at least somewhat, imperfectly recognized. There is little which is plainly offensive or wrongheaded, and much which is sensible.

However, Phase II ultimately represents a continuance for the status quo in Portland. With skyrocketing prices, a severe housing shortage, dangerous streets, a climate crisis, and mass displacement facing our city, the status quo is not good enough.

Nearly a decade of effort and untold masses in taxpayer dollars should not be wasted on mediocrity. Portland ought to seize the opportunity to enact real change in a self-evidently failing system. We've so long prided ourselves on being leaders, on being at the cutting-edge of modern solutions for modern problems, and we should take the lead in land use reform here in New England. The changes don't need to be radical, (they ultimately represent a restoration of rights to homeowners and tenants,) but they must be meaningful.

The UCP will release more detailed policy recommendations for City Hall's consideration over the coming weeks, but we call on our elected representatives now to demand the sort of reform which Portland needs to make our housing affordable, our laws understandable, our neighborhoods walkable, our lifestyles sustainable, and our city livable.

Zoning for rooming houses. 0 views

Peter Ferrante Jun 5, 2024, 2:33:52 PM (yesterday)

to recodep...@portlandmaine.gov

I am a 76 year old former real estate broker born and raised on the Portland peninsula who lives at the base of Munjoy Hill. As I stated in a letter to the editor of the Press Herald on 1/4/22, Portland could use modern rooming houses to alleviate housing shortages and high rental prices especially for people in the service industries. I missed your 2 public feedback sessions on 6/4 and 6/5 at Canal Bank. I disagree with the the public comments I read today about buildings too high, densities too high, parking scarcity, and massive projects. Too many NIMBYs. Portland is not a quaint little town anymore. We desperately need new housing. Peter Ferrante. portpete@yahoo.com. 207-274-4958.

Form Submission - Contact us Re:Code - Potential to Subdivide

0 views

Squarespace Jun 5, 2024, 2:35:11 PM (yesterday)

to recodep...@portlandmaine.gov

Sent via form submission from *ReCode Portland*

Name: William Dowd

Email Address: bdowd9@yahoo.com

Subject: Potential to Subdivide

Message: Hello,
Can existing lots be subdivided if they meet the new RN4 code.

We own a property at 35 Bolton Street that is a 3 unit building on a 14,025 sf lot. Provided we meet frontage and side set backs, can we subdivide the lot?

We went down to 1 Canal Plaza today and it was extremely informative. Chris did a great job explaining the potential changes. We think that the Recode will be great for the City of Portland.
Thank you,
Bill and Debi Dowd

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Does this submission look like spam? Report it here.

Form Submission - Contact us Re:Code - Zone changes that allow multi units with no off-street parking and no setbacks

0 views

Squarespace Jun 5, 2024, 3:25:48 PM (23 hours ago)

to recodep...@portlandmaine.gov

Sent via form submission from *ReCode Portland*

Name: Jean Russo

Email Address: russo@maine.rr.com

Subject: Zone changes that allow multi units with no off-street parking and no setbacks

Message: As a Portland native and a long time Realtor in Portland, I have several concerns about the proposed rezoning. Over the past 40 years, most of my clients have purchased property and put their life savings into that property knowing they would be protected by the zoning restrictions. Now those zoning restrictions are being tossed aside to cram more housing into already dense areas.

New height restrictions will mean goodbye to backyard privacy and to any sunny yards with gardens!

Removing the requirement of off-street parking and no boundary setbacks will create huge problems. Where do tenants in a multi-unit put their cars when it snows in areas like Stroudwater, Capisic, Rosemont and Deering Center? There are no public places to park and little public transportation. Please add the requirement of at least one off street parking spot for each apartment.

Also, allowing no side setbacks is wrong! How do you repair the side of your home without encroaching on your neighbor's property? I know of at least one lawsuit where the neighbor would not let the new owner of an in-town building access the side of his building to work on it. I think the case is still pending. We need at least 10 feet for side boundaries in every zone so that property owners can access the side of their home or building without encroaching on neighbors' land.

Finally, what about the impact on our local schools with all of these added apartments? I understand that everyone wants to live in Portland, but that is not possible. Maine is a big state with tons of land and it's time to start moving some of these developments to outlying areas; most are less than 20 minutes away so let's work on improving public transportation to those locations.

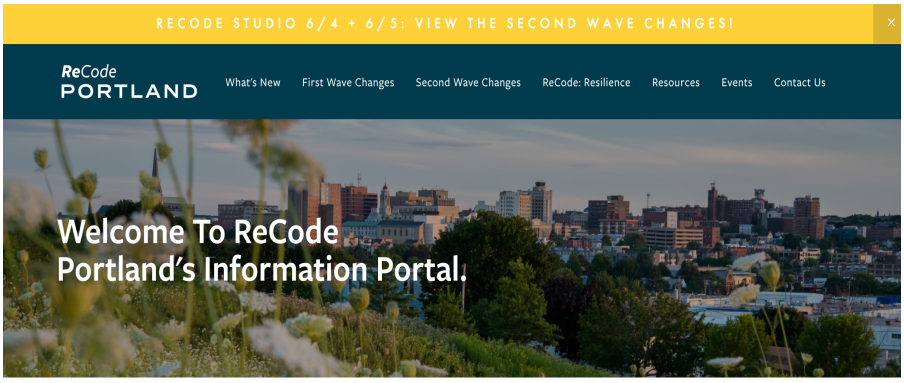
Let's keep some green space in Portland and stop increasing the density. To do otherwise is going to destroy our beautiful City and will decrease property values.
Jean Russo
Portland

Manage Submissions

Does this submission look like spam? Report it here.

Testimony in Response to the City of Portland 2024 Recode Project
Submitted to the Portland Planning Board June 5, 2024
By Peggy Shaffer

I would like to thank the Planning Department for all the work that has gone into the Recode process. I support the vision to increase density in Portland with the goal of enhancing neighborhoods and creating a resilient city for the 21st century.



This Recode graphic depicts the view of the Portland skyline from the western end of the Eastern Promenade Park on Washington Avenue.

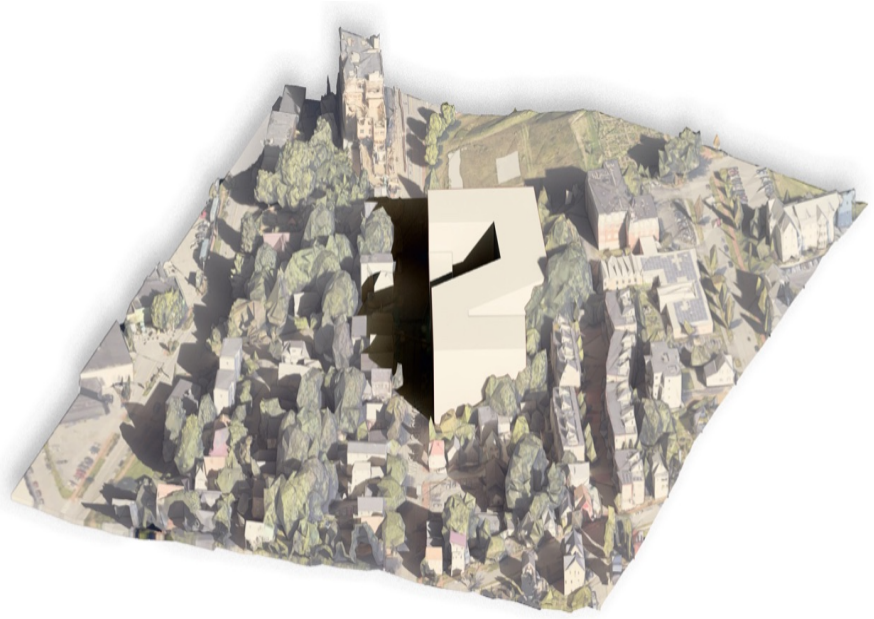
The Eastern promenade park is a unique and valuable asset that defines the Munjoy Hill neighborhood and the Portland Peninsula.

In considering the proposed Recode recommendations, I would like to ask the Planning Board to honor established zoning precedents and protect the human scale and pedestrian experience that attracts residents and visitors to this quintessential Portland landscape.

In talking with planning department staff during the public comment sessions, I learned that there is only one property on the peninsula, which is being rezoned from B1 to B2b, and that is the Northern Burner Supply Site at 165 Washington Ave. Redfern Properties has already proposed a 75 ft. building for the site. Yet, this property abuts the western end of the Eastern Promenade Park.

This rendering depicts the western façade of Redfern's proposed building abutting the Eastern Promenade Park on Washington Avenue.

This section of Washington Avenue, which encompasses Jack Path and the Mt. Joy Orchard, East End School Outdoor Classroom Garden, and the North Street Community Garden, serves to connect the commercial and residential sections on the south side of Munjoy Hill to the paths and green spaces of the Eastern Promenade. This is a highly valued and used pedestrian space that knits together the green spaces that exemplify the core of the Munjoy Hill neighborhood and the Eastern Prom. It is a critical link that defines how residents and visitors use the neighborhood.



This shows the scale of Redfern Properties' proposed building in relation to the streetscape and the park.

There is no reasonable justification for this particular property to be rezoned. There are no other B2 zoning designations that abut the Eastern Promenade; the properties across the street from the park are zoned B1 (one property has already been developed under B1 guidelines); and the properties next to 165 Washington Ave on Cove street are zoned B1. That makes this property an anomaly—an anomaly that will become a vastly out of scale building in this pedestrian street scape.

Frankly, it appears that the rezoning of this particular property is spot zoning for the benefit of a particular developer. I heard today that the planning department will propose rezoning the buildings across the street from the park from B1 to B2 in order to deflect this charge of spot zoning, with the potential of further marring the human scale and pedestrian landscape of the park.

I ask the planning board to request an amendment to the Recode Proposal to maintain the B1 zoning on 165 Washington Avenue on those properties that line the Eastern Promenade Park in order to preserve the human scale and pedestrian experience of the park and the streetscape.

A single 75-foot building on this one particular site will not solve Portland's housing problem. The building would be vastly out of proportion with the park. It will increase vehicular traffic and parking congestion in and around the park. It will result in the loss of approximately one third of the Jack Path forest. And it will mar the interconnection between the park, Portland trails, and the gardens that define the western end of the Eastern Prom.

I hope that members of the planning board will support and protect this quintessential public landscape. B1 zoning is enough for this particular property and as well as all the other properties that line the Eastern Promenade.

Peggy Shaffer
shaffems@gmail.com
(513)-658-6047

Concerns 0 views

priscilla doucette 1:09 PM (2 hours ago)

to recodep...@portlandmaine.gov

Dear People,
I visited your space at 1 Canal Plaza yesterday. I received some information from several helpful people. I still have very strong concerns.
Since I have lived, worked, and paid taxes in Portland all my life, I feel quite qualified to understand our problems and enjoy our successes.
Briefly stated, I am perplexed at why Portland needs to be infilled and crowed with housing, which will be totally out of the economic reach of those people you claim to be helping. The changes will simply give developers more space to squeeze in more expensive homes.
Once your proposed zoning takes place and the beauty and character of Portland is gone, then yes, you will have affordable housing.
Affordable apartments can be built in large spaces which exist, such as Morrils Corner or Canco Road. But simply crowding and changing neighborhoods is not he answer.
And as an aside, once the unique view of Portland from the water is lost to tall buildings, another aspect of our desirability will be gone.
Please continue with your work to keep Portland vibrant and livable.
Priscilla Bennett Doucette
79 George Street

Do NOT Undo 60 yrs of Preservation Work 0 views

Sandra Radis 8:16 AM (4 minutes ago)

to recodep...@portlandmaine.gov

Please do not change the preservation code! We love Portland for the care the city takes to protect history, please do no change this code for one organization's desires. It is wrong.
Thank you.
Sandra Radis

Sent from my iPhone

Do NOT Undo 60 yrs of Preservation Work 0 views

Teresa Pierce 9:58 AM (5 minutes ago)

to recodep...@portlandmaine.gov

I oppose weakening the historic preservation language in the ReCode. Let's not in five, ten, 25 years realize that we have lost Historic Portland, we can never get it back. As a resident of the greater Portland community I value the history and culture of the community, the proposed language destroys the current Historic Preservation ordinance, codifies the city council's recent action on 142 Free St., and puts Portland out of compliance with standards required by the Maine Historic Preservation Commission and National Park Service. These are things we should not put in jeopardy.

Thank you,
Teresa Pierce
--

teresaspierce@gmail.com

Teresa Schmitt Pierce
6 Waites Landing Road
Falmouth, Maine 04105
207.781.7144
207.415.8631

Do NOT Undo 60 yrs of Preservation Work 1 view

Robert Kahn 10:28 AM (2 hours ago)

to ReCode Portland

I am totally against RECODE's language that guts the Historic Preservation Ordinance. Why was this unnecessary attack on the ordinance included? It was pointless and divisive.
Robert Kahn, Portland

Also, graphic examples (proposed changes next to existing conditions) need to be offered to the public so that we can visually compare the before to proposed after. The heights and density seem to be excessive. Is the code attempting to develop future dense tenement slums like in New York City?

Form Submission - Contact us Re:Code - Recode Does Not go far enough for complete neighborhoods!

0 views

Squarespace 11:21 AM (1 hour ago)

to recodep...@portlandmaine.gov

Sent via form submission from *ReCode Portland*

Name: Myles Smith

Email Address: mylesgsmith@gmail.com

Subject: Recode Does Not go far enough for complete neighborhoods!

Message: Hello,
Thanks for your hard work on this complicated stuff. Unfortunately, I feel many changes have made things more complicated, not less. We need form-based code that actually allow for reasonably gentle development to mimic what we already have - more Oakdale-like density, neighborhood businesses, and mixed use larger buildings downtown.

I like the reduced parking minimums and introduction of parking maximums.

Myles

Manage Submissions

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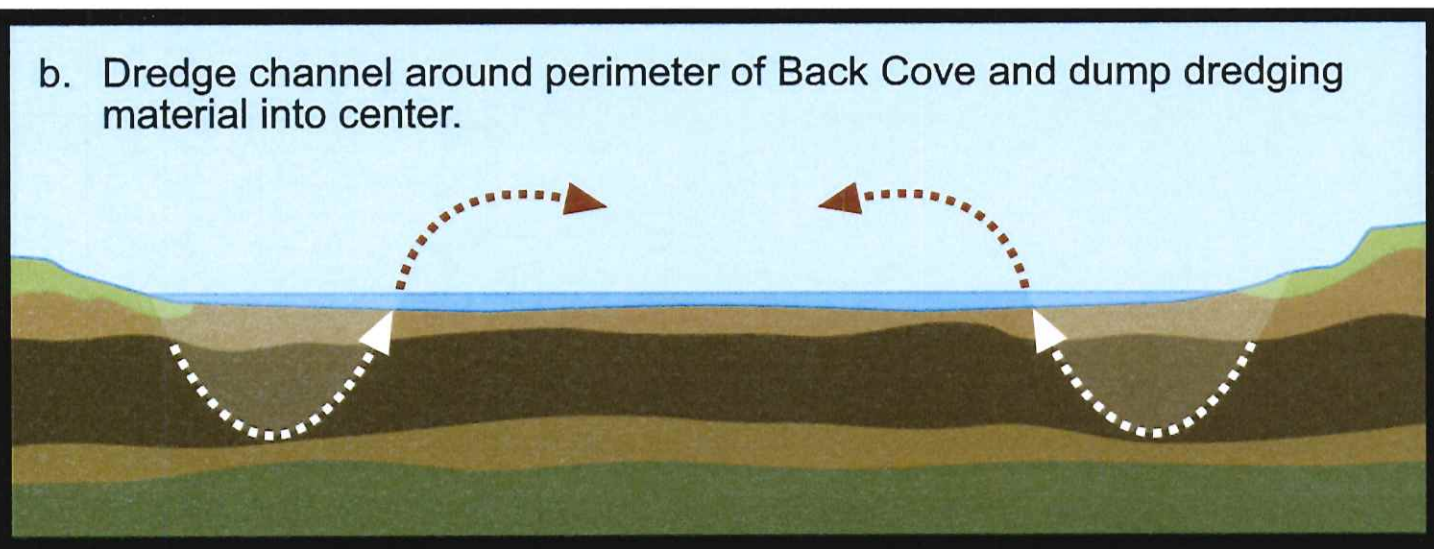

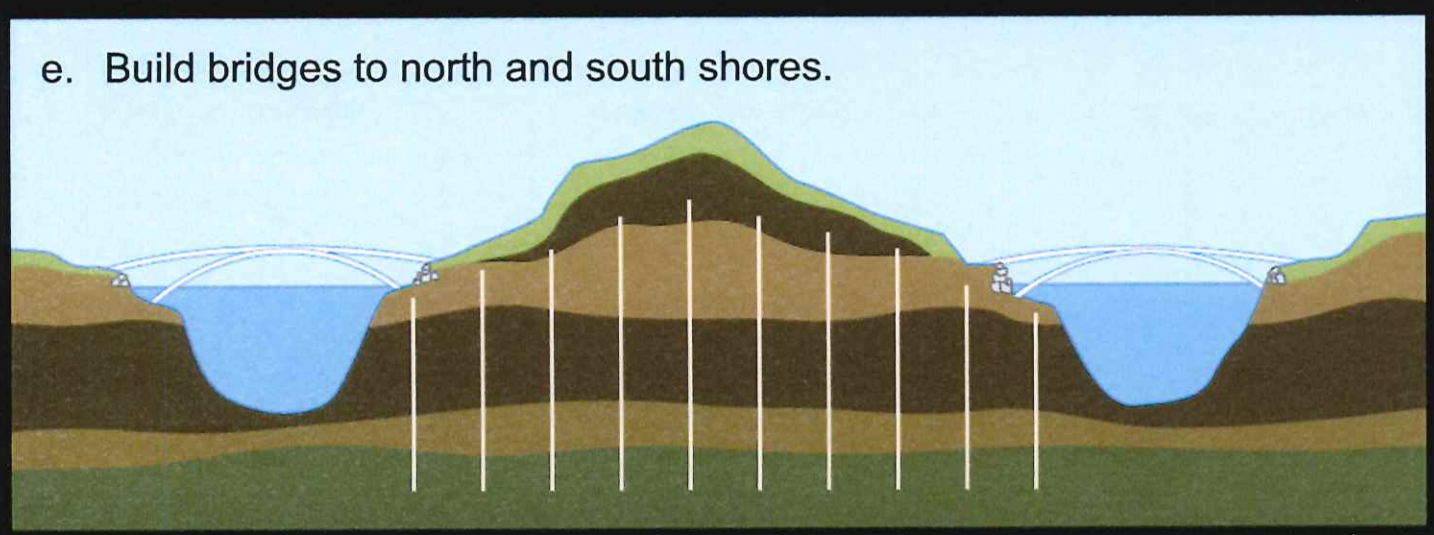

Walk. Run. Bike. Kayak. Swim. Fish. Picnic. Wander. Sled. Play.

Everything, in the middle of everything.

---

1. Payson Bridge
2. North Picnic Area
3. Fisherman's Jetty
4. Ramble
5. Grove
6. City Path
7. Great Lawn
8. South Bridge
9. Boat Dock
10. Family Beach
11. South Picnic Area
12. Singles Beach
13. Sunset Path

Rest Rooms

HOW:

a. Sink a matrix of pilings to stabilze the area.

b. Dredge channel around perimeter of Back Cove and dump dredging material into center.

c. Protect critical shoreline points with riprap.

d. Build a jetty to channel tidal flow and protect shoreline from erosion.

e. Build bridges to north and south shores.

f. Create shared use bicycle/pedestrian pathways.

g. Suggest walking paths for a certain period of time before marking trails.

h. Install rest rooms and establish picnic areas.

i. Wire for electricity and plumb waste.

j. Maintain, improve, adjust.

Back Cove Island

Rosemont area 0 views

John McVeigh Jun 10, 2024, 6:32:10 PM (20 hours ago)

to recodep...@portlandmaine.gov

The old Rosemont farm was subdivided circa 1900. The lots were give 55ft of road frontage. When Portland adopted zoning, it made frontage to be 60 ft. All the lots in the subdivision thus became nonconforming. This is all of Columbia Rd Makes it impossible to expand the footprint of existing buildings. This will hinder expansion of housing here and elsewhere where historical lots became nonconforming. Please address this if possible.

John P. McVeigh
207.791.3000 Tel
jmcveigh@preti.com
Bio | Twitter | preti.com

PretiFlaherty
One City Center
P.O. Box 9546
Portland, ME 04112-9546

Helen Donaldson <hcd@portlandmaine.gov>

Fwd: Objections to ReZone Plan

1 message

jmy <jmy@portlandmaine.gov> Mon, Jun 10, 2024 at 10:09 AM
To: Helen Donaldson <hcd@portlandmaine.gov>

---------- Forwarded message ---------
From: Victoria Bonebakker <vbonebakker@gmail.com>
Date: Sunday, June 9, 2024 at 7:11:01 PM UTC-4
Subject: Objections to ReZone Plan
To: planningboard@portlandmaine.gov <planningboard@portlandmaine.gov>

as it pertains to historic preservation issues.
The proposed ReZone plan guts the current protections and would destroy the integrity of Portland's historic districts, whose character enhances the attractiveness of the city for its residents and also draws tourists as well as new residents, supporting the business community and the tax base.
Jeopardizing, and in some cases destroying, Portland's historic character will weaken the city irreparably.
The plan needs to be amended!!
Victoria Bonebakker
91 Park St
Portland
Sent from my iPhone

Recode height restrictions - build dense, multi-family housing but don’t build up

0 views

Zdenka Griswold Jun 11, 2024, 11:11:29 PM (10 hours ago)

to recodep...@portlandmaine.gov, Jack Griswold

Hello - I was very sorry to miss the ReCode seminars last week. I would have been there but was unfortunately out of town!

I’ve looked at the ReCode proposal online and I agree that we need more flexible zoning and denser, multi-family housing throughout the city. I have one major objection, however, and that is to changing the height limits in the various zones. I firmly believe that Portland is and should remain a low-rise city, and that this will only enhance the city’s appeal and livability. Tall buildings block out the sun. Streets can seem more like tunnels rather than open, welcoming spaces. In Portland, tall buildings will be dramatically out of proportion to the residences and businesses around them, looming over them, overshadowing neighborhoods and appropriating their sense of place.

In the heart of most of the world’s beautiful cities I’ve seen, it is not possible to build to great heights and this has made them the wonderful places they are. In the city centers of Paris or Prague, there are almost no tall buildings. Even notable exceptions such as New York, a grand metropolis whose neighborhoods *are* the high-rises, have large swathes of lowrise residential areas which are subject to strict landmark protections - think Brownstone Brooklyn. Here we can achieve housing density and affordability by allowing denser, multi-family buildings throughout the city without ruining the friendly, neighborhood appeal of Portland by building too high.

Thank you for your attention to these comments. - Zdenka Griswold

Proposed Changes to Historic Preservation Ordinance

0 views

Dugan Murphy 12:09 PM (2 minutes ago)

to recodep...@portlandmaine.gov

Good afternoon,

I'm writing to send some feedback on some of the current proposed elements in ReCode.

I understand some of the changes will have the effect of weakening Portland's historic preservation ordinance and I think doing that is a big mistake. Portland has a major housing crisis right now and a good way to remedy that seems to be encouraging development of surface parking, allowing higher densities of development, and removing requirements for parking. The answer is neither making it easier to demolish contributing buildings in historic districts, nor is it stripping review responsibilities from the Historic Preservation Review Board.

This is important to me because Portland's livability is so dependent on the human scale of our historic districts. This is what kept me here when I became an adult and had to decide whether to move away or stay in the Portland area! Furthermore, the integrity of those historic districts bring tourists here, which is the basis for my livelihood and makes it possible to continue living here.

Please create a development code that encourages development that integrates well with our historic districts. That will enhance walkability, livability, bikeability, and transit viability.

Thank you for accepting my feedback!

Dugan Murphy
61 India St #3, Portland
Owner, Portland by the Foot walking tours

Form Submission - Contact us Re:Code - Historic Preservation

0 views

Squarespace <form-submission@squarespac… Jun 12, 2024, 9:51:04 PM (13 hours ago)

to recodeportland@portlandmaine.gov

Sent via form submission from *ReCode Portland*

Name: Peter Murray

Email Address: pmurray@gwi.net

Subject: Historic Preservation

Message: The Recode proposals appear to significantly weaken and undermine what has been a very successful historic preservation program in the City of Portland. "If it ain't broke, don't fix it!" Some years ago Portland made the decision that preservation of historically significant structures and areas of the City will enhance the attractiveness of the City for purposes of economic development, as a place to visit (tourism) and as a desirable environment for its inhabitants. Portland's historic preservation ordinance has generated a number of historic districts in key areas of the city, for the most part on the Portland Peninsula. Protections afforded contributing structures in these districts have maintained the historic authenticity and amenity of these parts of Portland and have generated millions of dollars of investment in tax credit supported restoration and reuse of contributing buildings - all to the benefit of the City. There is no reason why a regime that has been so successful should be weakened or diluted by the various recode provisions that would 1) allow criteria other than historic authenticity to be considered in declassifying contributing structures, 2) allow dimensional standards of the zoning ordinance to override considerations of historic compatibility, 3) dilute interim protections pending evaluation of a pending historic district designation, or 4) restrict historic review of changes that do not require building permit. There is no showing that any of these changes are needed. All of them tend to undermine the quality of the historic fabric of the City. Some might even jeopardize qualification of Portland's districts for Federal dollars and tax credits. Please leave the Historic Preservation ordinance as it is!

Manage Submissions

Does this submission look like spam? Report it here.

260 Veranda St. Recode 0 views

Jimmcpherson <jimmcph1@icloud.com> Jun 14, 2024, 11:21:58 AM (3 days ago)

to recodeportland@portlandmaine.gov

Hello,

My property on Veranda St. is on Rte 1, across the street from the ocean, on the bus line and on all major utilities. I believe it's a perfect spot for housing of at least 8-10 stories in height. It would not block anyone's views, would not increase traffic in the neighborhood etc.
It appears to be a perfect spot for a building.
Shouldn't it be recoded to allow for an increase in height? I can not tell from the information provided.
What can I do to propose a higher height limit here.

Respectfully,
James McPherson

207-899-3854

From: Barbara Carter barbcarter19@gmail.com
Subject: ReCode
Date: Jun 17, 2024 at 5:25:21PM
To: Barbara Carter * barbcarter19@gmail.com
Bcc: barbcarter19@gmail.com

When you think about increasing density out here with more housing...
✓ Do you think about the fact that most of the roads we drive on are Paper Roads (we have 102 of them) that are not very well maintained, and that the city does not want to accept roads out here as official streets because they don't want the liability or responsibility for them
✓ Do you think about the fact that residents have difficulty getting cars on and off the island year-round because there's not enough space on the ferry, and that we have cars lined up down the street in our business district for six months out of the year that causes terrible congestion, and creates a dangerous situation
✓ Do think about the fact that we have a small parking lot on the island for commuters that is full to overflowing most of the time
✓ Do you think about the fire risk out here, and that because of that risk, it is very difficult to get homeowners insurance here, that there are many insurance companies that will not insure properties on Peaks Island.
And do you think about how that fire risk will increase when setbacks can be as small as 6 feet between houses?
✓ Do you think about the fact that PORTLAND provides the absolute minimum services out here, and that they barely respond when there's a problem, and that it is very difficult for the police out here to enforce laws because the city thwarts them at every turn.
✓ Do you think about the fact that our infrastructure may not be able to handle many more houses? That our sewer treatment is already at capacity?

I fail to understand the purpose the city has in increasing housing density out here. I do believe we need some additional housing here on

Peaks Island, especially affordable housing, which is important in keeping our diverse community, but if the city is looking at it as a way to solve their housing problem, Peaks Island is not the place to be developed. The city would have to step up and consider us like any other neighborhood of Portland, and provide far more to us, before it makes sense to build any significant amount of housing out here.

Barbara Carter

Megan Cindrich <mcindrich@portlandmaine.gov>

Fwd: ReCode public comment - follow up from ReCode Studio

1 message

---------- Forwarded message ---------
From: **William Bolduc** <wbolduc496@icloud.com>
Date: Sun, Jun 9, 2024 at 3:43 PM
Subject: Fwd: Bolduc architect cost response
To: Sean King <sking@portlandmaine.gov>

Hi Sean,

This is the architect's response from 2021 about costs. Please read down to the response from the architect about the costs. I'm concerned ReCode might not be factoring in current homeowners ability to get financing to build ADU and additional dwelling units. The city might end up with only the big players developing new units. I'm assuming this is not ReCode's goal?

Thanks again,
Will Bolduc

Sent from my iPhone

Begin forwarded message:

From: Lauren Reiter <laurenjreiter@yahoo.com>
Date: November 17, 2021 at 9:23:24 AM EST
To: William Bolduc <wbolduc496@icloud.com>
Subject: Re: Bolduc survey for 2005 duplex
Reply-To: Lauren Reiter <laurenjreiter@yahoo.com>

On Nov 14, 2021, at 5:33 PM, Lauren Reiter <laurenjreiter@yahoo.com> wrote:

Hi Will. I appreciate your candor and certainly there are lots of ways to save costs - like off-the shelf cabinetwork, inexpensive tile, etc. which can still be very nice. I think that with a total $400,000 budget, that it would be prudent to allow $50K for soft costs, leaving $350,000. At 1200 SF, that would be a budget of just under $300/SF. While in the not-so-far past, I would say that we could achieve that, I just don't know where the market will be in a few years. I'd love to say: let's start the design and keep fingers crossed that prices do stabilize, but I just can't say that with total good conscience. As I'm sure you're aware, there is always an economy of scale - in other words, the bigger the project, the easier it is to drive SF costs down because there is scale and repetition -- but with a smaller job, less so.
Already, through our dialogue, I can tell that you're a client I'd like to work with -- but I'm not sure what to advise you at this point.
Lauren

Reiter Architecture & Design
Lauren J. Reiter, RA, LEED AP
laurenjreiter@yahoo.com
tel. 917.502.2225
6 South St., Portland, ME 04101
www.reiterarchitecturedesign.com
www.facebook.com/reiterarchitecture

On Sunday, November 14, 2021, 09:29:53 AM EST, William Bolduc <wbolduc496@icloud.com> wrote:

Hi Lauren,

Thank you for the information, it's much appreciated. This may be the easier way to come to a conclusion for moving forward. My total borrowing will probably top out at $400,000, for all costs. With that amount, I was hoping for a two bedroom, two full baths, with some outdoor space. Total square footage between 1,200-1,500. That was my idea. With the current building costs, I've also given myself four years to start construction. It looks like the near future things will still be very expensive. Speaking of expenses, there's a good chance that this project will not have a lot of the higher end custom design items. Costs being the prohibited issue. I hope this helps you with your decision. If you think that $400,000 and timeframe are reasonable, I would like to move forward. Lots of things can happen in the market, both good and bad during that time.

Thank you,
Will

Sent from my iPhone

> On Nov 12, 2021, at 10:07 AM, Lauren Reiter <laurenjreiter@yahoo.com> wrote:
>
> Hi Will. Again, I am excited to work with you, but I do want to address your questions about fees and overall costs.
>
> Typical architects' fees for a custom home average about 10 - 15% of the construction cost. We all hope that construction prices stabilize and come down, but no-one expects prices to return to pre-pandemic levels -- so it is very difficult to predict construction costs a year or more from now. That being said, in my opinion, it is best to be conservative when looking forward, so using some really gross numbers, if your new home is 2000 SF, a construction cost of $800,000 should be assumed at this point.
>
> Using that cost, an architectural fee of $80,000 - $120,000 for the full project (concept development through construction administration) should be assumed. The good news is that almost all of my projects come in way under that percentage. For example, the house on Sheridan Street was done for a fee of about 5% of construction costs, from beginning to end. So, while I'd rather you allow for a higher number, I am confident that I can deliver a great project to you for way under the typical fees -- provided that the building is not re-designed numerous times or that the City present huge obstacles.
>
> There are other soft costs, though, which do need to be carried, including: structural engineering, civil engineering, permitting fees to the City, printing costs, etc. Fortunately, you already have the survey which is required for filing with the City and for providing needed background information.
>
> I know that these are all rather overwhelming numbers, but it is best to start the process with your eyes open. Please know that I would work very hard on your behalf to keep both design fees and construction costs as low as possible.
>
> Please let me know if you have any questions on this, or other matters.
> best,
> Lauren
>
> **Reiter Architecture & Design**
> Lauren J. Reiter, RA, LEED AP
> laurenjreiter@yahoo.com
> *tel.* 917.502.2225
> 6 South St., Portland, ME 04101

www.reiterarchitecturedesign.com
www.facebook.com/reiterarchitecture

On Wednesday, November 10, 2021, 12:59:24 PM EST, William Bolduc <wbolduc496@icloud.com> wrote:

Hi Lauren,

Good news, we would like to move forward with phase one. Two reasons, I've thought the addition was a good idea since I bought the home, and now I think you are the one to put the plan in place. Regardless if we break ground in 2022 or later, this phase is important.

I do have one question about phase two. Could I get a ballpark estimate for phase two? I know it's based on final decisions. But, is it usually less than phase one, double phase one, etc.?

Thanks again and hope to talk soon.
Will

Sent from my iPhone

> On Nov 4, 2021, at 4:20 PM, Lauren Reiter <laurenjreiter@yahoo.com> wrote:
>
> Hi Will. It was nice to meet you on Tuesday, and I am following up with the attached proposal, as promised. Please let me know if you have any questions.
> Thank you for this opportunity!
> best,
> Lauren
>
> **Reiter Architecture & Design**
> Lauren J. Reiter, RA, LEED AP
> laurenjreiter@yahoo.com
> *tel.* 917.502.2225
> 6 South St., Portland, ME 04101
> *www.reiterarchitecturedesign.com*
> *www.facebook.com/reiterarchitecture*
>
> On Sunday, October 31, 2021, 03:07:33 PM EDT, William Bolduc <wbolduc496@icloud.com> wrote:
>
> Hi Lauren,
>
> This is the survey for the duplex I built in 2005, which abuts the lot for the addition.
> See you Tuesday at 2:30.
> Thanks again,
> Will
>
> Sent from my iPhone
> <BOLDUC Phase One Proposal_11-04-21.pdf>

Form Submission - Contact us Re:Code - Make it easier and more affordable to live in Portland!

0 views

Squarespace <form-submission@squarespace.info> 12:28 PM (22 minutes ago)
to recodeportland@portlandmaine.gov

Sent via form submission from *ReCode Portland*

Name: Crystal Redfield

Email Address: bonedrycarpet@gmail.com

Subject: Make it easier and more affordable to live in Portland!

Message: Higher buildings would be great to allow to utilize footprint to its highest and best potential. Make it easier for shipping containers to be used as homes-also tiny homes and more homes per lot even for tiny lots!

TY

Manage Submissions

Does this submission look like spam? Report it here.

: ReCode 2nd Wave Edits to the Land Use Code

0 views

Markos Miller <markossmiller@hotmail.co… Jun 23, 2024, 1:20:26 PM (20 hours ago)

to Kevin Kraft, Helen Donaldson, ReCode Portland

Kevin and Nell,

Thanks for all your work on ReCode. This is important work and it is moving things in the right direction- denser, more diverse development, reducing accommodations for automobiles.

I want to follow up on the conversation I had with Kevin at the Recode studio about zoning along the arterial corridors; I had asked why these were designated as B2b zones, not TOD zones.

Kevin explained that the proposed zoning would meet or exceed the TOD allowances when affordable housing bonuses were considered. That made some sense at the time, and got me thinking a little more. I see some potential problems here.

1. I’m concerned that this makes desired density along transit corridors dependent on affordable housing. We need affordable housing and transit-supportive density, but we should not be making one dependent on the other. We need dense housing for all income levels to make transit work; and to support neighborhood businesses needed for a walkable neighborhood (rezoning for mixed use alone is not enough- we need enough households to support a neighborhood business district). This level of build-out should not be dependent on affordable housing.

2. The TOD-1 height limit of 80' at least offers a guaranteed max of 7 floors of development, over the 65' (6 floors?) of B2-b. Are these heights being set based on development targets or geometries and scale of development along these lots?

3. I recently met with some members of the affordable housing community to discuss housing on Franklin Street. One thing they shared is that they are almost never building anything more than 6 stories due to the costs of concrete and steel. I believe Kevin said the B2b zones along the transit corridors allowed 6 story heights, and then 2 more with an affordable housing bonus. If that is the case, under current market conditions, affordable housing developers are not going to be building the 8 story buildings that we are proposing to offer them as a bonus. That seems to render much of the affordable housing bonus meaningless for some time to come; those 6+2 story buildings will not be built.

4. Kevin mentioned being strategic with the location of the TOD zones. Focusing the densest development at strategic nodes to activate transit, meeting places, and capitalize on development opportunities makes

sense. However, targeting outer Brighton and St. John's seems very limited in ambition; we should be doing much more than being poised for the train station *maybe* being relocated to St. John's St someday probably far from now . The current proposals appear to be leaving so many opportunities on the table- i.e., Morrills, Allen, Woodfords corners, most of Forest Ave, and Washington and Brighton (Stevens, Outer Congress) to a lesser degree. Zoning that offers the greatest opportunities for dense, mixed-use development should be along Metro lines of the major corridors, and that seems like that's the TOD- or should be, not a B2b with a bonus that may never get used.

5. Finally, I'm a little concerned/confused about the proposed height allowances along Franklin St. The B3 zone description on the ReCode site references the City Height Map; is that this: https://content.civicplus.com/api/assets/a82366ca-9734-4937-a5a2-60074442125c?cache=1800 ?
   If so, the 65' limit for B3 and B5 does not go far enough along a major thoroughfare with huge development opportunities so close to jobs, schools, services, transit, and walkable, to boot! Even more so if those affordable housing bonuses don't result in more housing.

If I'm missing something, please let me know. Talk to the affordable housing community about the effectiveness of that proposed bonus. Aim higher and cast a wider net for denser housing close to transit and neighborhood business districts.

I know you are trying to strike a balance for the city as a whole. I appreciate your efforts.

Markos Miller

Revising Peaks Island Wave 2 Zoning 0 views

Maclean Mini <maclean.mini@mewg.cap.gov> Jun 25, 2024, 6:08:30 PM (2 days ago)
to recodeportland@portlandmaine.gov

Good evening,

I am writing to you as I have some issues with the wave 2 of zoning concerning where I live, Peaks Island. First though I want to explain why I have issues with the zoning.

Peaks Island was hit incredibly hard by the surge in real estate prices during the pandemic. For instance, our family bought our current house on peaks for $400K in 2017, and as of today it is worth $1.3M. Housing is so astronomically unaffordable on Peaks that so many people who would love to live here and would greatly contribute to the community and economy simply cannot afford to do so, and I know quite a few people who fit this description.

Let's go back to zoning. Virtually nothing has been changed about zoning on Peaks in the new wave of changes, which considering it's been 50 years since zoning was last changed in Portland it is quite frankly appalling. On Peaks density is impossible to build even though the demand is there. What I'm proposing is a bit of a baby step towards reducing housing prices on Peaks to affordable levels.

These are some of the changes I suggest. For some reason many new developments have been built right in this area in the past few years, and being close to the backshore but also being sheltered enough from storms to not receive damage is also a benefit of this location. By updating the zoning in this area we can reduce housing costs, bring more people out to Peaks and create a denser community while also expanding recreational land area.

Such a plan would most likely require extending the city's public septic line, but that is something that should have been done long ago anyway. Paving the current roads here is another good idea considering the current dirt and gravel roads are very prone to potholes.

That’s all I have to say, thanks for your time and consideration.

Sincerely,

Maclean Mini
10th grader at Waynflete

Form Submission - Contact us Re:Code - Peaks island buildable lot size

0 views

Squarespace <form-submission@squarespac… Jun 26, 2024, 8:56:32 PM (13 hours ago)

to recodeportland@portlandmaine.gov

Sent via form submission from *ReCode Portland*

Name: Alicia Kershaw

Email Address: alicia.kershaw.kerrose@gmail.com

Subject: Peaks island buildable lot size

Message: I support greater density bit 3000 sf is too small for a buildable lot.

Manage Submissions

Does this submission look like spam? Report it here.

zoning changes

Assigned to me by Taylor Col… Subscribe

3 views

Liz Dunn <morningglorystudio.dunn@gmail.com> Jul 5, 2024, 8:34:31 AM

to planning@portlandmaine.gov

Hello

I am a resident of Portland and am writing to express my concerns regarding the proposed zoning changes that would allow developers to build without adequate parking and permit the increase in size of the new buildings. I am not against change in general and having increased housing options, however, I believe the significant change to the existing neighborhoods should be taken into higher consideration and the ongoing impact of these changes. Also, holding developers accountable to the public to provide adequate parking and not put this back on the city tax payers.

Elizabeth Dunn
Hodgins St.
Portland

11 Sterling St Peaks Island 0 views

Laura Glendening <lrglendening@gmail.com> Jul 6, 2024, 11:39:13 AM (2 days ago)

to recodeportland@portlandmaine.gov, Helen Donaldson

Dear ReCode Team,

I write concerning my property at 11 Sterling Street on Peaks Island and the proposal in the Second Wave of ReCode to put the properties along its southern (8 Central Ave) and western (119 Island Ave) borders completely in the business zone.

In this case I would like to request that my lot at 11 Sterling St also be put in the business zone as this seems like a logical extension of I-B. This would then maintain equitably the same business zone depth on the block along Island Ave from Central to Sterling. (I have previously asked that 18 Central be removed from the proposed extension to the business zone.)

Thank you,
Laura Glendening
17 Sterling St, Peaks Island

reCode concerns and thoughts 1 view

Gretchen Greenberg <gretch1949@gmail.co… Jul 8, 2024, 11:32:05 AM (2 days ago)

to recodeportland@portlandmaine.gov

To all involved with ReCode,
I attended the information session in May about the Recode Process. Thank you for hosting this meeting. I appreciate all the time, effort, and thoughtfulness that has gone into this process. It was helpful to review all the posters and talk to many of the city planning staff. I have several thoughts to share but will write about just one concern in this email regarding zoning for preservation areas.

I would strongly encourage that area behind Casco Bay High School and PATHS be designated as an OSP area, where it is now R2, and proposed to be RN2. This is a field that hosts wildlife and wetlands. It has walking/bike paths developed by Portland Trails that are used for walking, biking, dog walking, cross country skiing and snowshoeing. This open space fits within the goals of "supporting the city's ecological systems through prioritization of native species and planting for pollinators." This field supports the need for open space and "prevents or reduces greenhouse gas emissions that are worsening climate change." It seems that preserving this area as open space would add to the city goal of climate resilience zoning. It is also an area that offers walking and biking within a reasonable distance from one's home.

I am personally invested since I live close to this area and walk there regularly, so I guess that makes me a NIMBY. My neighbors would be considered NIMBY's too. Allow me to introduce you to some of them:

- Deer - particularly the resilient three-legged deer. I don't know what happened to her leg but she hobbles around on 3 1/2 legs, and has produced a litter of fawns yearly.
- The buck - although more elusive, he has been seen in the early morning hours on the west side of the field.
- Fox - A neighbor (a human neighbor) noticed a sick fox last fall. Animal control caught it and brought it to a vet where it was treated (for a flu, of all things.) Once healed, animal control personnel returned the fox to the field where it quickly ran back to its familiar home.
- Turkey who strut and fly around our neighborhood, oblivious to Thanksgiving.
- Opossums that seem to hibernate under condominium decks, and waddle out to the field where they are likely to find ticks to feed upon.
- Owls that helped to reduce the mice population that seem to migrate indoors each winter.
- Bats and a host of birds
- Wildflowers and other pollinators that contribute to bee dwellers and food in the ecological chain.

My wildlife friends would not like their homes removed. They cannot speak up, so as a neighbor, I will speak for them as well as myself. Please consider this request.

Gretchen Greenberg
165 Delaware Court

Form Submission - Contact us Re:Code - IL-b zone

0 views

Squarespace <form-submission@squarespace.i… Jul 9, 2024, 11:38:56 AM (yesterday)

to recodeportland@portlandmaine.gov

Sent via form submission from *ReCode Portland*

Name: Douglas Cardente

Email Address: doug@cardenteproperties.com

Subject: IL-b zone

Message: I have been trying to have a direct meeting with someone from Recode. I am strongly of the opinion that the IL-b zone in downtown Portland is mislabeled. Those years are behind us. In that the recode process is to bring the zones up to date, the entire Il-b zone should be changed to a B-5 zone. This still would allow for light industrial uses while removing the stigma of being in an industrial zone that doesn't really exist. I have a significant stake in this issue as being the largest land owner in this zone. Yet, I have not received
even one notice that I am aware of. In fact, I believe one of my properties at 126 N. Boyd has now become a B-5. I am delighted, however I have two adjacent properties, one with direct Marginal access, that has had a 26,000sf vacancy for almost two years
as we can't find any industrial user to occupy it! Please let my attorney and I meet with you to more fully express my situation. Thank you, Doug Cardente 207-233-1229

Manage Submissions

Does this submission look like spam? Report it here.

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THOMPSON

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July 11, 2024

Kevin Kraft, Director
Planning & Urban Development
City of Portland
389 Congress Street
Portland, ME 040101

Re: Rock Row Comments on Second Wave Recode Changes

Dear Kevin,

This firm represents Dirigo Center Developers, LLC, the owner of the Rock Row development property in Portland/Westbrook, and Waterstone Properties Group, Inc., Dirigo's manager. We are writing to follow up on our March, 2024 discussion of the application of Portland zoning and potential Recode changes to the Rock Row development.

We earlier had reviewed and commented on the proposed B-4 zoning requirements in the 06-2023 Recode draft. After reviewing the "Second Wave Recode Changes," we have the following comments and requests for text and map revisions as Recode works its way to the Planning Board for recommendations to the City Council.

Properties. Dirigo/Waterstone own several lots along the Maine Turnpike that border the Westbrook portion of Rock Row. These are:

- 264 A-004/265-A005 (1176 Brighton Ave) and 264 A-002/265 A-003 (1190 Brighton Ave.), both currently zoned B-4 (Rock Row North Campus); and

- 253 A-001/A002 and 252 A001 (1827 Westbrook Street), currently Zoned I-L (Rock Row South Campus).

Waterstone also is manager of Rand Rock LLC, which owns property nearby that currently is zoned in both the B-2 and I-M districts:

- 262 A-002 (79 Rand Road); and

- 264 A-005 (0 Brighton Ave.)

Zoning Districts. We have reviewed the proposed zoning districts in the Second Wave Recode Changes to attempt to find the most appropriate district for the above properties. The district that best provides the site dimensional flexibility and range of available uses for this high density, mixed use, urban development that utilizes transportation TIF funding is Transit-Oriented District 2 (TOD-2).

TOD-2	To provide for and encourage the development of high-intensity mixed-use, compact urban neighborhoods that support Portland's investment in transit infrastructure through permissions for a highly dense, pedestrian-scale built environment and a broad range of uses that allow residents to live, work, shop, dine, and pursue cultural and recreational opportunities while enjoying a range of mobility choices. The TOD-2 zone is intended to allow for the creation of vibrant, accessible, 24-hour neighborhoods at suitable locations on or near the peninsula.

While the Rock Row site is not on the peninsula, it is on a major road to the peninsula and provides all of the features this district definition describes. The Rock Row development master plan includes not only the retail and medical office campus area that have been or are being constructed, but also residential, office, commercial, entertainment, dining, recreation, and cultural uses that will establish a dense, urban mixed use development on these properties. The Rock Row development is working: with METRO to coordinate bus service to the site, with the Northern New England Passenger Rail Authority to investigate light passenger rail options between the site and downtown Portland; with Portland Trails and other trail groups to link the site and the quarry to surrounding trail systems for passive recreation; and with all transportation providers to coordinate multimodal transportation opportunities at the site. The Rand Road properties will be a part of this development regime, are connected to Rock Row by a rail corridor beneath the Maine Turnpike, and are located directly behind and adjoining a property that the Second Wave Recode Changes propose to place in TOD-1.

For all of these reasons, rezoning the Rock Row and Rand Road properties from their current mix of B4, IL and IM districts to TOD-2 makes sense given their ongoing and intended development, and is consistent with the objectives for the TOD-2 as expressed in the Second Wave Recode Changes.

Other Requested Changes.

- **Intermodal transportation facilities**— This is listed as a permitted use in the B-4 District, but not in the two transit oriented districts. We suggest adding this use to the TOD-1 and TOD-2 districts, and adding a definition for this use. While the City may view this use as an industrial/commercial facility for shipping of goods and products via rail/ship/trailer, like Auburn's intermodal facility, we have in mind a use involving general public transportation modes – automobile, bus, future commuter rail, and trails. Therefore, we propose one of two approaches:

1) the City of Portland could adopt a definition for "Intermodal transportation facilities" similar to Westbrook's "Intermodal Passenger Transportation Facility for this use by the general public. Westbrook's definition is *"a building, structure or location where two or more modes of transportation intersect, and passengers can transfer between modes."* ; or

2) if the City prefers to focus the "Intermodal transportation facilities" use on industrial/commercial for shipping of goods and products via rail/ship/trailer, it could adopt a new use that focuses on the passenger transportation aspect – perhaps "Public Transportation Hub" – and define it similarly to Westbrook's definition of "Intermodal Passenger Transportation Facility"; this "Public Transportation Hub" use would be permitted in the TOD-1 and TOD-2 districts as well as in B-4.

- **Recreation and amusement centers**—We propose adding the word "outdoor" to the definition so it reads: "*Facilities equipped for the conduct of sports or indoor <u>or outdoor</u> leisure time recreation activities. Such facilities may limit admission either to members or persons paying an entrance fee. Recreation and amusement centers do not include sports complexes or stadiums.*"

  The addition of this term would allow for outdoor recreation and sports, such as Frisbee golf, that would not be of a scale to qualify for the "stadium" use definition. We also would like to confirm that an escape room, laser tag, or even virtual reality type of facility would fall under this use as "leisure."

- **Lot Lines and Setbacks from City boundary**. Under the Dimensional Standards provisions, "setbacks" are measured from "lot lines." We are concerned that the Portland/Westbrook City boundary might be considered a lot line, even though the bounds of a lot in the deed may cross the City line, which would prevent development of a lot that crosses the City line. Simply adding "A municipal boundary is not considered a lot line" to the end of the definition of "lot line" would be helpful to avoid this potential issue.

Thank you for your consideration of these comments.

Sincerely,

James Katsiaficas

cc: Josh Levy, Principal, Waterstone Properties Group, Inc.
Corey Carreiro, Senior Project Manager, Waterstone Properties Group, Inc.
Michael McDonnell, P.E., KEEL
Wayne Morrill, P.E., Jones & Beach Engineers, Inc.

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PORTLAND HOUSING DEVELOPMENT CORPORATION

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Fax: 207-761-5886

July 15, 2024

Kevin Kraft, Director of Planning & Urban Development
Nell Donaldson, Director of Special Projects
City of Portland
389 Congress Street, 4th Floor
Portland, Maine 04101

Re: Second Wave ReCode Feedback and Recommendations

Dear Kevin and Nell,

Thank you for your continued efforts on the ReCode Project. Portland Housing Authority (PHA) & Portland Housing Development Corporation (PHDC) are excited to see the positive impact that ReCode Second Wave changes will make to support our mission to expand and preserve affordable housing in Portland.

A few specific ReCode standards, however, challenge the creation of more affordable homes, resilient buildings, and inclusive communities. These standards would impede – or may even prevent – the construction of restricted affordable multifamily properties through the Low Income Housing Tax Credit, our main supply-side development program today. The below recommendations are in order of priority.

Recommendation #1 – Rezone Kennedy Park Parcel (CBL 22-I-3) to RN-7 to Maximize Future Affordable Housing Redevelopment Opportunities

Justification for rezoning:

- Parcel is directly adjacent to 4 other proposed RN-7 properties.
- Parcel is partially within the current R-7 Overlay District.
- PHA's 2015 Strategic Vision Plan proposes redevelopment of this parcel with mid-rise multifamily buildings, similar to nearby Solterra Apts and Bayside Anchor. High-density housing would not be permissible or financially feasible if rezoned to RN-5.
- PHA's largest opportunity to add more affordable homes exists in the East Bayside neighborhood. Rezoning this parcel could double or triple the number of homes built, most of which would be affordable.
- Existing Kennedy Park buildings would be non-conforming if rezoned to RN-5. RN-7 allows full conformance with ReCode.

Recommendation #2 – Rezone Anderson Street and Monroe Court Parcels (22-K-7, 12-R-1 and 13-B-2) to RN-6 for Future Multifamily Node in East Bayside

Justification for rezoning:

- Rezoning these parcels to RN-6 will facilitate future development of a node of activity containing mid-rise affordable housing development. This node would be centered around the Anderson St and Monroe Ct intersection.
- These parcels align with RN-6 goals in "Table 5-B: Residential Zone Purposes Statements". This includes parcel size ("*exhibiting a pattern of larger lots and setbacks*") and building type ("*multi-family dwellings at relatively high density*").
- Parcels are all greater than 40,000 sq ft. Technically, 12-R-1 and 13-B-2 are one legal parcel connected by a portion of the Monroe Ct paper street that PHA acquired in 1971.
- Existing buildings on these parcels would be non-conforming if rezoned to RN-5 due to building lengths well exceeding 60'. Existing buildings would conform under RN-6, except for setbacks.
- See Exhibit A for a proposed zoning map showing PHA-owned parcels rezoned to RN-6.

Recommendation #3 – Rezone a Portion of Sagamore Village Parcel (274-G-1) to B-2

Justification for rezoning:

- This parcel has an irregular shape with two vastly different contexts: busy Brighton Ave on its south side and suburban Sagamore Village to the north.
- Adjacent corners of Brighton/Cabot/Rand intersection are all B-2.
- Parcel to its east is B-1.
- Across the street from proposed TOD-1.
- See Exhibit B for a proposed zoning map showing where the Brighton Ave portion of this parcel would be rezoned to B-2, while the rest of the parcel remains RN-4.

Recommendation #4 – Eliminate Height Stepbacks for Affordable Projects above 45' in RN-7 to Increase Homes Per Project

Justification for eliminating height stepback:

- Stepback requirement above 45' in RN-7 will harm the financial feasibility of 4-story or taller affordable buildings by significantly raising the cost of mid-rise multifamily development. The result of this regulation would be fewer affordable homes built in the RN-7 districts. Efficient multifamily construction depends on "stacking" units so floor plans are consistent vertically throughout building, as well as minimizing unnecessary envelope detailing. Typical affordable multifamily construction targets 3-6 story buildings for cost and construction efficiency reasons. This change to height stepbacks would interrupt "stacking" on mid-rise buildings, thereby complicating simple building envelopes and increasing design and construction costs at a time when affordable housing resources are scarce and construction costs are rising rapidly.
- PHA's Bayside Anchor (4-stories) and Solterra Apartments (6-stories) were only financially feasible because there were no required stepbacks.
- Eliminating stepbacks for affordable projects above 45' will materially increase the quantity of affordable homes that are built in the RN-5 and RN-7 districts, which aligns with Portland's Plan's 2030 housing goals to "*Increase, preserve, and modify the overall supply of housing city-wide*", to "*Encourage additional contextually appropriate housing density in and proximate to neighborhood centers*", and Future Strategy #3 to "*Remove Housing Barriers*". These stepbacks, as proposed, conflict with City affordable housing production goals.

Alternative recommendation:

- If not feasible to eliminate height stepbacks for affordable projects, significantly increase the height at which the stepback standard is triggered in RN-7 and/or create a stepback waiver process for affordable housing projects that can justify hardship.

Recommendation #5 – Allow ALL Affordable Housing Project Types to be Eligible for Affordable Housing Incentives under §17.2.2

Applicable language:

- §17.2.2.A states: "*Eligible Projects. Under this subsection, eligible projects shall include any development project… 2. That creates* ***new dwelling units****, among which is at least one low-income or workforce housing unit for rent or sale*" (emphasis added).

Justification for making all affordable deals – including renovations – eligible for Table 17.2 incentives:

- We recommend §17.2.2.A.2 read: "*2. That creates* ***new and preserves existing affordable dwelling units****, among which…*"
- Enabling renovation projects to utilize §17.2 incentives will increase the quantity of long-term affordable housing preserved and prevent conversions to market-rate rental or condos.
- This change aligns with the goals §17.2.1 ("*…this section will assist the city in meeting its* ***comprehensive goals for affordable housing, in preventing the... deterioration of the limited supply of affordable housing***") and the goal in Portland's Plan's 2030 to "*Increase,* ***preserve, and modify the overall supply of housing*** *city-wide*" (emphasis added).

Recommendation #6 – Reduce RN-6 Side Setbacks to 10' and Front/Rear Setbacks to 15'

Justification for reducing RN-6 setbacks:

- To realize RN-6 goals of a residential neighborhood characterized by "*multifamily dwellings at relatively high density*", all setbacks should be reduced. 25' setbacks in all directions are excessive and will crimp housing production in RN-6 zones over the long-term.
- Under current R-5a and R-6a zoning, minimum side setbacks are only 10' and 16', respectively; and minimum front and rear setbacks are 10' and 25', respectively. We encourage lowering RN-6 setbacks to match existing R-5a setbacks of 10'.
- Reducing setbacks will help create more flexibility in housing types and increase housing production, in alignment with Portland's Plan 2030.

Recommendation #7 – Eliminate Additional Public Meeting Requirement (§17.2.2.D.4) for Affordable Housing Bonus Incentives

Applicable language:

- §17.2.2.D.4 states: *"Required public process. The developer of the project must also commit to a good faith effort to communicate openly with affected properties as their process moves forward. At a minimum, no less than 30 days prior to application for site plan review, any project that wishes to take advantage of this subsection [affordable housing bonuses in §17.2] must hold a public meeting noticed to all properties within 500 feet of their site and post a sign on the property in question describing the proposed project, intent to submit an application to the City in 30 days (cite anticipated submission date), and contact information for the developer and the Planning Authority. The Planning Board may adopt regulations regarding the content and processes for noticing as part of the Technical Manual."*

Justification for eliminating §17.2.2.D.4:

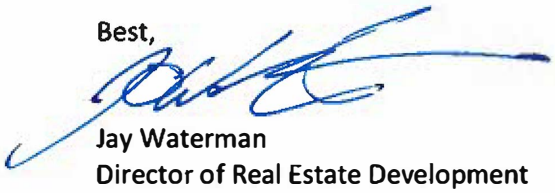
- This public meeting requirement is in addition to the public meeting requirement that must be held ahead of a Planning Board Workshop.
- This requirement inequitably burdens affordable housing projects. There is no comparable requirement for a market-rate rental, workforce housing, hotel, or condo project.
- PHA recommends that this requirement be removed from ReCode as it does not contribute to the construction of more affordable homes and instead hinders that goal. It conflicts with the spirit of §17.2.2.C "Expedited Review" to streamline affordable housing entitling process and with Portland's Plan 2030 affordable housing goals.

Alternative Recommendation:

- Eliminate the phrase *"no less than 30 days prior to application for site plan review"*. Plans and renderings are rarely ready more than 30 days before site plan submission.

Please reach out to Sarah Tatarczuk at statarczuk@porthouse.org or (207) 221-8034 with any questions. Thank you for your time and consideration and we look forward to continuing to be involved in the ReCode public process.

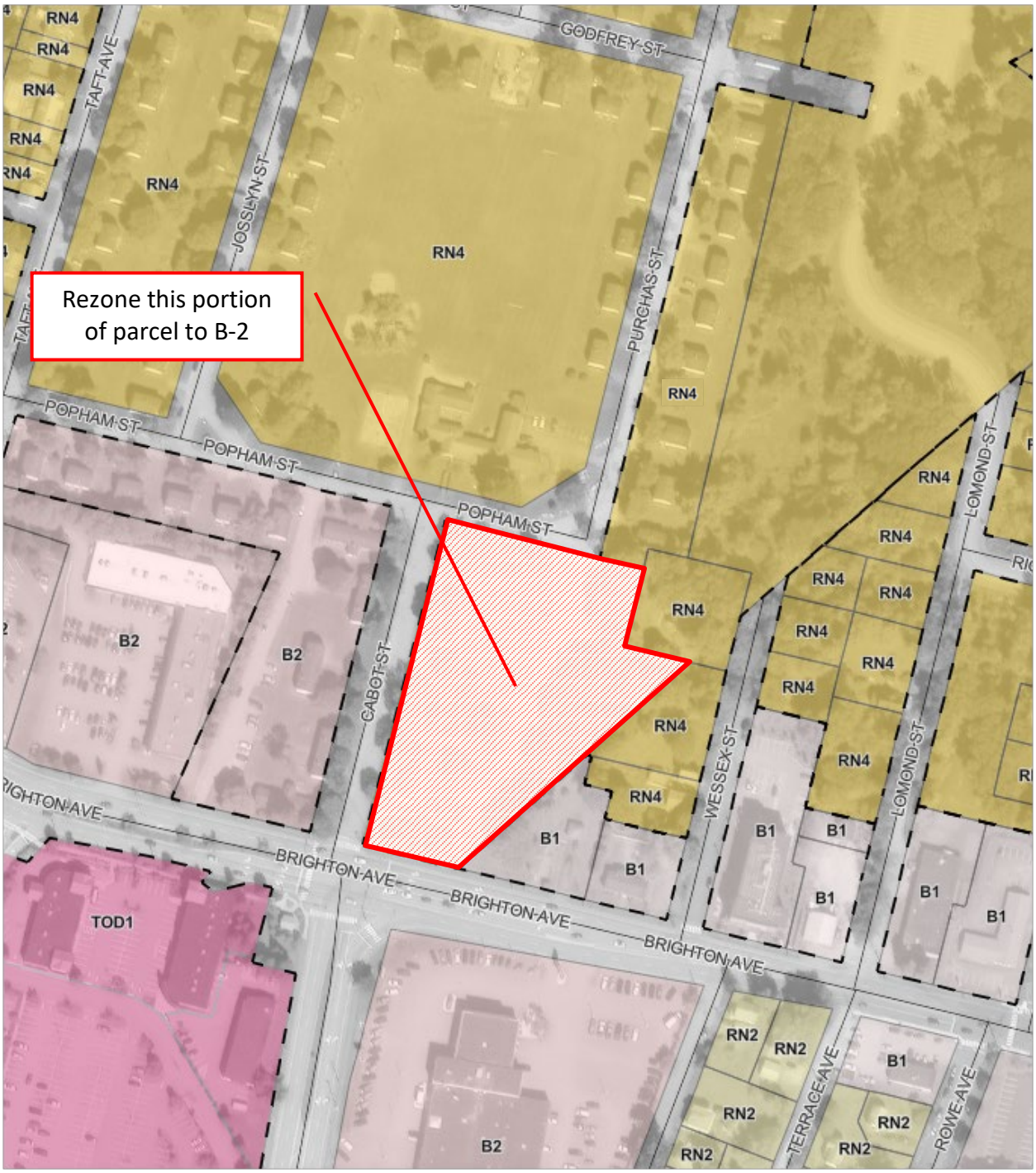
Best,



Jay Waterman
Director of Real Estate Development
Portland Housing Authority & Portland Housing Development Corporation

Exhibit A – Proposed Anderson St and Monroe Ct Parcel Rezoning to RN-6

Exhibit B – Proposed Sagamore Village Parcel (274-G-1) Partial Rezoning to B-2



Meeting w/ Kevin Kraft

Re Code

1.) Demolition of existing buildings in residential zones?
2.) Zone Purpose Statement RN-2 to RN-6
"subject to standards encouraging compatability and context sensitivity to ensure the stability of established residential neighborhoods. WHAT standards?

new construction & conversions
Define "residential neighborhood environment"

3.) Update to Design Standards?
4.) Landscape & Tree Replacement? Environmental Carbon Reduction Assessment
5.) B2b increase in height from 45 ft to 65 ft
(locations add'l bonuses to increase height & no set-backs)
6.) TOD's - not needed.
7.) Housing bonuses - impact on what is allowed
(not mentioned in the informational depiction of housing)

Roux

1.) Update on review process
2.) What is required of Roux for site plan approval? -1-4
- parking and traffic impact - infrastructure improvement?
- mitigation plan (METRO & ped/walk shared pathway) shuttle lot?
- conditions of approval → Permitting for construction & occupancy permit
  - applicant to receive TMP for approval of occupancy permit
  - other required permits?
  - framework for phases of development

Building Permit vs Occupancy Permit
Kensington St Phase P??

3.) Require Guarantee Performance Bond ($$??)
3.) MDOT TMP & RAISE Grant funding
(Question asked by Planning Board)
4.) What is process if Roux does not meet conditions?

May 28th PB??

5.) Defined criteria for monitoring annually
6.) Housing?
7.) Residential Parking Program?

MDOT Meeting - Roux appears to be using the MDOT meeting discussion of various proposals to present to PB.
(No formal approval by MDOT for TMP?)

Megan Cindrich <mcindrich@portlandmaine.gov>

Fwd: Housing Comment About I-M and I-Mb Zoning

1 message

Helen Donaldson <hcd@portlandmaine.gov> Thu, Jul 18, 2024 at 5:03 PM
To: Megan Cindrich <mcindrich@portlandmaine.gov>

One more!

---------- Forwarded message ---------
From: **Rachel Conly** <rachel@juniperdesignbuild.com>
Date: Wed, Jul 17, 2024 at 9:20 AM
Subject: Housing Comment About I-M and I-Mb Zoning
To: Helen Donaldson <hcd@portlandmaine.gov>

Hi Nell,

I have a comment about the proposed Second Wave ReCode that I would like to share.

I was recently reviewing the I-M and I-Mb zone for a client and was surprised to learn that residential use is not permitted in this zone. I then scrolled through all of the uses allowed in all of the zones and was surprised to see residential use completely absent from several zones. Given today's climate with housing shortages, record high rent burdens, and the trends for cities nationwide to be converting commercial spaces into housing due to high vacancy rates, to not include housing/mixed-use residential as a possible option in all zones seems like a lost opportunity. I can understand that an airport zone might be an exception, but low-moderate impact industrial zones, such as the I-M and I-Mb zones (or lighter buffer zones like I-L/I-Lb) seem like viable candidates for live/work spaces, especially on the peninsula. In addition to addressing housing needs, allowing mixed use can help address carbon emissions by reducing commuting. It also promotes the rehabilitation of existing building stock, another carbon reduction strategy. The height limits and general dimensional standards of these zones suggest ample flexibility to provide mixed use in an appropriate manner.

I found an article published by the White House which I think explains my position well. Please follow the link below. The article focuses on office to residential conversions, but it notes non-office commercial spaces as well. With the ReCode in the works to set the standard for decades to come, I think we are at a critical moment and should create, not limit, our communities ability to be flexible in meeting the needs of housing and climate change, and strongly advocate the inclusion of residential use in these zones.

https://www.whitehouse.gov/cea/written-materials/2023/10/27/commercial-to-residential-conversion-addressing-office-vacancies/

Thank you! Rachel

--
Rachel Conly (she/her)
Owner/Design Director
Juniper Design + Build, LLC
207.766.5919
www.juniperdesignbuild.com

--
Nell Donaldson
Director of Special Projects
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hcd@portlandmaine.gov

planning & urban development

ACORN ENGINEERING, INC.

Planning and Urban Development Department
City of Portland, Maine
389 Congress Street, 4th Floor
Portland, ME 04101

July 24, 2024

Attn:
Kevin Kraft, AICP, Director
Nell Donaldson, Deputy Director
Chair Mazer and Planning Board Members

Subject: ReCode – Second Wave Review

Following up on our ReCode – First Wave letter submitted in October of 2023, we have compiled our comments on the ReCode – Second Wave. We appreciate the many competing interests, comments, and feedback that the Planning Department has considered during the ReCode process. We also appreciate all the hard work and thoughtful revisions proposed by Staff, many of which have resulted in a better zoning ordinance. However, in several instances the draft code is going backwards with respect to the creation of housing:

1. New regulation for maximum building length of 60' implemented in RN-5. (Table 7-A).
2. Increased front setbacks for certain lots within residential districts. (Table 7-A).
3. Increased open space requirements in RN-5. (Table 7-A).
4. RN-2 and RN-4 are no longer eligible for new multifamily construction (6.4.12.A).
5. Lodging Houses are now only allowed as conversions in the RN-4 and RN-5 (6.4.20).

---

1. A new dimensional standard has been added to RN-5 (formerly R-6). The maximum building length is proposed to be 60' which would have negative consequences to certain projects' viability, especially if the parcel happens to have a high ratio of street frontage to lot depth. By enacting this standard, if a project is still able to be financially viable then either parking is going to be incentivized on the Peninsula and/or multiple buildings will be incentivized meaning at a minimum:

    - Twice as many elevators, stairwells, sprinkler/mechanical rooms, and circulation area which will result in a lower unit count and less residential amenities.
    - Twice as many utility runs and trenches in the street.
    - More expensive construction which gets passed onto the end users if the project is able to proceed.

    A prime example of a successful project in the RN-5 with a façade longer than 60' is 104 Grant Street (the Goodwin). This project provided 23 units, 8 of which are deed restricted for affordability. Given the lot geometry which features a high street frontage to depth ratio, the façade along Grant Street is 117' long across a 4-story building. The project Architect used

multiple techniques to break down the scale and mass of the building including projected vertical bay windows creating visual interest and shadow lines, a purposeful window pattern, punched openings, and a variety of tasteful siding materials. The Architect responded to Staff's design review comments and the design was positively received by Staff and the Board, receiving final approval at its first meeting with the Planning Board, without the need for a workshop. In fact, this building is used as an example in the Draft R-6 Design Manual to demonstrate a building with varied massing. If this project was required to be split into two buildings, at a minimum it would have provided less total housing stock, including less affordable homes. It's possible the project may not have happened at all due to the added costs and lower unit count that would have resulted from a maximum façade length of 60'. The building was completed in 2022, seamlessly incorporated into the neighborhood with full occupancy of 23 new homes.

Additionally, several years ago there was a multidisciplinary working group formed between the public and City staff to overhaul the Design Manual. During this process, façade composition was discussed; however, a maximum façade length was not. We would encourage Planning Staff to review these meeting minutes, recommendations, and overall progress that went into the overhaul from qualified professionals and City staff, prior to the second phase of the ReCode process.

In conclusion, in the City's densest residential zone on either side of the State's largest and most productive downtown hub, we see this new proposed regulation as prohibitive and atypical. If adopted as drafted, this requirement is undoubtedly going to sacrifice residential amenity space and/or overall unit count, potentially making a housing project financially unfeasible. We strongly urge you to reconsider this prohibitive dimensional standard, or at the very least, significantly increasing it to allow flexibility in design, programming, and proforma. In addition to the Design Manual, the other existing space and bulk standards play a role in controlling the mass and scale of a structure, such as height, setbacks, stepbacks, and lot coverage. We think the Architect and design team should be responsible for providing a high-quality design that conforms to the Design Manual and existing space and bulk standards without being capped at 60' for a façade length.

2. Residential Space & Bulk Standards call for the front yard setback to be equal to the average of abutters minus 5'. We believe there will be unintended consequences with this proposed change due to certain parcels either lacking direct abutters, or having abutters with large front yard setbacks that are not representative of the neighborhood. Similar to how it's structured in the RN-1, we strongly encourage including an OR statement to include a default minimum setback (5' in the RN-5 for example), otherwise, there will be conditions where the site either won't have abutting properties to calculate setbacks from, or the front setback is going to be prohibitively large to allow a housing project to work. Recommend altering this standard to "the average of the abutting properties minus five feet, or five feet, whichever is less", which is a similar approach to the existing standard.

3. The RN-5 (formerly R-6) Space & Bulk standards propose an increase from 20% open space to 30%. The existing 20% standard is already difficult to make work on many infill projects. We strongly encourage maintaining 20% as the minimum requirement. The majority of recently permitted R-6 infill projects are close to, or at the 20% limit due to site constraints. Implementing an increase to 30% would not only result in these lots becoming nonconforming, but it will create less flexibility for housing projects, including the potential for loss of habitable floor area which generally translates to units or bedrooms.

4. Strongly encourage adding multifamily as an allowable use for new ground-up construction in RN-2, or at least RN-4. Because the Planned Residential Unit Development (PRUD) housing option is being eliminated under ReCode, an RN-2 (previously R-3) or RN-4 (Previously R-5) lot that is 2+ acres in size that would be eligible for ground-up multifamily housing under today's existing zoning code will no longer be able to build new multifamily homes. Under the new code, a development would have to be a series of subdivided 1-4 unit buildings which creates sprawl and does not allow for a cluster development typology where natural resources can be preserved, and infrastructure is efficiently consolidated. Ultimately, this proposal represents fewer opportunities for housing by eliminating the PRUD and not allowing multifamily housing in at least the RN-4. This approach is counterintuitive to addressing the housing crisis.

5. Encourage adding Lodging Houses back as an allowable use for new ground-up construction in the RN-5 where car ownership is least relied upon. This land use is needed by the City and its residents and should be an available tool if a Developer chooses to pursue it. As proposed under the ReCode, new Lodging Houses would only be allowed by right in the RN-6 and RN-7, which only represent a handful of parcels in the City, most of which are already developed. As proposed, this land use is effectively being removed as a housing option.

The first 5 comments pertain to proposed changes that are making housing more difficult to create under the new code when compared with the existing code. The following 2 comments are additional ideas to allow for greater flexibility in developing housing without sacrificing the goals of the Ordinance.

6. Affordability incentives in RN-5. At a minimum, we would encourage allowing additional lot coverage to incentivize affordable housing. Most affordable projects in residential zones who achieve a density bonus are not able to physically fit the allowable unit count due to space and bulk restrictions such as lot coverage which is set at 60% and not only includes the footprint of the main structure, but includes stoops, stairs, accessory structures, etc. Unless there are extenuating circumstances such as micro units coupled with a large lot and a height overlay to allow 5 stories, the density bonus becomes much less effective without a corresponding increase in certain space and bulk standards. This change would better align with the spirit of LD 2003 while limiting the bonus to a larger footprint (no change to setbacks or height).

7. Street frontage from private ways. While we acknowledge that Conservation Subdivisions can now obtain their legal street frontage from a private way, this development approach represents a small fraction of proposed developments, especially because Conservation Subdivisions appear to only be permitted within the RN-1 and RN-2 zones. We see a mutual benefit from a project being able to utilize private ways as their legal street frontage because it adds flexibility in a development proposal while not requiring the City to take over the street which includes road and utility maintenance, snowplowing, and garbage collection. We would encourage private ways to be eligible for legal street frontage across all residential zones, which is common practice in many municipalities across the State with the formation of a private road or homeowner's association.

8. 2-4 unit building cluster development. Presently in the RN-4, only one 2-4 unit structure is allowed per lot. To meet this requirement for larger lots, the lot would need to be subdivided and bifurcated with a 50 ft right of way to construct a public roadway in order to meet

individual lot (street) frontage requirements. Alternatively, the larger lot could remain whole with a cluster development, whose individual lot would meet all frontage, space and bulk requirements. The intent is that the cluster development would be served by a private driveway instead of a public right of way. By not requiring each 2-4 unit structure to be on an individual subdivided lot with public frontage, it would free up additional land for housing, open space, or preservation while reducing future public infrastructure maintenance costs. We would respectively request the Planning Board, working with Staff and their consultant, study this option.

Conclusion

While we are not trained planners, we are land development professionals who reference and study zoning codes across the State on a consistent basis. We have been involved as the engineer of record and permitting lead in dozens of multifamily and commercial projects in Portland, including the construction of over 1,000 new residential units, many of which are affordable housing projects funded by the Maine State Housing Authority who has additional standards and regulations on top of local zoning and building codes. As site engineers and permitting liaisons, we have a unique perspective seeing a project come together from early conceptual stages in a private setting, onto the public permitting process, and through construction. Based on this experience and our review of the draft code, we strongly urge the Planning Department and Board to consider our comments, which are grounded in Smart Growth principles, to allow for more flexibility and opportunities for the creation of housing.

We would be happy to further discuss any of these comments at your convenience.

Sincerely,

Samuel J. Lebel, P.E.
Project Manager
Acorn Engineering, Inc.

William H. Savage, P.E.
Principal
Acorn Engineering, Inc.

Attached: ReCode – First Wave Review Letter by Acorn Engineering, October 13, 2023

ACORN ENGINEERING, INC.

Planning and Urban Development Department
Attn: Nell Donaldson, Director of Special
City of Portland, Maine
389 Congress Street, 4th Floor
Portland, ME 04101

October 13, 2023

Subject: ReCode - First Wave Review

Nell:

We appreciate the opportunity to provide our collective feedback on the First Wave of ReCode.

Revisions:

- Strongly encourage increasing the 60% allowable Lot Coverage (which includes all structures on a lot including sheds/decks/balconies) in the RN-5 (previous R-6) to promote housing over parking. Stormwater management will still be held to the same standard and the allowable impervious area would not change. This revision would simply result in more housing.

- Strongly encourage increasing or eliminating the max 75' building length in the RN-5. This is a new dimensional standard and would negatively affect certain projects (especially those with a high ratio of lot frontage to lot depth) causing either a smaller building and thus less housing units, or would require the developer to build two buildings on one lot, which would be cost prohibitive in many cases because it is much less efficient to build 2 buildings vs 1. Instead, rely on the measures already in place such as stepbacks, height limits, and the City's Design Standards to guide the appropriate scale and massing. Ultimately, this new standard will result in less housing units being constructed, while creating a nonconforming condition for a multitude of projects that have already been constructed.

- Strongly encourage Table 18-C be revised to include height and setback bonuses for residential districts such as RN-5 so that affordable housing projects can have the tools they need to get enough floor area to support the density that's currently being promoted by the City and the State's new legislation under LD 2003, effective January 1, 2024.

- Encourage taller height limits across most zoning districts. This recommendation is due to the new average grade calculation. While the new definition/calculation does provide a more consistent measurement and makes sense from a policy standpoint, it will likely result in lower average grade planes, and thus shorter buildings. The recommendation for taller heights is also being made because of the need for housing and the limited horizontal space available on most lots available for multifamily development.

- Encourage allowing additional uses within the RN-5 such as office and small retail uses on the ground floor that have a similar (or less) impact than allowable uses in the B-1 zone with similar performance standards such as hours of operation. This provision does not compete with housing, but rather it encourages complete neighborhoods where certain goods and services can be accessed by foot or bike, while promoting mixed-use smart growth

development.

- Encourage increasing the 30% allowable Lot Coverage in the RN-6 (previous R-5a) to promote housing over parking.

- Encourage reducing the 10' rear setback in the RN-5 to 5' in tandem with an increased lot coverage allowance.

Questions:

- 6.4.26 Neighborhood Nonresidential Reuse
  - When would the effective date be for locking in an existing neighborhood nonresidential reuse? Does this make it an "existing structure" under this section?
  - Under 6.4.26.A, does an "existing structure that is nonresidential in its current use" include a building that has a principal use of housing, but a subordinate use of commercial?
- 7.4 Alternative Residential Development Options
  - Would the City consider Private Roads to meet the City Frontage requirements? Given the goals of this section, and potentially elsewhere, it may be advantageous for the City (and Developer) to construct a private street to provide access, utilities, stormwater, street frontage, etc while not being constrained to 50' ROW widths and technical standards. The ownership and maintenance of the private roadway would be the responsibility of a homeowner's association.

Closing:

Overall, we commend Planning Staff for all the hard work, reconciliation, and modernization of the codes. We believe that these revisions are generally headed in the right direction, but could benefit from some additional tools/flexibility to allow projects (particularly housing) to move forward at a time when we so desperately need to add housing stock to the City/State, albeit in extremely challenging construction and housing markets. Given the volume of work our firm has completed (and will complete) in the City of Portland, most often as the lead project manager and permitting agent, we have a unique perspective on how the various codes come together to influence redevelopment projects, and are happy to continue providing our time and insights in an effort to help produce the best possible version of the Zoning code that is both grounded in smart growth principles, yet flexible enough to allow projects that are consistent with the Comprehensive Plan to move forward and pencil out.

We would appreciate the opportunity to revisit these sections under the "First Wave" once the draft language for key ordinance sections such as Section 18.2 Affordable Housing, as well as the revised Zoning Map are available to review. We believe a comprehensive review as one complete code should ultimately be completed prior to formal adoption, otherwise a siloed approach could have negative, unintended consequences.

Sincerely,

Sam Lebel, P.E.
Project Manager
Acorn Engineering, Inc.

William H. Savage, P.E.
Principal
Acorn Engineering, Inc.

Comments 0 views

Sylvanus Doughty Jul 25, 2024, 4:40:26 PM (16 hours ago)

to recodep...@portlandmaine.gov

ReCode,

We are in North Deering.

We were away part of last year and were not aware of the public meetings regarding this process.

Nevertheless, I have reviewed much of the commentary and have a comment about R-3 zoning.

The area around Maine Avenue and Virginia Street (The Pines) or the State named streets, was platted 100 years ago as 30 foot increments (40 feet at corners) of frontage with 100 feet of depth. This in many cases resulted in 60 foot frontage lots of 6,000 Sq ft. While existing lots were grandfathered, with the arrival of zoning, R-3 imposed 65 foot frontages with 6,500 sq ft which obviously ignored the existing use pattern.

It can be noted that that area more resembles R-5 zoning with its 6,000 foot lots.

Respectfully,

S. W. Doughty

Planning and Urban Development Department July 25, 2024
City of Portland, Maine
389 Congress Street, 4th Floor
Portland, ME 04101

Attn:
Kevin Kraft, AICP, Director
Nell Donaldson, Deputy Director
Chair Mazer and Planning Board Members
Team ReCode

Dear Team ReCode Portland,

Thank you for your efforts to improve our city through zoning simplification and improvements. The current proposal is a terrific start and meets the moment in many ways. That said, it falls short as a forward-thinking roadmap to manage growth in a rapidly evolving city. Over the last decade Portland has felt the impact of in-immigration and re-urbanization. Coupled with increases in inclusionary housing requirements, rent control, anti-development/developer sentiments, a complicated and costly permitting process, large swaths of the city deemed historic, higher cost to borrow and build, and antiquated zoning, we find ourselves in a housing crisis of epic proportions.

To solve this, we must look for ways to immediately and dramatically increase housing supply, of all types and at all levels, to meet the demand of today and tomorrow. To do this, we must up-zone urban areas and transportation corridors and simplify and streamline the permitting process. The suggestions below come from a place of deep understanding and experience as a local developer, real estate agent, and student of land use and zoning. Through these lenses, I've taken a deep dive into the proposed changes under ReCode and offer the following improvements.

More height and density should be allowed along all major corridors and neighborhood centers. The current ReCode proposal calls for skyscrapers downtown. This is great but doesn't go far enough. And, only a few will ever be built. I suggest converting all current business B1-B4 zones to a new B5B zone. This would allow all B5 uses but provide a boost in height to 80' with 10' of allowable appurtenance. These activated roofs are perfect for residential use, solar panels, and more. This new zone simplifies an overly complex patchwork of business zones and allows for more height in existing commercial areas. Even in the proposed ReCode, sections of streets, very similar in nature, have a piecemeal of allowable uses. For example, inner Washington Ave between Congress and I-295 has four different B zones and a sliver of residential. This should all be B5B with an additional height bonus. My proposal incentivizes development in existing urban and busy locations and relives the demand to develop in residential zones.

Establish Prosperity Overlays along specific sections of our most traveled corridors and neighborhood nodes/centers where infrastructure and public transportation exist. The city wants to create complete neighborhoods where residents can walk to all they need for daily life. For centuries this is how we lived,

before the automobile and subsequent suburban sprawl. Numerous public policy research studies shows that complete neighborhoods are good for local businesses, public health, and the environment. We need to get back to the walkable, bikeable neighborhood centers our city enjoyed 100 years ago. And we can if we establish prosperity overlays. While ReCode does include some, these areas need to be expanded, the allowable heights increased, density improved, and the process for permitting streamlined. I would refer to these areas as B5BPO with all the allowable uses of the B5B above and additional bonuses of 100' with 10' overrides on roofs.

Streets to include:

- Forest Ave – from Congress to Warren Ave
- Washington Ave – from Congress to Veranda
- Washington Ave / Auburn St from Gertrude Ave to Lyseth Moore Dr
- Allen Ave from Forest Ave to Northport Dr
- Congress St – from Munjoy Street to the city limits
- Veranda St – from Baxter Boulevard to the city limits
- Presumpscot St – in its entirety
- Areas / Neighborhood Centers / Nodes
- ILB Zones – on the peninsula (a large portion of East Bayside)
- Approximately 400' along any major road off the following intersections: Woodfords Corner, Morrill's Corner, Bradley's Corner, Lunt's Corner, Brighton Corner and Nason's Corner

Note – many of these areas are historic districts, giving them additional protections. So, existing buildings in these historic areas would be protected, like most of Congress Street.

Edit the IL (industrial light), IM, IMB and IH zones to IL/B5. By some estimates, as much as 90% of Portland's landmass and 70% of the peninsula isn't zoned for multi-family or mixed use. Areas like East Bayside where we now find coffee shops, breweries, and shops are zoned IL (Industrial Light) and don't allow for residential uses. Off peninsula there are hundreds of acres zoned for industrial uses that lay fallow. My proposal opens vast tracts of vacant and underutilized land that lays in waiting for industrial users that may never come. Beyond this, the idea that we must keep commercial and light industry away from residential areas is antiquated. This separation was valid, justified and prudent 50-100 years ago, but not in this time of quieter and cleaner industry. Besides, we are not in a warehouse or industrial space crisis. We are in a housing crisis. So, let's open this land to development.

RN5 (formerly R6) is too restrictive! For context, this zone is in the most populated part of the peninsula and was intended to be the area where most of the residential real estate development and housing would be. In the last decade, what can be built in R6 was modified and made more restrictive. Beyond this, the majority of R6 was placed under historic preservation. This eliminated the ability to demolish neglected 1-2-3 families and replace them with larger buildings. It also added a level of complexity, expense, delays and oversight. Those seeking to build in these areas today, even on a vacant lot, must navigate the historic preservation board, which can take up to six months and cost developers tens of thousands of dollars. In fact, the current R6 is so limiting that many of the historic homes we all love could not be constructed today. The proposed RN5 down zones these urban residential areas and needs to be edited.

Edits to RN5 (formerly R6):

1. Reduce side setbacks to 10’ total with 2’ required on one side and 8’ on the other. This allows for a buffer on one side and a drive aisle on the other. This is the rhythm/layout of most of the current neighborhoods.
2. Reduce rear setback to 5’.
3. Allow 80% lot coverage that would include the primary structure and outbuildings and eliminate any reference to maximum building lengths.
4. Allow structures to be built to 60’. The current allowed height is 45’. This will allow for four stories and offset efforts underway to adjust/lower how we determine average grade. This also increases the likelihood of occupants in spaces with greater volume and those high ceilings we all love.
5. Allow 10’ for roof appurtenances. The current and proposed zoning does not address this and it’s a big miss. Past changes eliminated the ability to create activated, livable roofs with amenities like rooftop gardens with elevator and stairwell access.

Re-zone and sell city owned land for mixed use development. The city owns two golf courses. These could be used for more uses. There could be a RFT to establish a new community in this area with parks, playgrounds, trails, river access, housing, retail space and more.

Further develop the Portland technology park. Located off Rand Road, this 26-acre site was intended to lure businesses in the states growing life sciences industry. To date, only one of the seven sites has closed with two others under contract. Clearly this site, which has been underutilized over the last 13 years, should be put to its highest and best use. Let’s turn this into a mixed-use development of housing, office, warehouse, and what I’m calling IL/B5. This would be the perfect place for people to live, work, and play, just what residents and businesses want.

Simplify & Streamline Permitting - From Historic and Planning Board approvals to permit in hand, this process needs to be simplified and streamlined.

Establish Pre-Approved Development Types. These would bypass public meetings, both historic and planning board approvals, and receive a building permit upon Planning staff approval.

Thank you for taking the time to read my comments and for your tireless work.

Broker/Owner
tomlandry@benchmarkmaine.com
207-939-0185

WRITTEN TESTIMONY BY PEGGY SHAFFER, Ph.D.
RECODE POLICY GUIDELINES FOR PROPERTIES ADJACENT TO AND ABUTTING ROS ZONES
PLANNING BOARD WORKSHOP (7/30/24)

Introduction: The purpose of this written testimony is to examine the impact of Portland ReCode recommendations on ROS zones. Phase II of ReCode does not address the impact of increased zone height recommendations on Portland's signature parks, which were designed to showcase and protect the quintessential scenic vistas that define landscape of the city. Portland 2030 identifies Parks and Open Space as a one eight key policy guidelines. What follows is a case study analysis of a designated section of the Eastern Promenade Park, which will be significantly impacted by proposed zoning changes on Washington Avenue.

I base my analysis on 30 years of experience as a professor of environmental history with research and teaching expertise in the history of public parks and outdoor recreation. I am the author of numerous articles and a historical monograph, which address the history of parks and scenery.

Summary of Analysis: This analysis is organized as follows:

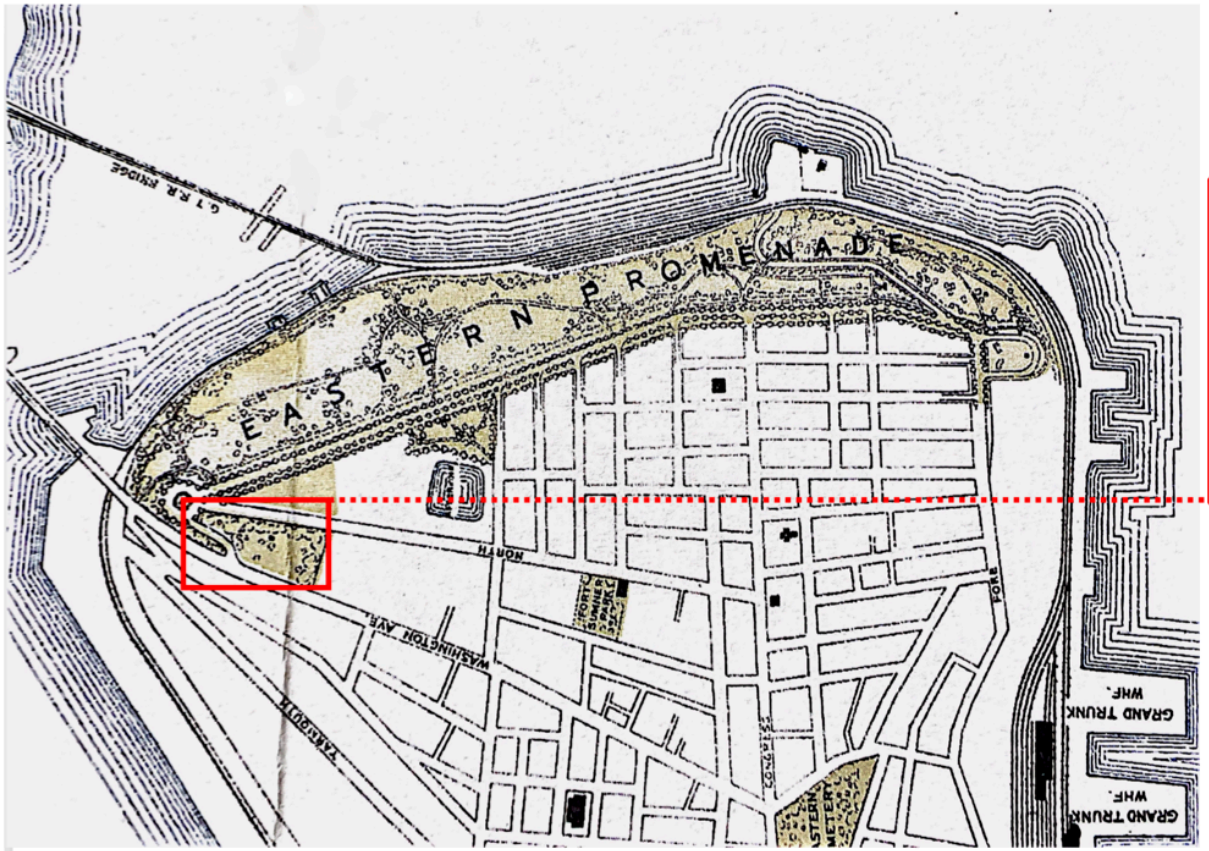
- Overview of current zoning around Eastern Promenade-Washington Avenue
- Historical Significance of the Eastern Promenade Park
- Analysis of Recreation & Open Space Policy Guidelines
- Case Study of Impact of ReCode Zone Change on Eastern Promenade-Washington Avenue Section of Eastern Promenade Park—including shadow analysis and view corridor analysis
- Recommendation for a proposed Eastern Promenade-Washington Avenue Height Overlay
- Petition in progress in support of a proposed Eastern Promenade-Washington Avenue Height Overlay

EASTERN PROMENADE-WASHINGTON AVENUE
PORTLAND RECODE IMPACT ANALYSIS

Portland Land Use Code
Current Zoning Designations for Eastern Promenade-Washington Ave Section

As the city works to increase density and create more multifamily housing on the peninsula, it is more important than ever to provide breathing space and a shared backyard for the public. As such, it is essential that policies designed to address the housing crisis must simultaneously preserve, protect, and expand our signature parks, notably the Eastern Promenade.

HISTORICAL SIGNIFICANCE OF EASTERN PROMENADE PARK



Eastern Promenade-Washington Ave Area

City of Portland ME. General Plan for Park System – Eastern Promenade
Olmsted Brothers Landscape Architects
Brookline Mass. June 1905

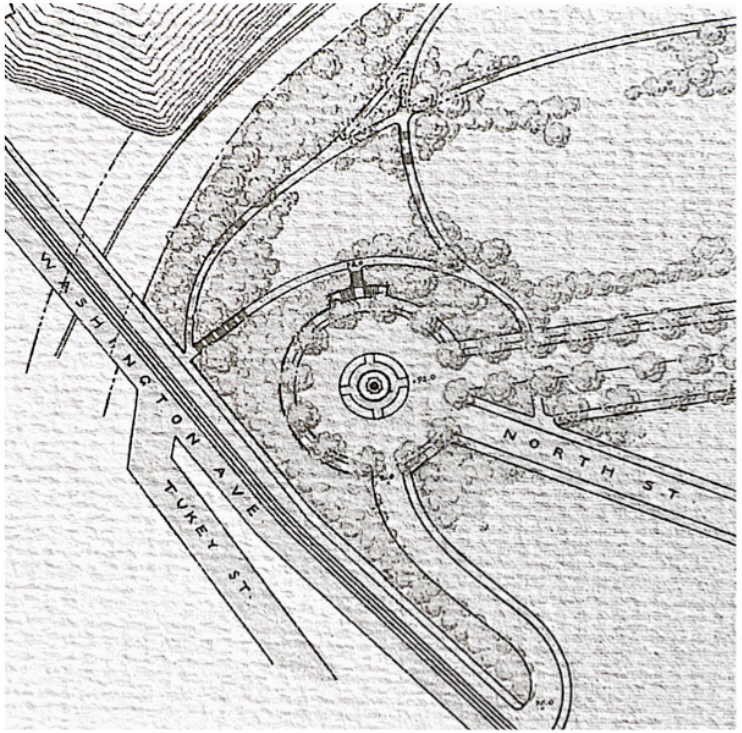
"… let us all unite to secure for ourselves and for our children a beauty spot in the midst of our growing city—a breathing place for all the thousands who are to come after us." (Portland Transcript, 1856)

The Eastern Promenade was first created in 1837 as a scenic drive around the edge of Munjoy Hill, stretching from Fore Street to Washington Avenue. Over the next 70 years, the surrounding park slowly began to take shape. In 1905, the city of Portland hired the Olmsted Brothers Landscape Architecture firm to improve the Eastern and Western Promenades as part of an integrated park system for the city.

On October 5, 1909, Portland City Council and the Mayor agreed that the Eastern Promenade consisted of "all that portion of land lying between Atlantic Street and Washington Avenue, including the roadways, walks, paths, lawns and slopes, and including street know as Cutter Street and East Cutter Street, and East Commercial Street; also portion known as Northern Concourse and roadways, walks, paths, lawns, and slopes between Northern Concourse [Loring Memorial} and Washington Avenue." (*City of Portland Annual Report, 1909*) Over the next century, the Park expanded to include commemorative monuments, playgrounds, ball fields, tennis courts, picnic grounds, a public beach, a bathhouse, a swimming pool, recreational and commercial boat ramps, a bandstand, an ice rink, sledding hills, and community gardens.

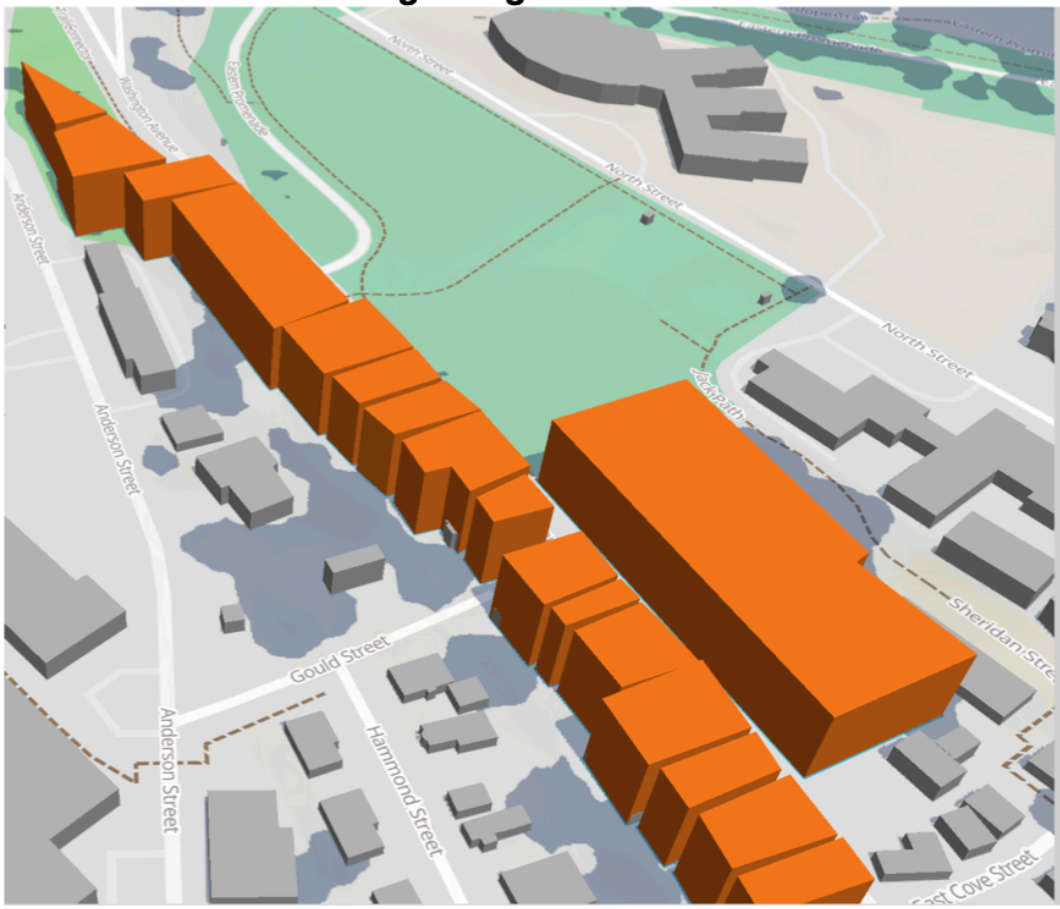
In 1989 the Eastern Promenade was nominated to the National Register of Historic Places. "The Eastern Promenade," as The 2004 *Eastern Promenade Master Plan* concludes, "was and still is considered by many as Portland's most important character defining public open space."

In their 1905 design for the Eastern Promenade, the Olmsted Brothers fully integrated the northern section of the Eastern Promenade into the park with the design of the Northern Concourse, which is now home to the Loring Memorial. Constructed between 1905 and 1906, the Northern Concourse anchored the north end of the park, and with its circular design, it enhanced the almost 270 degree views to incorporate Mt. Washington, Back Cove, and the Portland City Skyline, which at the time included Portland City Hall and the Cathedral of the Immaculate Conception (both of which are currently protected in the Washington Avenue view corridor.)

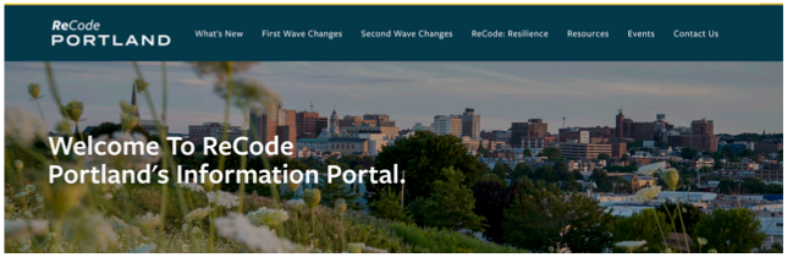


In addition, the Northern Concourse design incorporated the northern, western, and southern slope enclosed by North Street, Eastern Promenade, and Washington Avenue. Reviewing the 1905 Olmsted plan, Park Commissioners noted that, "quite an important change has been made at the northerly end of the driveway at the Eastern Promenade by the building of the Concourse at this point to intersect with Washington Avenue." This critical component of the Olmsted plan was specifically designed to link the Eastern Promenade to Back Cove and further define an integrated Portland Park System. During the early twentieth century, in addition to the paths, lawns and benches, this section of the park included a skating rink and sledding hill.

Portland ReCode Zoning Designations B2-b for Eastern Promenade-Washington Ave Section



ReCode Zone B2-b
Portland ReCode Upzoning from B1 (45 ft. building height) to B2-b (65 ft. building height). This image shows the maximum lot development on the lots adjacent to and abutting the park.
Note: Workforce Housing (WFH) Bonuses allow building heights to increase to 75 ft. with 25% WFH and to 90 ft. with 75% or more WFH



Zoning changes proposed as part of Portland ReCode will negatively impact the western end of the Eastern Promenade Park (Recreation & Open Space Zone ROS), which includes the southwestern facing slope between North Street and Washington Avenue. The proposed zoning changes in ReCode will increase height and density guidelines for those lots abutting and adjacent to this section of the Eastern Promenade. Specifically, the 9 lots directly across Washington Avenue, which are currently zoned B1-b (45 foot height limit) will be rezoned to B2-b (65 foot height limit); and the lot that abuts the end of the park next to the Mt. Joy Orchard will be rezoned from B1 (45 foot height limit) to B2-b (65 foot height limit). Note that these height limits do not take into account Workforce Housing height bonuses, which will allow building heights of 75 feet with 25% workforce housing (WFH) and 90 feet with 75% or more workforce housing (WFH). These zoning changes will not only obstruct the expansive views from the park, but they will also negatively impact the experience of the park and the physical landscape.

Phase II of Portland ReCode does not address the impact it will have on properties throughout the city zoned ROS.

Recreation & Open Space Policy Analysis

Increased housing density goals of ReCode make Recreation & Open Space zones (ROS) all the more important, given that most of the new housing units will be multifamily without private yard space.

The purpose of the Recreation & Open Space zone is: "To preserve and protect open space as a limited invaluable resource; to permit the reasonable use of open space, while simultaneously preserving and protecting its inherent open space characteristics to assure its continued availability for public use as a scenic, recreation, and conservation or natural resource area….and to develop an open space system throughout the city, which provides the highest quality parks, plazas, and pedestrian environment." (Portland Land Use Code Table 5-G: Open Space Zone Purpose Statement).

The parks and greenspaces protected in the ROS zone serve as public backyards where residents and visitors have access to greenspace, sunlight, views, nature, and recreational space. The Eastern Promenade-Washington Avenue section of the Eastern Promenade Park supports year-round activities associated with these amenities including community gardens, an outdoor garden and classroom, the Mt. Joy Orchard, wildflower meadows, a sledding hill, and viewing benches.

Recreation & Open Space Guidelines

Policy guidelines for Recreation & Open Space are multifaceted, addressing scenic resources, greenspace, recreational spaces, public health, economy, and environment among other goals. The guidelines note:

> "Being virtually encircled by water, Portland owes much of its beauty to the surrounding water bodies, including freshwater rivers, the ocean, a working harbor and an enclosed cove. Portland's waters were recognized early in the city's history as scenic resources."

Stated Recreation & Open Space goals include:

- Preserve the intrinsic values of the park and open space system, including historic resources, vistas, healthy ecosystem functions, and biological diversity.
- Provide high-quality, well-designed, well-maintained, safe, and integrated parks, trails, public open spaces, and recreational opportunities accessible to all residents. Encourage physical and visual access to Portland's waterfront — Casco Bay, Back Cove, and the Stroudwater, Presumpscot, and Fore Rivers — as a "blueway" network and an extension of public space for local and regional recreation and transportation needs.
- Promote scenic resources

The western end of the Eastern Promenade, situated between North Street and Washington Avenue, offers expansive views of Back Cove, the Portland city skyline, and Mt. Washington. (Fig. 2) Throughout the year, residents and visitors come to the park, which is also home to the North Street Community Garden, the East End Community School Garden and Outdoor Classroom, and the Mount Joy Orchard, to enjoy the expansive vistas or watch the sun set over Back Cove. Fort Sumner Park, which sits on North Street to the east has a park overlay (Land Use Code Section 8.3) that protects similar quintessential views of the dynamic Portland landscape.

As the "Park Equity" Map in the appendices of the *Portland 2030* shows, the western end of the Eastern Promenade and Jack Path are part of an extensive trail, park, recreational space, and pedestrian landscape that links to Back Cove trail and parkland, East Bayside and West Bayside trails, the northeastern end of the Portland waterfront, and Ft. Sumner Park.

Multifaceted recreation & open space zones, like that encompassed by the Eastern Promenade Park, are integral to key ReCode goals related to increased density, walkable cities, and climate resilience.

Case Study of Impact of ReCode Zone Change on Eastern Promenade-Washington Avenue Section of Eastern Promenade Park

The Eastern Promenade-Washington Avenue section of the Eastern Promenade Park is a multifaceted recreation and open space landscape that includes community gardens, an outdoor garden and classroom, the Mt. Joy Orchard, wildflower meadows. Jack Path and Back Cove Trail intersect in this section of the park. It is a highly used space throughout the year. Families and children walk to the East End Community School via Jack Path when school is in session. Dog walkers and runners use the trail systems daily. Visitors and residents come to the park to enjoy the sunset over Back Cove. Gardeners use the park during the spring, summer, and fall months, and sledders use the park during the winter months.

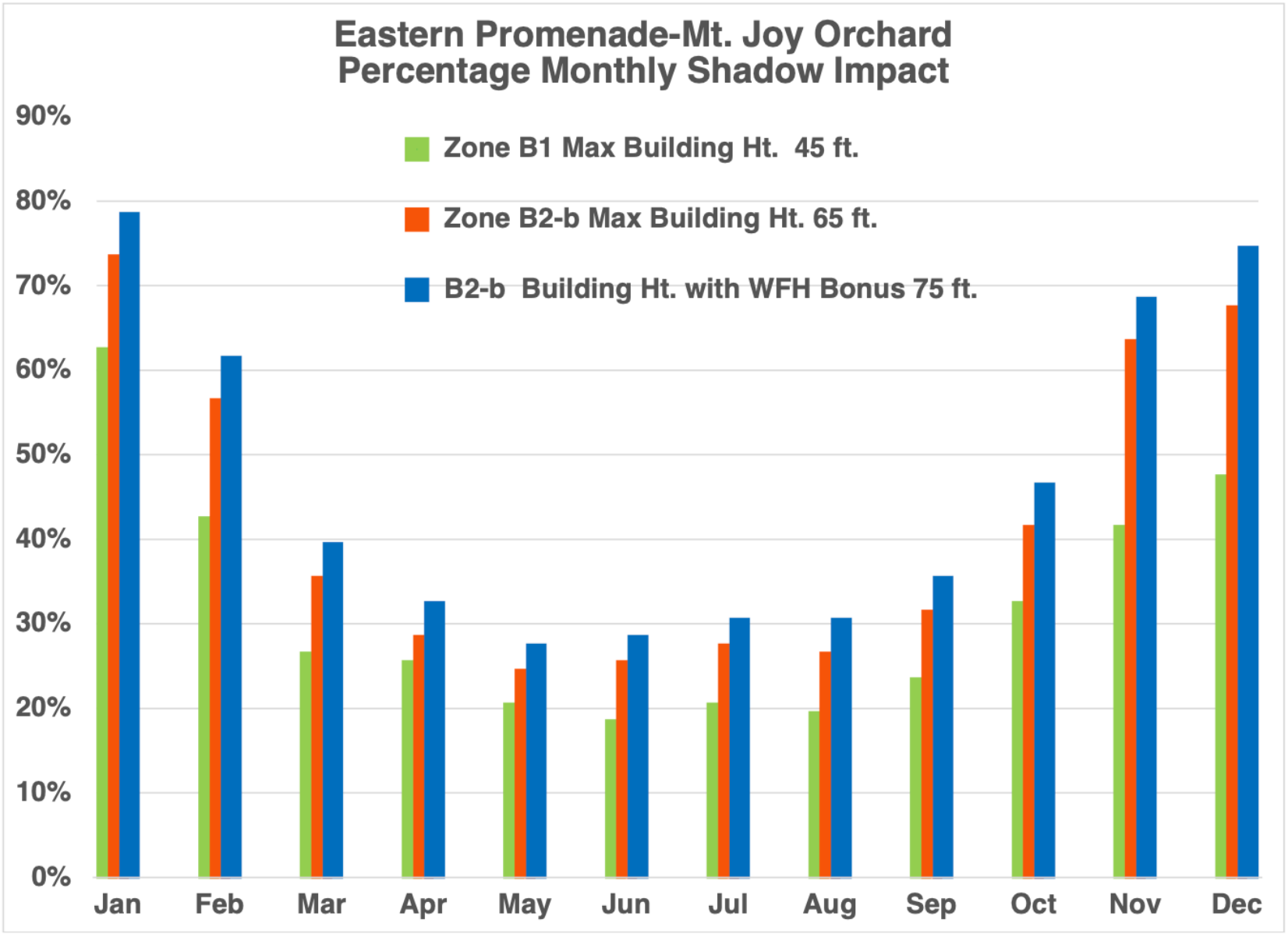
Upzoning the properties adjacent to and abutting this section of the park will have a significant negative impact on the landscape and experience of the park. Specifically, sunlight hours in the park will be affected throughout the year, and the majestic and expansive views, for which the park was originally designed, will be significantly altered. Most notably, the views of Back Cove and the city skyline enhanced by the 1905 Olmsted design will be sunstantially obstructed.

Shadow Impact Analysis

An analysis of the shadow impact of lots developed to the maximum size in ReCode B2-b zone with 25% workforce housing shows that 20% or more of the park area occupied by the Mt. Joy Orchard will be in shadow for over 45% of the total daylight hours during the fall and winter from October through February. (See representative shade graphics below).

Designated Park Area for Shadow Impact Analysis

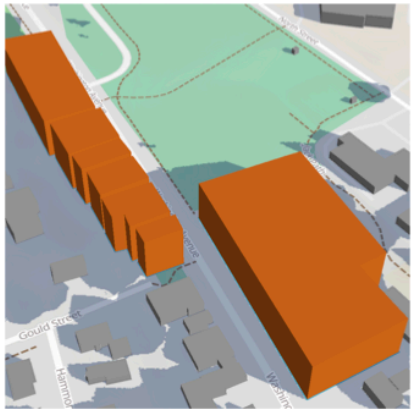
Blue area represents 20% of designated park area.
Shadow impact is defined as ≥ 20% of designated park area


Eastern Promenade-Mt. Joy Orchard
Percentage Monthly Shadow Impact
Zone B1 Max Building Ht. 45 ft.
Zone B2-b Max Building Ht. 65 ft.
B2-b Building Ht. with WFH Bonus 75 ft.
90%
80%
70%
60%
50%
40%
30%
20%
10%
0%
Jan
Feb
Mar
Apr
May
Jun
Jul
Aug
Sep
Oct
Nov
Dec

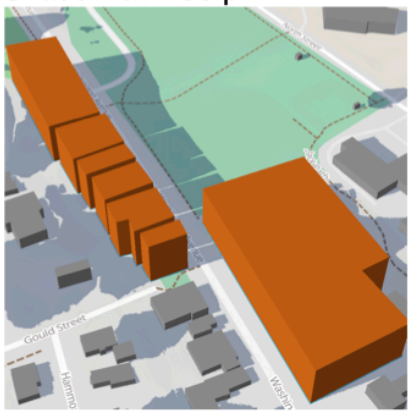
8

Shadow imagery during the morning and afternoon at Fall Equinox (September 22), Winter Solstice (December 21), Spring Equinox (March 20) and Summer Solstice (June 21

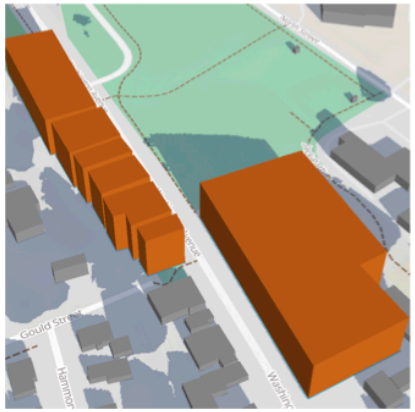
Fall Equinox Morning Shadow at 9:00 am



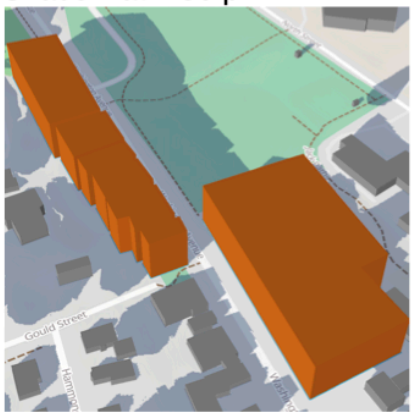
Fall Equinox Afternoon Shadow at 4:30 pm



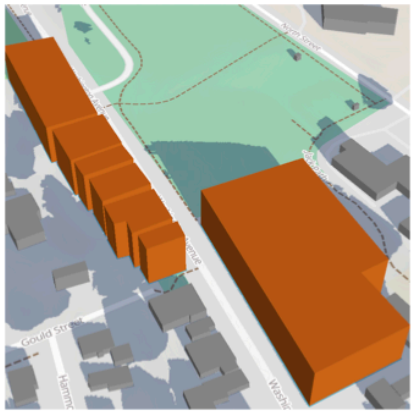
Winter Solstice Morning Shadow at 10:00 am



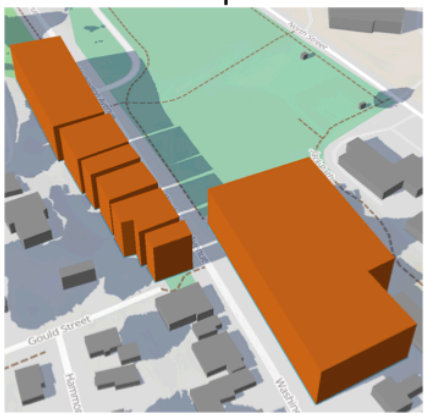
Winter Solstice Afternoon Shadow at 2:30 pm



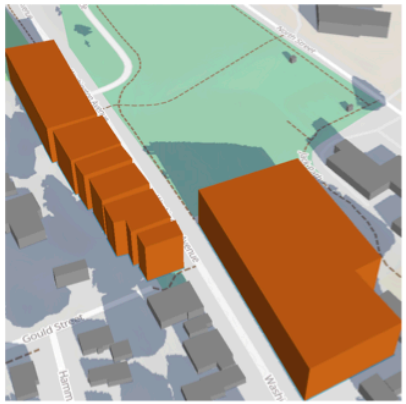
Spring Equinox Morning Shadow at 9:00 am



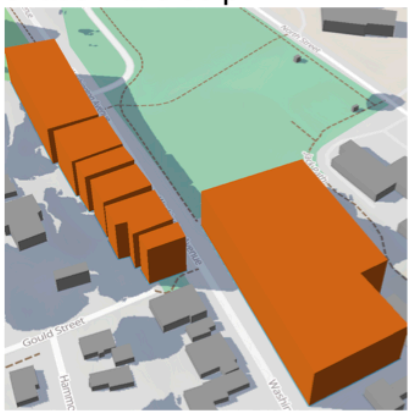
Spring Equinox Afternoon Shadow at 4:30 pm



Summer Solstice Morning Shadow at 9:00 am



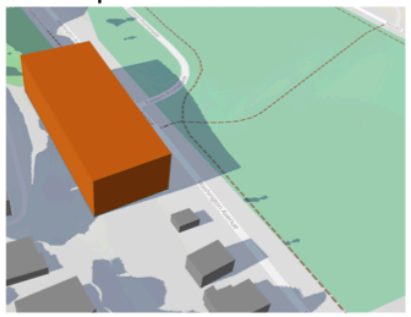
Summer Solstice Afternoon Shadow at 5:30 pm



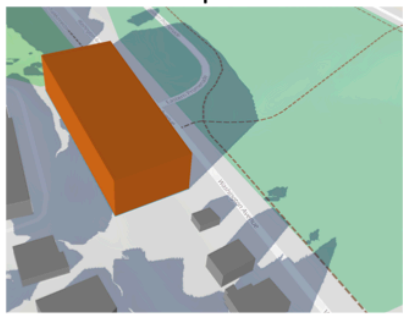
Shadow imagery of the designated park area shows that the park experience will be significantly impacted by building shadows under the proposed B2-b zoning guidelines During the winter months 20% or more of the designated park area will be in shadow for almost half of the daylight hours. During the spring and summer months 20% or more of the designated park area will be in shadow for almost a third of the daylight hours. The designated park areas will experience significant building shadow in the morning and afternoons.

At present, Eastern Promenade-Washington Avenue is not significantly impacted by building shadow. The new 45-unit condominium project at 218 Washington Avenue, which is 55 feet including roof appurtenances partially obstructs views of Back Cover and it creates some afternoon shadow in the park. However, shadow from this building at summer and winter solstice and fall and spring equinox shows that the shadow impact from this building is below 20% of the designated park area during peak shadow times.

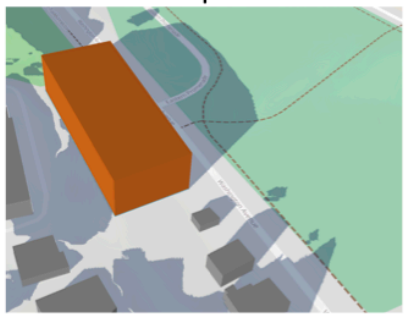
Fall Equinox Afternoon Shadow at 4:30 pm



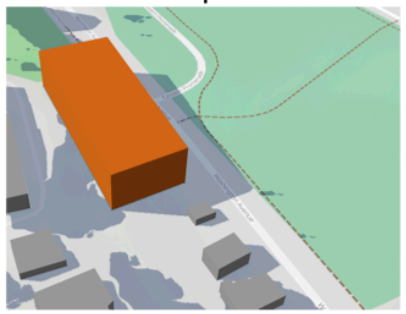
Winter Solstice Afternoon Shadow at 2:30 pm



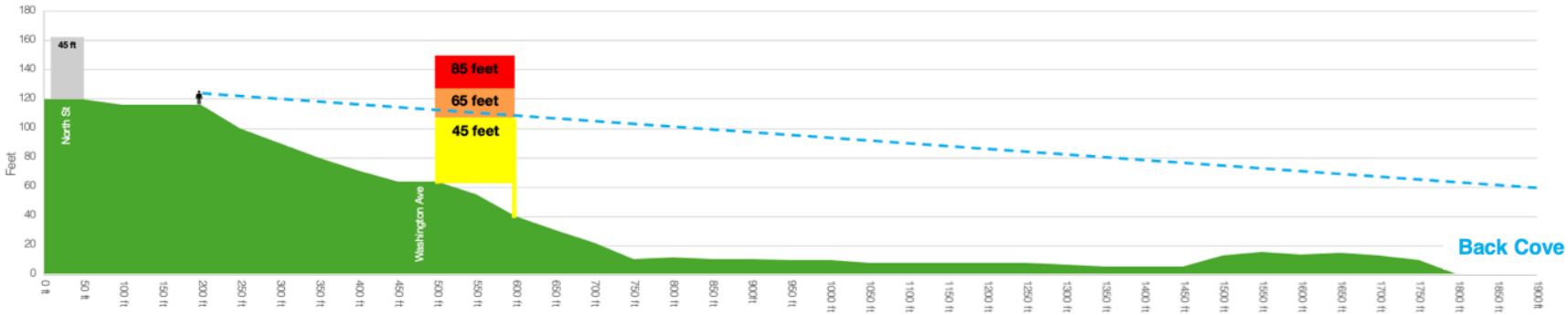
Spring Equinox Afternoon Shadow at 4:30 pm



Summer Solstice Afternoon Shadow at 5:30 pm



Park View Impact Analysis



Although people now conflate the Eastern Promenade street with the Eastern Promenade Park, as originally conceived in 1837, the Eastern Promenade was created as a scenic drive—a roadway—designed to showcase the majestic and expansive views of Casco Bay and Back Cove. It was a pedestrian recreational space where urban dwellers could walk or ride taking in fresh air, enjoying the scenery, and connecting with their neighbors. Over the next 70 years, land adjacent to the road was purchased by the city to create the park and protect the scenic views.

Guided by the principles of urban landscape planning formulated by Frederick Law Olmsted, who sought to balance dense urban centers with carefully curated park landscapes, the 1905 plan for the Eastern Promenade Park sought to enhance and protect the original intent of the road and park design. The Olmsted firm well understood the recreational, therapeutic, environmental, and economic value of scenery.

As noted earlier, the Northern Concourse was one of the key elements of the 1905 Olmsted Plan, and its purpose was to integrate the northern, western, and southern slope between the Eastern Promenade, North Street, and Washington Avenue and to expand the scenic views to encompass Back Cove and the Portland city skyline. These dynamic scenic views are the defining feature of the Eastern Promenade Park that provide the basis for its inclusion on the National Register of Historic Places.

At the June 5 Planning Workshop, Planning Director Kevin Kraft stated that as part of ReCode the Planning Department will recommend the 9 lots directly across Washington Avenue from the Park, which are currently zoned B1-b (45 foot height limit), be rezoned to B2-b (65 foot height limit); and the lot that abuts the end of the park next to the Mt. Joy Orchard be rezoned from B1 (45 foot height limit) to B2-b (65 foot height limit). Note that these height limits do not take into account Workforce Housing height bonuses, which will allow building heights of 75 feet with 25% workforce housing (WFH) and 90 feet with 75% or more workforce housing (WFH).

Upzoning the properties adjacent to and abutting the park in the area between North Street and Washington Avenue will significantly obstruct the expansive views from this section of the park.

View of Casco Bay taken from the Stone table behind the East End Community School Garden and Outdoor Classroom

218 Washington Avenue, a 4-story condominium, is 55 feet tall including rooftop appurtenances. The view of Back Cove from the top of the hill above Washington Avenue is partially obstructed by this building. A building of 65 feet or more would completely block the view of Back Cove from the park, thus altering the original design and impinging on the park landscape. In addition, views looking back to the city skyline, which encompass the spire of the Cathedral of Immaculate Conception and the dome on Portland City Hall, will also be impeded.

These view corridors are signature components of the park design. They serve as a park amenity that draws residents and visitors alike. More than a century ago, Olmsted well understood that growing urban populations and increased housing density demanded open spaces to serve as public backyards, where people had access to sunshine, greenspace, scenic vistas, and recreational space. ReCode must address this integral connection between increasing density and the need for park space. ReCode must articulate clear zoning policy guidelines that protect and preserve the signature of amenities of Portland's comprehensive park system.

The Planning Board should request amendments to ReCode that will restrict height limits around Portland's signature parks, specifically the Eastern Promenade, to protect and preserve the integrity of the park into the future.

Proposed Eastern Promenade-Washington Avenue Height Overlay.

Notably, Portland's current comprehensive plan includes a precedent and model for protecting open space and providing guidelines for proper scale in a very analogous situation—the Fort Sumner Park Height Overlay (section 8.3)—less than three blocks away on North Street.

Citizens in support of the Eastern Promenade-Washington Avenue Park are working to develop an application for an Eastern Promenade-Washington Avenue Height Overlay. We also are circulating a petition to ask Portland City Council, the Planning Department, and the Planning Board to preserve and protect the open space and majestic views of the Eastern Promenade Park as the city works to increase density and address climate change through Portland ReCode.

Respectfully submitted:
Peggy Shaffer, Ph.D.
223 Sheridan St.
Portland, ME 04101
Cell phone: (513) 658-6047
E-mail: shaffems@gmail.com

Citizen Petition:

Protect the Western End of the Eastern Promenade Park: home to North Street Community Gardens, the East End Community School Outdoor Garden & Classroom, the Jack Path Trail, and the Mt. Joy Orchard.

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Name	Address	Signature	Phone #	E-Mail
Seth des Rosiers	12 Poland St	[signature]	207 838 5115	sethdesrosiers@gmail
Paola Araujo	12 Poland St	[signature]		
Tom Pulling	80 Melbourne St	[signature]	~~207~~	tpullingfahn@gmail.com
Sam Cosgrove	1 Sumner crt	[signature]	—	—
Alexandra Barzin	1 Sumner Court	[signature]		
Jake Gold	88 Canal St	[signature]		
Wan Qi Kong	88 Canal St	[signature]		wanqikong@icloud.com
Savannah Davis	305 Melba St	[signature]	254-760-1482	savvy3301@gmail.com
Jennifer Davis	9797 E U.S. Hwy 110	[signature]	254 760-7144	Brooksdavis@aol.com
Cheryl Heeman	37 Savoy St	[signature]	—	—
Beth Snyder	81 North St.	[signature]		snyderbes@gmail.com
Nathan Finberg	42 Morning St	[signature]	—	nathan.finberg@gmail.com
Betts Mayer	211 Sheridan St	[signature]	207-749.2246	bettsgmayer@gmail.com
Rhonda Green	156 Sheridan St.	[signature]	617.449.8511	rhondagreen88@gmail.com
Douglas Sax	229 Sheridan St	[signature]	207.807-8582	dsax100@gmail.com

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Name	Address	Signature	Phone #	E-Mail
Cole Watson	20 easy Street Mount Desert	[signature]	(207)-610-0335	watsoncolcb@gmail.com
Keith Taylor	11 N. Street #2	[signature]	978-578-3681	hellalcoke@yahoo.com
Erica England	11 North St #2	[signature]		
Jim Cole Eliot	Cole 45 Montreal	[signature]	207 871-4898	jimkcole@gmail.com
Diane Ly	1 North St #3	[signature]	858-229-8133	
Nick Lesser	1 North St. #3	[signature]	347-782-3700	
Christopher Stewart	81 North St.	[signature]	207 712 4402	Stewart.Christopher.F
Leslie Stewart	63 Melbourne	[signature]	423-762 2596	lstewart145@Bellsouth.net
Robert Derry	63 Melbourne	[signature]	207-653-5950	Robertderry@gmail.com
Bennett Jacks	223 Sheridan St.	[signature]	513-658-0925	BENMJ223@GMAIL.COM
Dylan Hertzberg	176 Coyle St.	[signature]	262-328-5144	dylanhertz@gmail.com
Elizabeth Owens	197 Sheridan St.	[signature]	207-751-8646	eliza.owens23@gmail.com
Stephanie Doyle	43 North St	[signature]	207.318.6254	
Donna Williams	85 Machigonne St.	Donna Williams	207 838-7217	donnawilliams1727@gmail.com
Steven Williams	"	Steven Williams	"	" "

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Name	Address	Signature	Phone #	E-Mail
Ellen Gilliam	36 Wellstone Dr	Ellen Gilliam	576-3973	elbwg7@gmail.com
Marianna Pratt	224 Sheridan St	Marianna Pratt	400-1020	Mariannapratt@gmail.com
Elizabeth Hays	107 Noran St.	Elizabeth Hays	207-441-4653	lizchays@gmail.com
Nancy Mackesey	273 Sheridan St	Nancy Mackesey	207-653-0666	dmackes101@aol.com
Bernard Pollak	225 sheridan St	Bernard Pollak	203-984-1833	bPollak648@yahoo.com
Betty Lorber	225 Sheridan St	Betty Lorber	2075239951	betty.lorber@gmail.com
Leslie Hart	215 sheridan St	Leslie Hart	917 364 3682	blesliehart@gmail.com
Kevin Schochat	215 Sheridan St	Kevin R. Schochat	917 597 4154	kevin@kevinschochat.com
Lynne Howard	77 congress St		908 2099567	lynne.howard@gmail.com
RICHARD RINGENBACK	284 DANFORTH ST. APT. 806	Richard Ringenback	(207) 791-7400	ringenbacke@yahoo.com
Marianne Chapman	33 Melbourne St	Marianne Chapman	207 775-0284	mychapman@maine.rr.com
Joel Chapman	33 Melbourne st	Joel W. Chapman	207-775-0284	jchapman9@maine.rr.com
Nora Daoud	401 Cumberland Ave #701	Nora Daoud	-	-
GAIL DAWSON GRAY	95 Park St 04101	Gail Dawson Gray	207 780 8172	fromaway9@aol.com
Elizabeth A Streeter	66 Quebec St 04101	Elizabeth A Streeter	207-409-4559	streeter.beth@gmail.com

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Name	Address	Signature	Phone #	E-Mail
Sondra Bogdanoff	74 Lincoln St, Portland	Sondra Bogdanoff	207-318-5123	
JOAN LEITZER	25 MONUMENT ST. "	Joan Leitzer	207-233-2666	
NANCY BRAIN	118 CONGRESS ST	Nancy Brain	207-776-3525	
ANN CASADY	205 SHERIDAN ST.	Ann Casady	207-450-4745	anncasady@yahoo.co
Peter Pitegoff	205 Sheridan St	[illegible]	207-615-6334	
DANA HERWOOD	1057 OCEAN AVE.	[illegible]	207 523-0230	
Mary Casale	39 Waterville St	Mary R Casale	207-210-7810	
Beth Sorensun	81 Danforth St.	B. Sorensun	207.318.0579	bethsorensun64@gmail
Jacquelyn Pisano	71 Sherman St.	J Pisano	(207)756-3991	
Kate Murray	91 Beckett St.	Kate Murray	207-747-8159	czmurray@yahoo.com
Patty Jo Walton	107 Walnut St	Patty Jo Walton	207 749-5209	
Robert Butt	880 Forest Ave.	Robert Butt	207-756-2916	
Kathleen Bender	11 North St	KATHLEEN BENDER	207 239 6380	
Melissa Lavoie	Standish, ME	[illegible]	207 551 6636	melissa.lavoie@opportunityalliance.org
LEYLA Wilson	L. Wilson Portland, ME	L. Wilson	207 3875859	

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	Name	Address	Signature	Phone #	E-Mail
1.	Claire Fitts	79 Winnocks Neck Scarborough	Claire M Fitts	400-0920	
2.	Charlie Fitts	"	"	510-7650	
3.	Barry Tibbetts	2 Abbi lane Scarborough, TE			
4.	Joanne Tibbetts	2 Abbi Lane Scarb	Joanne Tibbetts		
5.	Elizabeth Waldo	33A Columbia Ave Brunswick	Elizabeth C Waldo		
6.	Jonathan Waldo	33A Colombia Ave, Brunswick	Jonathan D Waldo		
7.	Rachel Roberts	33 Melbourne St.	Rachel L Roberts	207-775-0284	Chapman r146 @gmail.com
8.	Jaye Gorham	20 Essex St Portland	Jaye Gorham	207-671-7430	jaye@portsidereg.com
9.	Jean McManamy	10 Willis St	[illegible]	207-329-1232	ninimaine@aol.com
10	David Cowie	32 North Street	David Cowie	207 318 1810	dcowie@maine.rr.com
11	Lynne Cooper	410 Dufour St	[illegible]	831-818-1740	
12	Louise Little	32 North St. Pltd	Louise B. Little	207-329-7671	louise.little55@gmail.com
13	Leao Nelson	4 Bryn LN North Yarmouth	[illegible]	~~20~~	
14	Alex Bachmann	4 old landing road, NH	[illegible]	2072720645	
15	Hermann Brenhoff	12 Brendun Ln	[illegible]	207 412 3603	

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Name	Address	Signature	Phone #	E-Mail
Mona Dahan	401 Cumberland Ave	[signature]	2077769867	
Amy Freedberg	9 Willis St	[signature]	617-797-8349	
PEGGY SHAFFER	223 SHERIDAN ST	[signature]	513-658-6047	SHAFFEMS@gmail.com
Kira Shepard	5 Brookside Dr	[signature]	(207)450-0396	KShepar1@skidmore.edu
Doug Faherty	197 Sheridan St	[signature]	207 751-5401	rdougfaherty@gmail.com
Ann Marie Ray	158 North St	[signature]	207 756-2368	AMRay304@gmail.com
Bradley S Peacock	217 Sheridan St.	[signature]	312 371 7833	bpeacock@peacocknine.com
Shannee Sax	229 Sheridan St.	[signature]	207-807-8582	SS@hmpayson.com
Fulton Rice	92 Cumberland Ave	[signature]	~~[illegible]~~ 207-232-7215	fultonrice@gmail.com
Danielle Lester	92 Cumberland Ave	[signature]	207-232-4306	cllcinad532@yahoo.com
Joseph Rorick	196 Sheridan Street	[signature]	607-228-7868	Jrorick@Ithaca.edu
Michael Walsh	151 North St	[signature]	207 830-4567	

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Name	Address	Signature	Phone #	E-Mail
Porter Galvin	196 Sheridan apt 1 Portland ME		207-319-3002	galvinporter@gmail.com
Tracy Peacock	217 Sheridan st		312-890-6144	tracy.peacock@gmail.com
Deborah Cole	71 Walnut St		207 754-5853	debcole103a@gmail.com
Julia Kutcher	117 Quaker Ridge Rd		401 241 9079	juliakutcher8@gmail.com
Abdullah Habbi	138 New Gloucester Rd Apt 4		207 703 5232	abdullahhabbi.habbi@outlook.com

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Name	Address	Signature	Phone #	E-Mail
Geshri Gunasekera	202 Sheridan	[signature]	413-441-8189	geshri@gmail.com
TERRY ROBINS	206 Sheridan St	[signature]	424-333-5443	trobins90230@gmail.com
Susanne Robins	206 Sheridan	[signature]	310-529-7673	suc@ascendfs.com
R.L. Morse	208 Sheridan	R.L. Morse	508-574-1870	rmorse52@yahoo
Mary Morse	208 Sheridan	Mary Morse	508-572-4393	mrsm1359@outlook.com
Shelly OAKES	210 Vaughan St.	[signature]	207.229.740	sheshee8@yahoo.
Karley Bassett	81 Gray St.	[signature]	207-807-8628	karley.bassett@gmail.com
Benjamin Semel	198 Park Ave	[signature]	561-573-4094	benjsemel@gmail.com
James Becker	40 Portland Pier #17	[signature]	207-536-0497	dimsumjb1@gmail.com
Randal Rucker	40 Portland Pier #17	Randal Rucker	207-556-0497	"
Kathleen Dockry	401 Cumberland Ave Apt 709	Kathleen Dockry	832-257-9597	kdockry100@gmail.com
John Rudoy	202 Sheridan St	[signature]	845-264-5419	JOHNRUDOY@gmail.com
Bill Rasmovic	156 Sheridan St	[signature]	917 628 7455	bcasmovic@gmail.com
Anita Stewart	23 OBRION ST	Anita Stewart	207 832-1210	astewart@portlandstor.org
HEATHER CURTIS	200 Sheridan St.	Heather Curtis	978-273-0421	TONTA HEATHER@YAHOO.COM

Citizen Petition:

Protect the Western End of the Eastern Promenade Park: home to North Street Community Gardens, the East End Community School Outdoor Garden & Classroom, the Jack Path Trail, and the Mt. Joy Orchard.

- As the city of Portland revises its land use policies to increase density and address climate change, we the undersigned request that Recode Portland preserve and protect the open space and majestic views of the Eastern Promenade-Washington Avenue section of the Eastern Promenade Park.
- Parks and open spaces in Portland must be protected as **limited invaluable resources** into the future as the city works to increase housing density on the Portland peninsula.
- **Following the example of Fort Sumner Park, we support the establishment of an Eastern Promenade-Washington Avenue Height Overlay Zone to protect the public interest by limiting the impact of development on the quintessential views of natural resources and the changing Portland skyline from the western end of the Eastern Promenade Park.**

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WRITTEN TESTIMONY BY BEVERLY BOOKIN, AICP (RETIRED)
PROPOSED ELIMINATION OF MINIMUM PARKING STANDARDS
PLANNING BOARD WORKSHOP (7/30/24)

Introduction. The purpose of this written testimony is to explore the likely implications of the recommendations in ReCode Portland to eliminate minimum parking standards for all uses, as now required in Table 19-A, and presumably eliminate/modify related provisions in the zoning code necessary to resolve internal conflicts. Although this is considered to be a progressive strategy in many respects – promoting efficient development, reducing development costs, encouraging use of alternative transportation modes, reducing congestion, promoting climate resiliency -- the elimination of minimum required parking ratios should be based on sound, reality-based analysis. The purpose of this written testimony is to explore the resulting parking requirements to achieve the standard of "adequate but not excessive". This is of particular concern for housing, since residents in both owner- and renter-occupied units store their vehicles for long periods when not in use.

I base this analysis upon my 35+ years of experience as an urban planning consultant in Portland, Oregon, where I have undertaken parking analyses for a wide variety of public- and private-sector projects including Portland International Airport, Oregon Zoo, major medical centers and universities, market-rate and affordable housing, and large mixed-use projects. For 25 years, I was also the "planner of record" for the City of Portland's SmartPark public garage system.

Summary of Analysis. This analysis is organized as follows:

- Parking 101: Basic Theory
- Applicability to the City of Portland (Maine)
- City of Portland Land Use Code Analysis / Currently and Proposed
- Case Study: 165 Washington Avenue Mixed-Use Proposal

Parking 101: Basic Theory. Many progressive American communities, including the "other" Portland, have eliminated minimum required parking ratios* because these almost always over-estimate parking demand in general and do not take into consideration variations due to location – mixed-use versus single-use neighborhoods, availability of transit – and/or users – tenants over 65 who are less likely to drive. Rather than ask a property-owner or developer to seek a variance or other means to justify a lower minimum ratio, most jurisdictions provide the opportunity to "right-size" the parking supply taking into consideration the project's unique characteristics. Theoretically, this is assured by two factors:

*A companion strategy is to create maximum parking ratios for some or all uses, above which the property owner/developer must justify the need for the additional parking, as is the case in Portland (OR).

- Market-driven: Assumes the property owner/developer will make a judgement call on how many on-site parking spaces are needed to make the project economically competitive. For example, if one beer garden on the street has on-site customer parking and the another nearby does not, the latter will be at an economic disadvantage. One check on the adequacy of proposed on-site parking is the willingness of a financial institution to lend on the project.

- Regulatory-driven: Requires Site Plan Review (SPR) that in most jurisdictions becomes the mechanism whereby the applicant builds the case for the proposed on-site parking supply via a parking study by documenting the specific characteristics of the site's location and users. In larger projects, this study often is combined with a Transportation Demand Study (TDM) to include measures designed to reduce vehicle trips and, thus, parking demand at both the points of origin and destination.

The basic premises for this approach is that the property owner/developer:

- Can provide parking in a combination of on-site and on-street parking, for such short-term users as customers, clients, patients, and restaurant/entertainment goers.

- Is required to provide an adequate amount of parking either on site or, under certain circumstances, in nearby off-street parking lots or garages, for long-term users such as residents and employees. This is based on the premise that adverse impacts generated on site must be mitigated on site. Thus, it is not acceptable for a project to "externalize" its parking demand by using the nearby on-street parking supply as its private parking lot.

- Is also required to project its traffic impacts to and from the site accurately, which is closely related to the number of on-site parking spaces.

Applicability to the City of Portland (Maine). With nearly 70,000 residents, Portland is a relatively small American city, which affects its transportation characteristics:

- According to Data USA (Appendix), 92% of Portland households own at least one car. This is typical of communities of this size, as characterized by development density and transit availability. To put is another way, Portland is not Chicago, Manhattan or San Francisco. A meaningful reduction in vehicle ownership is unlikely, although through good land use planning and/or economic incentives, some households may "down-size" from 2-3 cars to one, reducing parking demand.

- Thus, it can be argued that "real" demand is 8% less than the stated minimum parking ratio in Table 19-A. Such factors as location in mixed-use districts with good transit access, age and income characteristics of users, and proactive TDM measures can reduce actual demand even more significantly. For example, in Table 19-A, the current minimum parking ratio for residential

uses is 1.0 parking space/dwelling unit (DU). Thus, depending on site/user considerations, the actual parking demand could be 25% or more lower than this.

- However, it remains critical that the actual parking demand be documented and mitigated on site. Allowing a property owner/developer to reduce on-site parking demand for its residents or employees artificially is "magical" thinking and just pushes the adverse impact onto the surrounding neighborhood streets.

- Moreover, there is a difference between "carless" and "car-light". Increasing use of alternative modes of transportation and car ownership is not mutually exclusive. The key is encouraging car owners to increase the proportion of trips that they take using alternative modes achievable by providing more walkable, transit-rich, mixed-use neighborhoods. For example, a resident in a typical Portland neighborhood may walk to the bakery to buy a loaf of bread but drive to a supermarket to do the weekly shopping. Or he/she may walk or bus to work but drive out of town for recreation or visit friends and family. <u>These car-owning households still need a place to store their vehicles when not in use</u>.

<u>City of Portland Zoning Code Analysis.</u> The need to better regulate on-site parking demand is even more critical for large residential, commercial, office and institutional uses. This analysis focuses on residential parking because the current housing shortage is a major driver in the <u>ReCode Portland</u> recommendations, where reducing parking demand, both to increase development capacity and reduce construction costs. Is a major strategy.

The primary source for parking regulations is found in <u>Chapter 19, Off-Street Parking and Loading</u>.

- <u>Table 19-A: Off-Street Parking Minimums:</u> For single-, two- and multi-family residential: One space per dwelling unit (DU).

- <u>Table 19-B: Categorical Exceptions to the Off-Street Parking Minimums:</u> There are several residential exceptions

  - <u>Affordable Housing:</u> Two spaces are required for every three units, "except that the Planning Board may establish a lesser parking requirement regardless of the size of the structure".

  - <u>Multi-Family Housing:</u> "The Planning Board may establish a parking requirement that is less than the normally required number of spaces upon a finding of unique conditions that result in lesser parking demand, such as housing for persons who cannot drive, housing that participates in a Transportation Demand Management program, or housing that includes permanent restrictions on automobile usage, and which is permanently restricted from utilizing resident on-street parking stickers."

- Transit Proximate Development and Uses: "No off-street parking shall be required within fixed route transit service. New uses or changes of use of more than 10,000 SF taking advantage of this exception shall be required to provide a Transportation Demand Management Plani if they use this provision in lieu of parking requirements."

- Accessory Dwelling Unit: "No off-street parking shall be required."

- Residential Uses: "No off-street parking shall be required for the first four dwelling units, not counting accessory dwelling units, except as otherwise specified herein."

- Section 19.6: "Required off-street parking shall be located on the same lot as the principal use, except as follows…." For residential uses (Section 19.6.A), there are a variety of options for providing off-site parking in lots or garages near the site of the principal use, but all of these must be off-street.

The other governing regulations related on on-site parking are found on Chapter 14: Site Plans, specifically Section 14.6.1 (D):Parking.

- Section 14.6.1.(D)(1)(a): "All developments shall provide off-street parking in accordance with the parking requirements of this Land Use Code."

- Section 14.6.1.(D)(1)(b): "When a parking study is required, the City encourages Transportation Demand Management (TDM) be employed."

Key findings regarding regulation of residential parking include:

- Based on several provisions in Table 19-B, the city already recognizes the need for and provides relief from the minimum ratio of one space/DU contained in Table 19-A. There is no required parking for ADUs and small residential buildings with four or fewer DUs, and, in the case of affordable housing, an automatic 33% reduction.

- In addition, affordable housing projects can benefit from additional opportunities to reduce on-site parking requirements that apply to all multi-family projects. Note the list of criteria upon which such reductions from the required residential ratio can be justified through: characteristics of occupants, TDM measures designed to reduce automobile use, or projects where occupants are prohibited from vehicle ownership.

- In the case of "transit-proximate" development, the reduction is unlimited, subject to a TDM plan. Although a "parking study" is not explicitly stated here, it is an outgrowth of the determination in the TDM of how many trips attributable to the site are made by single-occupant vehicle (SOV) versus alternative modes – carpool/shared cars, walk, bike, bus, home-based work. The number

of on-site parking spaces is inextricably tied to vehicle trips, since an occupant cannot drive if there is no place to store his/her vehicle when not in use.

- With regard to multi-family and transit-proximate projects and affordable housing projects that requests more than a 33% redaction, it is the Planning Board that makes the determination of "right-sizing" on-site parking presumably as part of Major Site Plan Review (SPR). This authority is granted to the Planning Board in lieu of a parking variance utilized in other jurisdictions, but the technical/legal considerations are the same.

Based on this analysis, even with the minimum parking ratio of one space/DU (Table 19-A), the exceptions in Table 19-B are a perfectly adequate way to achieve the "adequate but not excessive" parking standard for residential uses on a site-by-site basis. Note that by definition, every residential project is covered:

- One-/two-family residential uses considered under Minor SPRs are exempt from providing on-site parking by right.

- Any project of three units or more is considered under a Major SPR, where the first four units are exempt by right.

- Any residential development of five or more units then has the opportunity to request a lower parking ration based on site/user characteristics whether affordable housing, multi-family housing and/or located near a transit corridor.

With regard to the proposed ReCode Portland recommendations, the elimination of the minimum parking ratios for all uses (Table 19-A) is "the big idea" being promoted as the way to reduce unnecessary parking for all the right reasons -- promoting efficient development, reducing development costs, encouraging use of alternative transportation modes, reducing congestion, and promoting climate resiliency. What is missing is the detail with regard to other changes to the code necessary to 1) fully implement this measure; 2) remove conflicting provisions; and 3) eliminate unintended consequences. ReCode Portland has yet to address a number of key questions. Once the detailed modifications of the zoning code are drafted:

- Will Table 19-B (Exceptions to the Off-Street Parking Minimums) also be eliminated?

  - No need to retain the exceptions for no parking for small residential projects of four or fewer units and ADUs, as these already will have been eliminated in Table 19-A.

  - No way to apply the 33% reduction for affordable housing since the required parking against which the reduction is applied is no longer in force.

- With regard to on-site parking for multi-family projects of five or more units and all projects within ¼ mile of a transit corridor, how is parking determined? Does the applicant still have to do a TDM plan, within which an on-site parking study is required, or can a property owner/developer build a project of any size without providing any parking? Without having to justify the amount of parking proposed?

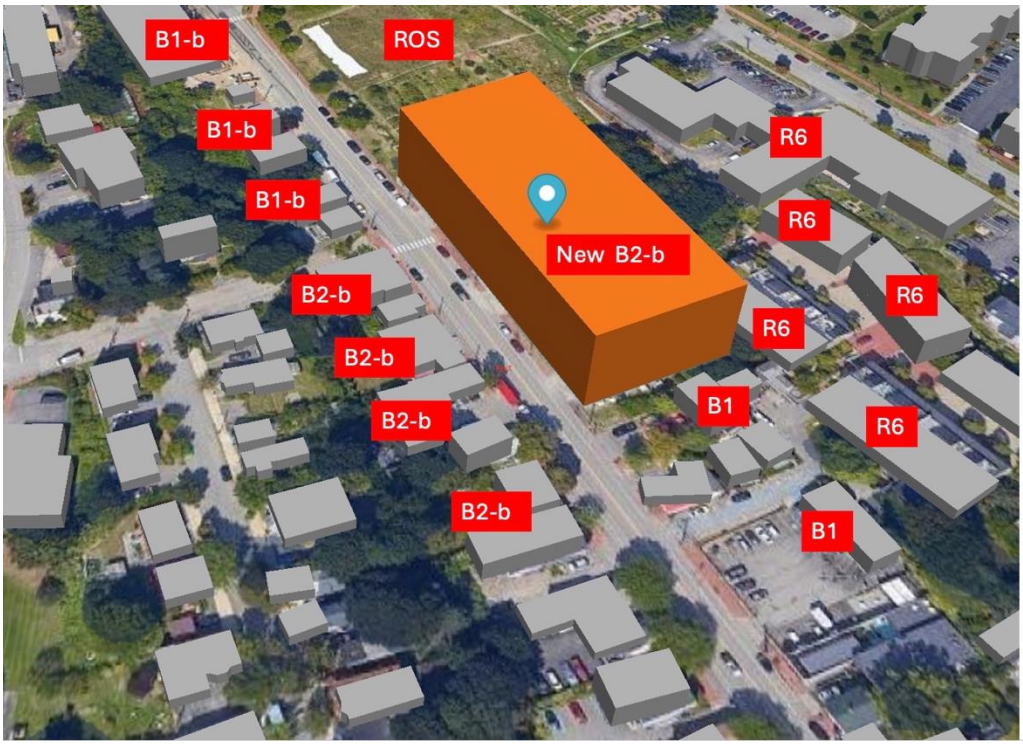
- How do the changes in Chapter 19 affect Site Plan Review (Chapter 14) especially for larger projects subject to Major Review? For example, will a large project that is "transit-proximate" still have to prepare a TDM plan? If so, will that require a parking study? Or can the property owner/developer simply propose the number of on-site parking spaces to be provided with no need to justify the number?

Case Study: 165 Washington Avenue Mixed-Use Proposal. To test how a major residential project would fare under the current and proposed minimum parking standards in ReCode Portland, the following case study is presented for the proposed Redfern Development project at 165 Washington Street. The project is now on hold pending the final adoption of the ReCode Portland recommendations. But the project is being praised as the perfect embodiment of the kind of housing production that the revised zoning code is being designed to promote and, therefore, a reasonable choice for analysis.

Summary of Redfern Property's Proposal

- Located on the north end of the Washington Avenue Corridor
- Site size: 1.57 net acres (NA) (68,720 sf)
- Residential: 320 Dwelling Units (DUs) including 240 Market-Rate and 80 Workforce DUs
- Residential Density: 210 DU/NA
- Ground Floor: Limited commercial
- On-Site Parking: 30 spaces
- Scale: 75' (seven stories) including 10' height bonus for affordable housing

The graphic below illustrates the proposed scale of the building, if the recommendations for increased height and the elimination of the maximum residential density are adopted as part of ReCode Portland.



Under Current Code Requirements. Having prepared dozens of parking studies in my 35+year career as a consulting urban planner, I will propose reasonable criteria for determining what the appropriate on-site parking complement should be for a project of this size, location and user characteristics:

- Per Table 19-A, the current minimum parking ratio is one space/DU, for a total of **320 spaces.**

- Per Table 19-B, the minimum parking ratio for affordable housing is reduced to two spaces/three DUs: **80 units X 1/3 by-right reduction: 26.4, rounded to 27-space reduction**. **This is an 8% reduction** (**27 spaces ÷ 320 spaces = 8.4%**).

- Per Data USA, 8% of Portland households are carless. The 27-space **reduction above is 8%; as these are "carless households", to take another 8% reduction would be redundant.**

- Further reductions are possible both as a multi-family project and as a multi-family project located within ¼ mile of a transit corridor. As the project is located on the Washington Avenue Corridor, a designated transit corridor, and within walking distance of downtown, the latter option is more favorable for parking reduction. Under the provisions for "transit-proximate" development, **a project that uses this option must undertake a TDM plan that includes a parking analysis.**

- Given the benefits of the Washington Avenue location, I would recommend a further **25% reduction** to account for walk/bus/work-from-home opportunities. Although, it must be remembered that households can increase their use of alternative modes and still maintain car

ownership, for which a parking space is needed when the vehicle is not in use. **320 spaces X .25 = 80 spaces.**

- This is total of **27 spaces** (for affordable housing reduction) and **80 spaces**, for a total of **107 spaces**. This leaves **213 spaces** to be accommodated on site (**320 – 107 = 213 spaces**). Currently, the proposal **underestimates actual demand by seven times** (**213 ÷ 30).**

- The likely configuration of this parking would be **30 on-grade spaces**, doubling for daytime parking for the commercial space, and **183 spaces** in one floor of underground parking.

Under Proposed Parking Regulations. As noted above, once the minimum parking ratios for all uses (Table 19-A) are eliminated, there is a serious question about whether the requirements in Table 19-B related to affordable housing and especially "transit-proximate" locations will still apply. With regard to the latter the question remains whether the applicant will have to do a TDM plan with a parking element as part of Major SPR. Why is this important?

In both formal and informal presentations, Jonathan Culley, Redfern's representative, argues that the project only needs the 30 parking spaces proposed, for a **parking ratio of one space/10.7 DUs**.** This apparently is the maximum that can be accommodated on-grade. His argument is that the vast majority of the project's renters will be carless. He explicitly identifies graduate and foreign students from nearby universities but presumable also includes lower-income tenants in the deed-restricted workforce housing units. Let's test this theory:

- It is estimated that Portland's population in 2024 is **69,310*****. According to the 2020 census, the household (HH) size is **2.1 persons**. Thus, the city has **33,320 HHs** (**69,310 ÷ 2.1**).

- According to Data USA, only 8% of Portland HHs are carless. That translates into **2,670 HHs** (**33,320 X 0.8**).

- Of the 320 units, only 30 tenants at a time can secure an on-site parking space, This means that Redfern will have to fill 290 units with continuous turn-over from a pool of 2,670 HH that have no cars. Under this scenario, **the project alone will account for 11% of all carless HHs in the city** (**290 ÷ 2,670**).

- This not a feasible marketing plan and certainly not one that would convince a financial institution to risk under-writing.

**For reference, before Portland (OR) abolished minimum parking ratios, the minimum ratio for aged-restricted housing for seniors was one space/eight DUs.

***Numbers used in this analysis rounded to the nearest 10 or tenth.

Rather than admit that the project needs significantly more parking per the parking analysis presented above and, thus, commit to building an underground garage that would add significant cost to the project, Redfern appears to be betting that it can just direct its tenants with cars to park on street on Washington Avenue and other nearby streets:

- It is an unquestioned tenet of land use planning that a property-owner/developer who reaps the economic benefits of development/redevelopment must bear the costs of mitigating the associated adverse impacts including parking and traffic associated with the project.

- With regard to parking, this means mitigating the impact on site or on a parking lot or garage at a nearby off-street location. With reasonable limitations, on-street parking should be available to all with a reasonable expectation of turnover. Public on-street parking is not to be used for Redfern or any other developer as a private parking lot.

- If Redfern's contention that 30 parking spaces is adequate for a 320-unit residential/commercial building is accepted without a soundly-based parking study:

  - The project's traffic study also will under-estimate the project's traffic impacts on the surrounding street system by seven times. Why? Because only tenants of the building with cars will contribute to the calculation of trips/DU and only tenants with parking spaces can have cars.

  - As a result, Redfern will "externalize" both of its parking and traffic impacts onto the adjacent neighborhood, this after benefitting from proposed changes to maximum height and elimination of maximum housing density, that allow construction of a seven-story, 320-unit mixed-use project.

  - But there's more: If the Redfern project is approved as proposed, other property owners/ developers of nearby lots on this portion of the Washington Avenue Corridor will use the same strategies to under-estimate parking and traffic impacts and externalize these onto the neighborhood. In this scenario, the collective impacts upon the corridor and adjacent neighborhood will be enormous.

A Final Word. The above case study proves the rule. If it removes all minimum parking ratios for all the positive reasons described above, The City should do so using thoughtful, reality-based analysis:

- The goal is to ensure that development/redevelopment projects provide "adequate but not excessive" on-site parking in recognition that the vast majority of Portland households own at least one car, a proportion not likely to decrease significantly in the near future. When considering the detailed modifications to the zoning code, the City should retain the mechanism to justify the proposed on-site supply for all larger projects subject to Major Site Plan Review. This can be done

by retaining the requirement that as part of the Planning Board approval the property-owner/ developer must prepare a Transportation Demand Management Plan with parking and traffic components. The resulting parking then should be provided on site or in nearby off-street parking facilities per existing code requirements.

- To remove all requirements for calculating actual demand, particularly in the name of promoting residential density, will not make real parking demand go away. It simply will allow property owners/developers to externalize their parking and traffic impacts into the surrounding neighborhood, benefitting from the economic profit without paying for the cost of mitigating adverse impacts.

Respectfully submitted:
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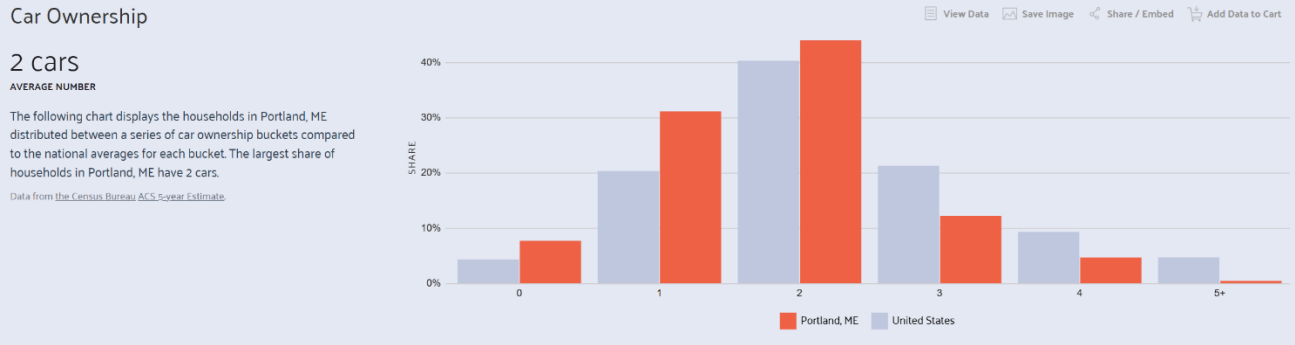
APPENDIX
CAR OWNERSHIP IN PORTLAND, MAINE



Source: Data USA

From: **Jamie Wright** <jamie@gorhambike.com>
Date: Sat, Jul 27, 2024 at 8:55 AM
Subject: ReCode Right
To: <ecodeportland@portlandmaine.gov>, <lanningboard@portlandmaine.gov>, <planning@portlandmaine.gov>

Dear Team ReCode Portland,

Thank you for your efforts to improve our city through zoning simplification and improvements. The current proposal is a terrific start and meets the moment in many ways. It falls short of a forward-thinking roadmap to manage growth in a rapidly evolving city. Over the last decade, Portland has felt the impact of immigration and re-urbanization. Coupled with increases in inclusionary housing requirements, rent control, anti-development/developer sentiments, a complicated and costly permitting process, large swaths of the city deemed historic, higher cost to borrow and build, and antiquated zoning, we find ourselves in a housing crisis of epic proportions.

To solve this, we must look for ways to immediately and dramatically increase the housing supply of all types and levels to meet today's and tomorrow's demands. To do this, we must up-zone urban areas and transportation corridors and simplify and streamline the permitting process. The suggestions below come from a place of deep understanding and experience as a local developer, real estate agent, and student of land use and zoning. Through these lenses, I've taken a deep dive into the proposed changes under ReCode and offer the following improvements.

More height and density should be allowed along all major corridors and neighborhood centers. The current ReCode proposal calls for skyscrapers downtown. This is great but doesn't go far enough. And only a few will ever be built. I suggest converting all current business B1-B4 zones to a new B5B zone. This would allow all B5 uses but provide a boost in height to 80' with 10' of allowable appurtenance. These activated roofs are perfect for residential use, solar panels, and more. This new zone simplifies an overly complex patchwork of business zones and allows for more height in existing commercial areas. Even in the proposed ReCode, sections of streets, very similar in nature, have a piecemeal of allowable uses. For example, inner Washington Ave between Congress and I-295 has four different B zones and a sliver of residential. This should all be B5B with an additional height bonus. My proposal incentivizes development in existing urban and busy locations and relieves the demand to develop in residential zones. Establish Prosperity Overlays along specific sections of our most traveled corridors and neighborhood nodes/centers where infrastructure and public transportation exist. The city wants to create complete neighborhoods where residents can walk to all they need for daily life. For centuries this is how we lived, before the automobile and subsequent suburban sprawl. Numerous public policy research studies show that complete neighborhoods are good for local businesses, public health, and the environment. We need to get back to the walkable, bikeable neighborhood centers our

city enjoyed 100 years ago. And we can if we establish prosperity overlays. While ReCode does include some, these areas need to be expanded, the allowable heights increased, density improved, and the process for permitting streamlined. I would refer to these areas as B5BPO with all the allowable uses of the B5B above and additional bonuses of 100’ with 10’ overrides on roofs.

Streets to include:

- Forest Ave – from Congress to Warren Ave
- Washington Ave – from Congress to Veranda
- Washington Ave / Auburn St from Gertrude Ave to Lyseth Moore Dr
- Allen Ave from Forest Ave to Northport Dr
- Congress St – from Munjoy Street to the city limits
- Veranda St – from Baxter Boulevard to the city limits
- Presumpscot St – in its entirety
- Areas / Neighborhood Centers / Nodes
- LB Zones – on the peninsula (a large portion of East Bayside)
- Approximately 400’ along any major road off the following intersections: Woodfords Corner, Morrill’s Corner, Bradley’s Corner, Lunt’s Corner, Brighton Corner, and Nason’s Corner

Note – many of these areas are historic districts, giving them additional protections. So, existing buildings in these historic areas would be protected, like most of Congress Street.

Edit the IL (industrial light), IM, IMB, and IH zones to IL/B5. By some estimates, as much as 90% of Portland’s landmass and 70% of the peninsula isn’t zoned for multi-family or mixed use. Areas like East Bayside, where we now find coffee shops, breweries, and shops, are zoned IL (Industrial Light) and don’t allow residential uses. Off the peninsula, hundreds of acres are zoned for industrial uses that lay fallow. My proposal opens vast tracts of vacant and underutilized land that lays in waiting for industrial users that may never come. Beyond this, the idea that we must keep commercial and light industry away from residential areas is antiquated. This separation was valid, justified, and prudent 50-100 years ago, but not in this time of quieter and cleaner industry. Besides, we are not in a warehouse or industrial space crisis. We are in a housing crisis. So, let's open this land to development.

The proposed RN5 (formerly R6) is too restrictive! For context, this zone is in the most populated part of the peninsula and was intended to be the area where most of the residential real estate development and housing would be. In the last decade, what can be built in R6 was modified and made more restrictive. Beyond this, the majority of R6 was placed under historic preservation. This eliminated the ability to demolish neglected 1-2- 3 families and replace them with larger buildings. It also added a level of complexity, expense, delays, and oversight. Those

seeking to build in these areas today, even on a vacant lot, must navigate the historic preservation board, which can take up to six months and cost developers tens of thousands of dollars. In fact, the current R6 is so limiting that many of the historic homes we all love could not be constructed today. The proposed RN5 down zones in these urban residential areas need to be edited.

Edits to RN5 (formerly R6):

1. Reduce side setbacks to 10’ total, with 2’ required on one side and 8’ on the other. This allows for a buffer on one side and a drive aisle on the other. This is the rhythm/layout of most current neighborhoods.
2. Reduce rear setback to 5’.
3. Allow 80% lot coverage, including the primary structure and outbuildings, and eliminate any reference to maximum building lengths.
4. Allow structures to be built to 60’. The currently allowed height is 45’. This will allow for four stories and offset efforts underway to adjust/lower how we determine an average grade. This also increases the likelihood of occupants in spaces with greater volume and those high ceilings we all love.
5. Allow 10’ for roof appurtenances. The current and proposed zoning does not address this, and it’s a big miss. Past changes eliminated the ability to create activated, livable roofs with amenities like rooftop gardens with elevator and stairwell access.

Re-zone and sell city-owned land for mixed-use development. The city owns two golf courses and many parcels that would be ideal for residential and mixed-use development. Identify parcels to sell and put out an RFP (request for proposal), award the sale based on establishing a mixed-use development with various residential living options and price points. For larger parcels (like these golf courses), the award are based on the developer who proposes the establishment of a new complete community with parks, playgrounds, trails, housing (rental and for sale), retail space, and more.

Further, develop the Portland Technology Park. Located off Rand Road, this 26-acre site was intended to lure businesses into the state's growing life sciences industry. Only one of the seven sites has closed with two others under contract. Clearly, this site, which has been underutilized over the last 13 years, should be put to its highest and best use. Let’s turn this into a mixed-use development of housing, office, warehouse, retail, and what I’m calling IL/B5. This would be the perfect place for people to live, work, and play, just what residents and businesses want.

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Thank you for taking the time to read my comments and for your tireless work.

Jamie Wright
Gorham Bike and Ski, Inc.
693 Congress Street
Portland, ME 04102
207-773-1700
Brunswick-Portland-Saco-Wells-Waterville & North Conway NH
www.gorhambike.com

It's time to do Re-Code Right!

0 views

Skip to first unread message

Susan Anspacher
Jul 27, 2024, 11:51:36 AM (2 days ago)
to recodep...@portlandmaine.gov, plan...@portlandmaine.gov, planni...@portlandmaine.gov

Dear Team ReCode Portland,

Thank you for your efforts to improve our city through zoning simplification and improvements. The current proposal is a terrific start and meets the moment in many ways. That said, it falls short as a forward-thinking roadmap to manage growth in a rapidly evolving city. Over the last decade, Portland has felt the impact of in-immigration and re-urbanization. Coupled with increases in inclusionary housing requirements, rent control, anti-development/developer sentiments, a complicated and costly permitting process, large swaths of the city deemed historic, higher cost to borrow and build, and antiquated zoning, we find ourselves in a housing crisis of epic proportions.

To solve this, we must look for ways to immediately and dramatically increase housing supply, of all types and at all levels, to meet the demand of today and tomorrow. To do this, we must up-zone urban areas and transportation corridors and simplify and streamline the permitting process. The suggestions below come from a place of deep understanding and experience as a local developer, real estate agent, and student of land use and zoning. Through these lenses, I've taken a deep dive into the proposed changes under ReCode and offer the following improvements.

More height and density should be allowed along all major corridors and neighborhood centers. The current ReCode proposal calls for skyscrapers downtown. This is great but doesn't go far enough. And, only a few will ever be built. I suggest converting all current business B1-B4 zones to a new B5B zone. This would allow all B5 uses but provide a boost in height to 80' with 10' of allowable appurtenance. These activated roofs are perfect for residential use, solar panels, and more. This new zone simplifies an overly complex patchwork of business zones and allows for more height in existing commercial areas. Even in the proposed ReCode, sections of streets, very similar in nature, have a piecemeal of allowable uses. For example, inner Washington Ave between Congress and I-295 has four different B zones and a sliver of residential. This should all be B5B with an additional height bonus. My proposal incentivizes development in existing urban and busy locations and relieves the demand to develop in residential zones.

Establish Prosperity Overlays along specific sections of our most traveled corridors and neighborhood nodes/centers where infrastructure and public transportation exist. The city wants to create complete neighborhoods where residents can walk to all they need for daily life. For centuries this is how we lived, before the automobile and subsequent suburban sprawl. Numerous public policy research studies show that complete neighborhoods are good for local businesses, public health, and the environment. We need to get back to the walkable, bikeable neighborhood centers our city enjoyed 100 years ago. And we can if we establish prosperity overlays. While ReCode does include some, these areas need to be expanded, the allowable heights increased, density improved, and the process for permitting streamlined. I would refer to these areas as B5BPO with all the allowable uses of the B5B above and additional bonuses of 100' with 10' overrides on roofs.

Streets to include:

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- LB Zones – on the peninsula (a large portion of East Bayside)
- Approximately 400' along any major road off the following intersections: Woodfords Corner, Morrill's Corner, Bradley's Corner, Lunt's Corner, Brighton Corner, and Nason's Corner

Note – many of these areas are historic districts, giving them additional protections. So, existing buildings in these historic areas would be protected, like most of Congress Street.

Edit the IL (industrial light), IM, IMB, and IH zones to IL/B5. By some estimates, as much as 90% of Portland's landmass and 70% of the peninsula isn't zoned for multi-family or mixed use. Areas like East Bayside where we now find coffee shops, breweries, and shops are zoned IL (Industrial Light) and don't allow for residential uses. Off peninsula, there are hundreds of acres zoned for industrial uses that lay fallow. My proposal opens vast tracts of vacant and underutilized land that lays in waiting for industrial users that may never come. Beyond this, the idea that we must keep commercial and light industry away from residential areas is antiquated. This separation was valid, justified, and prudent 50-100 years ago, but not in this time of quieter and cleaner industry. Besides, we are not in a warehouse

or industrial space crisis. We are in a housing crisis. So, let's open this land to development.

The proposed RN5 (formerly R6) is too restrictive! For context, this zone is in the most populated part of the peninsula and was intended to be the area where most of the residential real estate development and housing would be. In the last decade, what can be built in R6 was modified and made more restrictive. Beyond this, the majority of R6 was placed under historic preservation. This eliminated the ability to demolish neglected 1-2- 3 families and replace them with larger buildings. It also added a level of complexity, expense, delays, and oversight. Those seeking to build in these areas today, even on a vacant lot, must navigate the historic preservation board, which can take up to six months and cost developers tens of thousands of dollars. In fact, the current R6 is so limiting that many of the historic homes we all love could not be constructed today. The proposed RN5 down zones these urban residential areas and needs to be edited.

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2. Reduce rear setback to 5’.
3. Allow 80% lot coverage that would include the primary structure and outbuildings and eliminate any reference to maximum building lengths.
4. Allow structures to be built to 60’. The current allowed height is 45’. This will allow for four stories and offset efforts underway to adjust/lower how we determine average grade. This also increases the likelihood of occupants in spaces with greater volume and those high ceilings we all love.
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Thank you for taking the time to read my comments and for your tireless work.

Susan Anspacher/tl

Reply all

Reply to author

Forward

Public Comments - Recode 0 views

rgr...@gwi.net Jul 27, 2024, 4:20:13 PM (2 days ago)
to recodep...@portlandmaine.gov, Planningboard

To Members of the Planning Board and Staff -

I am writing regarding the short-sightedness of some of the ReCode ideas. Namely those that have to do with set-backs and excessive infilling of green space—especially on the peninsula, but undoubtedly off-peninsula as well as the drive for growth and population density continues to dominate some influential people's vision for Portland.

The City of Portland partnered with South Portland in developing the One Climate Future (OCF) Plan for locally addressing climate change. Too many developers, business boosters and self-appointed experts are disregarding this commitment to creating a livable and sustainable city, both now and in the future. An over-enthusiastic emphasis on population and economic growth to be made possible by ignoring the strategies and recommendations of OCF is irresponsible and unprincipled.

I urge both the Planning Board and the Planning Department to take more time on meaningful public engagement and to re-examine the strategies and goals of OCF and other programs the City has signed on to, such as Age-Friendly Cities, Project Canopy, etc. Some aspects of ReCode are fine. However, with the urge to pack as many people as possible on the peninsula and along main transit corridors without recognizing the lower quality of livability those areas will offer, the current language of ReCode will create a sorry, undesirable Portland.

Thank you for your dedication and time spent in serving the City of Portland.

Sincerely,

Rosanne Graef
30A Salem St.

Public Comments 0 views

Jim DeCamillis Jul 27, 2024, 12:42:27 PM (2 days ago)

to recodep...@portlandmaine.gov

Rezoning of the neighborhoods around the Ocean Avenue is a serious mistake. These neighborhoods are vital for families that live in this area. These very neighborhoods raised over $450,000 to preserve woodland that would have been developed for additional housing. This infringement on our community would defeat all the efforts and hard work that was done to protect our neighborhoods. There is an abundance of land in Portland to change the Rezoning. Our neighborhood is critical component to insuring a quality of life that we live in. Therefore I urge you to save our neighborhoods by voting not to change the zoning. Your consideration in this endeavor would be greatly appreciated by all of us who live here. Sincerely Jim DeCamillis, 32 Kineo Street..
Sent from my iPhone

Public Comments 0 views

Susan Kayar Jul 27, 2024, 5:04:39 PM (2 days ago)

to recodep...@portlandmaine.gov

I do not like what I am reading about the Recode Portland initiative. Yes, we need more housing for all people of all income levels. But shoving us all into higher density places with no parking for cars and no setbacks for gardens or patios is not the solution. We do not want to be Manhattan. If population increases, there must necessarily be some balance between single family homes with gardens, high-rise towers of many small units, and extension of the urban area beyond current residential neighborhoods. There is no single model of housing that will suit everyone. The late 1800s neighborhoods built of single-family mansions have in many cases already had these mansions subdivided into condos and apartments for multiple families, while retaining gardens and charm. I would not like to see zoning permitting the demolition of such beautiful old homes to replace them with modern high-density highrise buildings with no parking and no recreational or decorative outdoor space.

The Portland peninsula is a physically limited space. A clash between more people wanting to live in this beautiful city and space to put them here is inevitable. Making it ugly with nothing but highrises is hardly a good solution. Forbidding them from extending the urban areas beyond the peninsula is also not a good idea. The few new highrises that have been popping up in recent years here are welcome additions to the housing market and skyline. Restoring the old Time and Temperature building to housing is a great idea. But zoning such that all new construction consists of highrises inches from the street and inches from the next highrise is a terrible idea. If you force too many rats to live in one cage, they turn on each other. This is a quality of life issue, and there is no cookie-cutter answer to solving it. Please do not enact Portland laws that dumb this whole housing issue down to "build highrises with not an inch of land that does not pack in people." You will ruin our city.

From: Robert Kahn <rhkahnme@gmail.com>
To: pplannning@portlandmaine.gov
Cc:
Bcc:
Date: Sat, 27 Jul 2024 11:04:41 -0400
Subject: ReCode
To: All Planning Board Members -

For some parts of ReCode I would consider worth addressing in more detail as to the FULL implications of the results. These would include areas like Forest Ave. and Washington where infill projects would increase density in these transportation corridors. Other ideas are frightening in their potential to totally change the Portland we know.

At a minimum, there should be visualisations, graphic images, that depict the visual impacts (density, height, adjacency dimensions) that these proposed changes would make. This must be provided if we are to 'see' what is being presented.

Thank you - Robert Kahn, Portland.

Form Submission - Contact us Re:Code - Re-code feedback

0 views

Squarespace Jul 28, 2024, 1:43:07 AM (yesterday)

to recodep...@portlandmaine.gov

Sent via form submission from *ReCode Portland*

Name: Ionel Postolache

Email Address: mainexportland@yahoo.com

Subject: Re-code feedback

Message: I will only make comments related to my case- my house and my history of interaction with the "City" ...
I hope the proposed change from R6 to RN5 will work as intended- although I do not see significant differences (in setbacks for example).
From what I read, I did not get an answer on how to request a zoning change- if one is desired. I don't, so I am fine for now.
The hidden part of the iceberg is - for me- the permitting and inspections process: restrictive, cumbersome , intimidating, inflexible (favors the traditional wood frame structures)

Manage Submissions

Does this submission look like spam? Report it here.

Public Comments 0 views

Craig Mathieson
to recodep...@portlandmaine.gov

Jul 28, 2024, 12:57:48 PM (23 hours ago)

Dear Team ReCode Portland,

Thank you for your efforts to improve our city through zoning simplification and improvements. The current proposal is a terrific start and meets the moment in many ways. That said, it falls short as a forward-thinking roadmap to manage growth in a rapidly evolving city. Over the last decade, Portland has felt the impact of in-immigration and re-urbanization. Coupled with increases in inclusionary housing requirements, rent control, anti-development/developer sentiments, a complicated and costly permitting process, large swaths of the city deemed historic, higher cost to borrow and build, and antiquated zoning, we find ourselves in a housing crisis of epic proportions.

To solve this, we must look for ways to immediately and dramatically increase housing supply, of all types and at all levels, to meet the demand of today and tomorrow. To do this, we must up-zone urban areas and transportation corridors and simplify and streamline the permitting process. The suggestions below come with a deep understanding and experience from a local developer, real estate agent, and student of land use and zoning. Through these lenses, I've been made educated about the proposed changes under ReCode and offer the following improvement suggestions.

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different B zones and a sliver of residential. This should all be B5B with an additional height bonus. My proposal incentivizes development in existing urban and busy locations and relieves the demand to develop in residential zones. Establish Prosperity Overlays along specific sections of our most traveled corridors and neighborhood nodes/centers where infrastructure and public transportation exist. The city wants to create complete neighborhoods where residents can walk to all they need for daily life. For centuries this is how we lived, before the automobile and subsequent suburban sprawl. Numerous public policy research studies show that complete neighborhoods are good for local businesses, public health, and the environment. We need to get back to the walkable, bikeable neighborhood centers our city enjoyed 100 years ago. And we can if we establish prosperity overlays. While ReCode does include some, these areas need to be expanded, the allowable heights increased, density improved, and the process for permitting streamlined. I would refer to these areas as B5BPO with all the allowable uses of the B5B above and additional bonuses of 100’ with 10’ overrides on roofs.

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Thank you for taking the time to read my comments and for your tireless work.

Respectfully,
Craig Mathieson, Portland resident since 2008

Written Testimony
Ben Jacks, Architect, (NCARB), M. Arch, University of Pennsylvania
Professor Emeritus, Miami University

Proposed height, density, and area standards
Planning Board Workshop 7/30/2024

The purpose of this written testimony is to consider the proposed height, density, and area standards in Re-Code, in combination with housing height bonuses, and the likely and potential impacts on existing streetscapes and neighborhoods in Portland.

The unintended consequences of ReCode's proposed zoning limits when combined with housing height bonuses will break the desirable urban design characteristics for which Portland is justifiably admired—a walkable, livable, human-scaled city.

Reasonable limits should be applied to encourage growth but not lopsided development out-of-scale with humans, and out-of-scale with existing contexts.

Numerical abstractions, divorced from the reality of existing streetscapes and neighborhoods, are misleading.

Planning staff should look objectively at what actually exists, what is presently desirable, and what would be boldly compatible in the future.

A basic predicate of this analysis is that there are objective differences between buildings that top out at 45' vs. 65' vs. 95', and it is the job of planning staff to understand these differences and interpret them appropriately in advocating for changes to zoning via ReCode.

I base this analysis on my experience of forty years as an architect and designer. I worked for noted Portland architects G. Robinson Whitten and Stephen Blatt before beginning an academic career. I am the author of two books and numerous scholarly articles on walking and the built environment, design process, aesthetic theory, and criticism of architecture. Among the teachers who influenced my work were the historian and theorist, David Leatherbarrow,[1] the architect and a founding partner of CivicVisions, Susan Nigra Snyder,[2] and the prominent New Urbanist, Douglas Kelbaugh.[3] My work as an architect and designer is deeply influenced by how people experience the built environment through upright moving around—walking—our most essential perceptual condition. I taught environment and human behavior for most of my career.

Background: New Urbanism

The New Urbanist[4] agenda within which I was schooled suggests much greater density for greater Portland as an antidote to suburban sprawl and to consolidate infrastructure, but also to maintain good city form, make livable streets, public spaces, and neighborhoods, and to promote walking, biking, and public transit—all the reasons that we want to be here. A small city on a compact peninsula with surrounding town centers is tailor made for New Urbanism's guiding

principles. These are the values promoted by Portland's Urbanist Coalition, and some developers pushing Re-Code's zoning changes.

Though these principles have been contested, developed, and refined since the 1980s, well before the first Congress of New Urbanism meeting in 1993, it is impossible to ignore the foundational influence of Christopher Alexander's *Pattern Language* work on New Urbanism.[5] While he also believed in "the magic of the city," above all he believed in humane places for people to live, work, raise children, and engage in a spirited public life. And he provided a robust and lasting model for achieving it.

Alexander's work at the Center for Environmental Structure at Berkely earned the first ever gold medal for research from the American Institute of Architects in 1972. *A Pattern Language, The Timeless Way of Building,* and the other volumes in the series, helped collect and build scientific research about the human response to built environments. In many ways this work began to codify, for the first time, understandings that better than average architects always understood "only" intuitively. We ignore these scientific findings at our peril, and New Urbanism offers a practical framework for implementing them.

Another important classic city planning text that predates and informs New Urbanism is Kevin Lynch's seminal, *The Image of the City,* first published in 1960. While often dismissed now because discussions of megacities, from Johannesburgh (population 5.5 million) to Beijing (population 20 million), must consider a range of impacts not envisioned by Lynch, including digital technology mediation, for a small city like Portland wishing to build upon New Urbanism, Lynch's categories of *paths, edges, districts, nodes,* and *landmarks* provide excellent guidance for the future. And like many small American cities Portland's planning documents and principles are informed by Lynch's concepts.

Portland's Guiding Planning Documents

Much of the language of our guiding 2030 Comprehensive Plan, our Land Use Plan, and Technical Guides resonate admirably with New Urbanism. To summarize briefly, Portland's Plan 2030 calls for future land use around five key principles:

- spreading the benefits and challenges of sustainable growth fairly across the community;
- improving livability while retaining the key characteristics that make neighborhoods unique;
- recognizing that downtown Portland remains a predominant locus of arts and culture, economic, and civic health;
- connecting and strengthening our open space and transportation networks;
- identifying the waterfront as a resource central to the identity, economy, ecology, and recreational life of Portland.

The plan states "this does not imply freezing neighborhoods as they are, but allowing change that is compatible with current development patterns."[6]

The idea behind building upon what is already right about Portland's current patterns continues in the plan with this important statement:

> Thoughtful and good quality design is achieved through attention to quality of space and placemaking, the relationship of buildings to the streets and built context, durability and integrity of materials, and a pleasing and timeless quality of architecture - these must be held to the highest possible standards. Practicing and incentivizing contextual principles of urban design are central to the health and well-being of the City of Portland.[7]

I want now to focus carefully on the idea of "thoughtful and good quality design" with respect to the "the relationship of buildings to the streets and built context."

Noted 20th Century architect Louis I. Kahn, to whose work our own Portland Museum of Art Payson Wing pays homage, famously said of streets,

> The room is the beginning of architecture. It is the place of the mind. You in the room with its dimensions, its structure, its light responds to its character, its spiritual order recognizing that whatever the human proposes becomes a life. The structure of the room must be evident in the room itself. . . . The street is a room of agreement.[8]

Not only does our comprehensive Portland's Plan 2030 make much of the notion of how buildings shape streets, and that this is important, but so too does our Land Use Code, our code of legal, if not spiritual, agreements.

The Land Use Code calls for "active streetscapes" under certain zones and quantifies the degree to which the street front may step back from the edge of the street. The Code states,

> "Development in the B-1/B-1b, B-2, and B-2b zones shall provide an established street wall with entrances and public portions of the building oriented to and directly accessible from the public sidewalk and shall be designed and scaled to be compatible with surrounding residential and commercial development."[9]

Buildings should address the street at the pedestrian level, offering a sense of human scale. Large buildings should not be undifferentiated masses, but instead should be modulated and scaled while retaining the "key characteristics" of their surrounding neighborhoods, or at least of the characteristics of the streetscape within which they are situated.

This is what Portland's Plan 2030 and the Land Use Code ask planning Staff, the Planning Board, and ultimately City Council to use when they make determinations at the site plan approval stage. And this is what those same documents ask citizens to assent to when providing input on projects. ReCode should re-affirm, not undo, Portland's Plan 2030.

Planning Staff, through the Re-Code process, is advocating increasing density along major traffic corridors to encourage more housing where it can be served easily by public transit. Both Washington Avenue and a comparable length of Forest Avenue west to Woodfords Corner fall under this designation, although there is arguably some degree of difference between them in the degree of pedestrian activity at present.

Case Study #1: Washington Avenue (approximately 2500 feet between Congress Street and Terminus at 295)

Washington Avenue is an eclectic streetscape. This is its more recent as well as its historical past. Much of what is celebrated currently in its vibrant food scene comes out of its low-density mix of one story industrial, or 2 ½-3 story residentially formed and scaled buildings interspersed with parking lots and small open spaces, punctuated by a smattering of buildings at the four-story scale (Nissen at 75 Washington Avenue, Thomas Heights at 134, and 218 Washington). Only these tallest buildings come close to 50’ in height.

Washington Avenue is 40’ for two travel lanes plus two parking lanes plus up to 12’ for sidewalks for a total of 64’ from building face to building face.

Other than the new condominium building at 218, and Thomas Heights at 134, most of the other buildings on the street are either one-story industrial, or 2 ½-3 story residentially formed and scaled buildings.

Some of these buildings are of poor quality, and it would be reasonable to anticipate that they can, should, and may be replaced.

Some of these buildings are of a fine industrial or residential historic character and may or may not be under any current historic district standards or controls (they are not within a historic district), although some may be eligible for historic preservation tax credits.

Given that it is currently built-up well below what current zoning allows, it is reasonable, in terms of thinking about preserving and developing the present and future character and quality of the street, to anticipate that the current zoning should generally hold sway (e.g. holding the streetscape height to 45' + appurtenances), or that a moderate level of further up-zoning should be applied.

A review of extant lots and buildings on each side of Washington Avenue from Congress Street to the Eastern Promenade reveals not only the current form, scale, and density of construction, but also how many units of housing may be built under current zoning. There are some lots that could reasonably be expected to one day be developed as housing above the ground floor.

This exercise in thinking about a possible future for Washington Avenue is necessarily subjective. The reviewer must consider factors such as the quality and condition of existing buildings, their lot coverage and number of stories, the viability of current uses continuing, and even such intangible and unknowable factors such as the hopes and dreams of current property owners. Nevertheless, it is possible to arrive at a rough estimate of how many units of housing might be accommodated on Washington Avenue if it is allowed to grow to its full potential under current zoning, or under future zoning with relaxed density standards while holding streetscape height intact.

This is a first step in imagining a vibrant, mixed-use pedestrian streetscape with a high density of housing above the ground floor. Supporting shops and galleries, collective maker spaces and small private workspaces, specialty food stores and restaurants, and all the kinds of enterprises that currently make Washington Avenue robust, in keeping with Portland's Plan 2030 important policy statement to,

> Encourage additional contextually- appropriate housing density in and proximate to neighborhood centers, concentrations of services, and transit nodes and corridors as a means of supporting complete neighborhoods.[10]

Of approximately 70 Washington Avenue properties, 32 of them could reasonably be envisioned for development under current zoning. Setting aside for the moment the largest of these, including 75 Washington (139,439sf), 94 Washington Avenue (27,000 sf), 105 Washington Avenue (46,341 sf), 165 Washington Avenue (68,572 sf), 121 Washington (48,397 sf), or 218 Washington Avenue (29,867 sf), the average lot size is around 6300 square feet. Under current zoning a lot that size would be eligible to build 14 units. If all such units were developed approximately 300 units could be built under current zoning while maintaining a context appropriate street height of four stories (while the Nissen building is only three stories it nevertheless achieves a height of 45-50 feet).

But there is also room for compromise. If the ReCode zoning changes are approved, and density is increased by a reasonable percentage (to, say, one unit per 300sf of lot area), then many more units could be built without sacrificing streetscape values. While maintaining the contextually appropriate street height of 45-50 feet, as many as 450 units could be built, and these of a size and configuration more imaginatively designed than standard 1, 2, and 3 bedroom-type units. At a higher density, studio and efficiency apartments without high-priced water and city views

could begin to answer the demands of affordability. Adding into consideration the three relatively undeveloped large lots at 94 (27,000 sf), 105 (46,341 sf), and 165 (68,572 sf) again setting aside any consideration of owner's intentions, then perhaps an additional 470 units could be added if these lots were also developed to the four story (50 foot) scale. The point of this exercise is not to imagine with certainty an uncertain future, but to put into context the notion of adding as many as 900 units of housing along the Washington Avenue streetscape.

In discussions with planning staff during the Re-Code workshop process the old Nissen Bakery building at 75 Washington Avenue was cited as desirable, characteristic massing for this streetscape. But staff stated that in seeking up-zoning for the site at 165 Washington Avenue, they were seeking to emulate the mass at 75 Washington Avenue. There is a big difference between a building that tops out at 50' (75 Washington Avenue) and one that is 85' tall (the up-

zoning requested for 165 Washington Avenue: 75’ + appurtenances). This is why it is incumbent upon planning staff to be precise in their assessment of current conditions and to demonstrate why it is reasonable to re-zone as they are proposing.

With much of Washington Avenue not coming anywhere close to filling out its allowed zoning limitation of four stories (45’ + appurtenances) it is hard to understand why they would advocate for a height limit of 65’ + appurtenances without making a considered argument as to why this would be good for the street.

Case Study #1a: Redfern’s Proposed 165 Washington Avenue

I include the following discussion of Redfern Properties recently proposed 165 Washington Avenue building because it has been touted as the kind of project that ReCode is meant to facilitate, and yet is both wildly out of character with the balance of Washington Avenue, and will not solve the housing crisis it claims to solve. While it is tabled for the moment, having not passed at the planning board workshop meeting of 7/9/24, Redfern has said that ReCode will permit it to be built when ReCode is approved.

Redfern proposed for consideration—by citizens, Planning Staff, the Planning Board, and ultimately City Council—a zoning map and text change in anticipation of ReCode. This was to create not a building, but a prospective maximum zoning space approximately 350 feet along Washington Avenue, 180 feet deep, and 85 feet high (75 feet plus appurtenances), within which a building of some kind could later occur.

Redfern’s renderings for the project at 165 Washington Avenue suggested that the building would convey either the flinty Nordic proportions of Portland’s own SunLife building (Perkins & Will), or perhaps the dreamy materiality of one of Alvar Aalto’s larger white structures. And for this hint of elegance we were to be indebted. A rendering offers the suggestion of a specific design for a specific building, but that is not what is under consideration now under ReCode.

Redfern proposed to use not the entirety of the 350 by 180 by 85-foot volume asked for, but some portion of it, arrived at through an algorithmic analysis aimed at maximizing the number of apartment units possible within the volume, given that each such unit individually and the building overall has unavoidable and critical requirements of access and egress, size and area, natural light and ventilation, to name a few. It is commonplace now to use such an algorithmic analysis to arrive at an arrangement to optimize the number of units and achieve a balance point that will help maximize the viability of an economic model for development.

In this case the study determined that the building shall be seven stories high, in keeping with their request, and that the building should not “hold the street” for its entire length and height but bend away from the street for part of its length. This resulted in a differentiated mass, broken into essentially four distinct volumes along Washington Avenue, appealingly in accordance with the comprehensive Portland’s Plan 2030 and the Land Use Code.

A comparable example of a building that similarly bends along its length is Alvar Aalto’s Baker House dormitory (1948) at the MIT campus. It, too, is six residential floors above a common

ground floor. This building was specifically designed not to hold a street, but to enhance MIT residential campus life by maximizing views of the Charles River for its 318 residents.

A typical floor in Redfern's C-shaped plan would maximize the number of apartment units that enjoy exposure to the north, west, and south, while minimizing the number of units facing east. Above the third floor most of these units would enjoy a substantial portion of the views of the city skyline, Back Cove, Mt. Washington, and the park and open space constituted by the Mount Joy Orchard, East End Community Gardens, and the Eastern Promenade.

Much has been said already about how the Redfern project seeks to solve the housing crisis by providing 320 small apartment units with 80 (25%) of those units as means-tested dedicated workforce housing units. The remaining 240 units would be market rate. Of the 320 units, roughly 2/3 (240 units) would be above floor three. Of the units above floor three, roughly ¾ (180) would enjoy the most expansive views. The rents for more than half the units in the building would be based on market rates and subsequent rent control, based on the prevailing rates for apartment units with good to excellent water and city views.

There are two additional facts concerning this project and views:

1) At Bayview Heights, the Volunteers of America complex providing 59 apartments of means adjusted, high-quality, affordable housing for people aged 62 and older, the private view of Back Cove will be 100% eliminated from the community dayroom, a space enjoyed by all Bayview residents. At least 20 apartment units would lose most, or all, of the bay view that they currently enjoy.

2) On the plateau at the top of the Mount Joy Orchard, at the edge of the North Street/East End School Community Gardens, the public views of the city would be eliminated for almost the entire length of the plateau. This is an iconic viewing (and sledding) location. People spread out along it often at sunset for views of the city, Back Cove, and Mount Washington. The view of the city, the portion of the view that would be most impaired, is published on the Re-Code Portland website.

Redfern Properties' request was to have changed both the current zoning map designation, and the text governing that designation, to usurp the private and collective views of low-income seniors, and cherished public views from an established public park and open space, to build high-value market rate units with spectacular views. Redfern ignored the losses to the low-income housing residents. The company characterized the public loss of city views as a reduction of 18%. Although this quantification sounds objective, it is entirely misleading. In claiming the loss of the public view of the city and back cove as 18%, Redfern was measuring the angle of view from one location, the bench in memory of Taeko Matsunaga Lee. An honest assessment would recognize that views of the city would be reduced by a range between 100% and 18% over the length of the plateau, for approximately 200 feet, with the average loss for multiple points over this distance being somewhere in the vicinity of 60%.

It may not be possible to mitigate the private and collective loss of environmental quality for the residents at Bayview Heights through any specific reference to our established comprehensive

plan and code standards, however insensitive it may be, other than by adhering to current zoning. But in addition, we have specific, approved policies referenced in the adopted Portland Land Use Code to prevent abuse and taking of our public open spaces.

While these requirements are formally part of site plan review, not an application to change zoning maps and text, they should nevertheless be taken seriously at this stage by Planning Staff, and Planning Board, and by extension City Council. Section 14.6.4 Site Design Standards refers in section D. to "View Corridors," stating, "The massing, location, and height of development shall not substantially obstruct public view corridors identified in the *Downtown Vision View Corridor Protection Plan.*"[11]

The view corridor protection plan further identifies Washington Avenue as a significant view corridor to be protected in this plan, and the view from the North Street/East End School Community Gardens contains two of the five specially identified city landmarks to be protected, City Hall, and the Cathedral of the Immaculate Conception, as well as other significant landmarks which are not so listed, but which we all know well, such as the Time and Temperature Building.[12]

And while it might be argued that the iconic view from the North Street/East End School Community Gardens open space is not specifically protected, the view from Fort Sumner Park is, by overlay, and this overlay offers a clear outline of principles for why and how to protect iconic public views in our public open spaces.

It might also be argued that the *Downtown Vision View Corridor Protection Plan* is not relevant because it was published in 1991 and was primarily designed to protect what was then designated the downtown district. Nevertheless, it is worth pointing out that the North Street/East End School Community Gardens contain 13% of the city's community garden plots and thus is a public open space of significant use. The *View Corridor Protection Plan* should be upheld because it sets out principles so valuable that City Council saw fit to enshrine them in their 2020 adoption of the Land Use Plan.

The point is that it is the numerical abstraction of 65' height envisioned by ReCode, plus the workforce housing bonuses combined that lead to Redfern's proposed height of 85' (75' + appurtenances) and the negative impact on the existing streetscape of Washington Avenue and the adjacent park. Planning staff should be working hard to mitigate against such unintended consequences.

The Redfern request to build to a height of seven stories was egregious and remains so. There is simply no justifiable civically responsive reason to introduce such an anomalous mass into the Washington Avenue streetscape, against the backdrop of a historic landscape (Eastern Prom), and as a violation of established neighborhood (Munjoy Hill) pattern and character.

Case Study #2, Forest Avenue (approximately 3300 feet between Preble Street Extension and Woodfords Corner)

Forest Avenue is an artifact of the 20th century, developed largely around the automobile, and continues today as a streetscape less concerned with the needs and desires of pedestrians, and more so on the requirements of cars. It consists almost exclusively of one- and two-story commercial buildings, either on or set back from the street, although these commercial stories are of a slightly higher floor to floor, or floor to ceiling height, than those on Washington Avenue. Automobile showrooms and repair facilities, and other 20th century commercial types characterize the most historic buildings on street, and these are punctuated by commercial automobile landscape buildings from the second half of the 20th century.

Forest Avenue is 35% wider than Washington Avenue, at 62’ for four travel lanes plus two parking lanes plus 12’ for sidewalks for a total of 86’ from building face to building face.

I have not undertaken the same level of detailed investigation of extant lots on Forest Avenue as I have for Washington Avenue, but I have some cursory observations. As I will make clear in my conclusions, I believe these necessary further investigations should be the responsibility of planning staff, who should have to fully justify with evidence the reasons for their decisions.

Even setting aside the largest parcels, the average parcel size is larger than those on Washington Avenue. Although generally newer, Forest Avenue has some larger lots and buildings of lower quality that it is possible to imagine would yield to upzoning and thereby encourage housing development, including for example the large lot containing the Forest Avenue Strip Mall at 449 & 465.

Even without such upzoning the building at 509 is currently undergoing conversion into 38 units of housing and ground floor commercial space.[13] It's possible to imagine other similar conversions taking place to more fully build out what is permitted by current zoning.

You could expect under current zoning a similar potential for housing development as you find on Washington Avenue. And just as on Washington Avenue you could expect that this could be accomplished with a modest relaxation of density requirements in the B2b zone, from 435 sf of lot area required per unit to 300 sf of lot area/unit.

The similarity between Forest Avenue and Washington Avenue ends there, with their somewhat equal potential for the inclusion of future housing, and begs the question, Why are they being zoned exactly the same way when they are so significantly different?

Why is a four-lane street 35% wider being proposed for identical zoning, when the ratio of building height to street width is so utterly different? All one needs to do to understand this difference in scale is to stand in the two very different streets, and look around.

And why is a street with a vibrant pedestrian shopping and dining culture being zoned to the same height and density as one with double the number of traffic lanes where the streetscape has historically been given over to the automobile?

There are several possible explanations:

• the planning staff hasn't spent any time in the streets seeking to understand similarities and differences in streetscapes or neighborhoods
• the wishes of developers for the simultaneous removal of all practical limitations on density, height, and area limitations have taken precedence over the actual urban design situation on the ground
• the zoning consultant hasn't considered the actual experience, history and culture of the city, relying instead on numerical abstractions and the ease of a one-size-fits-all approach to rezoning
• no one involved in ReCode has "ground truthed" the consultant's results

Housing Anxiety

While I understand and agree that increasing housing density in Portland is a highly desirable goal, it should not be achieved by lifting virtually all meaningful limits simultaneously on one parcel, for one developer. Nor should it usher in de facto acceptance of critical aspects of ReCode without understanding and review. Critical to this understanding and review is how the workforce housing or low-income housing bonuses may override zoning height limitations.

Portland's Plan adopted in 2017 projected the need for 2557 units of housing over the next ten years. As is well known, Portland will likely exceed this target by 1000 units by 2027, although affordability will remain a problem.[14] The bonuses for workforce housing and rent controls are supposed to help with this problem, but also may exacerbate it. There remain many people willing and able to pay large amounts, in cash, mortgage, or rent to live in units with excellent views in our beautiful environment. Only when the market contains many more ordinary units where the market dictates a lower price, and many more means-tested units with a lower price, will affordability arrive. Building more units with higher, expansive, spectacular views will not change the problem of affordability.

I am personally very aware of the current and past housing crises in Portland. My brother and I bought a three unit building at 51 Congress Street at a time of rapidly escalating real estate prices in the late 1980s. I recall the tenant who had to leave so that our parents could move in. She was active in Munjoy Hill's civic life, and she was quoted in the paper as saying that spiraling real estate prices were driving people like her out of the city. We were very anxious that we would be priced out ourselves, and yet in that moment we were vilified as outsiders and gentrifiers. Meanwhile, we felt very lucky to have secured a home for our parents where they lived until they died in the early 2000s.

I understand that the current housing anxiety is not new. I understand the drive to build housing with the desire of providing units and in the hope of driving prices down. We live on a peninsula in a very desirable place. To a certain extent these facts will always exert pressure on Portland's real estate values. Real estate on the peninsula is limited by the constrained ground area, and the pressure of this limit, and Portland's desirability, will likely only increase with climate change and sea level rise. Increasing density dramatically according to New Urbanist principles is an appropriate response to both crises: housing and climate. More people in a smaller geographic area—density—is a future bid toward sustainability. But let's recognize that we can have greater density without sacrificing a walkable, livable, human-scaled city.

It is too easy for big buildings to create inhumane, scaleless, soulless, placelessness.

Notes:

[1] https://en.wikipedia.org/wiki/David_Leatherbarrow
[2] CivicVisions is an urban development research firm, see: https://blogs.gsd.harvard.edu/critical-conservation/community/faculty/
[3] https://taubmancollege.umich.edu/news/2023/02/20/in-memory-of-douglas-kelbaugh-professor-emeritus-of-architecture-and-urban-and-regional-planning-and-dean-emeritus-of-taubman-college/
[4] See Wikipedia entry on New Urbanism: https://en.wikipedia.org/wiki/New_Urbanism#:~:text=New%20Urbanists%20support%20regional%20planning,development%20of%20jobs%20and%20housing.
[5] https://en.wikipedia.org/wiki/Christopher_Alexander#cite_note-auto-
[6] City of Portland, *Portland's Plan 2030*, adopted June 5, 2017, page 79.
[7] ibid. page 82.
[8] Louis I. Kahn, "The Room, the Street, and Human Agreement," talk given on the occasion of the awarding of the Gold Medal of the American Institute of Architects, 1971.
[9] City of Portland, *Land Use Code*, adopted 12/1/20, section 14-17, page 255.
[10] City of Portland, *Portland's Plan 2030*, adopted June 5, 2017, page 50.
[11] City of Portland, *Land Use Code*, adopted 12/1/20, section 14-17, page 252.
[12] City of Portland, *Downtown Urban Design Guidelines*, January 18, 1991.
[13] Portland Press Herald, Historic Forest Avenue building to be restored, converted into housing, July 26, 2024, https://www.pressherald.com/2024/07/26/historic-forest-avenue-building-to-be-restored-converted-into-housing/
[14] Mainebiz, Portland housing production exceeds city's target, but affordability remains a problem, June 26, 2023, https://www.mainebiz.biz/article/portland-housing-production-exceeds-citys-target-but-affordability-remains-a-problem

mclamoria@gmail.com <mclamoria@gmail.com> Jul 28, 2024, 1:15:51 PM (20 hours ago)
to planning@portlandmaine.gov

You all need to slow down & be more transparent about the Recode process, Your plan will ultimately take away private property rights of homeowners & potential future homeowners.

Don't try to convince me that this isn't the plan or this is not the outcome that will be. When you are taking properties with one home & turning them into 4+ units dwelling & "no more single-family zoning, who do you think is going to own them?

Of course this is a developers dream come true.

I attended a community outreach meeting with these proposals in 2023. During the question & answer portion, the general public asked to be kept abreast of the process going forward.

This was agreed upon. But of course has not been enacted on. If there is anything on the City website, it is very hard to find. How come no more public forums?

I have to thank Connect Portland for keeping me apprised of what you are trying to sneak through.

If the citizens of Portland that currently live in the neighborhoods, you are seeking to take over & destroy, wanted to live in a "urban setting" with high rises & multifamily dwellings, than we would have purchased such property on the peninsula.

We chose to live in the neighborhoods, away from all of that & enjoy our little piece of property, neighbors on a quiet street in a quaint neighborhood.

Please slow down, & included us neighborhood dwellers that will be most impacted if this rezoning goes through.

Developers come & go, we live here.

Thank you

Janet M LaMoria

Greenwood Lane

Public Comments 0 views

Jim Mcpherson 10:44 AM (1 hour ago)

to recodep...@portlandmaine.gov

I'm inquiring about recoding of Veranda Street between Martins Point and the 295 on/off ramp. That stretch of Veranda should be included and allowed for much taller residential buildings. It's on a major route, all major utilities are right there, would not increase neighborhood traffic, it's on the bus line and higher buildings would not block anyone's views of the bay. It's an ideal location for higher residential building.

Respectfully
James McPherson
899-3854

Recode

0 views

Subscribe

John Funk
to Planning Board

9:51 AM (2 hours ago)

Members of the Planning Board - My wife and I live on 4 Orchard Street in Portland. We have watched with concern the various proposals the administration has put forward to expand affordable housing in Portland - increase building heights, reduce setbacks, eliminate parking requirements, allow for the destruction of historic properties, encourage ADUs throughout the city, and so on - basically use every square inch for housing and obliterate the character of neighborhoods. It seems to be ignoring the effects of these changes on the quality of life in the city and is giving little attention to the long-term effects on infrastructure (water, sewer, electrical grid), schools, parking, transportation and so forth.

It's hard for a resident to keep track of the proposed changes, but the administration appears to be rushing forward to pursue a radical agenda to change what we love about Portland - except for its business core, a low-rise city with open spaces, breathing room between buildings and distinctive neighborhoods reflecting periods of its growth over the years.

To us, it's reminiscent of the 1950's and 60's when cities destroyed their beautiful historic buildings in the name of urban renewal and constructed soulless shopping centers and boring nondescript residential apartment buildings.

What we need is balance. Yes, let's provide more opportunity for affordable housing, but let's not destroy the unique character of our city in the course of pursuing this goal. There are reasons for the lack of affordable housing that are unrelated to the availability of land for development. A huge housing shortage of all types of property across the country, an increase in the cost of construction materials, an influx of immigrants and displaced persons, among others. The effects of these factors will diminish in importance in time as we respond to their effects. As an urban center, Portland experiences the immediate effects faster than other locations.

Let's be thoughtful how we proceed and avoid succumbing to the agendas of interest groups that have narrow self-serving objectives with little regard for the effect on the rest of us. Let's move incrementally rather than radically to address the issues.

W. John Funk
Deborah Chase

Recode 0 views

Leslie Hart 2:00 PM (1 minute ago)

to recodep...@portlandmaine.gov, planni...@portlandmaine.gov, plan...@portlandmaine.gov, ke...@kevinschochat.com

I would like to express opposition to the proposed change from B1 to B2 along Washington Ave. for the following reasons.

Recode assumes development along Washington Ave is transit-oriented development. There is some bus service along Washington Ave. currently, but not nearly enough to support the requirements of higher density development. The planning board has no control over increasing transit. That has to be done by the state DOT. There is an assumption that increased demand will eventually result in increased service. But there is no actual plan or budget to make that happen. Any zoning changes must be made in cooperation with the DOT **now**, not years from now, so there is a concrete plan in place to accommodate increased demand, rather than playing catch up years later. In the meantime, nightmare traffic congestion will deteriorate the quality of life in Portland. Increased density without adequate public transportation means more cars on our roads, adding to greenhouse gases and resulting in a negative environmental impact.

Second, the B1-B2 change contradicts the Portland 2030 Plan that acknowledges that “continuing to preserve and develop open spaces, and improve connections between them, is integral to the health and well-being of Portland’s residents, visitors, and ecology. The City’s public spaces are central to its ability to foster neighborhood vitality, sense of community, recreational opportunities, environmental health, arts and cultural programming, economic development, and local mobility. A walkable, bikeable, and accessible network of open spaces is an invaluable and necessary element of an equitable, healthy, and vibrant future."

Yet the proposed zoning change would do just the opposite. Permitting taller buildings along Washington Ave. will negatively impact the western end of the Eastern Promenade Park, obstruct the expansive views from the park, and diminish the experience of the park and the physical landscape. A recent NIH (National Institutes of Health) study found that "Green spaces provide vital health services as well as environmental services... reducing socioeconomic health inequalities, facilitating activity and promoting better mental health and well-being.” It called green spaces "a cost-effective public health intervention.”

Recode should not rob our citizens of this essential element of health and wellbeing.

Leslie Hart & Kevin Schochat
917.364.3682
215 Sheridan St.
Portland ME 04101

Recode Proposals / Height Impact

0 views

Subscribe

Herb Adams

2:17 PM (1 hour ago)

to planni...@portlandmaine.gov

To the Planning Board --

As one who has written extensively about Portland City Parks and worked to expand them (e.g. Noyes Park and Thomas Park, etc.) I think the concerns about loosening height restrictions in the proposed city Recode, especially in re: The Eastern Prom , are very valid concerns.

Density of housing can be achieved without diminishing quality of life. The open vistas from our Proms, or Ft. Sumner Park, belong to us all, and enhance our city's liveability and unique quality beyond price..

These views do not cost Portland a cent. Nature gave Portland a priceless gift. We could never replace or improve it. It is beyond what mankind can do.

Taller buildings alone, claiming the views, do not mean better buildings, or better quality of Portland life. They benefit only those who can afford to live there.

Such views should not belong only to those who can afford them.

Portland's views and skyline should never be for sale.

Thank you.

Herb Adams
Adjunct Professor Social Sciences
SMCC
South Portland, ME 04106
hadams@smccme.edu

ReCode Committee:

I write in distress about the absence of year long residency restriction for Accessory Dwelling Units , for the following reasons:

1. In March of 2019, a text amendment was added to Section 6.6.2A of the Portland Land Use Code specifying that on Peaks Island ADUs must be rented year round only.

2. It is no longer there, wiped out at some point for some unknown reason, without any notification or discussion.

3. Is this legal ? To quietly remove a clause that supports year round affordable housing ?

4. Is it sensible ? NO. At the direction of the Peaks community (a study, a zoning advisory committee, the Home Start board and the Peaks Island Council) , its purpose was **to ensure the creation of more year round housing and to prevent the creation of more short term rentals.**

5. Should a year round rental restriction be added for all ADUs in Portland ?
   Yes, if there is truly a commitment to creating more affordable housing in Portland.
   Without such a restriction the ReCode leaves the door wide open to more short term rentals.

One sentence will fix this. To the proposed ReCode Chap. 14, 6.6.2.A add a 9th point:
"*Neither the accessory unit or the principal dwelling shall be used for short-term rentals as defined under Section XXXXXX."*

This wording is from the Peaks text amendment added in 2019 - and then mysteriously removed. To support ADUs as one way to add affordable units, it must be restored and expanded for all of Portland.

Betsey Remage-Healey
President
Home Start

ReCode map question

0 views

Subscribe

Christian MilNeil 2:58 PM (3 minutes ago)

to planni...@portlandmaine.gov, Helen Donaldson

Hi Nell,

I have a question about the city's proposed ReCode zoning map.

All the maps I've seen so far are drawn such that public rights of way are excluded.

I understand that the rationale for this is so that zone boundaries follow parcel boundaries, but I'm concerned that this could complicate efforts to offer public right-of-way for private development on excessively wide streets like Franklin and Spring Streets, or the I-295 interchanges.

These are the places that offer some of our biggest opportunities to build new housing on city-owned land, and we should be explicit about encouraging higher-density development there from the get-go, instead of leaving these areas to uncertainty as a blank spot on the zoning map.

Is there language in the proposed zoning text that says that zoning boundaries will be implicitly extended into the adjacent public right of way? If not, I'd encourage the Planning Board and the planning dept. to make certain exceptions to the zoning-follows-parcel-boundaries rule where there are plans in place to narrow or otherwise redevelop the right-of-way, on Spring and Franklin Streets and in the I-295 Exit 5 cloverleaf interchanges in Libbytown.

Otherwise, I'm really excited for the changes and will also throw my own support behind the others advocating for more ambitious changes to height and density rules, and expanding the proposed TOD zones into more districts, so that we can invite more people to live here affordably in more walkable neighborhoods.

Thanks for all your hard work on this!

Christian MilNeil

- - - - - - - - - - - - -

Megan Cindrich <mcindrich@portlandmaine.gov>

ReCode

1 message

Elizabeth Owens <eliza.owens23@gmail.com> Mon, Jul 29, 2024 at 3:15 PM
To: recodeportland@portlandmaine.gov

To whom it may concern:
As residents of Munjoy
Hill, my husband and I wish to add our voices to those concerned about the environmental impacts of some of the city's ReCode plans.
The letter below summarizes our concerns:

Elizabeth Owens and R. Douglass Faherty
197 Sheridan St.
Portland, Me 04101

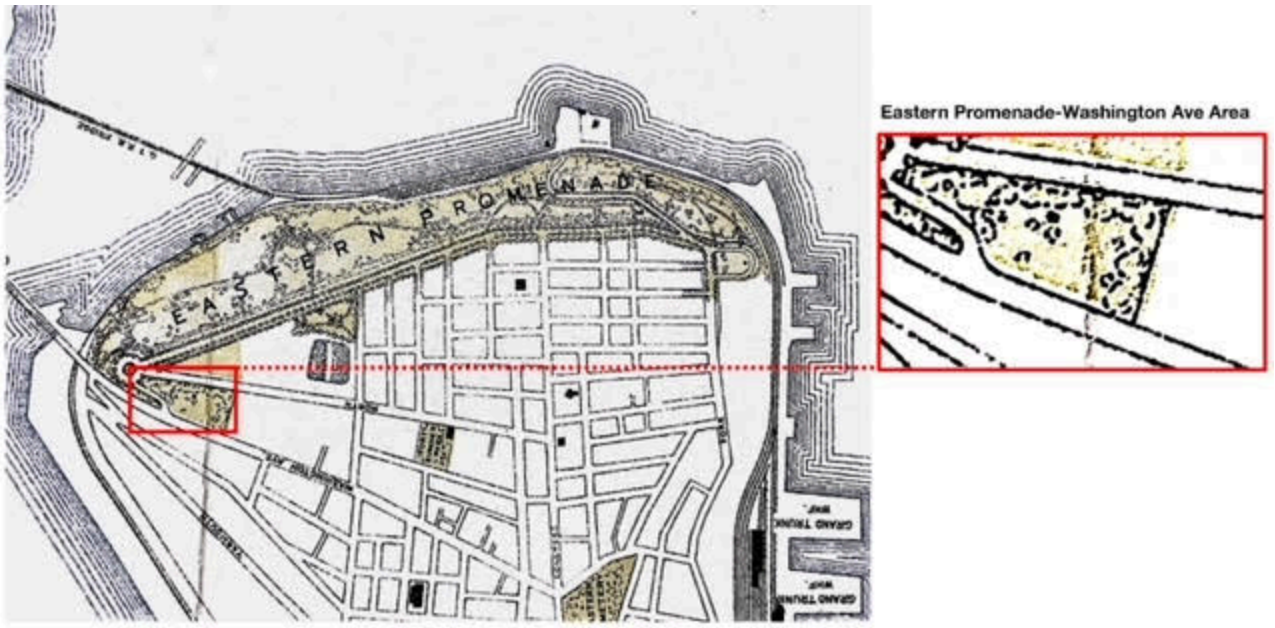
Phase II of ReCode does not address the impact of increased zone height recommendations on Portland's signature parks, which were designed to showcase and protect the quintessential scenic vistas that define landscape of the city. Portland 2030 identifies Parks and Open Space as a one eight key policy guidelines.

As the city works to increase density and create more multifamily housing on the peninsula, it is more important than ever to provide breathing space and a shared backyard for the public. As such, it is essential that policies designed to

address the housing crisis must simultaneously preserve, protect, and expand our signature parks, notably the Eastern Promenade.

Zoning changes proposed as part of Portland ReCode will negatively impact the western end of the Eastern Promenade Park, which include the southwestern facing slope between North Street and Washington Avenue. This section of the park offers expansive views of the city skyline, Back Cove, and Mt. Washington, similar to the views protected by the Fort Sumner Park Height Overlay. It is also home to the North Street Community Gardens, the East End School Community Garden and Outdoor classroom, the Mt. Joy Orchard, and Jack Path.

The proposed zoning changes in ReCode will increase height and density guidelines for those lots abutting and adjacent to this section of the Eastern Promenade. Specifically, the 9 lots directly across Washington Avenue, which are currently zoned B1-b (45 foot height limit) will be rezoned to B2-b (65 foot height limit); and the lot that abuts the end of the park next to the Mt. Joy Orchard will be rezoned from B1 (45 foot height limit) to B2-b (65 foot height limit). These zoning changes will not only obstruct the expansive views from the park, but they will also negatively impact the experience of the park and the physical landscape.



City of Portland ME. General Plan for Park System – Eastern Promenade
Olmsted Brothers Landscape Architects
Brookline Mass. June 1905

"... let us all unite to secure for ourselves and for our children a beauty spot in the midst of our growing city—a breathing place for all the thousands who are to come after us."

– *Portland Transcript*, 1856

7/30/24 - PB Recode Workshop - Basic Questions Not Answered in Planning Dept ReCode Phase2 Proposal

Subscribe

1 view

Karen Snyder <karsny@yahoo.com>
to Planning and Urban Development

Jul 29, 2024, 9:29:53 AM (yesterday)

Dear Planning Board members,

This ReCode Phase 2 proposal from the City of Portland Planning Dept appears to be going down the same path as what was proposed for R-6 Zoning Changes that were proposed and adopted in 2015.

Basically, experience has shown us that more housing density by reducing setbacks and going higher does NOT equate to more long-term residents rather more property investment housing units for developers and the wealthy to purchase and trade while simultaneously making it more expensive for existing long term residents to stay in Portland and pay accelerating property taxes.

This can be proven by example of what has happened on Munjoy Hill. Yes, there is more housing density, but now there are less long term residents and a loss of immense value that our unique neighborhoods add to our community.

As such there are some basic questions that need to be asked and answered regarding the ReCode 2 proposals.

Question #1: Studies have shown that “urbanization” can widen the gap between the rich and the poor, exacerbate environmental degradation, increase costs associated with infrastructure and services, and contribute to economic & social disparities. **Where is the data to prove otherwise with these ReCode Phase 2 proposals?**

Question #2: Who is really benefitting from these ReCode Planning Dept proposals?

Questions #3: Why were the Planning Department ReCode stakeholders mainly developers and real estate rather than actual long term residents from the various districts?

Question #4: Why didn't Planning Dept hold neighborhood meetings in EVERY district rather than fancy email blitzes and a ReCode studio during the middle of the day in downtown Portland when they promised to reach out to neighborhoods?

Question #5: Where is the study/supporting data that these ReCode proposals are going to increase affordable working and middle class housing?

Question #6: How will these ReCode proposals decrease the urban sprawl and massing morning commute made by working and middle class people that either:

A.) Can not live in Portland because of the price of housing or

B.) Do NOT want to live in Portland because Portland is becoming unlivable- too small and expensive of place to live, not enough trees, too much asphalt and concrete, too dense, too many homeless and needles, etc etc.

Question #7: Why hasn't City of Portland Planning Dept learned from the mistakes Boston, NYC, LA has done (too high of rents because the oligarchs and massive morning commutes of the working and middle class that either can't afford or don't want to live in urban grit?) but instead they are using these unlivable cities as basically a blueprint to copy?

I hope the City of Portland Planning Board can get these basic questions answered above from the City of Portland Planning Dept.

Regards,
Karen Snyder
D1 Resident

Recode

0 views

Subscribe

Donna Williams <donna.williams@maine.rr.... Jul 29, 2024, 11:07:22 AM (24 hours ago)
to planning@portlandmaine.gov, Connect Portland

I am writing to the Planning Board re the proposed zoning amendments generally described as “Recode”. I am a former member of the Portland Planning Board, so I can concretely attest to the fact that there has been little review in the community, which would have been insisted upon in the past. I object strenuously to the proposals for two reasons: 1)I object to several of the concrete proposals to rezone significant parts of Portland, and 2)I object to the process used (during the pandemic) to collect and rewrite the land use code, essentially cutting out public involvement in the process.

Most of the discussions were amongst the planning professionals, inside and out of city hall. When I retired and sold my business, I looked for volunteer opportunities when this initiative was first proposed and received the first contact, after the work was done and presented to the public in 2023.

During the first real public rollout of some of these ideas, in the summer of 2023, I attended a community meeting at Lyseth Elementary School and when I asked then planning director, Christine Grimaldi to present their ideas to the various neighborhood groups for feedback, she ignored my question and continued the meeting—whereupon another meeting attendee yelled across the room, “I guess the answer is “no”. I am confident if a poll was done in Portland, around 97% of the public would have no idea that there is a plan to dramatically change the landscape/hardscape of the city of Portland.
The proposal presented for 165 Washington Ave. gives us some sense of what Recode could mean for not just Washington Avenue, but for some of the other so called “transit corridors” in the city of Portland. During “urban renewal” we got the Franklin St arterial and we got Spring St arterial, bisecting neighborhoods, etc. These transit corridor proposals will be just as disastrous for the city and encourage suburban sprawl. These multistory studio and 1 bedroom apartments will push families to the suburbs and they will want multi lane quick rides (in their own cars) to their homes and to their offices in Portland. Some of the family housing on our “arterials” is the last vestige of “affordable family housing” in the city of Portland, and through amendment to the city codes, this city now allows tear downs of some of these houses, so developers can eventually replace them with 10-20 small units on a parcel of land. These new units will most likely be transitional housing for people who will have little stake in the future of their short term neighborhood.

I strongly suggest you postpone action on any of these proposals and direct the planning staff to go out into the community, each neighborhood, and explain in understandable language, how this may impact each area, and allow for discussion, give and take. What I have observed is that there have been virtually no community conversations, and while I appreciate the fact that the Board and the Staff don’t want BIG voices to dominate discussions, I know there are techniques available to control for that..

Sincerely,
Donna Williams
85 Machigonne St
Portland

Planning Board,

The Urbanist Coalition of Portland urges you to insist on a ReCode that meets our transportation needs. We feel that the current ReCode proposal does not do enough to create a simpler land use code that advances housing, transit, and complete neighborhoods.

UCP has been making recommendations throughout the ReCode process and will continue to do so. However, one of our most critical recommendations will require a change to the proposed zoning map. The process to make this change must start as soon as possible so there is time for staff to update the map before the Planning Board and City Council vote on ReCode.

In Maine, zoning must be consistent with a city's comprehensive plan. A cornerstone of Portland's comprehensive plan is encouraging dense, mixed-use development along transit nodes and corridors. This is critical to meet our housing, transportation, and environmental goals. This strategy is mentioned throughout Portland's Comprehensive Plan. It received strong support from community engagement and was woven into our environmental, economic, housing, and transportation policies:

"Land use planning will guide new growth to downtown, key nodes, and corridors"

- Page 3, Executive Summary: Future Land Use

"Survey results, for instance, identified specific nodes and corridors of concern that fed into Future Land Use and transportation goals and strategies. ***Strong support for transit-oriented development*** *… helped guide the formation of the plan's vision."*

- Page 10, Community Engagement

"Adopt ***sustainable land use*** *and transportation policies that support connectivity, walkable neighborhoods, and multi-modal Transportation."*

- Page 19, Policy Guide: Environment

"Create incentives to ***spur transit-oriented, mixed-use development along corridors*** *and in areas that can support high-quality transit service."*

- Page 76, Policy Guide: Economy

"Portland's plan for Future Land Use places emphasis on areas most important to its growth over the next ten years. It includes three maps: … a map ***corridors and nodes that are poised to accommodate additional growth****"*

- Page 79, Policy Guide: Housing

"Priority nodes and ***corridors indicate areas that would be appropriate for new development*** *to provide needed housing, businesses, and services proximate to transit, or areas that otherwise warrant some examination of potential for positive change in form and/or function."*

- Page 82, Policy Guide: Transportation

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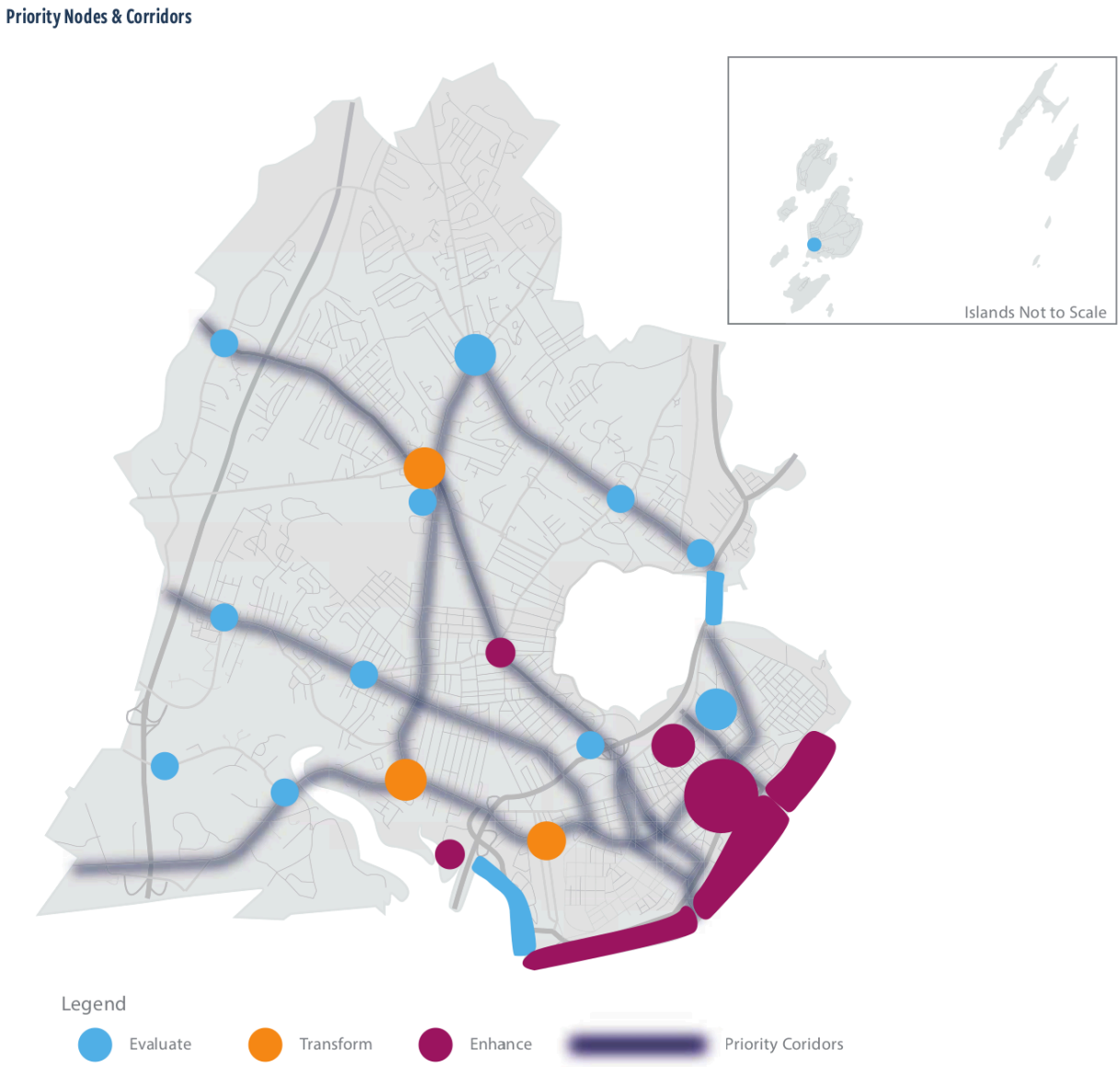
The locations of these corridors are specifically mapped in Portland's Comprehensive plan:



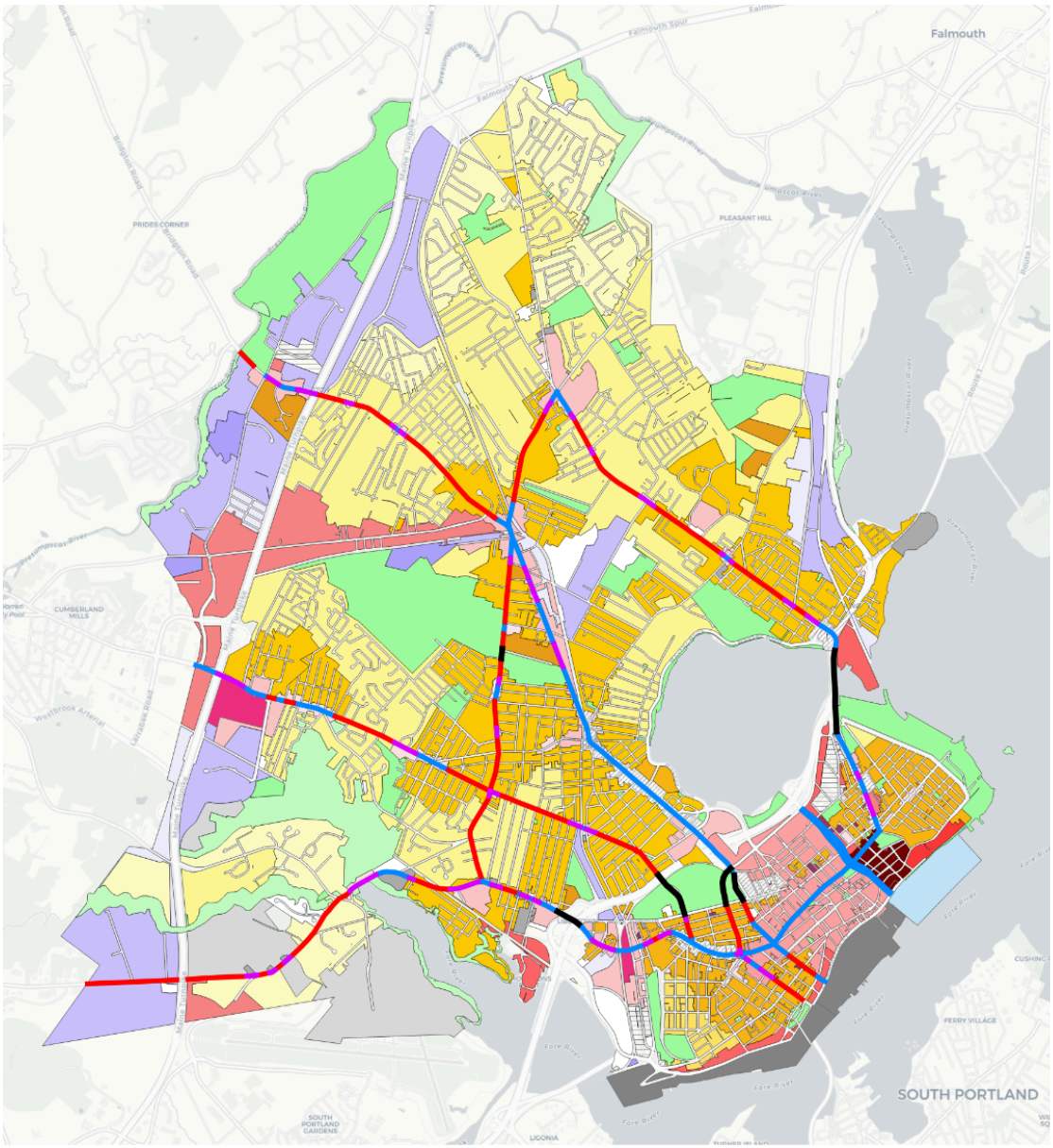
Page 86

The current ReCode proposal does not update the zoning around these corridors to allow for dense, mixed use development. Below is the currently proposed zoning map with the corridors color coded.

Urbanist Coalition of Portland

- **Red** sections **do not allow** dense mixed-use on **either side** of the corridor.
- **Purple** sections allow denser, mixed-use development along **one side** of the corridor.
- **Blue** segments allow denser, mixed-use development is allowed on **both sides** of the corridor. However, we still feel that in many places the proposed zoning is not dense enough to support our transit goals.
- **Black** sections mean there is either open space or unusable land on either side.

Open space was counted as equivalent to whichever use was across the street from in order not to penalize open space along these corridors.



Large sections of these corridors have been left zoned for low-density residential or industrial development. There are areas where some of our lowest density residential zones (light yellow)

Urbanist Coalition of Portland

are directly along priority corridors. Of the areas that do allow dense, mixed-use development, many already allow it currently, without ReCode, e.g. Forest Avenue and the peninsula.

ReCode is changing very little to encourage growth along these priority corridors. Without development along these corridors, we will never be able to attract the ridership and raise the tax revenue that we will need to provide truly high quality transit service to Portland. Our region will grow with car-centric development: increasing sprawl, traffic congestion, and pollution.

ReCode has developed a new zone that defines uses and density compatible with transit-oriented development. These are the new TOD zones. However, these zones have only been mapped to three properties. **These standards should be applied to all parcels within 200 feet of the corridors specified in Portland's Comprehensive Plan**.

Portland has not rewritten its land use code in 50 years. The ReCode process alone has taken nearly 7. If we don't plan for a future with transit now, **it will not happen in our lifetimes**. The current ReCode proposal does not plan for this future, it is not consistent with Portland's Comprehensive Plan, and it will not be enough to meet Portland's goals. We urge you not to approve a version of ReCode that continues to restrict growth along our priority transit corridors.

In addition to our concerns about the map requiring immediate action, we have identified the following additional concerns with the ReCode proposal:

- Portland's housing potential is limited by restrictions on density, minimum lot size, height, and minimum setbacks in residential areas that were left in place in the majority of the residential land in Portland. There will still be neighborhoods that could not be rebuilt today under this ReCode proposal.
- New limits on building length have been proposed that limit housing in the few places that allow multi-family housing today and limit the potential of the new transit oriented development zones.
- Rules around height are inconsistent and do not take modern building practices into account.
- Industrial zones were left in place, limiting potential for housing and mixed-use development while defaulting to what made sense for industrial land decades ago.
- Small to medium-sized projects will still need to go through major site plan review. This means that limited Planning Board time will need to be used to approve projects with only a handful of units.
- Neighborhood-scale businesses are limited to specific, pre-selected pockets that are often few and far between instead of allowing neighborhood centers to form organically.

Sincerely,
The Urbanist Coalition of Portland

Portland's ReCode: A promising start but insufficient to address our city's needs

The Urbanist Coalition of Portland (UCP) supports efforts to modernize Portland's land use code (ReCode). However, we feel the current proposal is insufficient to address the needs of our city today and into the future. The current proposal does not adequately remove barriers to addressing our housing crisis and building the walkable, bikeable, transit-accessible neighborhoods that we need to address our climate crisis. Below is a summary of our analysis of the Portland Planning Department's proposed Phase II ReCode changes.

Learn more at **urbanistportland.me/policy/recode**!

What's good

- **Streamlined housing options added by LD2003**: Allowing three and four unit housing types in all zones and approving them through the simpler minor site plan process maintains and streamlines the work that was done by LD2003 to increase housing options.
- **Streamlined Zones**: Combining some zones simplifies the code and allows for a more responsive housing market.
- **Transit-oriented development (TOD) zone type**: The new TOD zones encourage walkable and sustainable neighborhoods.
- **Removing parking minimums**: This barrier to housing has been removed city-wide.

What's concerning

- **Limited transit-oriented zoning**: The entire new transit-oriented zone category will only apply to three specific properties and the denser of the zones is not used at all. This is not a comprehensive plan for transit-oriented development in our city. It is spot zoning for specific projects while other, equally transit accessible, sites have their potential restricted.
- **New length maximums limit multi-family housing**: The new building length maximums will make multi-family housing more difficult to build in areas where it is currently allowed because these limits will make it difficult to fit more units alongside multiple staircases and elevators.
- **Multi-family housing limited to four units**: The new three- and four-family designations add complexity to the code in order to limit gently dense housing options.

Urbanist Coalition of Portland

- **Limited neighborhood businesses**: The proposed changes to allow for more neighborhood businesses are limited to just a handful of buildings and are complicated to comply with.
- **New restrictions on places of assembly:** Limiting places of assembly like religious centers to major roads is unnecessarily restrictive and removes the possibility of small walkable community gathering places.
- **Lack of Transparency and Predictability**: Zoning decisions lack clear justification and create confusion.

What's missing

- **Removing barriers to housing**: Setbacks, density limits, height restrictions, and minimum lot size reductions are needed to create walkable neighborhoods.
- **Overall code simplification**: The code remains complex and difficult to navigate.
- **Industrial land reform**: Underutilized industrial land could be revitalized with mixed-use development.
- **Streamlined approval process**: Allowing more housing types to go through the simpler minor site plan process could make it faster and easier for more projects to get approved.
- **Future-oriented planning**: Zoning should be based on data and future needs, not just catching up with current demand.

Take action

Portland deserves better than the status quo. ReCode should deliver meaningful change for a more affordable, livable, and sustainable city. The UCP urges city officials push for a ReCode that includes:

- **Housing**: Reduce barriers to building more housing such as building length, setbacks, and minimum lot size.
- **Transit**: Allow for transit oriented development along all of Portland's major transit corridors
- **Simplicity**: Further simplify the land use code by combining more residential zones and allowing more small multi-family projects to be considered minor site plans
- **Complete Neighborhoods**: Allow a neighborhood-scale mixture of uses in all residential zones

The UCP will provide detailed policy recommendations in the coming weeks. We urge you to join us in demanding the reform Portland needs.

Urbanist Coalition of Portland

Public Comment on Recode

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Sandra Knakal <sandi.knakal@gmail.com> Jul 29, 2024, 12:03:32 PM (23 hours ago)

to planning@portlandmaine.gov

I support a requirement that the Planning Board hold meetings specifically targeting residents in their neighborhoods to educate and explain the impacts of the proposed code changes. It appears that developers are more skilled and knowledgeable in the process and have been able to lobby for what is best for them, leaving residents concerned and sometimes confused. I'm particularly concerned about the city's ability to provide good infrastructure support for all of the development that would be allowed. Are developers of big buildings going to be required to pay a fair share of fees and taxes to support the necessary infrastructure? Continued increases in our already very high property taxes are driving current homeowners out.

Thank you,

Sandra Knakal
42 Morning Street

Problems with ReCode

0 views

Subscribe

Melinda <melklo2004@yahoo.com> Jul 29, 2024, 12:47:13 PM (22 hours ago)

to planning@portlandmaine.gov

I am deeply concerned that the project ReCode has reached so late in the game with little effort to gather input from the residents of Portland.

I've heard almost nothing about this project until recently, yet reading the projected impact is very disturbing. It has been driven mostly by a consultant who specializes in large cities and developers focused on maximizing their own profit. Input from the actual residents who will be living with the results has been minimal.

We are not New York. We are not Chicago. We do not wish to become them. The planning board needs to step back and incorporate feedback of residents and keep changes in line with the city's culture and history. The developers will walk away with as much money as they can. They do not have to live with the impact of the rezoning. We do.

July 30th planning board

0 views

Subscribe

Markos Miller <markossmiller@hotmail.com> Jul 29, 2024, 1:20:24 PM (22 hours ago)

to planning@portlandmaine.gov, Ameriz Gamez

Chair Mazer,

I'll be out of town on July 30th, but wanted to offer comment on 2 issues coming to the planning board at that meeting.

1. ReCode- I'm so glad this is happening and am appreciative of all the work staff is doing to move this forward. It's big and important work. It moves Portland in the right direction. However, it does not go far enough to achieve the population density Portland needs to sustain walkable neighborhoods, an accessible housing market, or a truly effective transit system. In general, I urge the planning board to ask for more. Some specifics:
    a. TOD- this should be used along transit corridors and at nodes throughout the city (Forest, Outer Congress, Washington, Brighton, Franklin, Woodfords, Morrill's, and Allen's corners, etc.). The proposed B-5 in most of these areas is insufficient; it's 65' height limits are unlikely to produce the densities needed anytime soon. I know there is a 25' height bonus for affordable housing in the B-5, but this will not achieve the results sought for a couple reasons.
        i. Affordable housing developers like PHA are saying that they do not build over 6 stories because of construction costs (i.e. steel). So, the very developers this height bonus targets say they will not be using it.
        ii. Affordable housing is needed. Density is needed. However, we should not be making achieving one goal dependent on achieving the other goal. We need to encourage residential and mixed-use density for all income levels. Portland needs tall market rate buildings as well as affordable housing.
    b. I fear the maximums ReCode is calling for barely reach what is needed for the vibrant transit and 15-minute neighborhoods the Comp Plan calls for. We must aim higher than the bare minimum if we are to achieve our goals.
    c. Finally on this matter, I know politics and public input are important parts of our process. However, it is a mistake to cast ReCode as a largely political and public input process. That work already took place when we developed the Comprehensive Plan- Portland 2030. ReCode must be about how we achieve the goals outlined in the Comp Plan, not if we are going to achieve those goals. We must focus on what are the most effective strategies to achieve the Comp Plan goals and resist calls to relitigate our Comp Plan goals.
2. 42 Atlantic St- I live at 17 Atlantic St. and fully support the redevelopment of this site as envisioned by the developer. Munjoy Hill has traditionally been a working-class neighborhood characterized by a diversity of housing types that housed multiple large families. While

gentrification is changing this, Portland, and my neighborhood, need housing for working class folks- people to work in our schools, police force, restaurants, and other fine businesses. Munjoy Hill is an ideal part of our city for urban density- it is walkable to goods, services, schools, and employment. It is close to transit. There are other buildings of similar size just blocks away. This project also offers added benefits related to energy efficiency, and tenant equity that should be applauded and supported. Recent changes related to LD 2003 have made this development possible; this is the ideal place for such a project. I hope you will support it.

I appreciate the important work you and the other members of the Planning Board perform for our city.

Regards,
Markos Miller

Recode vote

0 views

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R

Ron Smalley <rasmalley1@gmail.com> Jul 29, 2024, 5:02:46 PM (18 hours ago)

to planning@portlandmaine.gov, Cheryl Ann Leeman, citycouncil@portlandmaine.gob

Ben Jacks has it right. Abstract ideas from council members to the planning board and via versa to be vetted now. Not after the fact.

NO to RE-CODE

Ron Smalley
26 Meadow Ln, Portland, ME 04103

City of Portland Recode

0 views

Subscribe

Mary Polito <mfpolito12@gmail.com> Jul 29, 2024, 7:18:38 PM (16 hours ago)

to planning@portlandmaine.gov

To the members of the City of Portland Planning Board :
I write to express my concern regarding the City of Portland's Recode overhaul. I am discouraged by the obvious insertion of developers into the shaping of Recode agendas, process and ultimately its outcome. I am not aware of focus groups where residents (the key stakeholders) of the neighborhoods are represented, and I am increasingly frustrated by the barrage of unsolicited materials supplied by realtors and developers claiming to understand and reflect what represents my neighborhood and community.
When I purchased my home over thirty-five years ago , I chose to live in the neighborhood because of its unique neighborhood characteristics . I did not choose this neighborhood because I wanted it to become more "urban " and ripe for development. I suspect other residents and homeowners chose similarly.
On my street alone there are presently no fewer than four residential construction projects ongoing with seemingly little attention to height or setback requirements. I can only imagine what a developer-centered Recode environment will allow .
There is so much traffic on Edgeworth Avenue (including school buses, construction vehicles , and automobiles) because of a multi-business use office building located at 619 Brighton Avenue (at the corner of Edgeworth Avenue), and there is so much construction and remodeling work ongoing that we residents often cannot park our own vehicles, nor can we have necessary maintenance performed at our homes without negotiating significant parking challenges. I challenge an emergency vehicle (fire or police) to navigate its way up or down the street! Check the scene out in trash pick up day and it's a congestion of vehicles dodging one another . Try to politely request a patron or employee of the office building to relocate their vehicle and one is often met with abrupt responses or blatantly ignored . I recently attempted to walk my dog on the side of Edgeworth Avenue that houses sidewalks , and I simply could not because multiple construction vehicles were occupying not only the road but the sidewalk ! (So much for a walking neighborhood .)
Our neighborhoods are no longer residential neighborhoods and any shred of uniqueness and a community vibe are rapidly diminishing . I find the trajectory of the City of Portland 's Recode overreaching and deviating far from the residents (we, the taxpayers) desires and best interests .
Sincerely ,
Mary Polito
19 Edgeworth Avenue
Portland , Maine 04103
Sent from my iPhone

Zoning 0 views

Subscribe

Jacqueline Cohen <jackicohen316@gmail.c… Jul 29, 2024, 7:26:38 PM (16 hours ago)

to planning@portlandmaine.gov

Your proposed zoning map has different zones on each side of Torrey St. Why? All of Torrey St was originally R3. What is your reasoning for creating RN 3 and RN 4 zones now?
I see no reason to change the zoning and I really can't figure out the reasoning for different zoning along a street where both sides are the same.
In addition, there is no sidewalk there. If you allow more density with no required parking, you will have school kids walking in the middle of the street. We do get snow here. How do you justify this plan?
Sent from my iPhone

Recode comments

0 views

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Enoch Wenstrom <eenebw@gmail.com> Jul 29, 2024, 9:08:43 PM (14 hours ago)
to Planning and Urban Development

I hope Portland does not create new residential code based on what developers and special interest groups want.. vs. what is reasonable and sensible for a truly liveable city .
One example would be basing code off the myth that more density is going to protect the climate. farmlands and rural areas while also stopping urban sprawl. This is a lie that developers want to relay as a perk for building and cramming more people into dense housing. To me it is a pure misleading tactic to increase developer's profits. In fact there are really two kinds of people in regards to renting or owning property. These are city dwellers and rural dwellers. Building high density spaces in Portland may draw more people here that want to live packed into cramped spaces but it will also create a bigger market for urban sprawl as their suburban friends and families take notice and relocate here. Many people will leave Portland as it becomes more congested.. crime ridden and a bad place to live if those wanting high density get their way, just like most us cities.This alone will create urban sprawl. Common sense says that if portland gets more known as the place to be, many will want to live in the Portland "area" but not in the crowded city. Urban sprawl has arrived in Maine and is not going to stop if Portland becomes more densely populated. The opposite will happen. It is completely contradictory to over build Portland into an urban nightmare like so many other cities and then claim that will prevent sprawl. Don't people come here for a city like experience without all the drawbacks? More density will make Portland less liveable and appealing and that will be what gets rid of our rural areas and farms.
I am not sure what the real reason is for the push to overbuild Portland but the false rhetoric of it would protect rural areas and farmland is not a valid reason.
We need code to keep portland liveable and not code to try to emulate Boston or NYC and their urban sprawl. You know.. the cities everyone escapes from only to move here for a more relaxed feel.
Enoch wenstrom d1

ReCode PB Workship Comments 7/30/24

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0 views

welmaurya@gmail.com <welmaurya@gmail… Jul 29, 2024, 10:06:51 PM (13 hours ago)
to Planning@portlandmaine.gov

Planning Board Members and City Staff,

Portland's Recode effort is the most important activity the City is undertaking. It influences and impacts every aspect of how people live their lives, how the City looks and works, what jobs are available, how much they pay, what new businesses open and if they survive. Land Use Code is the primary tool the City can use to reduce emissions, protect air, water and soil and establish a responsible level of consumption and emissions for a City of Portland's size. Considering the lack of housing and the expensive nature of the housing in Portland, it seems that the current proposal is not ambitious enough and in some places does not get some of the details and nuance required to have the positive effects our Comprehensive Plan envisages or that current and future residents need.

There are several excellent changes proposed in Phase II. I would like to suggest a few things:

1. RN-5 (current R6) – Modify density from 725sf/du to 640sf/du. The most common lot size in R6 is 40' x 80' or 3200sf. By reducing the square footage requirement to 640sf/du this allow 5 units on most lots. As household size has greatly decreased over the last 50 years many more homes are needed to accommodate changing lifestyles. Currently Munjoy Hill has only 20-25% of the population it had in 1950. To be able to support walkable neighborhoods we need more housing to create enough density to support local businesses and public transportation options. Additionally, because so many households are 1 or 2 persons, and the cost of construction and homes is so high, homes are getting smaller. 5 homes is easily accommodated on a typical RN-5 parcel. Another solution is to eliminate the density requirement in RN-5 an RN-4.

2. Mixed use is not expanded to enough neighborhoods to comply with the Comprehensive Plan or what people want. People want walkable neighborhoods. They want to be able to walk or ride their bike to the coffee shop, bakery, restaurants, work, post office, pharmacy, dentist, florist, etc. This requires density, neighborhood centers but also small businesses peppered throughout neighborhoods. People love this mixed use but Recode fails to address this adequately. Development and change takes a long time. Portland, and most cities, are already 20 years behind in making these changes. We can't afford further delay because we are resisting being innovative, ambitious and sincere in addressing these shortfalls.

3. Modify how the City calculates height. The current process is inconsistent, is unrelated to a building's actual height, doesn't consider the bigger picture around what the City is trying to accomplish in terms of housing production, diversity of housing choices and decreasing housing costs. None of this is in the general interests of residents which is typically the reason for regulation. The current method is too subjective and arbitrary and is disconnected from the actual height of the building and therefore doesn't produce consistent results. Buildings are real. They are tangible objects that have pretty specific requirements to build. When one site allows a building to say it is 42' in height but is actually 49' in height and has 11' floor to ceiling heights versus another parcel where the height is expressed as 45' high but is actually 40' in

height and can allow for 8’ floor to ceiling heights the process is not working. This is not how the City gets good designs, high quality buildings that improve our housing stock. Actual building heights defined as FFE (Finished Floor Elevation) to Roof Beam need to be used to insure consistent excellent building design and quality.

Height determination should be a two step process. So let’s assume a building is being built in the R6 Zone and can be built to 45’ height. First, the Allowable Building Base Plane (ABBP) would be established by choosing the highest elevation along the sidewalk (or street if no sidewalk exists) and then 24” would be added to the elevation (36” if measured from street). This would establish the ABBP. For example, if the highest elevation along the sidewalk is 92’ ASL the ABBP would be 94’ ASL. The Allowable Building Base Plane establishes the upper limits of allowable height of a flat roofed building to be 94’ ASL plus 45’ or 139’ ASL.

The second step of compliance would measure the Actual Building Height (ABH) which is the Finished Floor Elevation (FFE) to the roof beam. So, in this example, if the architects decide of an FFE of 93.5’ ASL for some reason, the maximum height of the building at the roof beam would be 138.5’. This gives the architect and engineers a full 45’ of building height to utilize. If they chose an FFE of 94.5’ the building could not exceed the 139’ ASL limitation imposed in the first step. They have the freedom to make this decision but would now only be able to utilize 44.5’ of height in the design of the building. This caps the effects of height on neighboring buildings and yards and sets reasonable expectations on the impact on views, light and air. Our current system fails in this regard. In certain parts of the city, two buildings built across the street from one another may have a 20’ variance in allowable height even though the street and sidewalk elevation are identical. This makes no sense. The house on the downward sloping lot would only be able to achieve 3 stories and the house on the upward sloping lot could build 4 with a daylight garage. Yet the purpose of the 45’ height allowance is to allow a certain density within the prescribed zone to meet city housing needs. So why wouldn’t the rules allow all buildings within that zone achieve this purpose?

This system is much more predictable, consistent and simple. It is backwards compatible and will create large problems with non-compliance. It allows all building the same amount of feet for design from the first floor to the measurement at the roof. It is not arbitrary and will greatly help designers and engineers understand what is allowed to be built in Portland. The current system is too general and doesn’t adequately think through different terrain situations and match that with the purpose of height regulations. It produces very different outcomes based on different terrain. It often demands significant costs and unnecessary compromising design choices to meet the requirements of a poorly formulated height measurement regulation.

Portland will greatly benefit from adopting a new system of height measurement. It will result in more housing, more attractive housing, increased housing options, reduced building costs, more effective use of land, more consistent results, more livable housing and housing that will stand the test of time. It will stay relevant longer and not be torn down in 50-70 years because people don’t like living in poorly designed buildings.

Portland needs to build 10-15,000 homes in the next 7-10 years. The current version of Recode will not accomplish this level of building. We need to make sure that Portland’s Land Use Code isn’t the reason for failure.

Thank you very much for your time and consideration of these ideas.

Best regards,

Tim Wells

RECODE 2 views

Subscribe

J <jimc060845@gmail.com> Jul 29, 2024, 7:28:56 PM (20 hours ago)
to planning@portlandmaine.gov

RECODE: Another socialist unstudied boondoggle.

Left: Northern Burner Supply property, Washington Ave.
Above: Impact of loss of setback from R6, Merrill St.
Right: View downtown from Promenade.

Feedback on Recode with specific applications to proposed B2 on Washington Avenue

Protect feeling and reality of pedestrian safety by providing five foot setback from sidewalk and wind mitigating stepbacks for every two stories above ground level in proposed B2 and R6.

1. Doors and garage entries recently permitted on sidewalks in R6 are dangerous and feel threatening which cause pedestrians to walk on street in winter and at night.

2. Sidewalks on peninsula, including Washington Avenue at Northern Burner site, are already too narrow and snow and ice covered from high speed plows in winter. Provide esplanade to allow tree canopy and safer pedestrian walkway. Trees cannot grow in undersized tree boxes, and have died and are dying on Washington Avenue. See sustainability proposals below.
3. Current tree boxes leave sidewalk width too narrow for code and impassable for wheelchairs. Ensure ADA requirements met.

Preserve landmark views from public parks and key roadways and protect public use.

1. 214 Washington Avenue should never have been permitted. It was a mistake and has no public support. The loss of the public working harbor view from upper Fore St. likewise was a great error. Proposed rezone on Washington Ave would block view of Cathedral spire and scope of city view from promenade. Reduce heights to protect city parks.
2. Proposed rezone may interfere with Fort Sumner overlook. Recode group has presented no data showing impact of proposed true height on park views, including bonus heights and elevator shafts as well as rooftop recreation. True proposed B2 height will interfere with current agricultural uses in Mount Joy Orchard. Ensure height regulations set firm 45 foot limit. Provide survey showing actual permitted true building height, including rooftop uses.

Restore trust in planning process by honestly stating true height limits and parking impacts and avoiding spot zoning

1. Public sees clearly that 45 foot limit is a red herring and heights up to 70 feet can be bought with in-lieu of payments and use of elevator shafts to provide access to rooftop living spaces. Eliminate this option with firm 45 height limit in B2 adjacent to residential zones.
2. Loss of parking requirement in R6 and proposed B2 doesn’t pass the straight face test and reflects a fantasy about future transit unlikely to happen. Cost of Uber from airport to

Munjoy Hill last week was $60. Bus from Munjoy Hill to Hannaford takes an hour and is impractical when shopping for a family drinking milk by the gallon. No buses exist to transport families to area athletic fields. Use of bicycles dangerous at this location due to crossing of high speed interstate ramps and impossible for older or disabled persons.

3. Eliminate trivial in lieu of payments which are ludicrous on million dollar condo developments and monitor more closely use of “affordable” units such as for family members and so forth.

5. Stop radical social engineering promoted by developers and “new urbanists” and replace with gradual change in successive approximations better understood by public, most of whom have not moved to Portland from large urban areas. The continual pushback is tremendously wasteful of public resources.

6. End practice of continual rezoning to cater to individual developer proposals. Public views zoning process as an agent of developer profit when it should be promoter of residents’ quality of life. Avoid camel’s nose under the tent actions like the premature implementation of the new B2 zone for a single development along Washington Avenue.

Prioritize climate impacts and sustainability goals over all others

1. Address heat island effect, as reported two weeks ago in Press Herald by Climate Central: East End is six degrees hotter than an undeveloped field, and the proposed B2 zone change will aggravate an already unpleasant pedestrian experience on Washington Ave. Heat island effect is far more critical for our planet than enabling market rate development, and promotes growing use of air conditioners as well as automobiles. Ensure all development provides adequate setback for healthy tree canopy.
2. Mandate in the proposed B2 zone use of white roofs and green roofs, wind gust mitigation, bird safe glass, onsite greenspace, full tree canopy over pedestrian walkways, cooling architectural strategies with penalties for south facing glass walls, and fossil fuel replacement.

3. On a separate topic, choose retreat rather than elevated building structures for flood zones. The roadways will be impassable at high water making even elevated buildings inaccessible, to say nothing of creating huge cleanup issues from for example parked vehicles under flooded buildings, and elevated buildings are a nonsensical option.

Respectfully sunmitted,
Jean McManamy
10 Willis St.

To: The City of Portland Planning Department

From: Maine Real Estate and Development Association, Local Issues Committee

Re: ReCode Second Wave Draft

Date: July 30, 2024

Introduction

On behalf of the Maine Real Estate and Development Association (MEREDA), I am pleased to submit the following comments and considerations as part of the City of Portland's Recode process – specifically, the following comments address the changes recommended by the Planning Department in Recode Wave II.

MEREDA supports real estate development policies that are fair, practical, and predictable. These pillars ensure that housing is attainable, community growth is planned, and the playing field is level. We believe the changes recommend in ReCode Wave II largely reflect these principles, and we applaud the work done to modernize the Land Use Code.

MEREDA also believes the proposed changes to Wave II represent a better alignment between the aspirations in the comprehensive Portland's Plan 2030, and the legal requirements of the ordinance. Specifically, MEREDA believes the Wave II changes make great strides in promoting complete neighborhoods, reinforcing the downtown center, and encouraging growth in priority nodes and corridors. We also believe the changes incentivize growth in the right places by reducing dimensional standards in common sense zones to promote housing construction.

Portland is Maine's economic powerhouse, its cultural hub, and the gateway to the State for thousands of tourists coming both on and off the water. The proposed changes in Wave II respect the community and cultural heritage that characterizes the City. They also propose a future for development in Portland that will create housing, promote economic innovation, and catalyze climate resilience.

While MEREDA offers its support for the overall changes made in Wave II, we offer a few recommendations to further capitalize on the opportunity to create housing and return Portland to a work + live community where it is now too expensive for many who wish to do so. The following recommendations reflect the work of MEREDA's Local Issues Committee and its members. We hope they provide insight into priority issues for the real estate and development community.

Base Zones

MEREDA appreciates the considerable work that has been done in redesigning the city's base zones. This work includes a change in the physical mapping of the zones, an expanded set of allowable uses, streamlined dimensional standards including reduced minimum setbacks and modified maximum

heights. However, there are a few areas where we feel small changes could yield additional housing and promote smart growth.

- **RN-6 Dimensional standards.** Currently, the current minimum setbacks are too restrictive to incentivize multifamily housing. MEREDA recommends that the appropriate restrictions for the property could be determined by the design team on the project within flexible parameters set by the City.
- **Front Setbacks in the RN- 1, 2, 3, 4, and 5.** We recommend providing additional clarity with respect to the minimum front setback for these zones. The current proposal states that the setback will be the average of the adjacent front yards minus five feet. MEREDA would recommend that the City set a baseline and allow flexibility to apply the smaller of the two. We echo comments made in the online draft which note that the new setback could inflate the front yard setback or could lead to confusion when there are not abutting properties. We believe the intent of the City is to allow an appropriate but relatively small setback standard and suggest revisiting the language in this section to ensure the intent will be effectuated.
- **Expand the B-5 Zone.** The current proposed B-5 could be expanded to bring more land into the zone. MEREDA would note that there is currently industrial land that has long been vacant, which could be used for housing. The flexibility established for uses and dimensional standards in the proposed B-5 would allow for changes in use of the property and incentivize creative housing solutions.
- **Lot Area for Multifamily Housing in the RN - 2, 3, 4 and 5.** The proposed minimum lot area for multifamily housing in these zones should be reduced. This would allow multifamily housing development by permitting smaller dwelling units. This is in line with current housing trends, as renters and buyers seek to impart a smaller carbon footprint and are willing to trade space for attainability. For example, lots in the RN-5 are too small to accommodate more than four dwelling units if the minimum lot size is 725 square feet. To promote multifamily housing, we recommend the minimum lot size be reduced.

Height

As a general matter, MEREDA believes the proposed changes will help produce more housing by allowing greater flexibility in building. However, one area where we feel the City could go further is with respect to building height in the residential zones. Wave II proposes no change to the current 35-foot maximum height in the RN-1, RN-2, RN-3, and RN-4 zones.

As we work to modernize the way we build, it is important to provide enough space for both current and future needs. For example, today's multifamily buildings must account for the current and future HVAC and energy needs. In addition to needing space to accommodate the ductwork for HVAC, the thicker insulation is now recommended or required to achieve climate control standards. Additionally, newer buildings may employ thicker insulation or other methodologies for sound control. In future, buildings wishing to accommodate a passive house model, for example, will need 6-12 inches of rigid insulation on all exteriors – adding almost a foot in height.

Maine is on the verge of adopting the statewide MUBEC updates, which will bring all building codes up to the 2021 International Energy Conservation Code (IECC) – Portland is already on this code but will be moved up to the 2024 "stretch" code per City Ordinance. The 2024 IECC is largely considered an

improvement over the 2021, because inflexible and rigid standards in the 2021 have contributed to less overall housing stock creation and ultimately less energy efficiency and sustainable building. However, the new IECC codes will continue to roll out every three years, and Portland will be ahead of the State by three years as long as it insists on imposing a stretch code. We recognize that the current Recode process cannot affect the role of the stretch code but encourage the City to take steps to accommodate the needs for building under the code.

We believe height is one area where the Planning Department could be more aggressive in allowing flexibility to incentivize the right types of buildings by encouraging climate readiness and the uptake of efficiency and sustainability measures. We recommend the City consider implementing an incremental height standard that would permit either a maximum height, or the height of the adjacent property plus five feet, whichever is greater. This would also embed longevity in the code by reflecting the ongoing size and space needs discussed above.

Thank you for your hard work and creative thinking on land use planning, housing creation, community development, transit solutions, and much more as part of the release of the ReCode Second Wave draft.

Sincerely,

MEREDA Local Issues Committee

Megan Cindrich <mcindrich@portlandmaine.gov>

Fwd: Marginal Way Properties

Helen Donaldson <hcd@portlandmaine.gov> Tue, Jul 30, 2024 at 3:36 PM
To: Megan Cindrich <mcindrich@portlandmaine.gov>

---------- Forwarded message ---------
From: **Michael Cardente** <mikeacardente@gmail.com>
Date: Tue, Jul 30, 2024 at 5:51 AM
Subject: Marginal Way Properties
To: <hcd@portlandmaine.gov>, <kkraft@portlandmaine.gov>
Cc: Doug Cardente <Doug@cardenteproperties.com>, Collins, Kristin M. <KCollins@preti.com>

Dear Kevin and Nell –

Thank you very much for taking the time to visit 34 Diamond / 265 Marginal Way yesterday and considering the impact the current ILb zoning is having on the ability to make the highest and best use of buildings in the Franklin/Diamond/Fox Street quadrant. Despite strong and consistent marketing efforts, the 265 Marginal Way building has been vacant for over two years. The Cardente family has received multiple serious inquiries from prospective lessees. While the uses that have been put forward by prospective tenants are consistent with both the nature of the property and the pattern of development in the area, they are not unfortunately not permissible in the ILb zone. This includes neighborhood-scale grocery, entertainment venue, amusement with onsite food/drink, and other similar uses that would work well for this very large building with well over 100 parking spaces. We have seen little to no interest from tenants seeking the type of industrial and manufacturing uses the ILb zone is intended to promote, because the spaces are too large for the type of industrial/manufacturing uses that are seeking to locate on the peninsula.

The Cardente family understands the importance of retaining commercial and industrial opportunities in downtown Portland, and has no current interest in residential or mixed-use development. We do want to promote and enhance the commercial feasibility of the properties in the quadrant between Franklin, Diamond and Fox Streets and Marginal Way. To do so, we propose one of the two following options:

Option 1:

Rezone these lots to B-5, with the restriction that no residential use be permitted.

Option 2:

Create a new zone for these lots, recognizing their unique positioning with access to Marginal Way and abundance of parking, and allow for a wider range of commercial uses that bridge the gap between B5 and ILb, to include but not be limited to retail, clinic, restaurant (at least in conjunction with another permitted use), place of assembly, performance space and grocery. We feel this wider range of uses will better assure the ability to make adaptive reuse of these properties, attract new tenants, and maintain the vibrancy, utility, and job creation opportunities for these properties.

We ask that you pass this request on for consideration by the Planning Board at its meeting today.

Best regards,

Mike

--
Nell Donaldson
Director of Special Projects
City of Portland
(207) 874-8723
hcd@portlandmaine.gov

Recoding 3 views

Subscribe

wfluce@aol.com <wfluce@aol.com> Jul 30, 2024, 9:04:43 AM (3 days ago)

to planning@portlandmaine.gov

I would rather not live in more of a city than I do now. While I don't have the answer to gross maldistribution of wealth in our society, I do know that judging by other cities, larger and denser does not seem to do much for affordability.

In the human body, something that grows continuously beyond replacement is generally called a cancer. It doesn't hurt to keep that in mind.

Iterative Approach

0 views

Subscribe

Josh M <jmoss1990@gmail.com> 2:20 PM (1 hour ago)

to planning@portlandmaine.gov

Hello Planning Board,

I am hoping you would consider a more iterative approach to ReCode before making sweeping changes across all zones.

I am a bit concerned there's not more focus on current zones that do allow for more dense housing. Current zoning up and down our transit corridors allows for large, multi-family residential buildings, however these aren't being built in sufficient numbers. Why? Perhaps answering this question and adjusting to encourage the patterns you are hoping for, before potentially disrupting current residential neighborhood feel in an iterative approach would be better.

I live on a street that has two houses, with more than six adults living in each one, and there are some negative effects on quality of life: Lots of cars on the streets and disruptions to snow clearing. Lots of cars coming and going at all hours - dangerous to kids on the street, and disruptive at late hours. Too many trash bags to fit in cans, that then get torn up by animals overnight. These two hours are very different in their patterns of life as compared to the others on our small street.

I hope to see ReCode focused on getting large, multi-story buildings up and down Forest, Brighton, and Congress before disrupting my neighborhood further. Incentivize the large, single story strip malls to go, and be replaced by large apartment buildings before allowing mutli-unit apartments to go up in R3 and similar zones.

Thanks for reading,
Josh
12 Bancroft

ReCode Workshop/Vacant Lot Belfort St

Subscribe

0 views

Alex Coupe <alex@danandersonrealestate.com> 1:38 PM (2 hours ago)

to planning@portlandmaine.gov

Good Afternoon,

Attached are documents to support my statements tonight at the ReCode Workshop. I am proposing my existing 1.5 acres to be RN-6 specifically, which allows the lot to be developable due to its panhandle shape. The B1 and B2 and TOD zones don't allow it due to maximum building setbacks. RN-6 also fits the spot, a little pop up commercial section on Forest Ave with some multi family blended it. The RN-6 purpose statement does just that. The lot has frontage on Forest Ave and Belfort St.

I have a rendering attached, and a proposed site plan.

Thank you!

Alex Coupe
Associate Broker & Licensed Real Estate Appraiser

alex@danandersonrealestate.com

C: 207-838-4546

D:207-835-0034

Dan Anderson Real Estate Inc.

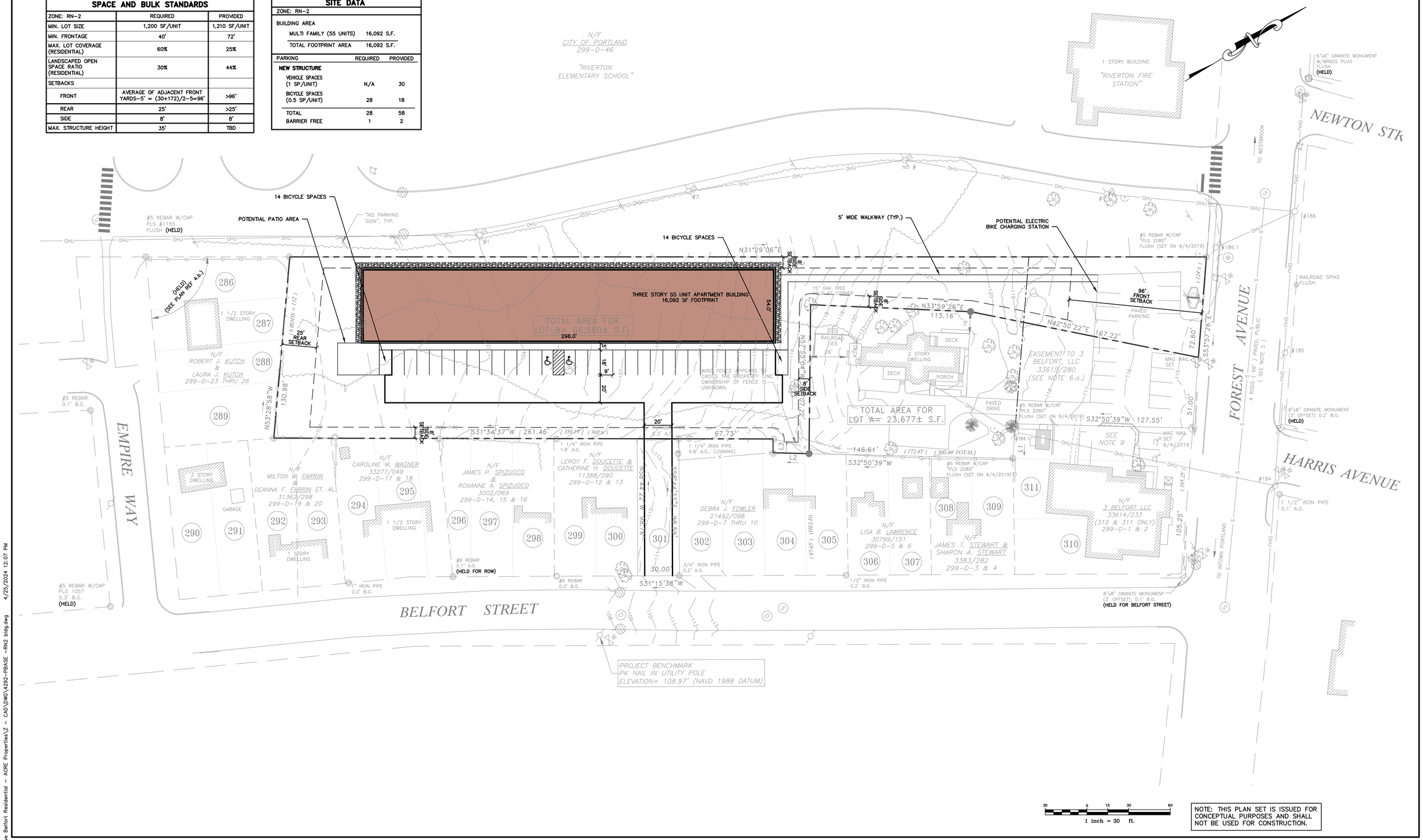
Appraisals, Brokerage, & Consulting Services

danandersonrealestate.com
1326 Washington Ave
Portland, ME 04103
O: 207-878-3206
info@danandersonrealestate.com

RN-2	To provide for a residential neighborhood environment predominantly characterized by dwellings on lots of at least 6,500 square feet. Conversion of existing nonresidential structures to multi-family dwellings is permitted within the RN-2 zone, subject to standards encouraging compatibility and context sensitivity to ensure the stability of established residential neighborhoods. Select nonresidential uses may also be permitted in the RN-2 zone.
RN-3	To provide for a residential neighborhood environment that acknowledges the unique character of the Western Promenade while accommodating dwellings on lots of at least 6,000 square feet. Construction of new multi-family dwellings at moderate densities is allowed, as-is conversion of existing structures to multi-family dwellings, subject to standards encouraging compatibility and context sensitivity to ensure the stability of established residential neighborhoods. Select nonresidential uses may also be permitted in the RN-3 zone.
RN-4	To provide for a residential neighborhood environment predominantly characterized by dwellings on lots of at least 5,000 square feet. Conversion of existing nonresidential structures to multi-family dwellings is permitted within the RN-4 zone, subject to standards encouraging compatibility and context sensitivity to ensure the stability of established residential neighborhoods. Select nonresidential uses may also be permitted in the RN-4 zone.
RN-5	To provide areas of the city, on the peninsula and in select off-peninsula locations in alignment with major public transportation routes and near service areas, for a residential neighborhood environment of dwellings on lots of at least 2,000 square feet. Townhouse and multi-family dwellings are also permitted, subject to standards encouraging compatibility and context sensitivity to ensure the stability of established residential neighborhoods. Select nonresidential uses may also be permitted in the RN-5 zone.
RN-6	To accommodate existing areas of the city characterized by a residential neighborhood environment of multi-family dwellings at relatively high density, exhibiting a pattern of larger lots and setbacks, as well as generally taller building heights. Select nonresidential uses may also be permitted in the RN-6 zone.
RN-7	To provide areas of the city, predominantly on the peninsula, for a dense residential neighborhood environment of townhouse and multi-family dwellings. Select nonresidential uses may also be permitted in the RN-7 zone.

SPACE AND BULK STANDARDS		
ZONE: RN-2	REQUIRED	PROVIDED
MIN. LOT SIZE	1,200 SF/UNIT	1,210 SF/UNIT
MIN. FRONTAGE	40'	72'
MAX. LOT COVERAGE (RESIDENTIAL)	60%	25%
LANDSCAPED OPEN SPACE RATIO (RESIDENTIAL)	30%	44%
SETBACKS		
FRONT	AVERAGE OF ADJACENT FRONT YARDS-5' = (30+172)/2-5=96'	>96'
REAR	25'	>25'
SIDE	8'	8'
MAX. STRUCTURE HEIGHT	35'	TBD

SITE DATA		
ZONE: RN-2		
BUILDING AREA		
MULTI FAMILY (55 UNITS)	16,092 S.F.	
TOTAL FOOTPRINT AREA	16,092 S.F.	
PARKING	REQUIRED	PROVIDED
NEW STRUCTURE		
VEHICLE SPACES (1 SP/UNIT)	N/A	30
BICYCLE SPACES (0.5 SP/UNIT)	28	18
TOTAL	28	58
BARRIER FREE	1	2



NOTE: THIS PLAN SET IS ISSUED FOR CONCEPTUAL PURPOSES AND SHALL NOT BE USED FOR CONSTRUCTION.

Rev.	Date	Revision

Issued For	Date	By
-	-	-

Design: AJK	Draft: CG	Date: JUNE 2022
Checked: DER	Scale: 1"=30'	Job No.: 3955
File Name: 4292-PBASE -RN2 bldg.dwg		

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Drawing Name: Apartment Building Concept Plan

Project: 1582 Forest Ave Residential
Portland, Maine

Client: ACRE Properties, LLC
1326 Washington Ave, Portland, Maine 04103

Drawing No. C100

U:\4292 - 1582 Forest Ave Belfort Residential - ACRE Properties\Z - CAD\DWG\4292-PBASE -RN2 bldg.dwg 4/25/2024 12:07 PM

Fwd: Recode

0 views

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Joan Gildart <gildartjoan@yahoo.com>
to planning@portlandmaine.gov

Jul 30, 2024, 6:57:00 PM (3 days ago)

Sent from my iPhone

Begin forwarded message:

From: Joan Gildart <gildartjoan@yahoo.com>
Date: 30 July 2024 at 2:32:07 PM GMT-4
To: pplannning@portlandmaine.gov
Subject: Recode

Greetings:
We wish to inform you that we do NOT support your urbanization approach to zoning our neighborhoods. It will not make Portland more livable.

There has been very little outreach to the residents of our Portland neighborhoods and no serious, convenient ,organized public engagement in our specific neighborhoods . Neighborhood residents have not been included in these discussions. It's as if the effects of this over reaching ,far beyond any state recommendations, recode plan is designed to do away with single resident housing in every neighborhood and adding unacceptable height & setbacks.

Communication needs to be greatly improved and a much better process in place to clearly explain the dramatic alterations to Portland's unique neighborhoods. It is way past time for neighborhood forums for residents' input.

Thank you,
Joan and Roger Gildart
97 Glenwood Avenue
Portland, ME 04103
7/30/2024
Sent from my iPhone

Testimony to Planning Board re Recode

Subscribe

0 views

Liz Trice Jul 30, 2024, 6:46:31 PM (3 days ago)

to planni...@portlandmaine.gov, Todd Morse, Tom Landry, George Rheault, John Voltz, Grayson Lookner, Wes Pelletier, cou...@portlandmaine.gov, Jon Kachmar

Honorable Planning Board Members:

Here's my full testimony from today:

My name is Liz Trice, I'm a Portland native and resident.

I agree with George, the gentleman from Cape Elizabeth, Tom Landry, John Voltz, John Kachmar, and everything from Urbanist Coalition members have said:
that **this proposed recode does not go nearly far enough to allow more housing, and it's urgently important for the entire state of Maine.**

People are not going to stop moving to Maine, and we are the largest city in the state. What's at stake is everything in Maine that we love: we could lose Farms, forests, walkable villages, our communities, decent jobs, a place where everyone, no matter what the income, has a chance at a decent quality of life. That highway being proposed to Gorham that might kill Smiling Hill Farm, is because our restaurant workers have to live in Standish.
We just lost a farm in Cape Elizabeth, and the owners cited lack of workforce housing. Businesses need people and people need housing.

I have a vision of a walkable, inclusive Portland that anyone would love to live in. Here a few major strategies:

1. **We need to allow Taller Buildings in more places** - it seems that most people agree on this downtown at least, but we need to be able to have taller buildings the length of our arterials and in order to do that, we need to have buildings longer than 60' - the Park Danforth on Steven's Ave, a very nice retirement home - and we are going to have a lot more older people - is 250' just on one side! And we need to allow taller buildings not just on peninsula, which brings me to:

2. **We need to redesign our arterials** with slower traffic, multiuse paths, tree canopy, and dedicated bus lanes and allow 5+ story residential buildings the whole length of Brighton, Forest, Washington, Forest, so that a middle class family with kids will be delighted to live there, have one car or no car and let their 6 year old bike to school. The current plan doesn't go nearly far enough designating TOD zones. This level of density also means investing in trails connections and green spaces. I'm very happy to be able to walk from Nason's Corner to Smiling Hill Farm on trails, but our trails are too much an after thought. **We need a green space & trails plan.**

3. **We need to allow more gentle density in our neighborhoods.** The easiest way to do that is to fully embrace LD 2003, accept that homes will slowly densify to be up to 4 units. To do that we need to combine all housing types up to 4 units (for some reason this draft of recode created more housing types), reduce back setbacks in R3 from 25 feet to 5', Combine R1-2-3. Get rid of

minimum lot size, minimum lot width, minimum street frontage. We have side setbacks, front setbacks, and height limits: that's enough. Adding ADUs to 50% of our houselots would be an easy step in the right direction that won't threaten the niceness of our neighborhoods. Even with full legality, it will take a while.

4. **Create a simpler, faster permitting process.** The zoning is still too long, too complicated, and has too many exceptions, too many conditional uses, and if we were actually successful in building the housing we need, it would overwhelm the current planning board process. Also, I and others made hundreds of comments in the Recode draft, and it's not clear what is being done with them.

Here's what we can do to speed up predevelopment:

- Allow staff review only for 80% of projects, starting with projects of under 10,000 sf or 10 units
- Follow the 80-20 rule.
- Review all conditional uses, and make 80% allowed by right.
- Review all exception-type rules, and eliminate 80% of them by incorporating them into standar
- Eliminate the TDM requirement - if there's no parking required, just let it be no parking required
- Eliminate historic review for non-historic buildings.
- Create a process by which 80% of changes allowed or required by planning board, or contract
- Compress planning board schedule to only have one meeting per project unless the project isr
- Require all departments to review proposals within 4 weeks.

5. **Have a beautiful vision.** I know it can be hard to envision something really different, so I'm attaching a visualization I made of how our arterials could be beautiful places to live. Most of our new housing will probably be along arterials, so it's important that they be nice places to live.

In 2019, I worked with designer Tilman Reitzle, migratory bird expert Charles Duncan, and forester Rene Noel to make a poster envisioning Portland as a City of Birds and Birdsong: a pathway for Portland to embrace its potential as a vibrant, green paradise. Making our cities and arterials more peaceful, desirable places to live is key if we want families of all economic levels to choose to live in buildings along our corridors, and to reduce the noise pollution, inequities, financial burdens and dangers caused by reliance on cars as our dominant transportation. The poster won a Portland Society for Architecture award, and one result was the recent Bird-safe ordinance enacted by the city council earlier this year. MaineBiz Article here.

I'm attaching the poster from 2018 below. I'm also providing a link to an animated vision of what our arterials could look like if we prioritized trees, habitat, and active and equitable transportation in our main arterials. It's a 3D virtual reality video, which means while watching it on your computer you can drag the perspective around to look in all directions, and there's a version that works with 3d goggles. Hans Breax and I worked to create the video with the Complete City prize money from the bird poster.

I'm happy to chat one on one, provide detail or present on any part of this.

Thank you for supporting a beautiful & healthy Portland!
🙂

Liz Trice

liztrice@gmail.com
207-776-0921

Portland, Maine
Forest City of Birds & Birdsong

Birdsong makes humans happy.

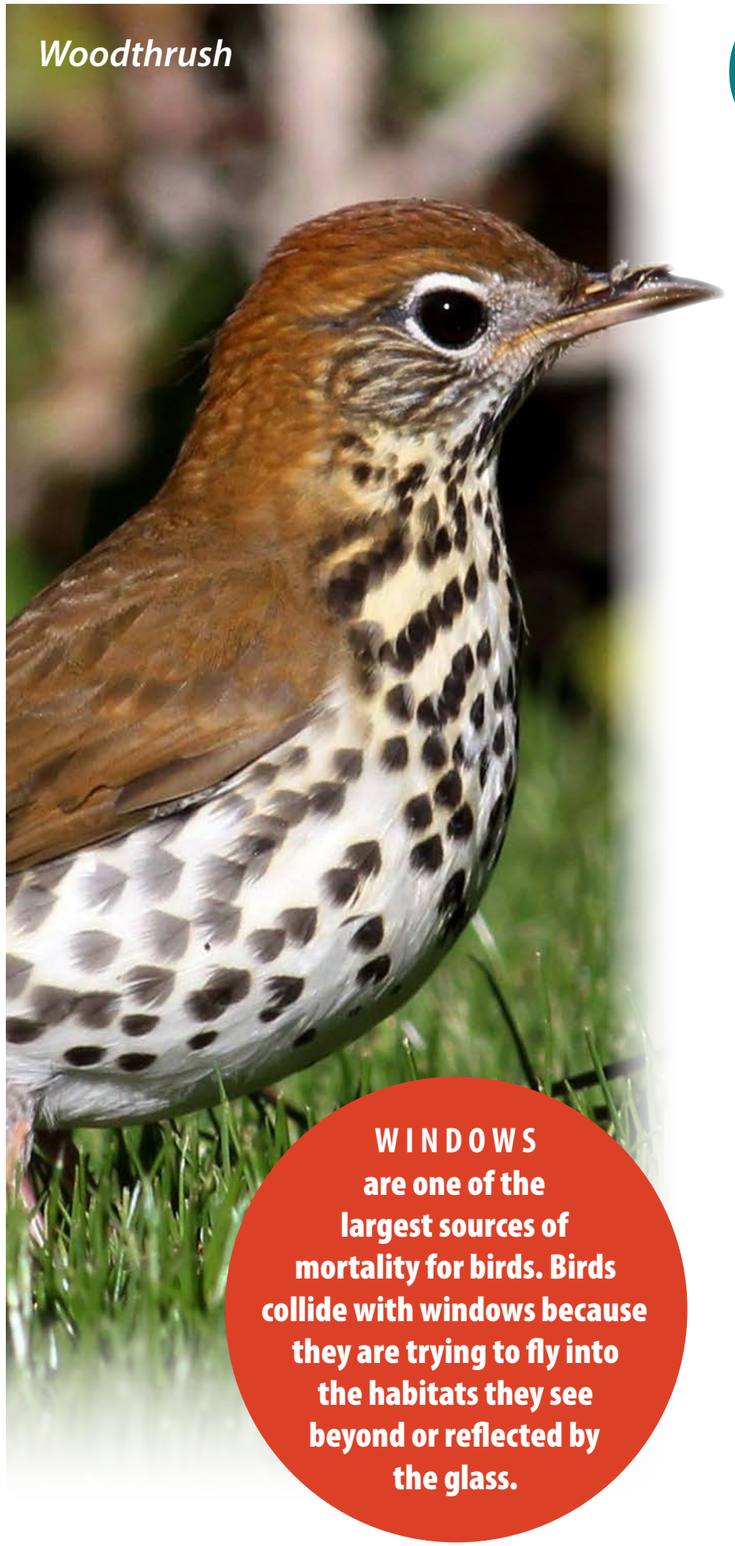
SCIENTISTS AT THE UNIVERSITY OF SURREY have discovered that bird songs are the natural sounds most cited as helping people recover from stress. Other studies have shown that access to nature improves mental health and reduces chronic disease. If we're happier and healthier being surrounded by the sights and sounds of nature, how do we redesign our city to make sure we have the habitats that make both humans and birds happy?

Name this bird!
(Hint: it's not a robin.)

"Birds make any place a chance for discovery, they make a garden seem wild, they are a little bit of wilderness coming into a city park.... What feathered jewel might drop out of the sky next?"

—DAVID SIBLEY, AUTHOR

THE US HAS LOST 10% OF ITS BIRD POPULATION SINCE 1970. DOZENS OF BIRD SPECIES LOST MORE THAN 50% OF THEIR POPULATIONS.



Woodthrush

WINDOWS are one of the largest sources of mortality for birds. Birds collide with windows because they are trying to fly into the habitats they see beyond or reflected by the glass.

Goal: Increase Bird Habitat, Diversity &

Protect Bird Habitat

- Protect and create bird habitat that provides food, shelter, and water.
- Enhance large patches of habitat and to have a mix of deciduous/mixed forest, shrubland, meadow, freshwater wetland, riparian and coastal shoreline.
- Reduce pesticide use—birds need insects to feed their young.
- Replace lawns with native trees, shrubs and plants—eight times (8x!) more birds are found in yards with native plants.
- Provide shelter and nesting sites
- Maintain and restore natural waterways and provide water for birds to drink and bathe.
- Create new habitat in public right of ways.

Build Bird-Friendly Buildings

- Increase visibility of glass.
- Apply visual markers to the exterior of glass surfaces.
- Interrupt reflective glass by applying external visual markers, blinds, shutters, shades, or artwork.
- Increase the opacity of clear glass with canopies, sunshades, screens, drapes or blinds.
- Cap or screen open pipes, ventilation grates and drains.
- Add roof plantings.

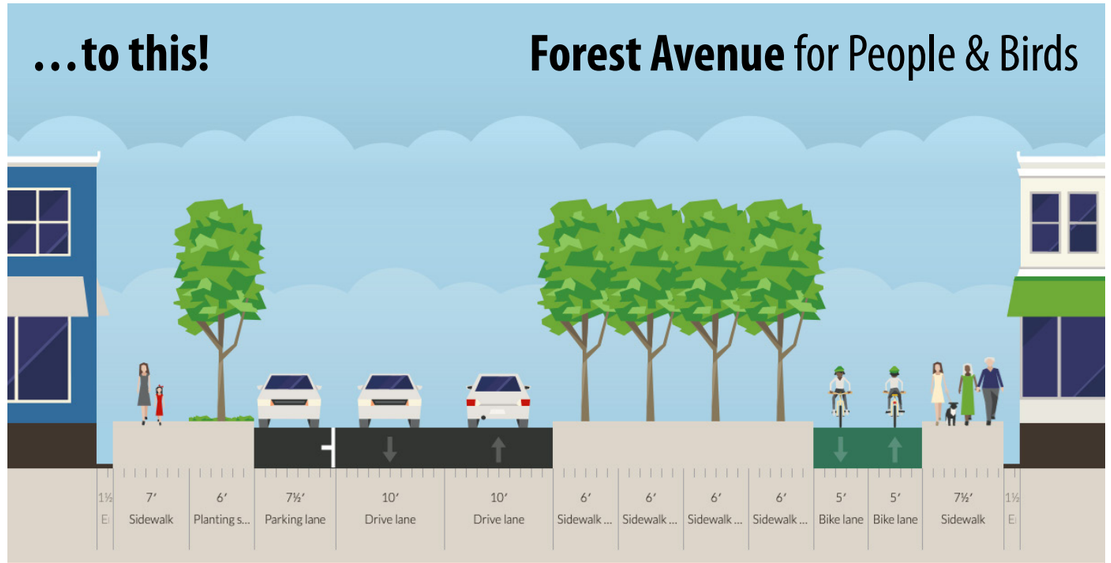
Create Bird-friendly Transportation Corridors

- Slow traffic to reduce noise pollution
- Slow traffic to reduce bird deaths.
- Devote more space in public right-of-ways to green space, creating a network of longitudinal parks for both birds and humans.

Reduce Light Pollution

- Become a "Lights Out" and "Dark Skies" city.
- Reduce wattage of lighting.
- Prevent lights from shining out or up.
- Close blinds at night and turn off interior lighting when not in use.
- Install motion sensors and turn off outdoor lights automatically from midnight–6am.

Abundance in the City of Portland



By reducing the number of lanes of traffic on Forest Avenue in Portland from Bedford to Woodfords Street, we could create a 24' wide longitudinal park and multi-use path almost a mile long. That would create two acres of new bird habitat in Portland! (SEE THE MAP ON THE NEXT PAGE for more potential greenways).

Raise Public Awareness

- Create a long-term management plan to inform maintenance staff and land owners of best practices.
- Develop educational programs, materials, forums, and events like "Portland Bird Week" to involve the larger community in discussion and awareness of birds.

Research & Monitor Bird Populations

- Study changes in bird populations in specific sites and adapt site design and policy
- Establish a bird research and monitoring group to conduct and compile data from bird surveys, create habitat maps, monitor bird collisions, and make suggestions to design guidelines and policy.
- Monitor and assess the effectiveness of the Bird Friendly Design Guidelines.

Develop Birding Tourism

- Develop Portland-specific birding offerings for visitors and develop Portland as a destination to enjoy birds and birdsong through websites, blogs and visitor guides.

TO SURVIVE, native birds need native plants and the insects that have co-evolved with them. With 96 percent of all terrestrial bird species in North America feeding insects to their young, planting insect-proof exotic plants is like serving up plastic food. No insects? No birds.

—AUDOBON.ORG

Reduce Threats from Cats & Dogs

- Keep cats inside. Cats kill an estimated 2.4 Billion birds per year in the US—over 400 birds per outdoor cat each year.
- Keep dogs on leash, especially where birds nest.

Create Policies & Guidelines

- Adopt and promote Bird Friendly Design Guidelines for developers, planners designers and landowners, stewardship groups, landscapers, and homeowners.
- Apply the Bird Friendly Design Guidelines to parks, school grounds and other civic properties.

Sites in Portland from the Maine Birding Trail

Mourning Dove

1 Portland Harbor—Gulls naturally flock to the area near the fish pier.

BIRDS: ***Gulls of all types, common eiders, red-breasted mergansers, long-tailed ducks, common goldeneyes, winter sea ducks, and buffleheads***

2 Back Cove—Twice a day the birding opportunities change with the tide. The better birding tends to be at high tide when gulls and waterfowl are present.

BIRDS: ***Herring gulls, ring-billed gulls, great black-backed gulls, glaucous gulls, Iceland gulls, bonaparte gulls, buffleheads, common eiders, common goldeneyes, and red-breasted mergansers, mallards and American black ducks, greater and lesser scaup, semipalmated and least sandpipers, semipalmated and black-bellied plovers, greater and lesser yellowlegs, migrating sparrows, American pipits, horned larks, Lapland longspurs and snow buntings***

3 Evergreen Cemetery is Maine's premier site for warbler fallouts in May. The best area is around the ponds at the back of the cemetery and on the footpaths associated with them.

BIRDS: ***Every warbler that breeds in Maine, and Blackpoll, mourning, Cape May warblers, Yellow-throated, Kentucky, and worm-eating warblers***

4 The Dragon Fields is the popular nickname for an old, capped landfill named because it is behind the Dragon Cement plant and quarry.

BIRDS: ***Sparrows, dickcissels, raptors, warblers***

5 Eastern Promenade—Take the multi-use path that runs along the water for fantastic views and birds.

BIRDS: ***Common sea ducks, a variety of gulls, bald eagle, song sparrows, orange-crowned warbler***

6 Capisic Pond Park is 18 acres and contains Portland's largest freshwater pond and borders the Fore River.

BIRDS: ***Waterfowl, wading birds, warblers, orchard orioles, warbling vireos, wilson's snipe, sora, sparrows, and Virginia rails***

Urban Meadows—Imagine a meadow filled with wildflowers, buzzing bees, birds, butterflies and fireflies. The City of Portland maintains many open spaces as urban meadows, mowing them only once annually in November to serve as vital habitat and save on maintenance costs. Some meadow areas receive extra plantings of native wildflowers and grasses, while others are left to naturally propagate with wind and animal-borne seeds.

A Deering Oaks Meadow
B Eastern Prom Meadows
C Ft Gorges Meadows
D Ludlow Pond
E North Street Meadows (Mt. Joy)
F Payson Park Meadows
G Riverton Trolley Park Meadows and Labyrinth
H Western Prom Meadows

Tours—Maine Audubon leads daily morning walks in Evergreen Cemetery with some of the state's leading experts. Check the schedule at **www.maineaudubon.org**

Text adapted from the Vancouver Bird Strategy, Audobon.org, http://www.mainebirdingtrail.com, and https://www.portlandmaine.gov/1948/Urban-Meadows • Map courtesy of Google. Forest Avenue illustration made using Streetmix site. Map of Portland Parks (Trust for Public Land) http://proceedings.esri.com/library/userconf/proc16/papers/339_696.pdf). Images of wild birds native to Maine https://www.publicdomainpictures.net/ Photos of locations on the Maine Birding Trail https://www.mainetrailfinder.com/trails/trail/capisic-brook-trail / Urban Meadows: https://www.portlandmaine.gov/1948/Urban-Meadows

Building Heights 0 views

Peter Monro Aug 1, 2024, 7:27:46 PM (20 hours ago)

to recodep...@portlandmaine.gov

If heights in excess of 180 feet are still being proposed in ReCode, I am opposed, as its being not simply unneeded but detrimental to the city and its residents and visitors.

Unneeded because the city could add 10,000 to its population with buildings of 8 stories or less, built primarily on surface parking lots.

Detrimental to those of us outside of these buildings as anyone who has spent any considerable length of time near the exterior of these buildings, during windy or cold weather—as I have. Try it near Franklin Towers, 340 Eastern Prom, or Portland House. Why do you think the approach to Portland House is inside a plastic tube?

A full recital of reasons for prohibiting such tall structures can be found in Christopher Alexander's Pattern Language, Jane Jacob's Death and Life of Great American Coties, and Jan Gehl's Cities for People.

Perhaps not least, such buildings not only cut upper-story residents off from the ground, but also from the civic life of the city around them.

The overall organization of height on the Portland peninsula should be what it was into at least the 1990s —low by the harbor and Back Cove and rising steadily to the spine of Congress Street on its ridge not only maximizes visual access to our greatest asset – the ocean – but will also make our buildings as resilient as possible in the face of ever rising winds. It will also define our central commercial corridor.

(Midtown's disruption of this primal pattern was one of the reasons I so adamantly opposed it.)

Some increased height—to say, six stories —should be allowed along major arterials, but not to the unneeded and detrimental heights of 165 feet currently permitted along Franklin Street.

Best of luck in this great undertaking,

Jonathan Peter Monro, ASLA
32 May St., Portland, ME 04102
(207)318-6052. JPMonro@me.com

Recode comments 0 views

Sigfridson, Drew 6:29 AM (9 hours ago)

to recodep...@portlandmaine.gov

Good morning. I'm a Portland resident and business owner in Portland. As someone who works every day in the real estate realm and in development, I would like to express my support and thanks to the Planning department for this effort. I am strongly in favor of the proposed changes underway, especially the increased height changes throughout the city. I am even in support of additional height in places like Bayside.

Thank you.

Drew Sigfridson – *SIOR, Senior Partner*

The Boulos Company
One Portland Square, Suite 400, Portland, ME 04101
T: 207.553.1705 **C:** 207.831.5838
dsigfridson@boulos.com www.boulos.com

Recommendations to ReCode/Portland Planning
August 2, 2024
Submitted by the PIC Housing and Zoning Committee

1. **Small Island Lot Allowance**
   3,000 square feet: we continue to support this number as compatible with many already built island lots in IR-2

   We support the Small Island Lot allowance only with Island specific limits on short-term rentals (as the PIC voted for at their recent meeting), having been put in place prior to the city council approval of new land use code.

2. **Dimensional standards on Small Island Lots:**
   We recommend 10' for each side (vs 5' in second draft) and 15' rear (vs. 10' in second draft). A primary consideration is ensuring safe access by emergency personnel and vehicles, especially in case of fire.

3. **40% lot coverage for all Island lots except IB-1 (50%)**
   We strongly oppose the proposed 60% permitted coverage for all lots. We recommend 40% for residential lots, which represents a doubling of current coverage, would allow flexibility for improving existing properties as well as building new dwellings, but still be in keeping with the character of existing neighborhoods.

4. **Creating a Small Island Lot from a larger existing lot**
   The second draft allows owners of lots of at least 23,000 sq feet to separate off one 3000 sq ft small lot, leaving the primary lot at 20,000 (the general standard for IR-2). We recommend that in IR-2 consideration be given to allowing any occupied lot of at least 10,000 sq. ft. to separate off 3,000 for a Small Island Lot – leaving at least 7,000 for the primary lot (as long as that lot maintains all the setback requirements of IR-2).

5. **Permitted number of dwellings on all formerly single-family lots**
   We support permitting up to 2 dwellings on any island lot, as enacted in LD 2003 by the Maine legislature. We strongly oppose permitting 3 dwellings on any island lot, as totally out of keeping with island character, and at odds with the expressed preferences of hundreds of islanders for when surveyed.

6. **We support the allowance of ADUs for only year-round housing and request that this requirement is put back in the Land Use Code.**

7. **New Business Zone Category, IB-2**
   The intent of this suggested new category is to create space for additional small businesses primarily serving islanders needs, but with limitation appropriate for its setting, such as:

Maintains setbacks of IR-2
Hour of operation limits, such as 9-5:00, to minimize noise impacts
Use limits, such as no hotels or restaurants
Rear fencing requirements to reduce visual and sound impacts

Suggested Location for IB-2
Starting at Central Ave and Ernest St intersection (at the Health Center) extending east down Central Ave and Central Ave Extension to intersection with Highland Ave.

8. **Need for zoning that supports:**
   Sustainable year-round community.
   Working waterfront, and traditions and rural culture unique to Maine island living.
   Healthy and well maintained systems – ecosystems, sewer systems, road use safety.

Greater Portland Landmarks
Historic character enriches our lives
Greater Portland Landmarks
PO BOX 17533
Portland, ME 04112

Greater Portland Landmarks Comments on Portland ReCode Phase II Draft
August 1, 2024

Greater Portland Landmarks supports a comprehensive update to the City's Land Use Code to make it more user-friendly while advancing goals of the city's comprehensive plan, including promoting more equitable housing production and transit-oriented development, fostering resilience in the face of climate change and supporting the working waterfront, and of course, promoting historic preservation as well as good new design in Portland.

Landmarks has carefully reviewed the draft ReCode Phase I and II, submitted comments, and worked with staff. We greatly appreciate your time and responses to our comments and concerns. As the Phase II Draft is being finalized, we would like to reiterate our primary recommendations, in particular to support the effectiveness and accessibility of the historic preservation ordinance, and the City's ability to retain its Certified Local Government status.

Chapter 16 Historic Preservation
Given the public and economic benefits of preserving and fostering Portland's special historic character, we are particularly focused on proposed changes that could weaken the city's historic preservation ordinance or threaten our status as a Certified Local Government (which supports investment in and benefits owners of historic structures through tax credit opportunities, among other advantages). Our primary recommendations are to maintain language that clearly describes the purpose and benefits of historic preservation and defines evaluation and review standards for landmarks and historic districts, and that limits review of designation amendments or rescissions to specific criteria.

We strongly recommend including a full description of the purpose of historic preservation as is included in the current ordinance. As drafted, many public, cultural, and economic benefits of historic preservation are not mentioned, and this is an important place to highlight these benefits for people who need to interact with the regulations and understand why they are necessary.

Further, we recommend maintaining a set of clear definitions of terms that are used in Chapter 16, rather than just embedding them in the body of the text. The definitions could move to the end if needed for the flow of the chapter and having process information readily accessible.

In section 16.2.2 Criteria for Designation, rephrasing criteria to create clear subheadings is helpful, however we caution that engineering significance is somewhat lost in this format and recommend that *4. Significant Architecture* should clarify that significant works of engineering are also included consistent with National Park Service criteria for listing in the National Register (such as a bridge, or structure that isn't a building).

It should also be clear that landmark and historic district designation only impacts the exterior of a building, that the HP Board does not regulate work that only impacts the interior.

The current ordinance notes that the City Planning Board and the City Council may consider proposed designations based on criteria for significance and integrity as well as "historic preservation goals" and other aspects of the City's comprehensive plan. This has been a reasonable policy especially for historic districts, which do impact elements of the City's comprehensive plan, and we support it remaining in place. (We also urge that the current language with specific reference to the "historic preservation goals" within the comprehensive plan remains, as a reminder that the City prioritizes historic preservation along with other important goals).

Language in the proposed ReCode plan (16.3.7.D, and by reference 16.2.2.C) would also allow consideration of the comprehensive plan in designation amendment and rescission applications, for example to change the contributing status of a building within a historic district for reasons other than its integrity or significance. We have heard from the Maine Historic Preservation Commission (MHPC) that this language constitutes the same result as a "project of special merit" provision, which was for years a barrier to Certified Local Government status and was specifically removed for Portland to become a CLG. We feel very strongly that once designated—a process that involves consideration of the City's comprehensive plans and the historic preservation goals stated within it—rescission and amendment standards should remain limited to the minimum criteria for designation and the integrity standard and be so stated in very clear language within the ordinance. We appreciate your commitment to retaining Portland's CLG status and are happy to work with you and MHPC as you finalize the updated code.

The current ordinance provides a mechanism by which properties listed on the National Register are forwarded to the Historic Preservation Board for consideration as local landmarks. Understanding concerns by MHPC that an automatic path to local designation from National Register is not consistent with National Park Service standards or CLG requirements, we recommend including language to ensure communication with the MHPC and keeping an inventory of listed and eligible sites for consideration.

Dimensional Standards, Neighborhood Zones, and Transit Oriented Zones

We support proposed changes that would permit commercial uses at strategic locations in residential neighborhoods and recreate the historic mix of uses that developed in many of Portland's historic neighborhoods. We support proposed dimensional changes that build upon the characteristics of older neighborhoods that were of necessity built close to a variety of destinations, including public transit, and believe examples like those off Brighton, Washington, and Forest Avenues are good models for a more transit-oriented city. These contain examples of multi-family and mixed-use buildings that support the city's goals to create opportunities for a variety of housing types and denser neighborhoods.

While many of the proposed changes in the ReCode draft focus on catalyzing new construction, also important to Greater Portland Landmarks is how the new rules will 'legalize' non-conforming historic buildings, especially in older neighborhoods off the peninsula, many of which have been determined eligible for listing in the National Register. The land use code should incentivize retention of existing

residential structures to the degree possible, furthering sustainability goals and protection of local fabric and character, including diverse affordable housing options in the city's residential neighborhoods. Teardowns have adverse environmental effects, including increased solid waste and energy impacts that do not support the City's sustainability goals.

We urge that the Land Use plan provide guidance for new construction in older neighborhoods that not just fill the permitted building envelope, but integrate into the existing fabric and street patterns, even if it is larger in height or mass. We agree with the goals of encouraging "compatibility and context sensitivity" referenced in the draft residential neighborhoods' purpose statements, and the statement in Camiros' Recode Phase II Land Use Code Evaluation Report that, *"it can include thinking carefully about the design and context of development in Portland, helping to ensure that the essential historic fabric of the city remains intact and that — though architectural styles may vary — new development remains authentic to the local character and complementary to the Portland vernacular."*

We find that that those concepts are only partially operationalized in the current draft and note that they are particularly absent in the proposed RN-5 zone. The design manual, with its focus on the examination of context, will be crucial to facilitating the successful integration of new development into existing neighborhoods. We look forward to seeing the updated design manual and hope it will be brought forth for adoption in tandem with the land use code. Referencing the design standards explicitly within the dimensional standards section will be important.

We also urge that the dimensional standards measure building height from the predevelopment grade throughout the city, and in determining front setbacks in neighborhood zones, that new regulations do not lead to new construction vastly differing from or breaking the general pattern along a street. For example, the proposed front setback language of "average of adjacent front yards, +/- 5 feet", in some cases would allow new buildings to be at or near the sidewalk, which along with extra height allowances has the potential to exacerbate the feeling of a new dwelling being out of context.

The zoning guides and additional graphics in the proposed sections are very useful and we recommend modeling the proposed changes in various zones as well so that the public will understand what is permissible.

Thank you very much for considering our views, I look forward to working with you to support historic preservation, planning, and design in Portland.

Sincerely,

Kate Lemos McHale
Executive Director

Comments on recode 0 views

Jacqueline Cohen 12:59 PM (3 hours ago)

to recodep...@portlandmaine.gov

I am a Portland resident living on Ocean Avenue for almost 60 years and have observed many changes over the years. I agree that we need more affordable housing and that increasing density, in general, is a good idea. However, I believe the proposal goes too far and that the end result of the proposal will create a city of asphalt and a decrease in school age population and will not guarantee that the proposed increased density will create affordable housing.
I am supportive of increased density in transportation corridors and I am supportive of one accessory unit on a single family lot. However, I am opposed to the proposal to permit at least 4 units on a small lot with little or no parking required. The idea that everyone will give up their cars so we do not have to provide for parking is unrealistic . How many of you are carless? Do you have an off site parking space? Do you live within a quarter mile of public transportation? Are you able to walk to the bus in snowy and icy conditions? How will you or your disabled friends, family and neighbors cope? How will you accommodate them in this scenario?
How will you guarantee that the new units on a single family lot will be affordable? Will you limit the rents charged? Will you prohibit their changing from rental to condo? Will you prohibit their use as air b&b's?
Not every lot in this city needs to be built out to the max . We can comply with state density regulations without creating an asphalt city.
We have spent millions on Stormwater control to improve the water quality of Casco Bay. Increased impervious surface is not included in the Stormwater management plans of the City. We will be in conflict with state and federal water quality requirements if we eliminate the green spaces .
Please reconsider what is proposed here and think ahead with reasonable recommendations.

Sent from my iPhone

ReCode Comment - Peaks Island 0 views

Danielle Foisy 1:03 PM (3 hours ago)

to recodep...@portlandmaine.gov

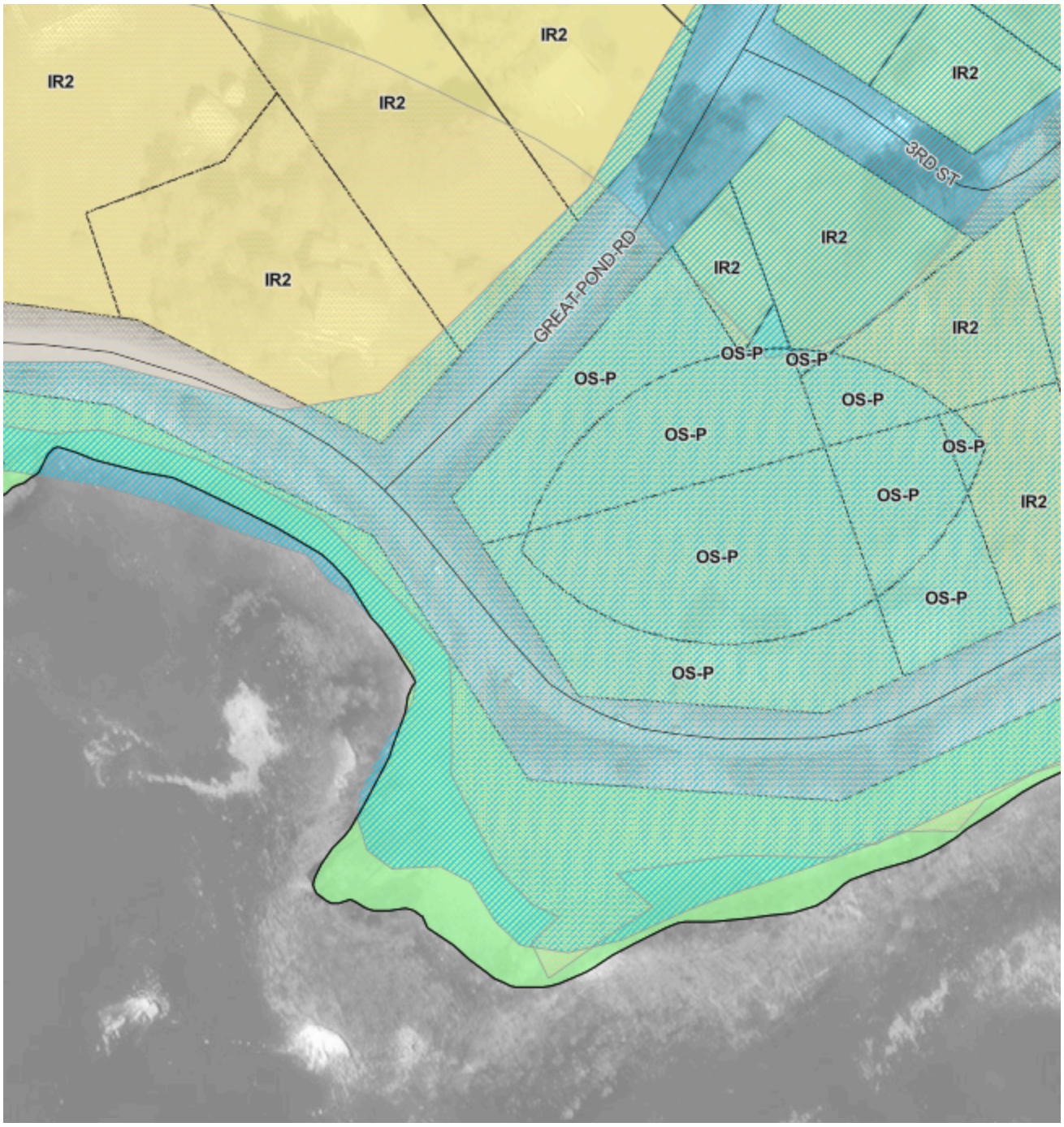
Hi There,

Writing regarding the draft zoning map. For the area at 176 Seashore Ave on Peaks Island, the proposed rezoning means lots with single-family homes that are currently partially considered “IR-2” would change to "OS-P”.

It is unclear what this change in designation would mean for these lots. Attached are screenshots of the existing and proposed. 176 Seashore has had a single family structure on its lot since 1925. Was the change from IR-2 to OS-P for these portions of the lots an error? Attached are screenshots from the existing zoning map and proposed. It looks like this is one of the few lots with existing structures on it proposed to be OS-P.

Also attached is an aerial view of the two single-family structures that are currently in the IR-2 zone and the proposed change would mean they are in the OS-P Zone.

Proposed: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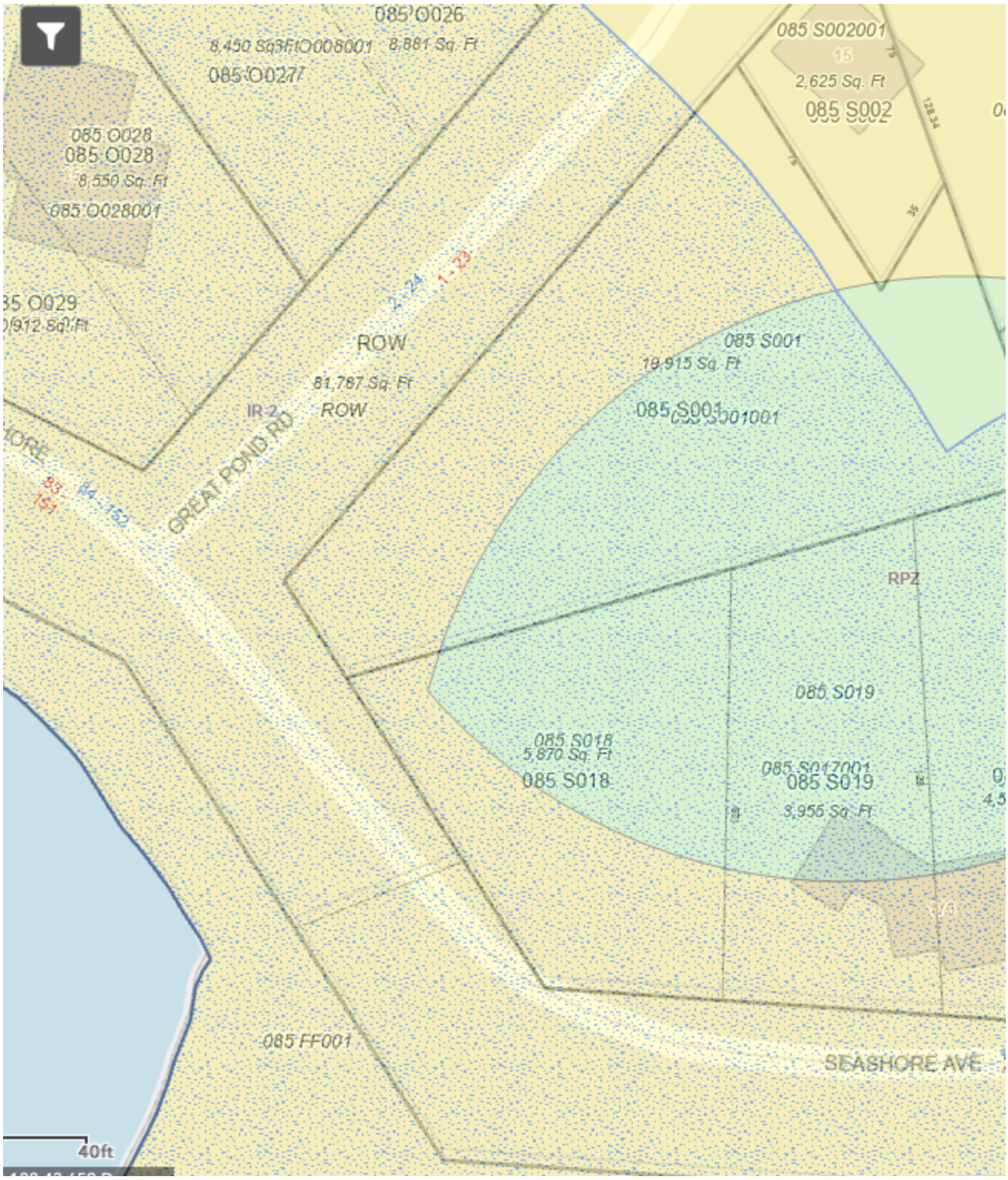
Existing: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085 O027
085 O028
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912 Sq. Ft
ROW
81,787 Sq. Ft
ROW
IR-2
GREAT POND RD
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085 S001
19,915 Sq. Ft
085 S001
085 S001001
RPZ
085 S019
085 S018
5,870 Sq. Ft
085 S018
085 S017001
085 S019
3,956 Sq. Ft
085 FF001
SEASHORE AVE
40ft

Thanks,
Danielle

Danielle Foisy (she/her)
Architect
Juniper Design + Build, LLC
(o) 207 766-5919

PORTLAND
Regional Chamber of Commerce

93 Exchange Street Portland, ME 04101 • (207) 772-2811
chamber@portlandregion.com • PortlandRegion.com

Cape Elizabeth • Cumberland • Falmouth • Gorham • Scarborough • South Portland • Portland • Westbrook

August 2, 2024

Chair Mazer and Members of the Portland Planning Board,

The Portland Regional Chamber of Commerce represents over 1,300 members in eight Greater Portland communities, who collectively employ over 80,000 Mainers. Please accept our written comments on the City of Portland's draft second wave ReCode amendments to the Land Use Code.

We appreciate the work city staff and the Planning Board have put into this draft since the 2017 adoption of *Portland's Plan 2030*. This proposal builds on strong past efforts of the City to make progress on housing production, economic development, and quality of life for all who choose to live and do business here. From the amendments in the first wave of ReCode in 2020 to the ambitious approach to LD 2003, our city has repeatedly demonstrated a commitment to grow and invest in the future through embracing change and development. This is moving us towards achieving state and local housing production and economic growth targets, representing a strong foundation on which to build further action.

However, we face significant challenges in meeting these ambitious goals of our city and state. Some of these are beyond the control of municipal leadership, and some are self-imposed. Nationally, the cost of capital, commodities, and labor have slowed development, pausing near-record housing starts and exacerbating stresses exposed by the pandemic in many commercial real estate asset classes. At the same time, we have adopted policies at the local level that further add to these challenges. Housing feasibility has been significantly hampered by the voters' decision in 2020 to increase the tax on multifamily housing to a punishing 25%. Similarly, we have adopted other bespoke local requirements that increase the cost of construction, while at the same time neglecting speed and commonsense in our approach to permitting and legislating.

To counteract these challenges, we must focus on improving our regulatory strategy on land use and development. The ReCode amendments make significant strides in this area by streamlining the code, clarifying and simplifying procedures, and removing outdated practices. On the dimensional front, ReCode demonstrates its promise with incremental growth across most areas of the city, increasing heights, removing many density restrictions, and reducing minimum lot sizes. On a mapping front, the draft makes important updates that recognize the cornerstone of our comprehensive plan: unleashing growth in the priority nodes and corridors of the city. We strongly believe these changes will lead to positive changes to our neighborhoods, making it more possible for many to live, work, and raise a family in Portland.

What follows are a series of detailed comments broken down by their relevant article in the draft Land Use Code. While we believe the current draft is a strong improvement over the status quo, consideration of the following comments will improve it further to ensure it meets the ReCode project's goals of making the code more user friendly while advancing the goals of *Portland's Plan 2030*. We thank you for your consideration of our comments and your commitment to public service in the City of Portland.

Sincerely,

Quincy Hentzel
President & CEO

PORTLAND
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Article 2: Administration

2.1.8.B.1, 2.1.8.B.2, & 2.1.8.B.3: We suggest removing the requirement that site plan, subdivision, map amendments, text amendments, and contract/conditional zones must be noticed in a "newspaper of general circulation". This represents a cost for applicants, and it does not appear that that cost supports a corresponding benefit of public awareness about applications given diminished readership of print newspapers. In lieu of this requirement, a dedicated notice section on the City's website and consistent notice through City social media channels should suffice, while reaching the intended audience.

2.1.8.B.1 & 2.1.8.B.2: We suggest limiting the mailed notice for site plan, subdivision, map amendments and text amendments to property owners within 100 feet of a subject property or just the abutters of said property. This reduces costs for applicants and aligns with the current least restrictive notice requirements in the Land Use Code, which are 100 feet for Certificates of Appropriateness before the Historic Preservation Board, or just the abutters as is the existing requirement for contract/conditional zones.

2.1.8.B.2: We suggest removing the differential notice requirements for rezoning to industrial designations, as this would align with a similar shift in eliminating this differential in 1.10.2.B and 2.1.8.B.1. This reduces costs for applicants.

2.1.10.J: To our knowledge no Planning Board in recent memory has exercised this power to offer recommendations on the City's Capital Improvement Program. We do think there could be value in the board undertaking this exercise annually, but if there are no plans to bring this review back, we suggest eliminating this from the Land Use Code. If this provision is retained, we feel this could be an opportunity for the Planning Board to annually evaluate map amendments to align with major investments in City infrastructure. For example, if a roadway is going to be significantly altered and upgraded with transit and bike/ped infrastructure through the CIP, it would be a valuable opportunity to update adjacent zoning to reflect additional transportation capacity in the area.

2.2.1: We question why there is a requirement for members of the Historic Preservation Board to "have a demonstrated interest, knowledge, ability, experience, or expertise in restoration, rehabilitation, or neighborhood conservation or revitalization." The requirement for Planning Board membership is simply residency in the Portland, and it should be no different for the Historic Preservation Board whose remit is no more technical nor specialized than that of the Planning Board. Too often the membership of the Historic Preservation Board has been drawn from a small subset of interest group leadership and/or architects specializing in historic preservation who have at least an appearance of a conflict of interest when deciding on district designations which may generate additional work for the individuals and their firms. In the interest of engendering broad participation in all City boards we recommend striking this requirement and retaining just the residency requirement.

2.2.2 & 2.2.3: We recommend aligning the Planning Board and Historic Preservation Board appointment and removal processes.

2.2.7.B.1: For the reasons stated in 2.1.8.B.1, 2.1.8.B.2, and 2.1.8.B.3 above, we recommend removing the newspaper notice requirement for landmark, historic district, or historic landscape district nominations and instead rely on a dedicated notice section of the City website and dissemination of notice through appropriate City social media channels.

2.3.5: The final two sentences of this section seem to conflict, with one requiring the concurring vote of at least four members present to grant a request or sustain an appeal, and one requiring a vote of a majority of members present to authorize any action by the Board. We suggest eliminating the first sentence in this sequence, thus aligning the voting requirements for the Zoning Board of Appeals with the Planning Board and the Historic Preservation Board for the reasons listed above for sections 2.1.6 and 2.2.5.

2.3.7.C.2: Fore the reasons stated in 2.1.8.B.1, 2.1.8.B.2, 2.1.8.B.3, and 2.2.7.B.1 above, we recommend removing the newspaper notice requirements for Zoning Board of Appeals public hearings and instead rely on a dedicated notice section of the City website and dissemination of notice through appropriate City social media channels.

2.3.7.C.7: While this is not new language, we appreciate that the Zoning Board of Appeals section clearly states: "Failure of any property owner to receive a notice of public hearing shall not necessitate another hearing and shall not invalidate any action of the Board." All too often this is given as justification from a property owner for opposition to an application, and in the worst cases can lead to approval delays. We suggest adding a similar clause to the relevant sections in 2.1 and 2.2 for the Planning Board and the Historic Preservation Board.

2.3.9.C: We question why the Zoning Administrator is the only City staff member that is not subject to a final binding appeal of their interpretation decisions by the oversight board of jurisdiction. If there is no good reason for granting the Zoning Administrator is inordinate power, we suggest making the Zoning Board of Appeals' review of interpretations binding.

2.3.11.D.2: We believe the first half of this subsection should be eliminated as it is subjective, and the term "character of the neighborhood" enjoys dubious historical antecedents related to the undesirability of multifamily housing in historically single-family neighborhoods. A far less subjective version of this subsection would simply read: "The granting of the variance will not have an unreasonably detrimental effect on either the use or fair market value of abutting proprieties."

2.3.13: We question why the Zoning Board of Appeals is the only board with express reconsideration powers. While there exists appeal authority for all boards pursuant to Rule 80B of the Maine Rules of Civil Procedure, adding in a step for board reconsideration seems to add another step of uncertainty for applicants that could lead to project delays and added costs. We suggest removing this unique reconsideration procedure for the Zoning Board of Appeals that appears to be a new addition to the Land Use Code.

Notice Requirements Generally: We continue to hope that the City can develop the ability to expand notice to individuals in the vicinity beyond just property owners to all residents, whether they rent or own. While nearby property owners deserve notice, this is often not a representative sample of the neighborhood demographics and extending notice to renters could bring new voices into the process.

We know this may be technically difficult for the City to execute, but we believe sufficient data exists within the voter registry and/or last known postal addresses in the United States Postal Service's data to make this a reality. If this is determined to be technically feasible, we recommend amending all the notice provisions within Article 2 to incorporate notice to these individuals.

Article 3: Definitions

Appurtenance: While this definition has not changed, it does appear that other sections of the Land Use Code have expanded the definition of rooftop appurtenances to facilitate more active roofs while not requiring height reductions to accommodate them. Specifically, 7.6.1.E seems to expand the definition of appurtenances to include access vestibules, pedestal paver systems, decks and unenclosed shade structures. We support this expanded definition, and we wonder if it should be incorporated into a more specific definition of appurtenance in Article 3, along with the removal of "not intended for human occupancy". We increasingly see demand to activate and monetize rooftop spaces in a recessive manner that does not add visual height to a building. This added amenity can add significant value to a project, making development more feasible, while adding outdoor space on infill lots. The Land Use Code should embrace rooftop activation in all regards throughout the code.

Dwelling, live/work: While not a common use, we question why dwellings permitted under this section would preclude an included commercial component from converting to residential use should the commercial component no longer be in use. We suggest striking the last sentence of this definition.

Family: While we do not propose specific language, we suggest a holistic review of this definition to determine if it is still relevant in our modern Land Use Code. Increasingly, roommates and shared housing make up a larger share of our housing market, and this definition feels overly restrictive and unenforceable.

Manufactured Housing: It is unclear from the redline draft of the Land Use Code how the city treats manufactured housing generally, but staff should ensure that the proposed regulatory approach is in line with newly passed legislation (LD 337) that legalized manufactured housing on all lots where single family dwellings are allowed, subject to the same requirements as single-family dwellings.

Mid-block Permeability: We believe this definition should be amended to qualify the "must be open to the sky" requirement to allow for shade covers and other low impact approaches to reducing heat impacts within the 20' corridor of permeability.

Article 5: Zones

Table 5-A: In general, we are pleased to see an overall reduction in zones from 40 to 33 (not including overlay zones). With that said, we think there are probably opportunities to further reduce the number zones, particularly by combining several of the proposed RN zones to streamline the Land Use Code more effectively. These proposed combinations are further outlined below in the applicable zone purpose statement tables.

Table 5-B: First, we suggest combining the RN-1 and RN-2 zones. These zones are very similar from a use perspective, with the only difference being multifamily dwellings as a conditional use in the RN-2 zone and agriculture being an allowed use in the RN-1 zone. The conditional allowance for multifamily in the RN-2 zone is only for conversions of existing non-residential structures. To the extent these nonresidential structures also exist in the RN-1 zone, there should be no problem with them converting to multifamily should the structure be able to accommodate it subject to other requirements in the Land Use Code. On the dimensional front, the differences are again negligible, and we would suggest a combined RN-1 and RN-2 zone utilize the proposed RN-2 dimensional standards in Table 7-A. The biggest change here would be the reduction in minimum lot size, however 15-26% of lots currently in in the R1 and R2 are not compliant with the existing minimum lot size, and these smaller lots do not seem to have a deleterious effect on the realization of these zone's purpose statements.

Next, we suggest combining the RN-3 and RN-4 zones. Again, the uses allowed in these zones are nearly aligned, with the RN-3 allowing multifamily by right and the RN-4 allowing it conditionally, and the RN-3 not allowing lodging housing and the RN-4 allowing them conditionally. It would seem to hold that if the RN-4 can take the impact of lodging houses on a conditional basis, it can absorb multifamily housing on a by right basis, subject to the applicable dimensional requirements. Similarly, if the RN-3 can allow multifamily housing by right, it can allow lodging houses conditionally. Dimensionally these proposed zones are aligned on all factors.

Table 5-D: In the mixed-use zones we suggest combining the B2 and B2b zones. These zones are well aligned from an allowed use perspective, with the inconsequential exception of marijuana retail uses which are by right in the B2 and conditional in the B2b. If these zones are to remain separate, there should be a clear context-specific differentiation on a dimensional front that delineates a more restrictive and less restrictive zone.

Table 5-F: We suggest combining the R-P zone with the B1 zone. The relatively few instances of the R-P zone on the proposed map are all proximate to B1 zones and this would significantly expand the type of small neighborhood businesses that could be in these locations for the use of nearby residences. Additionally, the housing allowances are more desirable in the B1 zone, because they preclude single family development unlike the R-P. The current R-P sites are perfect for residential infill, but none of them lend themselves to single family home development. In fact, many of the R-P sites are composed largely of surface parking lots along major transit routes, making them prime targets for B-1 type infill development with multifamily and a wide range of commercial uses on the ground floor. While the dimensional standards are more permissive in the B1 zone, it is not evident that any of the R-P sites would look out of place with development pursuant to those more permissive standards. All of the proposed R-P sites exist either along a City-designated priority corridor, or in proximity to higher intensity residential zones.

Article 6: Use Standards

Below we list suggested amendments and items for further evaluation as they relate to the use standards for all the proposed zones. While we proposed several zone combinations above, we have attempted to breakout our comments for Article 6 and Article 7 under the assumption that these combinations will not occur so that these comments can exist in a standalone manner regardless of staff responses to our proposals above.

Table 6-A: We are highly concerned about the removal of PRUDs from the residential zone use tables, as they have been a key driver of off-peninsula housing production in Portland over the last several years. To address this concern, we believe Table 6-A should be amended to allow ground-up new construction multifamily by right in the RN-4 zone reflecting the fact that its predecessor zone allowed for denser housing through the creation of PRUDs. This is particularly important for larger lots in the RN-4 zone, where the proposed Land Use Code would remove the tool of PRUDs and require development to be a series of sprawling 2–4-unit structures with meandering access drives and parking lots, and the natural resource destruction that would require.

Additionally, we suggest allowing townhouse development by right in the RN-3 and RN-4 zones. The purpose statements and current built environment for both zones speak to moderate density zoning contexts, and townhouses are entirely consistent with that vision if they follow other dimensional requirements and the use standards in 6.4.13.

6.4.9.C.2: The requirement that childcare facilities maintain a 10-foot-wide landscaped buffer between their fence and the adjacent property lines in residential zones seems needlessly restrictive when a fence is already required. We face an immense shortage of adequate childcare facilities in our region, and often one of the largest barriers to converting a structure for childcare use is finding a parcel with adequate outdoor play space to meet state licensing standards. Eating into a childcare center's outdoor play space with a required landscape buffer could seriously hinder the ability for childcare providers to secure a facility that can meet state requirements. We recommend removing this standard, given that a solid fence should more than suffice as privacy and use buffering tool.

6.4.12.A.1: See above suggestion in Table 6-A to allow multifamily housing by right in the RN-4 zone. The mention of RN-4 in 6.4.12.A.1 should be eliminated.

6.4.14.D: We suggest considering language here to ensure that management plans are enforceable and followed by applicants. In lieu of a licensing scheme for emergency shelters, it is imperative that ongoing enforcement of the management plan standard occurs. Unlike other emergency shelter conditional use standards that are be static and established at the time of construction completion and occupancy, a management plan requires constant enforcement and follow-through on the part of the city and the applicant, and there should be a mechanism to continually enforce this standard as long as the use is occurring on a given site.

6.4.33.A: We agree with other public comments that restaurants should not face arbitrary limits on their hours of operation in the B-1 zone, primarily because noise regulations elsewhere in the City Code should suffice as a control on impacts to neighbors in the later hours. This would further enhance the concept of complete neighborhoods that allow people to access goods and services near their homes without driving to the larger business districts of the city to access late night dining.

6.6.2.A.7: We believe a better approach to limiting the height of detached ADUs constructed as a vertical addition to an existing garage would be to cap it at the height of the principal structure. The current proposed limit of 25' is needlessly restrictive, while capping it at the height of the principal structure would allow for more ADUs to be added to existing garages without altering the overall character of the existing structure.

6.6.2.E.14: We suggest aligning this use standard for family childcare providers with the existing definition of family childcare in state law, which currently allows a family childcare provider to care for up to 12 children. We face a severe shortage of childcare facilities in our region, and the city should not place an arbitrary limit on family childcare provider's capacity that is below their allowed capacity under state law.

6.8.8: We agree with other public comments that this restriction on outdoor stairways makes little sense. As others have pointed out, allowing egress requirements to be met partially through outdoor staircases has the potential to unlock additional living space on infill lots, which is particularly important for encouraging larger family sized units. Additionally, these areas can potentially provide valuable outdoor spaces for units that would otherwise not have them.

Article 7: Dimensional Standards

As stated in our comments above on Article 6, our comments below on Article 7 proceed under the assumption that our recommendations for zone combinations in Article 5 are not adopted. Thus, the comments below reflect specific comments for all the zones as currently proposed in the draft.

7.2 Building Length: We seek clarification as to if this definition of building length precludes a structure from having mid-building permeability on the ground floor with a more recessive and set-back connection of the floors above, using this permeability to "reset" the building length calculation. As we will lay out below, we are highly concerned with the application of the building length standard in some zones, and if that is to be retained, we hope there are creative ways applicants can break up a building length without being required to build entirely separate structures.

7.2 Average Grade: We suggest that this section refer to post-development grade in the final sentence to clarify ongoing challenges in determining allowable heights. Post-development grade represents the pedestrian experience once the full building height is realized on the site, and thus is a better approach to clarifying the average grade calculation.

7.2 Landscaped Open Space Ratio: We suggest allowing green roofs to count towards the landscaped open space ratio, if they are accessible to occupants of the building. Lot coverage is still in place in many zones to retain the character of the built environment, but if an applicant wants to meet their landscaped open space ratio by creating an accessible green space, while also meeting their lot coverage requirements, that should be permissible to control for difficult urban infill sites where landscaped open space may eat into otherwise developable footprint that could be dedicated to housing and other necessary impervious infrastructure.

Table 7-A RN-1: Should the RN-1 be adopted as currently proposed, we suggest reductions to the minimum lot size. This zone incorporates the existing R-2 zone, and the Land Use Code Evaluation suggested that the R-2 should consider "reductions in minimum lot size to encourage a more efficient pattern of single-family development". While the use restrictions do facilitate new opportunities in this zone for 2–4-unit developments, the minimum lot size remains unchanged from the R-2 to the RN-2, and thus new development opportunities on some of the larger parcels in this zone are needlessly restricted. If the RN-1 is not combined with the RN-2 as suggested, we recommend reducing the

minimum lot size in this zone to ensure that no less than 95% of the existing lots in the R-2 come into conformance with the new lot area minimum.

Table 7-A RN-2: Should the RN-2 not be combined with the RN-1 as suggested; we recommend reducing the minimum lot size requirement such that no less than 95% of the existing lots in the R-3 come into conformance. This would acknowledge that the Land Use Code Evaluation found nearly 25% of the existing lots are not conforming to the current standard, concluding that the current minimum lot size is "an issue of need to reorient the zone standards to better acknowledge the existing lot pattern."

Additionally, we recommend introducing a bifurcated height allowance like the proposal in the RN-5 which allows 3- and 4-unit developments to be built to 45'. This change, largely imperceptible to the average pedestrian, would go a long way towards realizing the missing middle development potential unlocked through the LD 2003 amendments.

Table 7-A RN-3: Again, we recommend a reduction in the minimum lot size requirement. Especially given that the Land Use Code Evaluation noted that "the (minimum lot size) standard is high for an urban residential zone." Like in other RN zones, we recommend tying the new minimum lot size to a size that ensures that no less than 95% of the existing lots in the RN-3 come into conformance. This should be one of the easier zones for 3- 4-unit developments to occur under the expanded use provisions.

Additionally, like in the above zone, we recommend introducing a bifurcated height allowance as noted above that would allow 3- and 4-unit developments to be built to 45'.

Table 7-A RN-4: Again, we recommend a reduction in the minimum lot size requirement. The existing R-5 zone is one of the more egregious examples of the underlying zoning not matching the built environment. We are glad to see a slight reduction in the minimum lot size requirement, but evaluation should occur to determine the percentage of non-conforming lots if the 5,000 square feet standard were to go into place. Consistent with our recommended approach in other RN zones, we recommend tying the new minimum lot size to a size that ensures that no less than 95% of the existing lots in the RN-5 come into conformance.

Additionally, like in the above zones, we recommend introducing a bifurcated height allowance that would allow 3- and 4-unit developments to be built to 45'.

Table 7-A RN-5: The RN-5 zone is one of the densest residential zones in the city, yet this proposed draft seems to take a step backward on dimensional standards at a time when for our housing, transportation, and sustainability goals, these neighborhoods are the best target for infill housing. Additionally, much of this zone is mapped into historic districts, significantly limiting infill potential. The trade for locking a neighborhood in amber under historic designation must be that the remaining noncontributing lots be allowed to shoulder the burden of housing production for the neighborhood.

We appreciate the bifurcation of heights that we have encouraged in the zones above, however we would note that while we are not concerned about single family homes in this zone, this height change does result in a downzoning for duplex projects, which will make developing infill duplexes with family sized units potentially difficult.

Additionally, we are discouraged to see stepbacks retained in this zone for properties exceeding 35 feet. Diminishing the buildable envelope in this way has negative impacts on the ability to build multifamily projects in this zone. Many of the existing multifamily buildings in this zone accommodate four stories through a mansard roof or other design conditions on the fourth floor. The recessive nature of a mansard roof allows for a nearly full envelope on the fourth floor without creating a negative environment for pedestrians and abutters. Some accommodation should be allowed to permit this type of historic building pattern in the RN-5 zone up to the full 45-foot height limit.

We share the strong concerns with other members of the public that the introduction of a building length maximum in the RN-5, especially one of 60 feet, is overly restrictive in this area. The Design Manual and the RN-5 dimensional standards already address this issue in a less restrictive manner, through design requirements and blank facade restrictions. Eliminating this new building length maximum will still allow the built pattern of the neighborhoods in the RN-5 to match the surrounding neighborhood, without requiring separate buildings, elevators, stairwells, and mechanical systems. This standard would also mean that, within individual buildings, more area would have to be devoted to egress, taking away space that could otherwise be habitable space. The current approach will drive per square foot construction costs higher, leading to more expensive housing in neighborhoods that are prime for housing affordable to the peninsula workforce. Additionally, this would introduce significant nonconformities due to projects successfully built in the existing R-6 that are longer than 60 feet. We suggest this provision be removed, given that building length maximums will needlessly harm the development of multifamily housing and they are not present in any other RN zone except for the much smaller RN-6 zone (at 180').

Finally, we also agree with public comments that the increase to the landscaped open space ratio in the RN-5 is a barrier to multifamily development in what is supposed to be the densest residential zone in the city. RN-5 parcels are all proximate to the crown jewels of our city's public park system (Deering Oaks, Western Prom, and Eastern Prom). Increasing this ratio is a surefire way to reduce the number of dense infill projects we see on the peninsula.

7.4.2.D.2: We are encouraged to see the introduction of cottage court style developments to the Land Use Code, as these are a great tool to permit dense single family and duplex developments. With that said, the requirement in this subsection that limits duplexes to no more than 25% of the units in a development seems arbitrary given that duplexes are allowed by right in all of these zones, albeit with different dimensional standards. We recommend removing this limitation, thus allowing cottage court developments to be composed of any mix of single family and duplex units.

7.4.2.E.4: We question whether the requirement that all units face a common open space or street would preclude developments from facing a private way or shared driveway in a long and deep lot. We recommend that units be allowed to be oriented in this more permissive manner.

7.4.2.E.5.B: We agree with other comments that the required width of the open space should be reduced or eliminated. Given the proposed requirement of 300 square feet of open space per unit and the requirement that the open space for the development be contiguous, further controls on the geometry of the open space are needlessly restrictive to achieve the goal of sufficient and usable open space for residents.

For similar reasons, we suggest removing the requirement that the open space face a public street. On long shallow lots this would require the open space be placed in front of the units, potentially risking the development not meeting front setback maximums. Similarly, as long as easements allow all residents to access it, there should be no reason that the open space cannot occur in the rear of the lot where occupants would be free from vehicle interference and potentially adjacent to OS-P and OS-R open spaces and their attendant trail networks.

Article 13: Site Plan

13.5.5.A: The amendments to this subsection seem to imply that a neighborhood outreach meeting must be completed before both workshops and public hearings. Unless this is clarified, it could be interpreted to mean that an applicant must hold more than one public meeting for a single site plan application. We suggest clarifying that only one neighborhood outreach meeting is required, and that it can take place either before a workshop or before the public hearing.

Article 16: Historic Preservation

16.6.8.C: Consider adding to the end of the subsection "and provide direction to the applicant regarding issues to be addressed to bring the application into compliance with the relevant standards of Section 16.7." This necessary addition will clarify that the Historic Preservation Board must provide feedback at workshops specific to the standards. In several recent cases of the Board feedback, the applicant has been left with subjective criticisms from various Board members that do not directly address which standards the member believes the applicant is not complying with, creating confusion that leads to needless additional rounds of workshops. Board feedback in workshops must be explicitly tied to the relevant standards to reduce the number of workshops needed.

16.7.3.A: Strike all standards in this section except for 16.7.3.A.6. That subsection is a welcome addition to the code, but its addition obviates the need for subsections 16.7.3.A.1-16.7.3.A.5. This draft wisely makes clear that the Board is unable to impose standards on the applicant that would require reductions to the building envelope beyond restrictions present in the base zoning, and thus there no longer need to be standards that even mention the ability for the Board to analyze dimensional components of a building like height and width. This current source of confusion has been a key driver to the lengthy review process the Board has undertaken on applications for new construction and making explicit that the Board cannot force an applicant to reduce height and width or increase setbacks and step backs must be clear and enforceable. If the Board is to continue to have jurisdiction over new construction, the standards in sections 16.7.3.B & 16.7.3.C are more than sufficient to ensure compatibility with the aims of a historic district.

Article 17: Housing

17.2.2.C.1: While we understand that this subsection is not amendable at this time pursuant to restrictions elsewhere in City Code on amending citizen approved referendums within a five-year period, we would be remiss if we did not flag the devastating impacts the 25% inclusionary zoning requirement has had on the development of housing in the last four years. While ReCode must be adopted before that five year timeline concludes, we urge the Planning Board to commence amendments to this section as soon as possible in late 2025 to reduce this tax on multifamily housing production, thereby unlocking the potential for thousands of more housing units in Portland. Since this section of code was amended in 2020, just six major site plans have been approved subject to this requirement, only three of which have been built or are on track to be. That is not a healthy production level in a city of Portland's size, and until this tax is amended or rescinded many of the worthy goals this draft of ReCode advances will be of limited impact.

17.2.2.C.3: We have concerns with the addition of new requirements for affordable and market rate unit parity that speak to "unit design, finishes and amenities." This is particularly troublesome for multi-building developments that may need to restrict all the affordable units to a single building for purposes of securing local, state, and federal subsidies. In many cases, MaineHousing and other affordable housing financing partners are incredibly strict on the finishes and amenities they allow projects built with their funding to include. In some cases, they will even restrict the ability of a developer to invest additional private funds to incorporate said amenities or finishes. The addition of this new requirement for unit parity could potentially run afoul of these requirements, and it should be removed to maintain the status quo which simply requires unit bedroom counts to be equal between the market rate and affordable portions of a development.

Zoning Map

Washington Avenue B2b Zone: Given the recent discussions surrounding the application of the B2b zone to the peninsular side of the Washington Avenue corridor, and the associated accusation that this is "spot zoning", we would find it clearer for B2b to be mapped to the entirety of the peninsular side of this corridor, except for the OS-R zoned parcel on the northern end. This is a vibrant corridor at the base of a large elevation gain and is perfectly aligned with the B2b zone's purpose statement. While B1 has its place on collector streets and within dense neighborhoods, a corridor with this level of transit service and pedestrian connectivity should be zoned more intensely.

Priority Node and Corridor B1 Zone: As an alternative to expanding the definition and uses allowed under the neighborhood nonresidential use provision, and in conjunction with our recommendation to fold the R-P zone into the B1 zone, we recommend expanding the mapping of the B1 zone along more priority nodes and corridors that are currently mapped as RN zones. This would include more portions of Congress Street on Munjoy Hill, more of Congress between I-295 and Westbrook Street, more portions of Washington Avenue from Presumpscot Street to Allen Avenue, more portions of Forest Avenue from Allen Avenue to I-295, more portions of Stevens Avenue in its entirety, and more portions of Brighton Avenue from Falmouth Street to Montrose Street. While the built form in some of these areas may not match the B1 zone description today, we do believe this will provide incremental opportunities for residential growth and retail uses near established neighborhoods and along the routes identified for transit and bike/ped investments in the coming years

Targeted Expansion of TOD Zones: While we are encouraged to see the addition of the TOD zones to the code, we believe there are more applications for these zones than are currently mapped. Particularly, we think the Saint John Valley TOD zone could be further expanded and moved from TOD1 to TOD2 across a variety of nearby underdeveloped sites, recognizing recent and upcoming investments from Maine Medical Center, the Northern New England Passenger Rail Authority, and other city infrastructure projects that lend themselves towards transit-oriented development. Other opportunities for introducing more TOD zones include the Allen's Corner area, currently unmapped areas of Marginal Way and Franklin Arterial that are prime redevelopment sites should future infrastructure projects allow, as well as potential expansion of the TOD1 zone at the western terminus of Brighton Avenue.

Limited Mapping of Unmapped Areas: City staff have rightly sought to eliminate intra-parcel zoning conflicts by drawing zone map lines to parcel lines. This is a largely successful approach, but it does leave several high value sites unmapped. This includes land adjacent to city and state right of ways that could be subdivided in the future to create prime development sites, along with some open space and surface parking lots near Thompson's Point. Creative approaches should be sought to map these parcels in a manner that unlocks future development potential should property owners want to pursue that opportunity in the near future.

Form Submission - Contact us Re:Code - Increase TOD zones

0 views

Squarespace Aug 2, 2024, 10:00:35 PM (3 days ago)

to recodep...@portlandmaine.gov

Sent via form submission from *ReCode Portland*

Name: Thomas Bander

Email Address: tom.bander@gmail.com

Subject: Increase TOD zones

Message: I'm supportive of drastically increasing TOD zones to the entirety of the major arterial streets like Brighton and Forest. The current proposal does not go far enough to increase density of areas that will have better bus transit. TOD zones should be entire streets, not just individual parcels.

Manage Submissions

Does this submission look like spam? Report it here.

Form Submission - Contact us Re:Code - More neighborhood businesses

0 views

Squarespace Aug 2, 2024, 10:01:48 PM (3 days ago)

to recodep...@portlandmaine.gov

Sent via form submission from *ReCode Portland*

Name: Thomas Bander

Email Address: tom.bander@gmail.com

Subject: More neighborhood businesses

Message: Expand B-1 zones to allow for neighborhood businesses in more neighborhoods! Even off peninsula, its important to have more mixed use zoning to allow people to walk to local business

Manage Submissions

Does this submission look like spam? Report it here.

Evan Schueckler <evans@portlandmaine.gov>

Article 16, Portland Land Use Code Final Draft

Abigail Theobald <abbytheobald1217@gmail.com> Sun, Aug 4, 2024 at 8:03 PM
Reply-To: abbytheobald1217@gmail.com
To: hp@portlandmaine.gov

Dear Historic Preservation Board Members:

My name is Abigail Theobald and I am a resident of Portland. I am also a graduate student at the University of Denver taking a course on land use planning. One of my assignments is to attend a local planning meeting and provide public comment to gain a better understanding of how the public engagement process works.

I will keep this brief, but I would like to comment today on the final draft of Article 16 in the Land Use Code. It is my opinion that the board has done a thorough job of providing detailed definitions and outlines regarding criteria for historical designation and the process by which an entity is considered for such distinction. These guidelines work to ensure that sites selected for historical designation are worthy of such title and allow for adequate stakeholder engagement through each step of consideration. The language implemented in this article is user-friendly and ensures that those new to land use planning procedures, such as myself, can grasp certain concepts.

Thank you,
Abigail Theobald

Evan Schueckler <evans@portlandmaine.gov>

HP Public Comment - It Is NOT TOO LATE To Replace "ReTweak" with a real "ReCode" Process

George Rheault <george.rheault@gmail.com> Tue, Aug 6, 2024 at 11:58 AM
To: HIstoric Preservation <hp@portlandmaine.gov>, Kevin Kraft <kkraft@portlandmaine.gov>, Evan Schueckler <evans@portlandmaine.gov>
Cc: Mark Dion <mdion@portlandmaine.gov>, Pious Ali <pali@portlandmaine.gov>, April Fournier <afournier@portlandmaine.gov>, Roberto Rodríguez <rrodriguez@portlandmaine.gov>, Anna Trevorrow <atrevorrow@portlandmaine.gov>, Victoria Pelletier <vpelletier@portlandmaine.gov>, Regina Phillips <rphillips@portlandmaine.gov>, Anna Bullett <abullett@portlandmaine.gov>, Kate Sykes <ksykes@portlandmaine.gov>

It has been obvious during the years-long intentionally dragged out "ReCode" farce that Christine Grimando was going to refuse to do any root and branch change to our awful segregationist land use code that deliberately creates artificial housing scarcity in favor of affluent white homeowners.

Sadly, now that Kevin Kraft is now at the helm of this embarrassment (all conducted during a massive housing crisis with mass evictions and historic displacement of housing insecure populations all across our community), he and his staff appear unwilling to challenge the status quo that has brought us to this point.

It is much worse that the Historic Preservation Board, rather than admit the vast privilege they have had bestowed upon them in reaction to the 1980s building "boomlet" in Portland that produced our existing strait-jacket historic preservation ordinance has decided to spend their summer work engaged in "ReTweak" rather than meaningful reform.

Unfortunately, our City Council is going to have to do all the heavy lifting here while the HPB sips their mint juleps and eats their crustless cucumber sandwiches on their very expensive, historically protected verandas.

But it is not too late for the HPB to at least make themselves look somewhat sane and reasonable by agreeing to at LEAST the following changes:

1. Do NOT make the change that actions of the HPB can be valid with a board minority of only 3 votes. This also applies to the Planning Board decisions. The requirement of a 4-member quorum for a 7-member board is some protection but the idea that big and small decisions of the HPB (and the Planning Board) can be done with ONLY 3 votes undermines the credibility of this board's mandate and scope of authority. The public should have complete confidence that the members of the HPB should be showing up to do their job and that a MAJORITY of the ENTIRE BOARD is the only valid way for it to conduct business when authorizing projects to get its stamp of approval. By reducing the HPB's threshold to action to ONLY 3 votes, is simply going to lead to all kinds of mischief whereby it will be even easier for board members to strategically skip meetings for items they do not wish to have to be called on the record for when seeking HPB acceptance. The public is often unhappy with HPB decisions, but it will be even ANGRIER if the HPB begins to start throwing its powerful weight around with a board MINORITY of 3 votes, especially when very controversial projects may be in play.

2. Add "audio-video recording" to the section pertaining to "Records" since a digital recording of the HPB's proceedings is now the MOST accurate record of its work (the rote paper "minutes" that get approved each meeting are a bare minimum artifact of the days when the Pony Express was a major innovation in human communication) and should be required to be preserved and carefully archived (i.e., redundantly backed up in a reliable industry-standard digital storage format) so that EVERY word spoken at a HPB proceeding by anyone present for it (whether or not transcribed anywhere else) can be re-played at the touch of a button and absolutely no ambiguity about what was said and done will exist (unless of course the video itself has production quality issues, which is on city staff to avoid such occurrences).

3. Remove any references to extra requirements for HPB members. No such requirement exists for Planning Board members even though the Planning Board routinely engages in far more sophisticated decision-making reviews than the HPB. We do NOT insist in our land-use code that Planning Board members "shall have" demonstrated interest, knowledge, experience or training in things like land use law, architecture, civil engineering, infrastructure management or land-use planning. Applicants with this kind of knowledge and experience almost certainly have a leg up on those applicants that do not have such experience, but we should be 100% honest that the entire point of the HPB and the Planning Board is to engage in political decision-making around land-use issues like historic preservation and planning approvals. Insisting that candidates MUST arrive at these jobs with certain requisite skill sets just hides the fact that even when such candidates are installed, they are typically making VERY political judgments about the merits or demerits of a

particular project's contours and details which often have very little to do with the specialized professional credentials many of these members possess that made them politically-favored for their appointments to the HPB and the Planning Board.

4. Insist that NO HPB members may be allowed to deliberate and vote if they are entitled to receive a required public notice due to their property being within 500 feet of a project site seeking approvals (this also should be applied to the Planning Board). This requirement for an automatic recusal makes clear that if our land-use law requires abuttors or nearby owners within 500 feet of a project to receive special public notices via mail (with the costs borne by the applicant and administered by city staff), that is an indication that THOSE property-owners have a very special interest in a project's details and outcomes. Therefore, to protect both the public and applicants from undue influences as well as the integrity of the HPB and Planning Board members, no one living in close proximity to a project should have to sit in judgment of such a project. This is not a hypothetical thing. In just the last few months, Hillary Bassett has weighed in deeply about a project at 20 Morning Street despite being a nearby property owner (55 Morning Street) as well as Robert Whitten (actually voting AGAINST the proposed apartment building at 42 Atlantic St while owning 4 large parcels of land a stone's throw away at 23 St. Lawrence Street). Robert O'Brien also has routinely weighed in on West End projects that are all in very close proximity to his property at 95 West Street.

The public can NOT have any confidence in the work of the HPB if it simply acts like a bunch of neighborhood busybodies arm-twisting their neighbors to enact their aesthetic (and highly subjective) preferences. This is NOT why we make housing and development so expensive and arduous in our community and if that is the sole reason why many HPB members decide to sit on this powerful board then this incentive should have been removed a LONG TIME AGO.

Much more will need to be said on reform of the HPB and of our historic preservation ordinance when the City Council takes up meaningful land-use reform after the HPB has finished its self-serving "ReTweak" efforts. But doing the bare minimum as outlined above will at least make clear that the HPB understands how tenuous its place in our municipal government is at this crucial moment. In a small city swamped by unhoused street persons and by thousands of housing insecure renters barely holding on to their precarious toeholds in Portland, it is absolutely outrageous that affluent homeowners sitting on millions of dollars of largely unearned home equity courtesy of our suffocating anti-development land-use laws cannot accept how good they have it and refuse to cede any of their power over the rest of us.

Greater Portland Landmarks
Historic character enriches our lives

Greater Portland Landmarks
PO BOX 17533
Portland, ME 04112

6 August 2024

RE: ReCode Chapter 2, 3, & 16 Revisions

Chair O'Brien and Members of the Historic Preservation Board,

Greater Portland Landmarks would like to thank the Board and planning staff for addressing many of our previous comments in the revised chapters. Several of the revisions address one of our major concerns, that the previous draft did not meet Certified Local Government standards. We appreciate the communications between the City and the Maine Historic Preservation Commission this summer towards addressing those provisions that were left out or significantly altered in the previous draft. We greatly appreciate the staff's goal of ensuring that Portland retains its CLG status by making these revisions.

Regarding Portland's CLG status, we support the inclusion of the goals in Portland's comprehensive plan as a criterion during the Planning Board and City Council's consideration of historic designations. This has been a long-standing provision in Portland's Historic Preservation Ordinance. However, Landmarks does not support the inclusion of the goals in Portland's comprehensive plan as a criterion during rescission or amendment deliberations by the Planning Board and City Council. We urge the Board to support language in Section 16.3.7 (D) that would remove reference to comprehensive plan goals, similar to the existing language in Section 17.5.9. We believe that would address MHPC's concerns about the proposed language in the standards for recission or amendment that would allow the Planning Board or the City Council to decide that a landmark or contributing building can be reclassified as noncontributing (and therefore demolished) based on goals, other than historic preservation, identified in the comprehensive plan.

Landmarks' comments (mostly favorable) on specific provisions are included in the attached chart. We had four questions that arose from new provision or struck language that we hope the Board will ask staff to address:

- *Deletion of text currently addressed in Section 17.6.2:* Will Planning Staff, upon communications with MHPC regarding NRHP listings and determinations of eligibility, make those properties known to the Board and public, so that if there is interest, a local nomination might be undertaken following the process outlined in the ordinance? Will those properties be flagged in the permitting systems when there is a request for demolition?

- Will updated design guidelines address the best practices for siting solar panels and heat pumps to coordinate with the revised provisions proposed in 16.5.1.(H) and (I)

- *Section 16.2.3.(C)* Would landmarks in a historic district still be reviewed as landmarks? (in that all elevations of the historic resource(s) are generally considered for review, not just those from a public way or open space?)

- *Section 16.4:* The interim protections no longer include the provisions that the ordinance applies upon the recommendation of the designation of the HPB. Landmarks believes this has been a helpful and effective provision during the designation of historic districts. Would you consider adding review of removal of character-defining historic features in the same vein as review of proposed demolition?

Thank you for considering our views,

Kate Lemos McHale
Executive Director

Existing Ordinance Language	Proposed Draft ReCode 2	Revised Draft August 2024	Greater Portland Landmarks' Comment
2.2.1 Composition			
The Historic Preservation Board shall consist of seven voting members who shall serve without compensation. Members shall not be officers or employees of the City. Members shall have demonstrated interest, knowledge, ability, experience, or expertise in restoration, rehabilitation, or neighborhood conservation or revitalization and shall be residents of the city.	The Historic Preservation Board shall consist of seven voting members who shall serve without compensation. Members shall not be officers or employees of the City. Members shall have demonstrated interest, knowledge, ability, experience, or expertise in restoration, rehabilitation, or neighborhood conservation or revitalization and shall be residents of the city.	The Historic Preservation Board shall consist of seven voting members who shall serve without compensation. Members shall not be officers or employees of the City. Members shall have demonstrated interest, knowledge, or training in historic preservation or closely related fields, and shall be residents of the city.	
2.2.9 Jurisdiction			
B.To investigate and recommend to the Planing Board and City Council the designation of areas, sites, structures, and objects not listed in the National Register of Historic Places as local landmarks and districts and to make recommendations to the Planning Board concerning sites, structures, and objects that have contributing significance or are intrusions within nominated or designated districts.	B. To review areas, sites, structures, and objects nominated for local historic designation, and to make recommendations to the Planning Board and City Council for their designation as landmarks, historic districts, and historic landscape districts as applicable.	B. To review buildings, structures, objects, sites, and areas nominated for local historic designation, and to make recommendations to the Planning Board and City Council for their designation as landmarks, historic districts, and historic landscape districts as applicable.	
E. Upon request, to advise and assist owners of landmarks and property, sites, structures, or objects within districts on physical and financial aspects of preservation, renovation, rehabilitation, and reuse and for procedures for inclusion on other registers of significant areas, sites, structures, and objects, including the National Register of Historic Places. F. To recommend to the Planning BoardK. To hold meetings and public hearings to review applications for Certificates of Appropriateness affecting proposed or designated landmarks and districts and to recommend approval or disapproval of Certificates of Appropriateness.	D. To hold workshops and public hearings to review applications for certificates of appropriateness affecting historically designated properties and to approve or deny certificates of appropriateness.	D. To hold workshops and public hearings to advise and assist owners of historically designated properties on historic preservation and rehabilitation, and to review applications for historic preservation review affecting historically designated properties and to approve or deny such applications	
M. To develop design guidelines affecting landmarks or districts for review and approval by the Planning Board.	E. To review applications for certificates of economic hardship and to issue or deny certificates of economic hardship. To develop design guidelines affecting landmarks or districts.	Amended E. To develop guidelines for work affecting historic designations and to aid in the interpretation of the standards for review	

Existing Ordinance Language	Proposed Draft ReCode 2	Revised Draft August 2024	Greater Portland Landmarks' Comment
	N/A	Added: I. To inform and educate the citizens of Portland as to the cultural, historic, architectural, and archeological heritage of the city by publishing maps, newsletters, brochures, and pamphlets and by sponsoring programs and seminars	This proposed change seems to address Landmarks concerns and those of MHPC.
3 Definitions			
not defined	N/A	Added: **Archaeological Site.** A bounded geographic location containing the physical evidence of previous human occupation including but not limited to structures, artifacts, graphics (paintings or drawings) and discarded material including plants or animals	
Object. Anything constructed, fabricated, or created, the use of which does not require permanent or semi-permanent location on or in the ground.	N/A	Added: **Object**. A material thing of functional, aesthetic, cultural, historical, or scientific value that may be, by nature or design, movable yet related to a specific setting or environment.	
Site. The location of a significant event, an archaeological site, a landscape or traditional cultural property, or a building or structure, whether standing, ruined or vanished, where the location itself maintains historical or archaeological value regardless of the value of any existing structure.	N/A	Added: **Site (Historic).** The location of a significant event; an Archaeological Site; a landscape or traditional cultural property; or a building or structure, whether standing, ruined, or vanished, here the location itself maintains historical or archeological value regardless of the value of any existing structure.	This proposed change seems to address Landmarks concerns and those of MHPC.
16.1 Purpose			
17.1 .A. Creating a mechanism to identify, preserve and enhance distinctive areas, sites, structures, and objects that have historic, cultural, architectural, and archaeological significance.	N/A	A.Creating a mechanism to survey, identify, historically designate, and protect building, structures, objects,sites and areas of historic, cultural, architectural, and archaeological significance consistent with the National Register and the Secretary of the Interiors Standards and Guidelines for Archeology and Historic Preservation	This proposed change seems to address Landmarks concerns and those of MHPC.
	... establishing standards for the review of construction within and affecting designated historic properties to encourage preservation, restoration, rehabilitation, and new construction that respects the historic, cultural, architectural, and archaeological significance of distinctive areas, sites, structures, and objects	B.Establishing standards for review of alterations and new construction affecting historic designations consistent with the Secretary of the Interiors Standards for the Treatment of Historic Properties.	This proposed change seems to address Landmarks concerns and those of MHPC.

Existing Ordinance Language	Proposed Draft ReCode 2	Revised Draft August 2024	Greater Portland Landmarks' Comment
	N/A	C. Encouraging compatible rehabilitation and new constrcution affecting historic designations preventing the unnecessary loss of the community's significant character without stifling change and development	This proposed change seems to address Landmarks concerns and those of MHPC.
D. Fostering civic pride in the city's history and development patterns as represented in such distinctive areas, sites, structures, and objects.	N/A	F. Fostering civic pride in the city's history as represented in the city's historic designations	This proposed change seems to address Landmarks concerns and those of MHPC.
B. Providing a resource of information and expertise to help those interested in rehabilitation or new construction in a district or restoring a landmark.	N/A	D. Providing a resource of information and expertise to help those interested in historic designation and rehabilitation or new construction affecting historic designations.	This proposed change seems to address Landmarks concerns and those of MHPC.
16.2.2. A. Criteria for Historic Designation			
17.4.1.A. The Historic Preservation Board shall limit its consideration to the following criteria in making a determination on a proposed nomination of an area, site, structure, or object for designation by ordinance as a landmark or district:	A. Any area, site, structure, or object nominated for historic designation must be found to demonstrate at least one of the following:	A. Any building, structure, object, site, or area nominated for historic designation must be found to demonstrate significance under at least one of the following	This proposed change seems to address Landmarks concerns and those of MHPC.
4. Its exemplification of a significant architectural type, style, or design distinguished by innovation, rarity, uniqueness, or overall quality of design, detail, materials, or craftsmanship.	4. *Significant architecture* . Exemplification of a significant architectural type, style, or design distinguished by innovation, rarity, uniqueness, or overall quality of design, detail, materials, or craftsmanship.	4. *Significant design or construction.* Embody the distinctive characteristics of a significant type, style, design, period, or method of construction.	This proposed change seems to address Landmarks concerns and those of MHPC.
16.2.2.B. (Integrity Standard)			
Any area, structure, or object that meets the criteria in Section 17.4.1 must also have sufficient integrity of location, design, condition, materials, and workmanship to make it worthy of preservation or restoration.	Any nominated area, site, structure, or object must also be found to retain sufficient integrity of location, design, materials, and workmanship to convey its significance with respect to the applicable criteria as defined in Subsection 16.2.2.	Any nominated building, structure, object, site or area must also be found to retain sufficient integrity of location, design, setting, materials, workmanship, feeling, and association to convey its significance with respect to the applicable criteria for historic designation as defined in Subsection 16.2.2(A)	This proposed change seems to address Landmarks concerns and those of MHPC.
16.2.2.			
(Consideration of Comp Plan) 17..4.1 D. The Planning Board and City Council shall apply the criteria of (A), (B), and (C) above as well as historic preservation goals included in the Comprehensive Plan, but shall also consider the effect of such designation on other aspects of the Comprehensive Plan of the City.	The Planning Board and City Council shall also consider the effect of the proposed historic designation within the framework of the Comprehensive Plan when making a recommendation or decision on a nomination..	C. The Planning Board and City Council shall apply the criteria for historic designation of Subsections 16.2.2(A) and (B) above, the historic preservation goals included in the Comprehensive Plan, and consider the effect of such historic designation on other aspects of the Comprehensive Plan of the City	This proposed change seems to address Landmarks concerns and those of MHPC.

Existing Ordinance Language	Proposed Draft ReCode 2	Revised Draft August 2024	Greater Portland Landmarks' Comment
	N/A	Added D. The Historic Preservation Board, Planning Board, and City Council may refer to the National Register Bulletins in interpreting and applying criteria for historic designations under Subsections 16.2.2 (A) and (B)	This proposed change seems to address MHPC concerns
16.2.3 Classifications within historic designations			
17.7.1 There shall be a rebuttable presumption that all structures within a district shall be contributing unless the designation report and Historic Resources Inventory expressly identifies otherwise. Where the Planning Authority or the owner believes that the identification is erroneous, the Historic Preservation Board shall determine whether the structure is noncontributing.	16.2.3.A. The sites, structures, or objects within a nominated historic designation may be classified as contributing or noncontributing.	16.2.3.A. The buildings, structures, objects, and sites within a historic designation may be classified as contributing or noncontributing.	
	B. A contributing classification shall only be applied to an area, site, structure, or object which: 1. Were built at least 50 years prior to the date of district designation, or were built within a period of significance specified in the designation application; 2. Are found to have a relationship with or physically embody the qualities that give the historic designation cultural, historic, architectural, or archaeological significance as embodied in the minimum criteria specified in the designation report; and 3. Retain sufficient integrity to communicate that significance as defined in Subsection 16.2.2(B).	B. A contributing classification shall only be applied to a building, structure, object, or site which: 1. Was built at least 50 years prior to the date of district designation, or was built within a period of significance specified in the nomination for historic designation; 2. Is found to have a relationship with or physically embody the qualities that give the historic designation cultural, historic, architectural, or archaeological significance as embodied in the criteria for historic designation from subsection 16.2.2 (A)specified in the nomination for historic designation; and 3. Retain sufficient integrity to communicate that significance as defined in Subsection 16.2.2(B).	
	N/A	Added C. Where a landmark overlaps with a historic district or historic landscape district, the constributing buildings, structures, objects, and sites of the landmark shall be classidied as contributing to the historic district or historic landscape district.	Would these landmarks still be reviewed as landmarks (in that all elevations of the historic resource(s) are generally considered for review, not just those from a public way or open space?)
	C. If an area, site, structure, or object does not meet the above it will be categorized as noncontributing.	D. If a building, structure, object, or site does not meet Subsection 16.2.3 (B) or (C) it shall be categorized as noncontributing.	

Existing Ordinance Language	Proposed Draft ReCode 2	Revised Draft August 2024	Greater Portland Landmarks' Comment
16.3 Nomination Consideration and Historic Designation			
	B. Nominations may be initiated by the following: 1. Any two members of the Historic Preservation Board on their own initiative, by written notice to the Planning Authority, or 2. The Planning Authority, or	B. Nominations may be submitted by: 1. Any two members of the Historic Preservation Board on their own initiative, 2. The Planning Authority, or 3. In the case of a landmark, one or more owners of the affected property, or 4. In the case of a historic district or historic landscape district, one or more owners of an affected property, provided a minimum of two members of the Historic Preservation Board submit written sponsorship of the nomination to the Planning Authority	
	C. In the case of a nomination initiated or sponsored by the Historic Preservation Board, such nomination may be made verbally at a Historic Preservation Board meeting or via signed, written statement to the Planning Authority.	Paragraph deleted.	This was a confusing and redundent paragraph.
	N/A	D. A nomination shall be diligently pursued from the date of submission. Nominators shall provide addiitonal information as requested by the Planning Authority or HPB when determined to be reasonably necessary yo make any determination required by this article. Failure of nominators to provide a response to the request for additional information within 120 days of the date upon which the written request was made shall cause the nomination to expire.	
	N/A	E. Withdrawal of nominations shall only be at the consent of all parties who submitted the nomination. Consent to withdraw a nomination shall be submitted in writing to the Planning Authority	
16.3.3 Historic Preservation Board Review and Recommendation			

Existing Ordinance Language	Proposed Draft ReCode 2	Revised Draft August 2024	Greater Portland Landmarks' Comment
	A public hearing on the nomination shall be held by the Historic Preservation Board following a workshop, conducted in accordance with procedures adopted by the Historic Preservation Board. ~~In the case of additional workshops, these shall be agreed to by the Historic Preservation Board and the nominators.~~	Amended A. A public hearing on the nomination shall be held by the Historic Preservation Board following one or more workshops conducted in accordance with procedures adopted by the Historic Preservation Board.	These changes appear to address Landmarks' concerns
16.3.7.D. (Rescission or Amendment)			
...The standards for rescission or amendment applied by the Historic Preservation Board, Planning Board, and City Council shall be limited to those provided in Subsections 17.4.1(A) and (B) and Subsection 17.4.2.	Amendment or rescission shall follow the procedure set forth in Section 16.3 for designation. The standards for rescission or amendment shall be limited to those provided in Section 16.2.	Amendment or rescission shall follow the procedure set forth in Section 16.3 for designation. The standards for rescission or amendment shall be limited to those provided in Section 16.2.	From MHPC: *This section is not consistent with Maine's CLG guidelines if 16.2.2.C. is incorporated into the ordinance.* Landmarks agrees with MHPC's opinion and urges the Board to amend the proposed language to include limiting the criteria to 16.2.2.(A) and (B) as exists in the current ordinance that HAS been approved by MHPC and NPS.
16.3.8 Presumption of contributing classification			
	N/A	Added new paragraph: 2. The Historic Preservation Board holds a public hearing and finds that the building, structure, object, or site has no significance relating to the criteria for historic designation under Subsection 16.2.2(A) referenced in the nomination for the historic designation, or reports of the Historic Preservation Board, Planning Board or City Council	This proposed language seems to state the existing process when a historic designation does not specify the classification.
	B. The Historic Preservation Board holds a public hearing and finds that the structure or object has been substantially altered within 50 years of or after the date of historic designation, or after the stated period of significance.	3. The Historic Preservation Board holds a public hearing and finds that the building, structure, object, or site has been lawfully substantially altered within 50 years of or after the date of historic designation, or after the stated period of significance, such that it lacks integrity as defined under Subsection 16.2.2(B)	The addition of lawfully and clarification of integrity seems to address Landmarks concerns.
16.4 Interim Protections			

Existing Ordinance Language	Proposed Draft ReCode 2	Revised Draft August 2024	Greater Portland Landmarks' Comment
17.6.1.A....Upon final action of the Historic Preservation Board recommending designation, the site, structure, object, or area nominated shall be subject to all of the protections of this article until a final decision on designation by the City Council becomes effective. If the City Council rejects designation or fails to designate a property, that property shall no longer be subject to the provisions of Sections 17.9 and 17.10 of this article.			The interim protections no longer includes the provisions that the ordinanace applies upon the recommendation of the designation of the HPB. Landmarks believes this has been a helpful and effective provision during the designation of historic districts.
17.5.2.E. At any time after a complete nomination is filed for an historic district, the owner of a structure who seeks a permit for demolition may apply to the Historic Preservation Board for a determination that the structure to be demolished is noncontributing and eligible for a demolition permit. The determination of the Historic Preservation Board that the structure is eligible for a permit shall be conclusive.	N/A	Added 16.4.2. A. The Historic Preservation Board has held a public hearing at the request of the owner of a building, structure, object, or site and has found that the building, structure, object, or site in question would be recommended to be classified as noncontributing to the nominated historic designation and shall be eligible for a demolition permit. The determination of the Historic Preservation Board that the building, structure, object, or site is eligible for a permit shall be conclusive;	This new language addresses Landmarks' previous concern that the draft language did not include a demolition by right during the designation process for non-contribtuing resources.
16.5 PROTECTIONS FOR PROPERTIES LISTED ON THE NATIONAL REGISTER OF HISTORIC PLACES			
17.6.2 *National Register of Historic Places* Upon notice to the City that a property or area has been listed in the national register after the adoption of this article, a nomination shall be deemed submitted to the Historic Preservation Board for designation of such property or area as a landmark, historic district, or historic landscape district under this article, and the procedures of Section 17.6 shall be applicable thereto.		Deleted the proposed section 16.5 in its entirety per MHPC comments	Will Planning Staff, upon communications with MHPC regarding NRHP listings and determinations of eligibility, make those properties known to the Board and public, so that if there is interest, a local nomination might be undertaken following the process outlined in the ordinance? Will those properties be flagged in the permitting systems when there is a request for demolition?
16.5.1 Applicability (for review)	was 16.6.1		

Existing Ordinance Language	Proposed Draft ReCode 2	Revised Draft August 2024	Greater Portland Landmarks' Comment
	16.6.1 A certificate of appropriateness shall be required prior to the issuance of any permit authorizing new construction, additions, exterior alterations, site alterations, signage, or the relocation of structures affecting any property within the boundaries of a landmark, historic district, or historic landscape district as identified in Table 16-A. Notwithstanding the above, the following activities shall be considered exempt::	16.5.1. A historic preservation approval shall be required prior to undertaking any new construction, additions, exterior alterations, site alterations, signage, or the relocation of buildings, structures, or objects affecting any property within the boundaries of a historic designation as identified in Table 16-A. Historic preservation approval shall also be a condition precedent to the issuance of any permit authorizing any such work as noted above. Notwithstanding the above, the following activities shall be considered exempt:	
	E. Installation of new public artworks approved or acquired through the City of Portland Public Art Program.	no proposed change	Does not address Landmarks concern that installations should be reviewed for their physical impact on a designated resource (for example, murals on a previously unpainted brick wall)
	H. Work in City Rights-of-Way	deleted in its entirety	The deletion seems to address Landmarks' previous concerns.
	I. Roof-mounted solar energy systems.	H. Roof-mounted solar energy systems where the system: 1. Is consistent with all other city requirements, 2. Is installed reversibly with no damage to any historic roofing materials, 3. Is not installed on street-facing roof planes on landmarks or contributing buildings or structures, and 4. Any associated electrical equipment is not installed on street-facing facades.	Landmarks supports the installation of rooftop mounted solar panels on historic resources and believes that provisions like those proposed in paragrapahs 2. 3. and 4. are reasonable provisions. Will the updated Design Guidelines address best practices for siting solar panels - for example to encourage regular patterns of panels and slight setbacks from the eaves?
	N/A	Added new paragraph: I. Ground-mounted heat pumps and HVAC equipment where: 1. Exterior units are installed at least 30' from public rights-of-way or behind the street-facing facades of the associated building or structure, whichever is a greater distance, and 2. Any associated line hides, conduit, vents, and other equipment or penetrations are not installed on street-facing facades.	Will the updated Design Guidelines address best practices for siting heat pumps - for example to encourage screening - either with plantings or fencing?
16.6.2 Standards for Review of Alterations			
	16.7.2.E Sensitive treatment. Distinctive features, finishes, and construction techniques or examples of skilled craftsmanship which characterize a structure, object, or site shall be treated with sensitivity.	16.6.2.E. **Distinctive Features.** Distinctive features, finishes, and construction techniques or examples of skilled craftsmanship which characterize the building, structure, object, or site shall be retained and preserved	This appears to address a MHPC concern and reflect typical SOI language

Existing Ordinance Language	Proposed Draft ReCode 2	Revised Draft August 2024	Greater Portland Landmarks' Comment
17.8.2.I. Contemporary design for alterations and additions to existing properties shall not be discouraged when such alterations and additions do not destroy significant cultural, historical, architectural, or archaeological materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the size, scale, color, material, and character of the property, neighborhood or environment.	16.7.2.I. Contemporary design and differentiation. Contemporary design for alterations and additions to existing properties shall not be discouraged when such alterations and additions do not destroy significant cultural, historical, architectural, or archaeological materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the size, scale, color, material, and character of the property, neighborhood or environment.	I. Differentiation and contemporary design. Alterations and additions shall not destroy the character-defining features of the building, structure, object, or site. New work shall be differentiated from the old and shall be compatible with the size, scale, color, material, and character of the building, structure, object, or site. Contemporary design for alterations and additions shall not be discouraged when such alterations and additions do not destroy significant materials or features that characterize the building, structure, object, or site	These seem like reasonable edits and additions.
16.6.3. Standards for review of additions and new construction			
Height. The proposed height shall be visually compatible with surrounding structures when viewed from any street or open space and in compliance with any design guidelines.	16.7.3.A.1. Height. The proposed height shall be visually compatible with surrounding structures when viewed from any street or open space and in compliance ~~with any design guidelines.~~	16.6.3.A.1.Height. The height of the addition or new construction shall be visually compatible with the contributing buildings, structures, objects, and sites of the historic designation when viewed from any street or public open space	The addition of "contributing" to describe resources which new construction should be visually compatible with in paragraph A.1 thru A.5 addresses Landamrks' previous concerns and clarifies an issue that has arisen from time to time when applicants examine their neighboring context.
Paragraph 17.8.3 used to include three paragraphs referencing the applicability of the underling zoning in the Congress Street, India Street, and Portland Co districts	16.7.3.A.6. Applicability of the underlying zoning. The review standards above shall not supersede the dimensional requirements of the underlying zoning	paragraph on underlying zoning appears to have been deleted from this section	Landmarks supports the removal of 16.7.3.A.6. It appears to address the concerns of MPHC.
17.8.3.D. Other Standards	16.7.3.D. Other Standards		the language in this section on compatible use, distinguishing original character, archeaological resources, contemporary design, and additions appears to have been removed in its entirety, but perhaps some of the language was incorprated or found elsewhere? Can the staff adress this?
16.8 Certificate of Economic Hardship			
Currently reviewed by Board of Appeals	This draft moved the responnsibility to the HPB	It is proposed to remain with the Board of Appeals	This appears to address a MHPC concern and those of Landmarks.

Bookin Written Testimony on Draft Recommendations Related to Minimum Parking Regulations

0 views

b bookin

to recodep...@portlandmaine.gov

Aug 11, 2024, 8:24:33 PM (16 hours ago)

Please see the written testimony of Beverly Bookin AICP (retired) related to ReCode's draft recommendations related to minimum parking regulations and place in the public record. Thank you..

Sent from Mail for Windows

ADDITIONAL WRITTEN TESTIMONY BY BEVERLY BOOKIN, AICP (RETIRED)
PROPOSED ELIMINATION OF MINIMUM PARKING STANDARDS
RECODE PORTLAND COMMENTARY

Through its *ReCode Portland* process, the City of Portland is contemplating the significant increase in development densities, particularly, residential densities. Addressing the resulting parking and closely-related traffic impacts are issues which the City must address adequately to ensure the success of this strategy. The key is development of a regulatory framework that allows the site-specific "right-sizing" of the on-site parking supply to achieve a standard of "adequate but not excessive", based on sound, reality-based analysis. Based on my 35+ years of experience as an urban planning consultant in Portland, Oregon, the purpose of this written testimony is to supplement and summarize the more detailed written testimony on this topic that I submitted to the Planning Board at its 7/30/24 workshop.

There are six key take-aways from this earlier technical analysis that I urge the Planning Department and Planning Board to consider with regard to the proposed revision of the zoning code's parking regulations.

1. The City appears likely to approve the *ReCode Portland* recommendation to eliminate minimum parking standards for all uses, as now required in Table 19-A, and presumably eliminate/modify related provisions in the zoning code necessary to resolve internal conflicts. Although this is considered to be a progressive strategy in many respects – promoting efficient development, reducing development costs, encouraging use of alternative transportation modes, reducing congestion, promoting climate resiliency -- the elimination of minimum required parking ratios does not mean that parking and traffic impacts disappear.

2. Reality-based analysis should consider the following givens:

   - Currently, 92% of Portland households own at least one car (US Census data); this is typical of communities of this size, as characterized by development density and transit availability. It is unlikely that planning regulations and/or economic incentives will result in any meaningful reduction of car ownership. As a result, providing adequate off-street parking should still be a requirement of development.

   - There is a difference between "carless" and "car-light". Increasing use of alternative modes of transportation and car ownership are not mutually exclusive. The key is encouraging car owners to increase the proportion of trips that they take using alternative modes, achievable by providing more walkable, transit-rich, mixed-use neighborhoods. These car-owning households still need a place to store their vehicles when not in use.

3. Many progressive American communities have eliminated minimum required parking ratios because these almost always over-estimate parking demand in general and do not take into consideration variations due to location and/or users that can significantly decrease site-specific parking demand. Rather than ask a property-owner or developer to seek a variance or other means to justify a lower minimum ratio, these jurisdictions provide the opportunity to "right-size" the parking supply during project development based on two assumptions:

   - Market-driven: The property owner/developer will determine the minimum number of on-site parking spaces needed to make the project economically competitive but not provide more than is needed. One check on the adequacy of proposed on-site parking is the willingness of a financial institution to lend on the project.

   - Regulatory backstop: The local jurisdiction will have a regulatory mechanism – e.g., Site Plan Review (SPR), Transportation Demand Management (TDM) Plan -- that requires the applicant to build the case for the proposed on-site parking supply via a parking study that documents the specific characteristics of the site's location and users.

4. The basic premises for this approach is that the property owner/developer:

   - Can provide parking in a combination of on-site and on-street parking, for such short-term users as customers, clients, patients, and restaurant/entertainment goers.

   - Is required to provide an adequate amount of parking either on site or, under certain circumstances, in nearby off-street parking lots or garages, for long-term users such as residents and employees. This is based on the premise that adverse impacts generated on site must be mitigated on site. Thus, it is not acceptable for a project to "externalize" its parking demand by using the nearby on-street parking supply as its private parking lot.

   - Is also required to estimate and mitigate traffic impacts to and from the site accurately, which is inextricably linked to the number of proposed on-site parking spaces.

5. Having undertaken a thorough analysis of the existing *City of Portland Land Use Code*, I conclude that the current regulations in place -- retention of Table 19-A (Off-Street Parking Minimums), with opportunities to modify minimum required parking by outright reductions contained in Table 19-B (Categorical Exceptions to the Off-Street Parking Minimums) and more extensive site-specific parking reductions by means of the required TDMP as part of the Major Site Plan Review process -- are more than adequate to:
   - Achieve the parking standard of "adequate but not excessive" on all development/ redevelopment sites; and
   - Hold the property-owner/developer responsible for acknowledging and mitigating the parking and related traffic impacts associated with the proposed development.

6. Based on the above analysis, I urge the City to reconsider the proposed elimination of the minimum parking ratios. If such code revisions are undertaken, it should not be premised on the assumption that parking is no longer an important consideration in the development process but rather to provide a more streamlined way to assess actual parking requirements on any given site, still holding property owners/developers accountable for mitigating their parking impacts in appropriate off-street facilities. It also should be noted that code revisions can be tricky, rippling through the code's text in ways that result in internal conflicts and/or unintended consequences. This can be avoided by retaining the existing regulations.

Respectfully submitted:

Beverly Bookin, AICP (retired)
203 Sheridan Street, Portland, ME 04101
Cell Phone: 503.309.4140
Email: bookin@bookingroup.com

Fwd: I-M and I-MB Zoning Recode

1 message

---------- Forwarded message ---------
From: **Heather Thompson** <heather@juniperdesignbuild.com>
Date: Fri, Aug 2, 2024 at 5:19 PM
Subject: I-M and I-MB Zoning Recode
To: <hcd@portlandmaine.gov>

Hello Nell!

Rachel Conly is my business partner, she sent me her comments about the low impact industrial zones.

I was recently reviewing the I-M and I-Mb zone for a client and was surprised to learn that residential use is not permitted in this zone. I then scrolled through all of the uses allowed in all of the zones and was surprised to see residential use completely absent from several zones. Given today's climate with housing shortages, record high rent burdens, and the trends for cities nationwide to be converting commercial spaces into housing due to high vacancy rates, to not include housing/mixed-use residential as a possible option in all zones seems like a lost opportunity. I can understand that an airport zone might be an exception, but low-moderate impact industrial zones, such as the I-M and I-Mb zones (or lighter buffer zones like I-L/I-Lb) seem like viable candidates for live/work spaces, especially on the peninsula. In addition to addressing housing needs, allowing mixed use can help address carbon emissions by reducing commuting. It also promotes the rehabilitation of existing building stock, another carbon reduction strategy. The height limits and general dimensional standards of these zones suggest ample flexibility to provide mixed use in an appropriate manner.

I found an article published by the White House which I think explains my position well. Please follow the link below. The article focuses on office to residential conversions, but it notes non-office commercial spaces as well. With the ReCode in the works to set the standard for decades to come, I think we are at a critical moment and should create, not limit, our communities ability to be flexible in meeting the needs of housing and climate change, and strongly advocate the inclusion of residential use in these zones.

https://www.whitehouse.gov/cea/written-materials/2023/10/27/commercial-to-residential-conversion-addressing-office-vacancies/

I agree with Rachel's comments, especially for the St John Street area. There are buildings in the I-MB zone on St John that currently have residences in them, 158 St John is a mixed use building with an apartment. I believe that areas on the peninsula that are so close to other amenities, neighborhoods etc. should be more flexible for live/work.

Thank you for considering this!

Heather
--
Heather Thompson (she/her)
Owner/General Manager
Juniper Design + Build, LLC
https://www.juniperdesignbuild.com
207.766.5919

Portland, Maine 0 views

Donato Giovine Aug 21, 2024, 9:05:56 PM (7 days ago)

to recodep...@portlandmaine.gov

Let’s do ReCode Right!

Thanks,
Donato

Megan Cindrich <mcindrich@portlandmaine.gov>

Fwd: Thank you and follow up to Eastern Prom Wash Ave Overlay

1 message

Helen Donaldson <hcd@portlandmaine.gov> Tue, Aug 27, 2024 at 4:25 PM
To: Megan Cindrich <mcindrich@portlandmaine.gov>

Can you add this to the record on ReCode? I responded to her already, so you can skip that step.

---------- Forwarded message ---------
From: **P S** <shaffems@gmail.com>
Date: Mon, Aug 26, 2024 at 8:10 PM
Subject: Thank you and follow up to Eastern Prom Wash Ave Overlay
To: <hcd@portlandmaine.gov>

Dear Nell,

Thank you for meeting with us this afternoon regarding our application for a height overlay for the Eastern Prom Washington Ave. I am attaching our application and various documents that we will submit for the Recode workshop on Sept 17.

Also, is there any chance you might have a table that indicates the recent revisions to the zoning heights for B2 and B1 mentioned in the meeting today. If I understand correctly, the workforce height bonuses will be eliminated and building heights for B2 will be 75' and for B1 65'. Is this correct?

Will the height restrictions for B1 and B2 zones adjacent to R6 zones remain the same? or are they changing as well?

Thanks,

Peggy

--
Nell Donaldson
Director of Special Projects
City of Portland
(207) 874-8723
hcd@portlandmaine.gov
planning & urban development

EPWAOverlayApplication8.12.24.pdf
9579K

Eastern Promenade—Washington Avenue Overlay: A Proposal for a Height Overlay for the Northwestern End of the Eastern Promenade Park

"*Portland's open spaces are integral to its character, serving diverse ecological, public health, and transportation purposes. They simultaneously provide opportunities for water access, recreation, cultural and community connections, and food production. Portland's Plan highlights the need for high-quality connections between existing open spaces and open spaces that are responsive to the programmatic needs of the community."* (Portland's Plan 2030, Page 82)

I. INTRODUCTION

The northwestern end of the Eastern Promenade Park embodies Portland's Plan 2030's vision for an "*active city*" that "*provides access to the city's waterways, forests, and play spaces, as well as supporting transportation, food production, public health, cultural events, plant and animal habita*t." (Page 54)

Situated between North Street and Washington Avenue, this section of the park is home to the North Street Community Garden, East End Community School Garden and Outdoor Classroom, Mount Joy Orchard, and a bee and butterfly garden. Listed on the National Register of Historic Places since 1989, it offers expansive views of Back Cove, Portland city skyline, and Mt. Washington. Throughout the year, residents and visitors come to the park to walk, run, garden, sled, explore the natural environment, enjoy the expansive vistas, and watch the sun set over Back Cove.

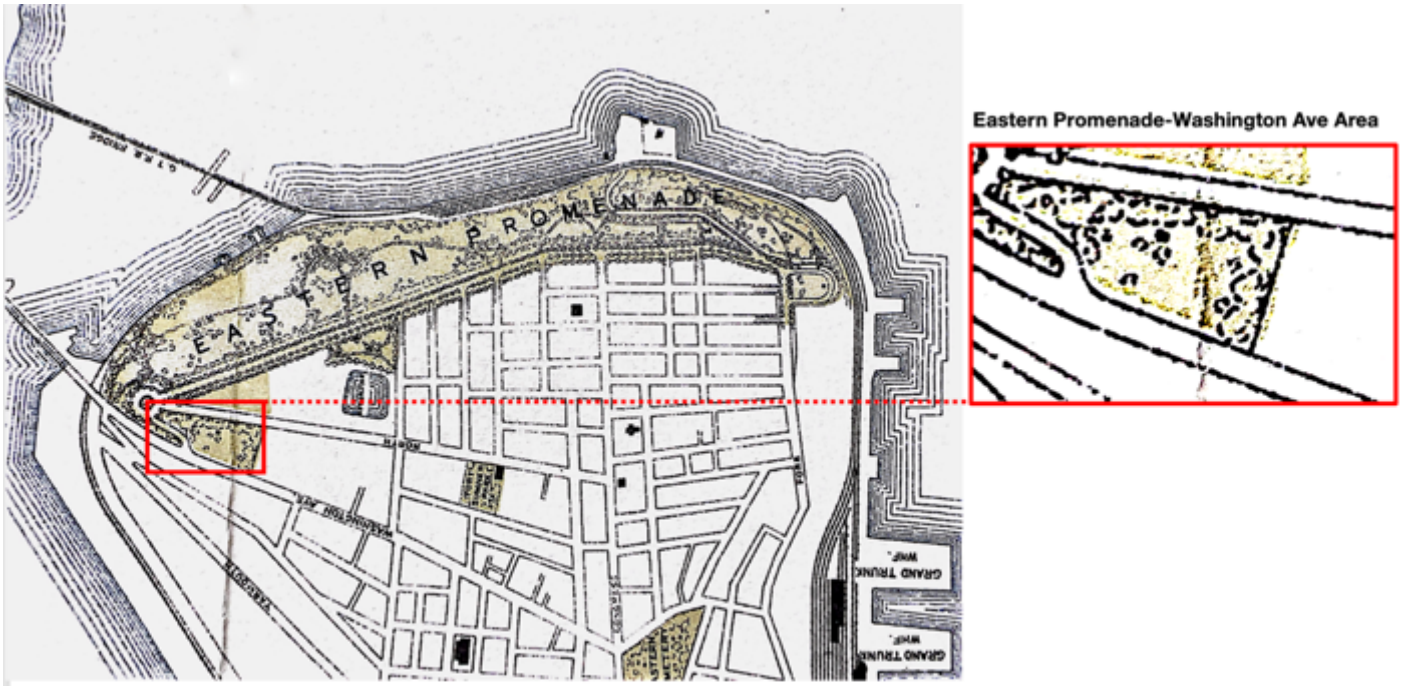
In a densifying city, protecting open space is even more critical as it serves as a public backyard where residents and visitors have access to greenspace, sunlight, views, nature, and recreational space.

Portland's Plan 2030 is about balancing diverse and sometimes competing goals to create a resilient, livable, equitable city for all. Specifically, it offers a roadmap to balance development with the need for open space. ReCode Portland's process has not addressed this critical need for balance in its focus on increasing density, augmenting transportation corridors, and addressing the housing crisis.

This application for a height overlay for the northwestern end of the Eastern Promenade Park [170 North St. Parcel # 008 A007001] seeks to address this imbalance following the precedent established by the Fort Sumner Park Overlay that protects the same values and policy goals.

II. BACKGROUND

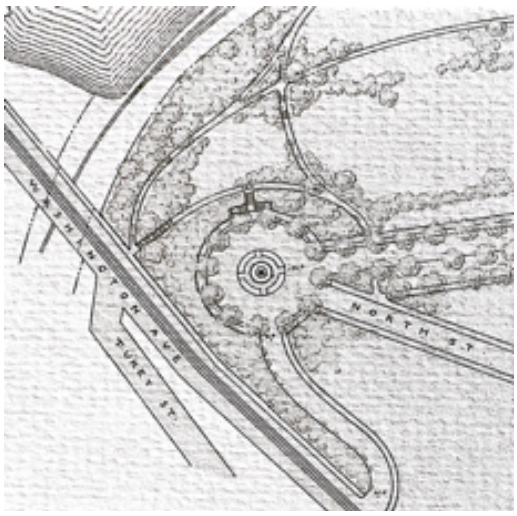
History



City of Portland ME. General Plan for Park System – Eastern Promenade
Olmsted Brothers Landscape Architects
Brookline Mass. June 1905

The Eastern Promenade was first created in 1837 as a scenic drive around the edge of Munjoy Hill, stretching from Fore Street to Washington Avenue. Over the next 70 years, the surrounding park slowly began to take shape. In 1905, the city of Portland hired the Olmsted Brothers Landscape Architecture firm to improve the Eastern and Western Promenades as part of an integrated park system for the city.

On October 5, 1909, Portland City Council and the Mayor agreed that the Eastern Promenade consisted of "*all that portion of land lying between Atlantic Street and Washington Avenue, including the roadways, walks, paths, lawns and slopes, and including street know as Cutter Street and East Cutter Street, and East Commercial Street; also portion known as Northern Concourse and roadways, walks, paths, lawns, and slopes between Northern Concourse and Washington Avenue*." (City of Portland Annual Report, 1909) Over the next century, the Park expanded to include commemorative monuments, playgrounds, ball fields, tennis courts, picnic grounds, public beach, bathhouse, swimming pool, recreational and commercial boat ramps, bandstand, ice rink, sledding hills, and community gardens.



In its 1905 design, the Olmsted Brothers fully integrated the northern section of the Eastern Promenade into the park with the design of the Northern Concourse, which is now home to the Loring Memorial. Constructed between 1905 and 1906, the concourse anchored the north end of the

park. With its circular design, it enhanced the almost 270-degree views to encompass Mt. Washington, Back Cove, and Portland city skyline, which includes Portland City Hall and Cathedral of the Immaculate Conception.

In addition, the Northern Concourse design incorporated the northern, western, and southern slopes enclosed by North Street, Eastern Promenade, and Washington Avenue. Reviewing the 1905 Olmsted plan, Park Commissioners noted that, "*quite an important change has been made at the northerly end of the driveway at the Eastern Promenade by the building of the Concourse at this point to intersect with Washington Avenue*."

This critical component of the Olmsted plan specifically was designed to link the Eastern Promenade to Back Cove and further define an integrated Portland park system.

The Eastern Promenade Park has been listed on the National Register of Historic Places since 1989. "*The Eastern Promenade*," as the 2004 Eastern Promenade Master Plan concludes, "*was and still is considered by many as Portland's most important character defining public open space.*"

Current Conditions

The western end of the Eastern Promenade, situated between North Street and Washington Avenue, is home to the North Street Community Garden, East End Community School Garden and Outdoor Classroom, and Mount Joy Orchard.

This section of the Eastern Promenade Park also includes Jack Path and Back Cove Trail, which are part of an extensive trail and park system and pedestrian landscape that links to Back Cove Park, East Bayside and West Bayside Trails, the northeastern end of the Portland waterfront, and Ft. Sumner Park. In addition to enjoying the expansive views, residents and visitors use this section of the park for active recreation—walking, running, gardening, sledding, nature study—throughout the year.

Portland's Plan 2030, "Park Equity" Map (appendices)

North Street Community Garden

Bee and Butterfly Garden

Benches along North Street

North Street Community Garden and East End School

Jack Path

Development Pressure

In Fall 2023, a 45-unit condominium building at 218 Washington Avenue was constructed directly across from the park. This building partially obstructs views of Back Cove.

Four-story, 55 ft (with rooftop appurtenances) at 218 Washington Avenue

In July 2024, Redfern Properties requested zoning code map and text amendments for a new development at 165 Washington Avenue, immediately abutting the park. If approved as proposed, the proposed 75 ft. building will obstruct a significant portion of the view of the Portland skyline including views of Cathedral of Immaculate Conception and Portland City Hall.

Seven-story, 75 ft. building (not including rooftop appurtenances) proposed as part of Redfern Properties, LLC application zoning code map/text amendment at 165 Washington Avenue

In addition, as part of Recode Portland, the Planning Department is recommending that parcels abutting and across from this section of the park be up-zoned from B-1/B-1b to B-2b. Phase II ReCode recommendations have identified Washington Avenue as a priority high-density transit corridor. All of Washington Avenue including the parcels adjacent to and abutting the Washington Avenue section of the Eastern Promenade Park have been identified as a target area for future high-density mixed-use development.

III. RELEVANT POLICIES, GUIDELINES, AND REGULATIONS

Portland's Plan 2030

- *Continuing to preserve and develop open spaces, and improve connections between them, is integral to the health and well-being of Portland's residents, visitors, and ecology. The City's public spaces are central to its ability to foster neighborhood vitality, sense of community, recreational opportunities, environmental health, arts and cultural programming, economic development, and local mobility. A walkable, bikeable, and accessible network of open spaces is an invaluable and necessary element of an equitable, healthy, and vibrant future.* (Page 54)
  - Local Goals:
    - *Sustain and build our system of parks, trails, and open spaces to enhance our quality of life, protect our environment, and promote the economic well-being of our remarkable city by the sea. Preserve the intrinsic values of the park and open space system, including historic resources, vistas, healthy ecosystem functions, and biological diversity*. (Page 57)
  - Future Strategies:
    - *Encourage physical and visual access to Portland's waterfront — Casco Bay, Back Cove, and the Stroudwater, Presumpscot, and Fore Rivers — as a "blueway" network and an extension of public space for local and regional recreation and transportation needs*. (Page 60)

City of Portland Land Use Code

Article 5. Zones. Table 5-G. Open Space Zone Purpose Statement
To preserve and protect open space as a limited invaluable resource; to permit the reasonable use of open space, while simultaneously preserving and protecting its inherent open space characteristics to assure its continued availability for public use as a scenic, recreation, and conservation or natural resource area….and to develop an open space system throughout the city, which provides the highest quality parks, plazas, and pedestrian environment. (Section 5-8)

Article 6. Use Standards. A. R-OS Zone 2.
Buildings and structures shall not obstruct significant scenic views presently enjoyed by nearby residents, passersby, or users of site. (Section 6-30)

Article 14. Site Plan. 14.6.4 Site Design Standards B. Shadow
All developments outside the B-3, B-5, B-6, and B-7 zones shall be designed to avoid and/or mitigate the adverse impacts of shadows cast by new structures or building additions from falling on publicly accessible open space. (Section 14-14)

Article 14. Site Plan. 14.6.4 Site Design Standards. D. View Corridors.
The massing, location, and height development shall not substantially obstruct public view corridors identified in the Downtown Vision View Corridor Protection Plan. (Section 14-14)

Article 14. Site Plan. 14.6.4 Site Design Standards. E. Historic Resources. 2.
When any part of a proposed development is within 100 feet of any designated landmark, historic district…or historic landscape district, such development shall be generally compatible with the major character-defining elements of the landmark…. For the purposes of this provision, "compatible" design shall be defined as design which respects the established…visual characteristics *that exist in a given setting*. (Section 14-14-15)

Downtown Vision View Corridor Protection Plan
Section VIII. View Corridors, Visual Landmarks, and Gateways. A. View Corridors
Standard: The placement and massing of proposed development shall not substantially obstruct public views to landmarks and natural features from those locations identified on the View Corridor Protection Plan. (Page 38)

Gateways: Washington Avenue to Cumberland Avenue and Congress Street from the East
There are opportunities to enhance these entrances by preserving view corridors and panoramic skyline views along or from these corridors, reinforcing and enhancing the scale, character and placement of buildings along these entrance routes. (Page 40)

IV. ANALYSIS

Integrity

Current development/redevelopment and ongoing development pressure are already affecting the integrity of the northwestern end of the Eastern Promenade Park (Recreation & Open Space Zone ROS) negatively, which includes the northern, western, and southern facing slopes between North Street and Washington Avenue.

Zoning map amendments proposed as part of ReCode Portland also will have a negative impact upon this section of the park, by increasing maximum height and density allowances for those lots abutting and adjacent to this section of the Eastern Promenade Park. Specifically, the nine lots directly across Washington Avenue, which are currently zoned B-1b (45 ft. height limit) will be rezoned to B2-b (65 ft. height limit); and the lot that abuts the end of the park next to the Mt. Joy Orchard will be rezoned from B-1 to B2-b. Note that this maximum height limit does not take into account workforce housing height (WFH) bonuses, which will allow building heights of 75 ft. with provision of 25% of units and 90 ft. with 75% or more of these units. These changes will not only obstruct the expansive views from the park but also will negatively impact patrons' experience of the historic park design and physical landscape.

Existing and proposed buildings on the up-zoned parcels within the park's vicinity will negatively impact the integrity of the park landscape, its historic design, the park trails that support connectivity, and existing view corridors.

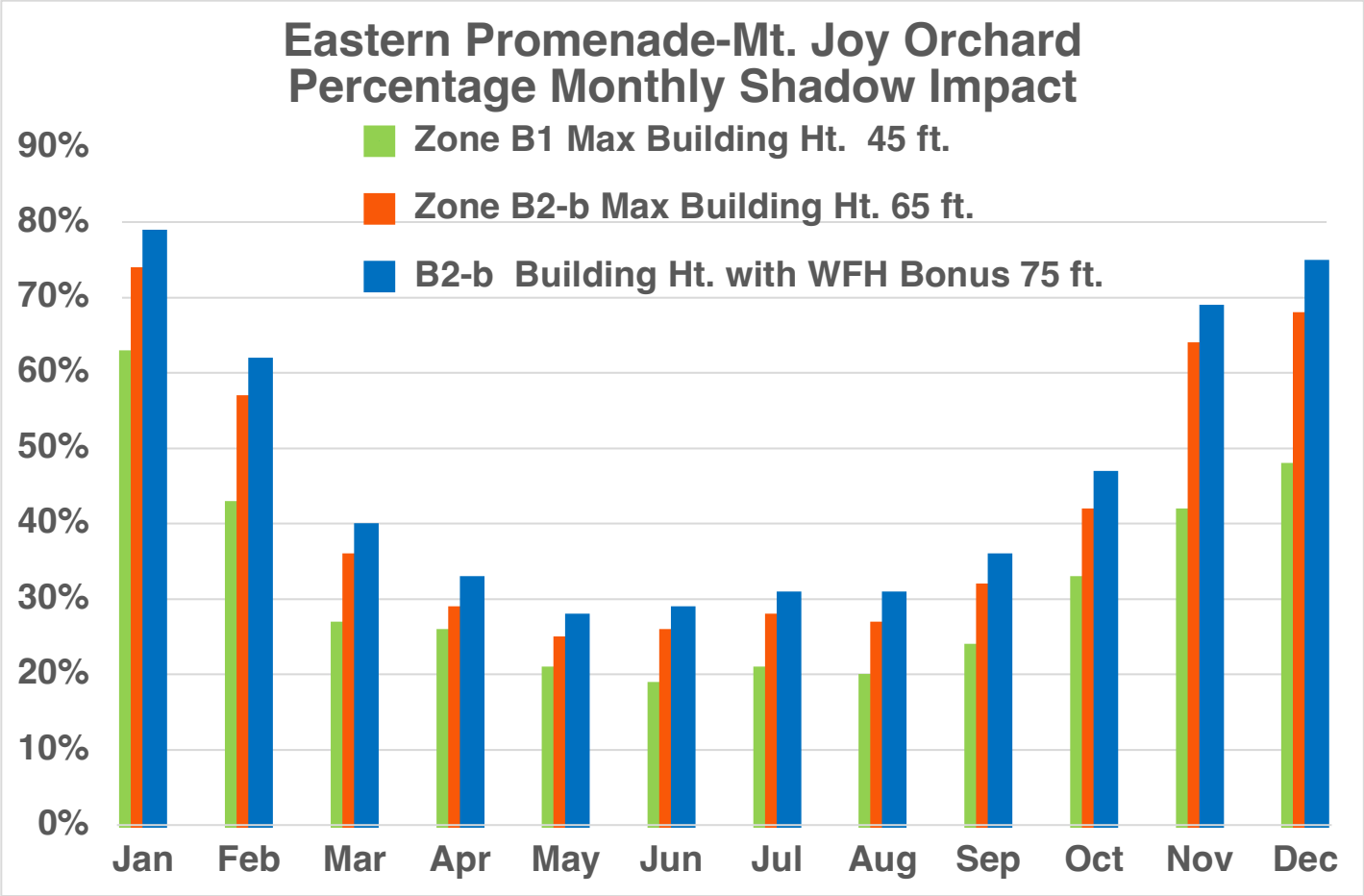
Specifically, sunlight hours in the park will be affected throughout the year, Jack Path will be walled in, and the majestic and expansive views, for which the park was originally designed, will be significantly altered. Most notably, the views of Back Cove and the city skyline enhanced by the 1905 Olmsted design will be substantially obstructed.

Shadow Impact Analysis

An analysis of the shadow impact of adjacent lots developed to the proposed maximum density and scale including a complement of 25% WFH shows that 20% or more of the park area occupied by the Mt. Joy Orchard will be in shadow for over 45% of the total daylight hours from October through February. (See representative shade graphics below).

Designated Park Area for Shadow Impact Analysis

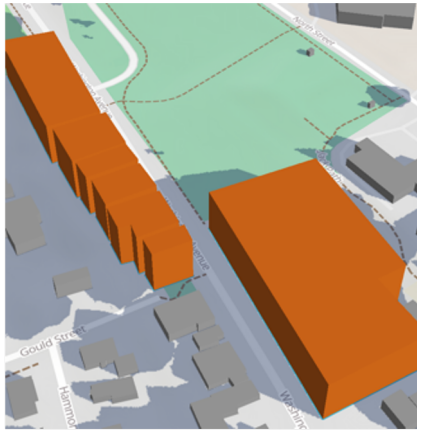
Blue area represents 20% of designated park area. Shadow impact is defined as $\geq$ 20% of designated park area



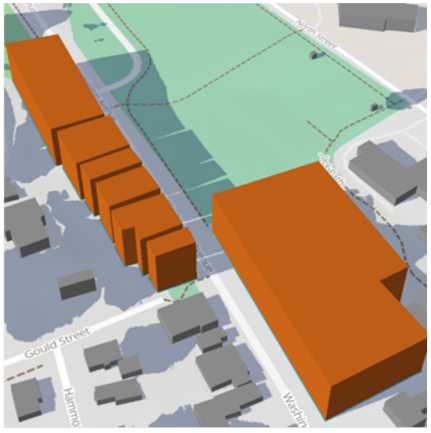
Shadow imagery of the designated park area shows that the park experience will be significantly affected by building shadows under the proposed B2-b zoning guidelines. During the winter months, 20% or more of the designated park area will be in shadow for almost half of the daylight hours. During the spring and summer months, 20% or more of the designated park area will be in shadow for almost a third of the daylight hours. The designated park areas will experience significant building shadow in the morning and afternoons—times with the highest pedestrian park use.

Shadow imagery during the morning and afternoon at Fall Equinox (September 22), Winter Solstice (December 21), Spring Equinox (March 20) and Summer Solstice (June 21) (next page)

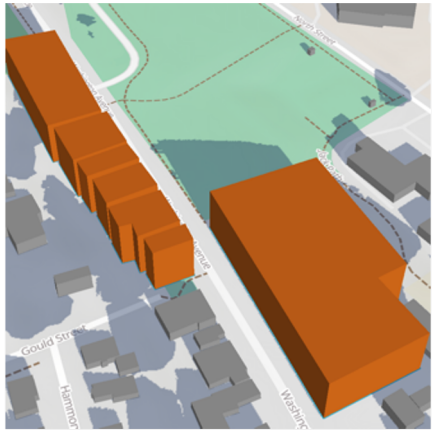
Fall Equinox Morning
Shadow at 9:00 am



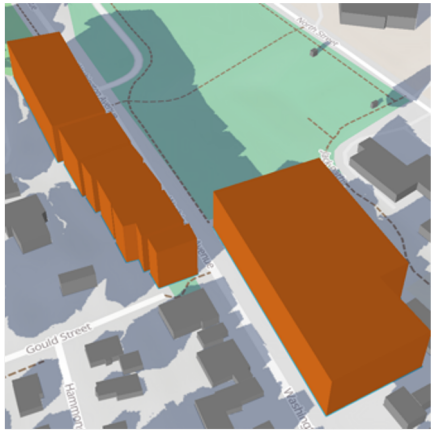
Fall Equinox Afternoon Shadow
at 4:30 pm



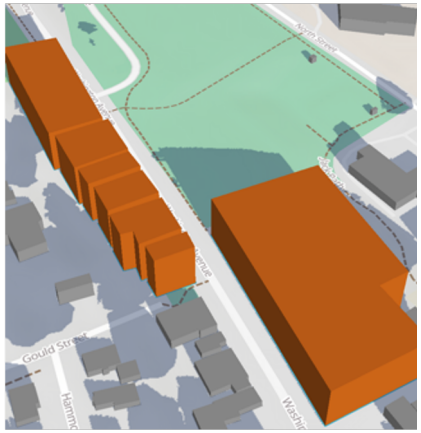
Winter Solstice Morning
Shadow at 10:00 am



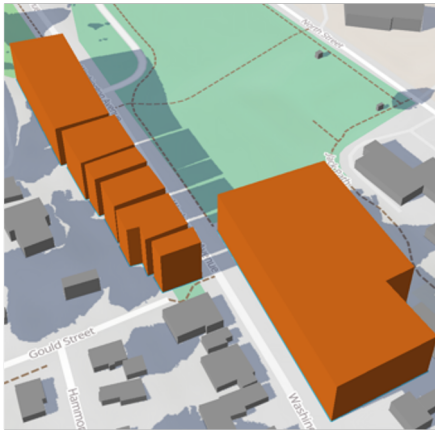
Winter Solstice Afternoon
Shadow at 2:30 pm



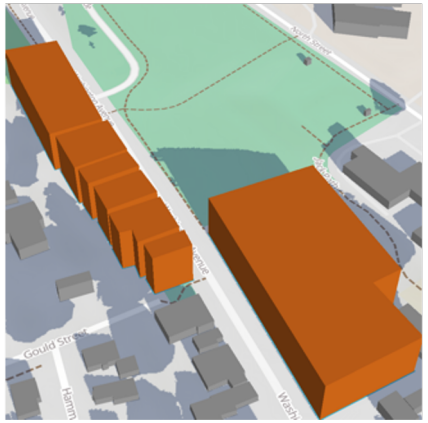
Spring Equinox Morning
Shadow at 9:00 am



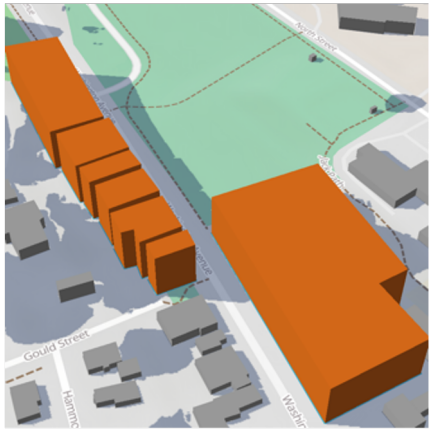
Spring Equinox Afternoon
Shadow at 4:30 pm



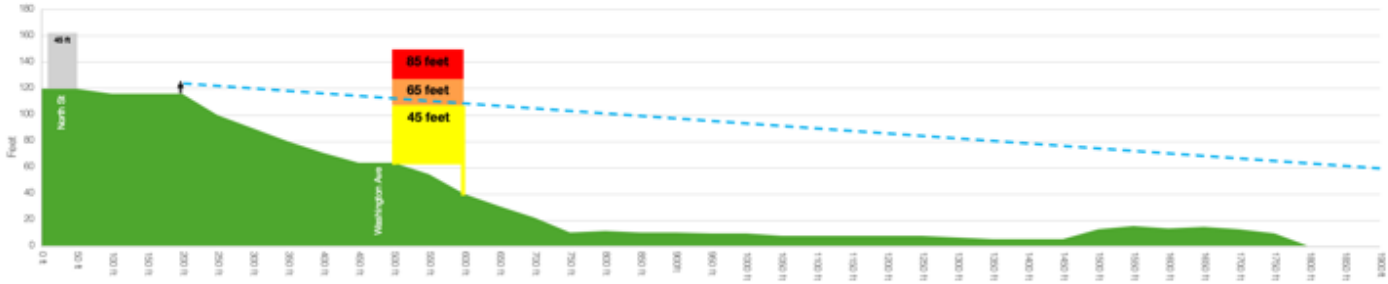
Summer Solstice Morning
Shadow at 9:00 am



Summer Solstice Afternoon
Shadow at 5:30 pm



Park View Impact Analysis



Although people now conflate the Eastern Promenade (street) with the Eastern Promenade Park, as originally conceived in 1837, the Eastern Promenade was created as a scenic drive—a thoroughfare—designed to showcase the majestic and expansive views of Casco Bay and Back Cove. It was a pedestrian recreational space where urban dwellers could walk or ride, taking in fresh air, enjoying the scenery, and connecting with their neighbors. Over the next 70 years, land adjacent to the road was purchased by the city to create the park and protect the scenic views.

As noted earlier, the Northern Concourse was one of the key elements of the 1905 Olmsted Plan, and its purpose was to integrate the northern, western, and southern slopes between the Eastern Promenade, North Street, and Washington Avenue and to expand the scenic views to encompass Back Cove and the Portland city skyline. These dynamic scenic views are the defining feature of the Eastern Promenade Park that provide the basis for its inclusion on the National Register of Historic Places.

At the June 5, 2024 Planning Board Workshop, Planning Director Kevin Kraft stated that as part of ReCode Phase II the Planning Department will recommend the nine lots directly across Washington Avenue from the park, which are currently zoned B-1b (45 ft. height limit), be rezoned to B2-b (65 ft. height limit); and the lot that abuts the end of the park next to the Mt. Joy Orchard be rezoned from B-1 to B-2b. Note that these height limits do not take into account workforce housing (WFH) height bonuses, which will allow building heights of 75 ft. with provision of 25% WFH units and 90 ft. with provision of 75% WFH units.

Upzoning these properties will significantly obstruct the expansive views from this section of the park between North Street and Washington Avenue.

View Corridor Impact Analysis

The four-story condominium at 218 Washington Avenue is 55 ft. tall including rooftop appurtenances. The view of Back Cove from the top of the hill above Washington Avenue is partially obstructed by this building. A building of 65 ft. or more would completely block the view of Back Cove from the park, thus altering the intent of the original design and impinging on the park landscape.

The proposed seven-story, 75 ft. (excluding rooftop appurtenances) mixed-use building proposed for 165 Washington Avenue, which abuts the park to the south will block views looking back to the city skyline, which encompass the spire of the Cathedral of Immaculate Conception and dome on Portland City Hall, both of which are identified as visual landmarks in Downtown Urban Design Guidelines.

These view corridors are signature components of the park design, which is listed on the National Register of Historic Places. They serve as a park amenity that draws residents and visitors alike. To protect this important view corridor, Portland citizens are proposing the adoption of a height overlay zone for properties immediately adjacent to this portion of the park.

View of Casco Bay taken from the stone table behind the East End Community School Garden and Outdoor Classroom

View looking from ridge looking back toward Portland skyline with concept plan for the mixed-use project at 165 Washington Avenue

V. ZONING CONTEXT

Current Zoning Designations

Portland ReCode Zoning Designations

The proposed overlay zone is located within a mixed-use residential and commercial neighborhood composed of multifamily housing, elementary school, and commercial structures along Washington Avenue. Properties to the south and west adjacent to and abutting the park currently are zoned R-6, B-1 and B-1b. The purpose of the R-6 zone is to "*set aside areas… for housing characterized primarily by multi-family dwellings at a high density" and "to conserve the existing housing stock and residential character of neighborhoods by controlling the scale and external impacts of professional offices and other non-residential uses*. (Land Use Code Table 5-B)

The purpose of the B-1 zone is to "*provide limited areas for the location of small-scale commercial establishments intended to serve a local market*," stating further that they "*should be designed for pedestrian scale and to provide convenient access for nearby residents to walk in to purchase goods and services."* (Land Use Code Table 5-D)

The purpose of the B-1b zone is "*to provide appropriate opportunities for the establishment of small-scale ground floor commercial space*" and "*to provide the opportunity for mixed use and high residential density*." (Land Use Code Table 5-D.)

Building Height regulations state that that properties located within the R-6 zone are permitted building heights of 45 ft. for principal structures (Land Use Code Table 7-A); structures in B-1 and B-1b are permitted a maximum height of between 45 ft. and 65 ft. depending on the property use and dimensions (Land Use Code Table 7-E). Within these zones building height is measured from the average grade of the site, allowing for instances where structure extrusion may surpass the aforementioned maximum heights.

.

VI. PROPOSED TEXT AND MAP AMENDMENT

The proposed text and map amendments presented below focus on the height overlay provisions proposed to be included within the B-1/ B-1b zone. Note the apex is located at the stone table, the highest point of the park on the ridge above Washington Avenue.

Proposed Ordinance Amendments

1. Amend Table 7. E. Mixed Use Zone Dimensional Standards

Side Setback B-1/B-1b	Principal: None, except 5 ft. if abutting residential zone. *Except as provided under the Eastern Promenade-Washington Avenue Park Height Overlay (Table 7. E. Mixed Use Dimensional Standards)*
Structure Height (max) B-1/B-1b	On-Peninsula: 45 ft. except 50 ft. along Congress Street commercial first floor and residential above. *Except as provided under the Eastern Promenade-Washington Avenue Park Height Overlay (Section 7.E. Mixed Use Zone Dimensional Standards)*

2. Amend Section 8 by adding 8.11.

B-1/B-1b Height Overlay Ordinance Amendment (Eastern Promenade-Washington Avenue Park)

Add a new section as follows:

8.11.1 Applicability

Eastern Promenade-Washington Avenue Park Overlay: This overlay is established to protect the public interest by limiting the impact of development on the quintessential views of natural resources and the changing Portland skyline from the Eastern Promenade-Washington Avenue section of the Eastern Promenade Park. There is established a key apex point in the Eastern Promenade-Washington Avenue section of the Eastern Promenade Park at 43°40'12.85"N 70° 15'13.72"W. The Eastern Promenade-Washington Avenue Park Overlay includes all land within 500 feet, or the B-1/B-1b boundary, whichever is closer, of this key apex point.

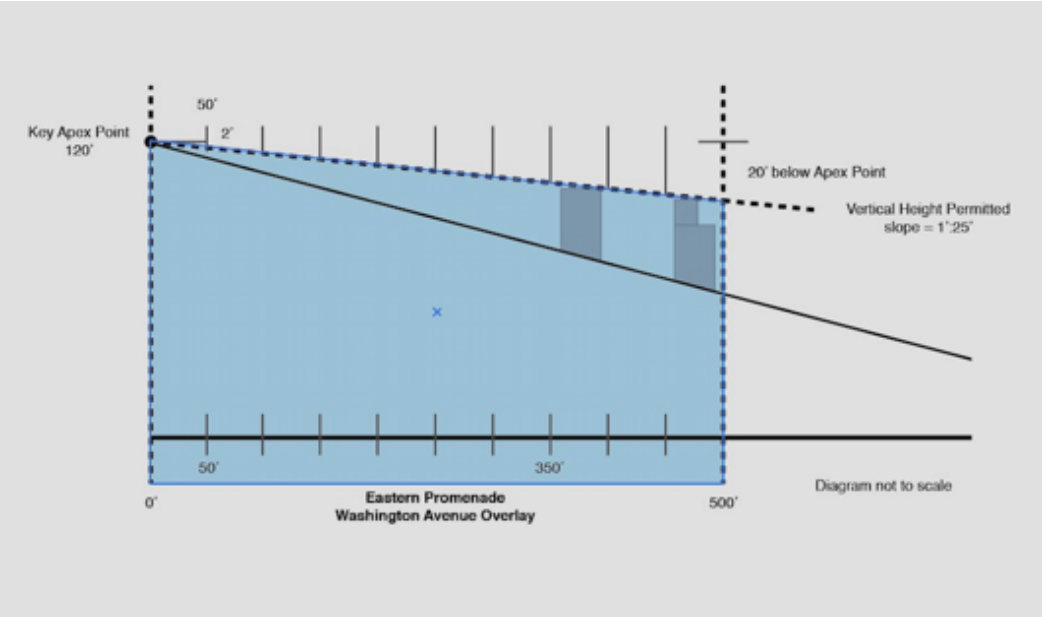
8.11.2 Standards

Notwithstanding any other section of this Ordinance, development in the Overlay shall be subject to the following additional provisions:

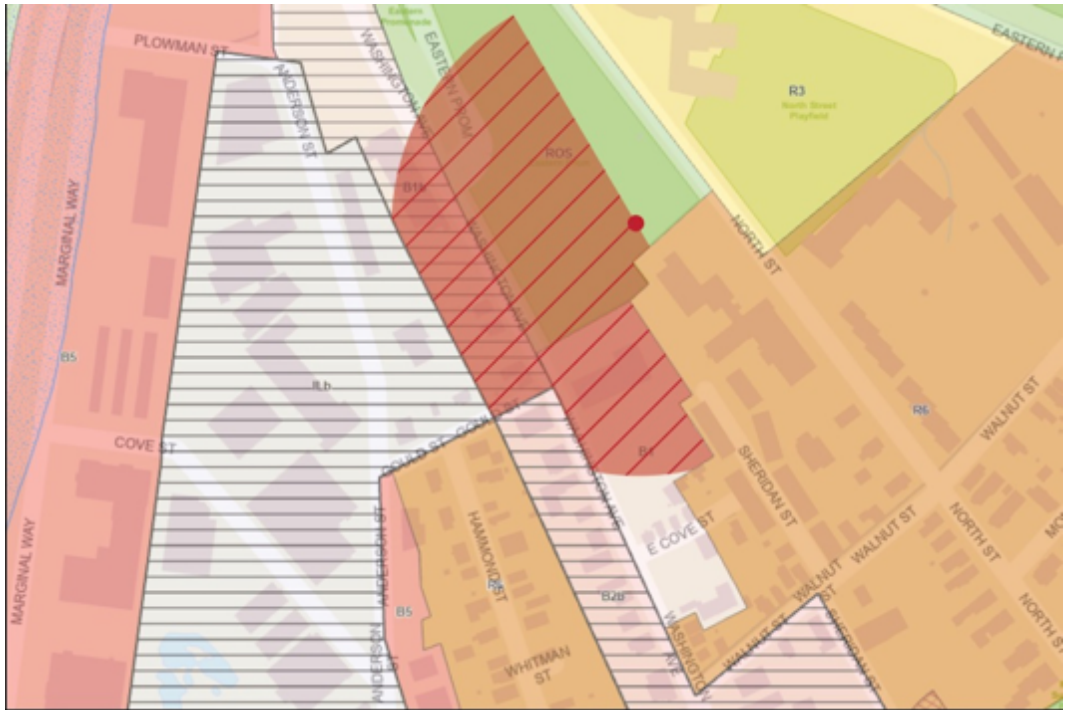
- *The top of structures, including rooftop appurtenances, within the overlay shall not exceed the baseline vertical height of the apex point 120 ft). For each 25 ft. radially away from the apex point, the vertical height permitted in the Overlay is reduced by 1 foot (see figure below).*
- *The minimum building setback from the park property shall be 15 feet.*

8.11.3 Review Process

Any project within this Overlay shall go to the Parks Commission for a recommendation to the Planning Board regarding potential impacts on the Eastern Promenade-Washington Avenue Section of the Eastern Promenade Park.



Ordinance graphic (to be included in ordinance). Note: within the Overlay, permitted height is reduced by 1' for each 25' away from the apex point (not to scale).



Zoning map amendment (to be included in ordinance) (not to scale)

A. Proposed Ordinance Discussion

There are 70 parcels on Washington Avenue between 1-295 and Congress Street. The proposed overlay would directly impact 7 parcels: *010 A010102, 010A019001, 010 A016001, 010 A036001, 010 A030001, 010 A031001, 010 D001001.* Note parcel *010 A010102* would be a non-conforming structure.

Vicinity Map

Megan Cindrich <mcindrich@portlandmaine.gov>

Fwd: FW:

1 message

Helen Donaldson <hcd@portlandmaine.gov> Thu, Aug 29, 2024 at 12:42 PM
To: Megan Cindrich <mcindrich@portlandmaine.gov>

Can you add this one to the file as well?

Thanks, Megan.

---------- Forwarded message ---------
From: **b bookin** <bookin@bookingroup.com>
Date: Wed, Aug 28, 2024 at 3:08 PM
Subject: FW:
To: hcd@portlandmaine.gov <hcd@portlandmaine.gov>

See my email below – I inadvertently typed in the incorrect email address for you the first time. Thanks for your assistance in this matter. Beverly

Sent from Mail for Windows

From: Steve
Sent: Wednesday, August 28, 2024 3:03 PM
To: Beverly Bookin
Subject:

From: b bookin
Sent: Wednesday, August 28, 2024 2:38 PM
To: hcd@portlandmaine
Subject: A few questions/comments

First of all, thanks, Nell, for the opportunity to meet with you and the rest of your team on Monday afternoon.

Based on our conversation and my review of the proposed text amendments to the Land Use Code that reflect the Wave II recommendations, I have questions/comments/need for clarification regarding two issues:

1. With regard to maximum height in the B-2/B-2b zones (current Table 7-E/proposed Table 7-C), it states: “65 ft.……except 50 ft. of any portion of a structure within 25 ft. of the RN-1, RN-2, RN-3 or RN-4 zone.”

   Discussion. The obvious question is why this setback standard, designed to ameliorate the impact of the height/bulk of new buildings in the B-2/B-2b zone upon immediately-adjacent residential neighborhoods applies only to in the current R-1 through R-5 zones but conspicuously leaves out R-6 (the proposed RN-5)?

--This is a matter of consequence as on the east side of the Washington Avenue Corridor, all of the existing and proposed B-2 parcels abut the western edge of the Munjoy Heights Neighborhood that was re-zoned to R-6 as part of the 2016 Munjoy Hill Neighborhood Overlay. The current maximum density in the R-6 zone is 60 DUs/Net Acre. Munjoy Heights Condominiums is built out at 20 DUs/NA. By removing the maximum density requirement as part of ReCode, the Redfern project is proposing 213 DUs/NA, more three times the R-6 density. Doesn't this disparity warrant a mitigating height standard within 25' of the property line?

--It is noteworthy that in its application, Redfern's concept plan shows a four-story module on the southern end of project adjacent to the shared property line with the Munjoy Heights development (see attached drawing). I know that the concept plan is illustrative not legally-binding. Nevertheless, at the mandatory neighborhood meeting in early July, Redfern's representative Jonathan Culley noted that this design reflects the proposals for the B-2 zones in the Second Wave recommendations. In fact, that apparently is not the case.

What is the rationale for not including abutting R-6/RN-5 properties for this height setback provision?

2. With regard to the elimination minimum parking standards for all uses, Section 18.1.2 ("No vehicle parking spaces required") of the proposed revised code refers the reader to Section 13.6.1 in new Chapter 13 on Site Plan Review. Specifically, Section 13.6.1.E Transportation Demand Management (TDM) states in Section E.!: "The following types of development shall design and implement a Transportation Demand Management (TDM) Plan [including a parking analyses]: a. All commercial, institutional and mix-use developments of 50,000 square feet or more in total floor area."

   Discussion

   --So, in the B-2b zone, a mixed-use building with ground-floor commercial is required to account for its true parking demand via a TDMP, but an all-residential building of the exactly the same size is exempt. Really, what is the rationale to exclude large-scale residential from having to document its true parking demand on the word of the developer that there is no little or no demand? That magically makes it so?.

   --In my written testimony, I have discussed this issue at length so no need to reiterate here. Using the Redfern project as an example, you and I both know that 30 spaces for 320 DUs (almost 1 space/11 DUs) is such a "magical" number. So assuming that I am interpreting the proposed code language correctly, if the project is to retain the proposed ground-floor commercial, the resulting parking study will likely show the need for many times that number of parking spaces, requiring that the applicant build at least a one-floor underground garage, but if the ground-floor commercial is eliminated, no parking study will be required. It is clear what the rational here is – more housing at the expense of all other considerations. If there are other mitigating justifications for excluding large-scale residential-only projects from this TDMP requirement, please share. My response: It is bad enough that you are forcing the Munjoy Hill Neighborhood to accommodate development in the B-2 zones that is more than three times the R-6 density and then force it to absorb the negative impacts associated with parking and traffic for which the developer should be accountable.

   Thanks, for considering the above. I look forward to your response.

--
Nell Donaldson
Director of Special Projects
City of Portland
(207) 874-8723
hcd@portlandmaine.gov
planning
& urban
development

Form Submission - Contact us Re:Code - Re code feedback

3 views

Squarespace

to recodep...@portlandmaine.gov

Aug 29, 2024, 6:02:36 PM (12 days ago)

Sent via form submission from *ReCode Portland*

Name: Gretchen Greenberg

Email Address: gretch1949@gmail.com

Subject: Re code feedback

Message: Is it too late to submit comments on ReCode?

Manage Submissions

Does this submission look like spam? Report it here.

Megan Cindrich <mcindrich@portlandmaine.gov>

Fwd: PIC ReCode recommendations

Helen Donaldson <hcd@portlandmaine.gov> Tue, Sep 3, 2024 at 1:44 PM
To: Megan Cindrich <mcindrich@portlandmaine.gov>

One more...

Some of these may be duplicates.

I will respond.

---------- Forwarded message ---------
From: **Peter McLaughlin** <pmclaughlin@portlandmaine.gov>
Date: Fri, Aug 30, 2024 at 11:38 AM
Subject: PIC ReCode recommendations
To: Kevin Kraft <kkraft@portlandmaine.gov>, Helen Donaldson <hcd@portlandmaine.gov>
Cc: Peaks Island Council <pic@portlandmaine.gov>, Laura Glendening <lrglendening@gmail.com>

Hi Nell and Kevin,

I've got our most recent recommendations on the current draft attached. These have been developed in collaboration with our Housing & Zoning Committee and reflect all the community feedback we've taken at the open house you both lead, as well as the H&Z Committee's own public events, an island-wide visioning session co-led by multiple organizations, and of course a great deal of public comment at our own monthly meetings.

We're happy to discuss any of this further with you both. Let us know if you have any questions.

Thanks,
Peter

Peter McLaughlin | Chair | Peaks Island Council
146 Central Ave
(339) 225-2353

--
Nell Donaldson
Director of Special Projects
City of Portland
(207) 874-8723
hcd@portlandmaine.gov

planning & urban development

PIC ReCode recommendations (as amended 8.28.24).pdf
59K

PIC ReCode Recommendations
To: City of Portland Planning Department
From: Peaks Island Council
amended and unanimously approved on 8/28/30

1. **Small Island Lot Allowance**
   3,000 square feet: we continue to support this number as compatible with many already built island lots in IR-2.

2. **Dimensional standards on Small Island Lots:**
   We recommend 10' for each side (vs 5' in second draft) and 15' rear (vs. 10' in second draft). A primary consideration is ensuring safe access by emergency personnel and vehicles, especially in case of fire.

3. **40% lot coverage for all Island lots (except IB-1)**
   We strongly oppose the proposed 60% permitted coverage for all lots in IR-1 and IR-2. We recommend 40% for residential lots, which represents a doubling of current coverage, would allow flexibility for improving existing properties as well as building new dwellings, but still be in keeping with the character of existing neighborhoods.

4. **Creating a Small Island Lot from a larger existing lot**
   The second draft allows owners of lots of at least 23,000 sq feet to separate off one 3000 sq ft small lot, leaving the primary lot at 20,000 (the general standard for IR-2). We recommend that in IR-2 consideration be given to allowing any occupied lot of at least 10,000 sq. ft. to separate off 3,000 for a Small Island Lot – leaving at least 7,000 for the primary lot (as long as that lot maintains all the setback requirements of IR-2).

5. **Permitted number of dwellings on all formerly single-family lots**
   We support permitting up to 2 dwellings on any island lot in IR-1 and IR-2, as enacted in LD 2003 by the Maine legislature. We oppose permitting 3 dwellings on lots in IR-1 and IR-2, as totally out of keeping with island character, and at odds with the expressed preferences of hundreds of islanders for when surveyed. We are supportive of allowing 3 dwellings on a lot in the IB-1 zone, in keeping with existing multi-unit construction.

6. **ADUs and STRs**
   We support the allowance of ADUs for only year-round housing and request that this requirement is put back in the Land Use Code.

7. **New Business Zone Category, IB-2**
   The intent of this suggested new category is to create space for additional small businesses primarily serving islanders needs, but with limitation appropriate for its setting, such as:
   Maintains setbacks of IR-2
   Hour of operation limits, such as 9-5:00, to minimize noise impacts
   Use limits, such as no hotels or restaurants

Rear fencing requirements to reduce visual and sound impacts
Necessary fire prevention and fire-fighting infrastructure

Suggested Location for IB-2
Starting at Central Ave and Ernest St intersection (at the Health Center) extending east down Central Ave and Central Ave Extension to intersection with Highland Ave.

8. Need for zoning that supports:
Sustainable year-round community.
Working waterfront, and traditions and rural culture unique to Maine island living.
Healthy and well maintained systems – ecosystems, sewer systems, road use safety.

New map 4 views

James Wolf Sep 4, 2024, 4:05:11 PM (6 days ago)
to ReCode Portland

Good Afternoon

I own land at the end of Tucker Avenue. Can you tell me what the new zone is proposed to be?

Thank you

Jim Wolf

Zone Confirmation 7 views

Richardson, Claire Sep 6, 2024, 2:39:34 PM (5 days ago)
to recodep...@portlandmaine.gov

Hello!

I just wanted to confirm the proposed zone per the latest draft of the recode for the following address: **951 Washington Ave, Portland, ME.**

Thank you!

Claire Richardson – *Associate Broker*

The Boulos Company
One Portland Square, Suite 400, Portland, ME 04101
T: 207.553.1732 **C:** 207.880.4607
crichardson@boulos.com www.boulos.com

Download the ME 2024 Market Outlook

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Re-code Portland 1 view

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Betty Lorber Sep 10, 2024, 8:28:27 AM (yesterday)

to planni...@portlandmaine.gov

I request that the Planning Board recommend that the Eastern Promenade/Washington Avenue height overlay, the request for which has been submitted as written testimony, be included in the final version of the ReCode Portland text and map amendments forwarded to City Council.

Betty Lorber
225 Sheridan St
Portland, Maine
Sent from my iPad

Recode, Washington Ave. 1 view

Subscribe

Elizabeth Owens Sep 10, 2024, 11:48:00 AM (23 hours ago)

to planni...@portlandmaine.gov, Douglass Faherty

To members of the Planning Board:

We request that the Planning Board recommend that the Eastern Promenade/Washington Avenue height overlay, the request for which has been submitted as written testimony, be included in the final version of the ReCode Portland text and map amendments forwarded to City Council. For all the reasons previously stated regarding environmental issues, loss of green space and views for all Portlanders, as well as the congestion and parking problems along the Washington corridor, we respectfully make this request.

Elizabeth Owens and R. Douglass Faherty

197 Sheridan St., Portland, 04101

Sent from my iPhone

ReCode Portland 2 views

Subscribe

Chris Stewart Sep 10, 2024, 11:55:16 AM (23 hours ago)

to planni...@portlandmaine.gov

Let’s preserve the views from the Eastern Prom. I request that the Planning Board recommend that the Eastern Promenade/Washington Avenue height overlay, the request for which has been submitted as written testimony, be included in the final version of the ReCode Portland text and map amendments forwarded to City Council.

Thank you.

Christopher Stewart
81 North Street
Portland, Maine 04101

Support Eastern Promenade-Washington Avenue Height Overlay

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1 view

Ruth Freeman Sep 10, 2024, 12:08:18 PM (23 hours ago)

to planni...@portlandmaine.gov

To Portland's Planning Board:

I'm writing to urge you to reject the proposal to increase building heights to 75 ft. along Washington Avenue. I have lived on Munjoy Hill for ten years and walk in the park almost every day. Just as it is for many residents, it is my beautiful back yard and, whatever the weather, I am in awe of the views in almost every direction.

Please support the Eastern Promenade—Washington Avenue Height Overlay and include it in the final version of the ReCode Portland text and map amendments forwarded to City Council.

Portland is one of the most livable and beautiful cities in the U.S. Please work to keep it that way now and for the future.

Thank you.

Ruth Freeman

64 Vesper St.
Portland, ME 04101

ReCode Portland 1 view

Subscribe

adinah Sep 10, 2024, 12:20:29 PM (22 hours ago)

to planni...@portlandmaine.gov

Hello members of the planning board,

I request that the Planning Board recommend that the Eastern Promenade/Washington Avenue height overlay, the request for which has been submitted as written testimony, be included in the final version of the ReCode Portland text and map amendments forwarded to City Council.
I really hope you are beholden more to the will of the public than the lucrative incentives of the landlords/real estate/developers and will not sacrifice the very few areas in Portland that offer open space and non-private views.
We desperately NEED buildings that offer 75-100% of the units to be truly affordable (rent and/or mortgage coming to no more than 30% of net wages for those who live and work in Portland) housing, but this development is not one of those.
I am disgusted by the endless catering to developers and the real estate sector. It is bad governance that the city council has allowed air b n b's and rent control and the condo-ification of Portland over.
In my 31 years in the area I have seen Portland go from a funky little forgotten waterfront town to a place in which prices for housing and food are beyond what anyone but the wealthy can afford and it makes me very sad. Too many people hang on by a thread and one medical or other disaster could result in them being homeless.

Please do the right thing, not the thing that wins you the most favor from developers and real estate.

Thank you,
Adinah Barnett
75 Sawyer St
South Portland, ME
04106
(priced out of Portland after over 25 years of living, working and raising children on Munjoy Hill, only able to afford an apartment in So Po because friends are the owners and charge me an actually FAIR price for rent)

Height Overlay! 1 view

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Marianna Pratt Sep 10, 2024, 12:38:38 PM (22 hours ago)

to planni...@portlandmaine.gov

I request that the Planning Board recommend that the Eastern Promenade/Washington Avenue height overlay, the request for which has been submitted as written testimony, be included in the final version of the ReCode Portland text and map amendments forwarded to City Council.

Thank you.

Think about the long term please

1 view

Subscribe

Shawnee Sax

Sep 10, 2024, 1:31:46 PM (21 hours ago)

to planni...@portlandmaine.gov

I request that the Planning Board recommend that the Eastern Promenade/Washington Avenue height overlay, the request for which has been submitted as written testimony, be included in the final version of the ReCode Portland text and map amendments forwarded to City Council.

Sent from my iPad

Eastern Prom view preservation

1 view

Subscribe

Bobbi Keppel Sep 10, 2024, 4:10:12 PM (19 hours ago)

to planni...@portlandmaine.gov, Bobbi Keppel

I request that the Planning Board recommend that the Eastern Promenade/Washington Avenue height overlay, the request for which has been submitted as written testimony, be included in the final version of the ReCode Portland text and map amendments forwarded to City Council.

The views from the park are some of the treasures of Portland. Blocking them would be mistake that couldn't be undone and greatly detract from this area of our city. Don't allow it.

Bobbi Keppel, 141 North St. Portland

Eastern Promenade—Washington Avenue Overlay

Subscribe

1 view

Doug Sax Sep 10, 2024, 5:33:43 PM (17 hours ago)

to planni...@portlandmaine.gov

Hello,

I request that the Planning Board recommend that the Eastern Promenade/Washington Avenue height overlay, the request for which has been submitted as written testimony, be included in the final version of the ReCode Portland text and map amendments forwarded to City Council.

Thanks,
Doug Sax

Eastern Prom height overlay

1 view

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Janet Greenfield

Sep 10, 2024, 7:40:05 PM (15 hours ago)

to planni...@portlandmaine.gov

I request that the Planning Board recommend that the Eastern Promenade/Washington Avenue height overlay, the request for which has been submitted as written testimony, be included in the final version of the ReCode Portland text and map amendments forwarded to City Council.

Yours truly,
Janet Greenfield
220 Sheridan st
Portland

My only current email is janetgreenfield57@gmail.com

Zoning Change on Inner Washington Ave

Subscribe

1 view

Rhonda Green Sep 10, 2024, 9:40:42 AM (yesterday)

to planni...@portlandmaine.gov

My husband and I are residents of Portland.

We are totally against the proposed zoning change on Inner Washington Ave that would allow 75 ft heights for buildings along this road.
We are not against affordable housing / reasonable housing but we Are Against this way too high building height- it is not beneficial . Build proper housing that fits the space as defined and this will be the best solution.

Thank you for being thoughtful and reasonable.

Rhonda and Ron Green
Sent from my iPhone

Keep our parks with beautiful views

Subscribe

1 view

Lynne Howard Sep 10, 2024, 12:53:32 PM (22 hours ago)

to planni...@portlandmaine.gov

I realize that homes are needed for the growing number of people who have chosen Portland Maine as their home. But one must ask why people have chosen. It's because Portland is a beautiful city that has maintained its beauty through the parks that can be visited, and from where residents and visitors alike can look out at the majestic views of the city. If you continue to re-zone for higher buildings, you will take away that beauty, and ultimately the city of Portland will be just another ordinary city.

Portland Planning Board must balance this need for homes with keeping the city as natural as it can be. By allowing 4 stories, you allow for new homes to be built yet maintain the look and feel of the city at its best. By allowing more stories, all that goes away.

PLEASE DON'T DO THIS. PLEASE LEAVE THE CURRENT ZONING INTACT.

Thanks,
Patricia L. Howard
77 Congress St.

Washington overlay 1 view

Subscribe

Sandy Johnson
to planni...@portlandmaine.gov

Sep 10, 2024, 12:55:02 PM (22 hours ago)

I cannot imagine buildings 75 feet tall in that section of Portland-especially with limited parking. Completely inappropriate and counter productive in terms of both scale and utility. There are parts of Portland where that would be workable. Please consider the long term effects and protect the views and park.

Sandra W. Johnson
Broker/Owner
Town and Shore Real Estate
One Union Wharf, Portland ME 04101
Cell: 207-415-2128
www.townandshore.com

Planning Board Workshop ReCode 9.17.24

Subscribe

1 view

P S Sep 11, 2024, 1:10:38 PM (20 hours ago)

to planni...@portlandmaine.gov

Attached please find comments regarding ReCode.

Submitted for Citizens in Support of the Eastern Promenade--Washington Avenue Overlay Zone

Attached documents include:

- Overlay Application Cover letter
- Overlay Petition Part 1 & Part 2 (468)

August 12, 2024

Planning and Urban Development
Planning Division
City of Portland, Maine
389 Congress Street, 4th Floor
Portland, ME 04101

To Whom It May Concern,

Citizens for Eastern Promenade—Washington Avenue Park Overlay are pleased to submit the accompanying package of materials for a proposed Zone Map and Text Amendment to create a height overlay for the northwestern end of the Eastern Promenade Park [170 North Street, Parcel # 008 A007001].

Following the goals and guidelines in the comprehensive plan, we are proposing the creation of a 500' height overlay for the B-1/B-1b zone parcels adjacent to and abutting the northwestern end of the Eastern Promenade Park[170 North Street, Parcel # 008 A007001] to protect the public interest by limiting the impact of development on the integrity of the park landscape, its historic design, the park trails that support connectivity, and existing view corridors in the Eastern Promenade--Washington Avenue section of the Eastern Promenade Park.

We support smart growth. We support recommendations to increase density and revise zoning to create more housing, enhance walkable, complete neighborhoods, and promote a more equitable and resilient city for future generations. We support development that builds on the distinct character and assets that define the city of Portland. We believe parks and open space are integral to these goals.

As the city works to increase housing density and address climate change, protecting and enhancing our signature parks and open space is even more critical as these spaces serve as public backyards where residents and visitors have access to greenspace, sunlight, views, nature, and recreational space. These kinds of public landscapes are all the more important with the increase in multifamily dwellings with no access to private yard space. Portland's Plan 2030 is about balancing diverse and sometimes competing goals to create a resilient, livable, equitable city for all. Specifically, it offers a roadmap to balance development with the need for open space.

The attached analysis demonstrates that the proposal is consistent with the city's comprehensive plan and follows the precedent established by the Fort Sumner Park Overlay.

Following the application process for the Fort Sumner Park Overlay, and given that this is a citizens initiative for a city owned property listed on the National Register of Historic Places, we are requesting an application fee waiver for this combined zoning map and text amendment.

This package is intended to meet the City's Submission Requirements for Map and Text Amendment applications. Regarding the submission of a document demonstrating right, title, or interest, this section of the park is owned by the City of Portland. We contacted the Cumberland County Registry of Deeds; their property search indicated the deed predated their records and stated that the deed might have been destroyed in one of the Portland fires. The clerk said all their historical records that survived the fire went to the Maine Historical Society. A search of the Maine Historical Society Archives resulted in no city deeds for this section of the Eastern Promenade Park. The only document showing the Eastern Promenade Park as a city property is General Plan For Park System, Portland 1905, included in our application. We have reached out to Matt Grooms, Development Review Services Manager, and Kevin Kraft, Director of Planning Department, to inquire about what documentation is required. The following documents and drawings are to be uploaded onto the City's electronic submission site per the procedure outlined in the application:

Documents:

- Submission Checklist
- Consistency with Comprehensive Plan
- Proposed Text Amendment
- Right, Title, Interest (City of Portland, General Plan for Park System, 1905)

Drawings

- Vicinity Map
- Proposed Map Amendment
- Height Overlay Section Drawing

Citizens for Eastern Promenade—Washington Avenue Park Overlay look forward to your review of this project

Respectfully submitted by
Undersigned Citizens for Eastern Promenade—Washington Avenue Park Overlay (see attached petition signatures)
Contact: Peggy Shaffer
223 Sheridan St.
Portland, ME 04101
Email: shaffems@gmail.com
Cell: 513-658-6047

Citizen Petition:

Protect the Western End of the Eastern Promenade Park: home to North Street Community Gardens, the East End Community School Outdoor Garden & Classroom, the Jack Path Trail, and the Mt. Joy Orchard.

- As the city of Portland revises its land use policies to increase density and address climate change, we the undersigned request that Recode Portland preserve and protect the open space and majestic views of the Eastern Promenade-Washington Avenue section of the Eastern Promenade Park.
- Parks and open spaces in Portland must be protected as **limited invaluable resources** into the future as the city works to increase housing density on the Portland peninsula.
- **Following the example of Fort Sumner Park, we support the establishment of an Eastern Promenade-Washington Avenue Height Overlay Zone to** protect the public interest by limiting the impact of development on the quintessential views of natural resources and the changing Portland skyline from the western end of the Eastern Promenade Park.

Name	Address	Signature	Phone #	E-Mail
Carol McCrahan	158 North St	Carol McCrahan	536-1118	carolmcrahan.com
Deborah Bates	158 North St	Deborah Bates	207 272-5282	debbybates49@gmail.com
Patricia H Mulkern	158 North St	Patricia H Mulkern	317-7924	
Judy Crain	158 North St	Judith Crain		
Roy Coulombe	"	[illegible]		
Ruth Bonney	158 North St	Ruth Bonney		
Valerie Nisch	158 North St	Valerie Nisch	650-2614	valerie.nisch@hotmail
BRENDA ERSKINE	158 North St.	Brenda Erskine	776-5121	studiopaz7@gmail
Lillian Murphy	158 North St	Lillian Murphy		
IRVIN W. KELLEY	158 NORTH ST.	Irvin W. Kelley		
Judy Rowley	158 North St	Judy Rowley	207-756-0575	[illegible]
Jamie Lynch	158 North St	Jamie Lynch	207-712-4833	
Martha Gilliss	158 North St	Martha S Gilliss	615-594-7087	gillissmartha60@gmail.com
DAVID STRAUCH	158 NORTH ST.	David R. Strauch	207 761-0924	
Paul Oviatt	158 North St	Paul Oviatt		oviattpaul70@gmail.com

Citizen Petition:

Protect the Western End of the Eastern Promenade Park: home to North Street Community Gardens, the East End Community School Outdoor Garden & Classroom, the Jack Path Trail, and the Mt. Joy Orchard.

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No chopping trees

Name	Address	Signature	Phone #	E-Mail
Alixandra Williams	158 North St Apt 103	Alixandra Williams	207 401 0162	aawilliams339@yahoo.com
Trudie McLellan	158 North St 218	Trudie McLellan	871-7134	
Brian Crabtree	158 North St. (201)	Brian L. Crabtree	617.784.1615	briancbaston@icloud
DOUGLAS MCDONALD	158 NORTH ST. G10	D J B McDonald	207-245-0258	dmcdonald1956@hotmail
PAT BUCKLEY	158 North St 209	Pat Buckley	207-409-4139	safetypins37@gmail
Margaret Marshall	158 North St #118	Margaret B. Marshall	207-767-2976	
Susanne Randall	158 North St., #107	Susanne Randall	207-272-7065	srandall54@yahoo
Peter Comas	158 North St #106	Peter Comas	207-408-6846	pcomas12@gmail
Joan Hartman	158 North St #210	Joan Hartman	207.408.3757	70JONNA@gmail
Lucas STARR	158 North St #111			
Ann Costello	158 North St	Ann Costello	207-653-7200	acostello982@gmail
Loretta Powers	158 North St. Apt. 207	Loretta Powers	lyp@loretta.joypowers.com 207-828-1924	lyp@loretta.joypowers.com
Catherine Munsey Alston	158 North	C. Munsey Alston	734-263-4078	cmunseyalston@gmail
Elyse Stewart	158 North St	E. Stewart	207-701-8456	
DORA MAHANES	158 North St Apt 302	Dora Mahanes	207-245-0754	mahanesdo@gmail

Citizen Petition:

Protect the Western End of the Eastern Promenade Park: home to North Street Community Gardens, the East End Community School Outdoor Garden & Classroom, the Jack Path Trail, and the Mt. Joy Orchard.

- As the city of Portland revises its land use policies to increase density and address climate change, we the undersigned request that Recode Portland preserve and protect the open space and majestic views of the Eastern Promenade-Washington Avenue section of the Eastern Promenade Park.
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Name	Address	Signature	Phone #	E-Mail
Jane Lowell	158 North St. #109	[illegible]	207-415-5640	[illegible]
Loretta Powers	158 North St #207	Loretta Powers	207-528-1924	[illegible]
Robert Conn	158 North St #201	[illegible]	207-3320071	[illegible]
Eliza Hoffman	73 Falmouth St	[illegible]	240 315 7000	
Maggy Wolf	28 St. Lawrence St.	Maggy Wolf	(504) 940-4431	[illegible]
[illegible]	18 [illegible] St	[illegible]	207 [illegible]	[illegible]
Quareesma	45 Smith St	[illegible]		mbalaquareesma
Charisa	45 Smith St	[illegible]		mbalacharisa2
Sebastian	149 Glenwood Ave #2	[illegible]		[illegible]
Hadil Ramadan	28 Forest Park #2	[illegible]	207-331-2032	hadilramadan2019
Geoffrey	95 Mountjoy South	[illegible]	207-332-7120	menezesjorge [illegible]
Helena Antonio	14 Orlando Street, Spa	[illegible]	207-331-1122	
Billie Watson	181 Craigie St	[illegible]	203-545-8140	billie@cultivating[illegible]
Martha Voland	28 Hammond St.	Martha Voland	207-874-0416	marthavoland@[illegible]
Abass Ali	137 Anderson St	[illegible]	207-442-8035	[illegible]

Citizen Petition:

Protect the Western End of the Eastern Promenade Park: home to North Street Community Gardens, the East End Community School Outdoor Garden & Classroom, the Jack Path Trail, and the Mt. Joy Orchard.

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Name	Address	Signature	Phone #	E-Mail
Margaret Fox	88 Walnut St Portland	[signature]	2076073855	medwards5@gmail.com
Celeste Tillman	349 Walton St	[signature]	2073329896	cecee tillman@gmail
Normand Paquin	340 E Promenade	[signature]	207-423-4746	NPAQUIN89@gmail.com
Sharon Reilly	168 York	[signature]		fsreillyead.com
Susan van Tongeren	99 Federal St.	[signature]	9179696430	Susan.vantongeren@gmail.com
Kathleen Racter	72 Melbourne St	Kathleen Racter		kracter@yahoo.com
Linda Bernard	12 Cushing CT	[signature]	920 918 1494	—
David Olzen	12 Cushing CT	[signature]	"	—
Matthew Dilies	201 Federal 702	[signature]	207-756-5264	Moodilies9@gmail.com
KIRSTEN CAPPY	8 MERRILL ST	[signature]	207-420-1126	curiousclay[illegible]@gmail.com
Robert Brown	90 St. Lawrence St	[signature]	603-252-8901	rwbrown10@gmail.com
Sarah Brown	90 St Lawrence St	[signature]	603 667 1740	sarahesbenk@gmail.com
Justin Pease	100 Sheridan St	[signature]	207 232 0207	emailpease83@gmail
Kim Croce	60 Emerson St #8 Portland	[signature]		dr3727[illegible] RG croce1[illegible]
Cate Regalbuto	100 congress	[signature]	843 513 7816	catelregalbuto@gmail.com

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Name	Address	Signature	Phone #	E-Mail
Erin Burk	88 Walnut St #1 Portland 04101	[signature]	614.314.4394	ERINHERL@gmail.com
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Jasika West	160 Stevens Ave	[signature]	207-408-9112	jaskawest6@gmail
Paul Ledman	62 Cumberland	[signature]	207 409 9569	CAPE1865@yahoo.com
COLLEEN MYERS	62 Cumberland	[signature]	207-409-9391	myerscolleen65@gmail.com
Alice Reagan	124 Greenwood L	[signature]	207-797-6808	Alicereagan@yahoo.com
MICHAEL REAGAN	124 GREENWOOD	[signature]	207-797-6808	MREAGAN1@MAINE.RR.com
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Brielle Stein	141 CONGRESS ST	[signature]	(214)708-8585	brielle@bluestar[illegible]
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Max Bowen	40 E Prom	Max Bowen	409-651-0901	" " "
Ben Thornton	176 Congress St	[signature]	919-272-1740	benthornton21@gmail.com
[illegible]	24 Congress St	[signature]	315 436 7400	[illegible]
ELIZA MCCOY	34 CONGRESS ST	[signature]	774-373-1333	elizamccoy@gmail

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Name	Address	Signature	Phone #	E-Mail
[illegible]	185 Ashmont St	[illegible]	207 881-9573	audmayner21@gmail.com
[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
[illegible]	[illegible]	[illegible]		
[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Anna Sit	459 Allen Ave	[illegible]	415-548-5218	annasit53@gmail.com
Ruth Alden	47 Spruce St. #2	Ruth G Alden	303-995-3989	
Honour Mack	177 Calef St.	[illegible]	207-749-2969	hmack@meca.edu
Callen Stewart	14 Lawn Ave	[illegible]	207-370-4259	call.stew@gmail.com
Cassandra Diaz	9 Dow St	[illegible]	717 880 1315	cassiandeb@gmail.com
Erica J. Artzer	10 Dow St. #2	Erica Artzer	207 899 6282	abidingspirit@yahoo.
Ben Braasch	31 Brookside Ln.	[illegible]	207-310-4801	bbbraasch@gmail.com
Julie Scantelle	46 Broadway	Julie Scantelle	207 2326775	julie04103@icloud
Chris Crutchfield	44 Battle St	[illegible]	802-922-3476	
John Scola	1747 Congress ST	[illegible]	207-233-8190	
Samuel Beal	68 Woodmont St	[illegible]	207 939-6198	

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Name	Address	Signature	Phone #	E-Mail
Seth des Rosiers	12 Poland St	[illegible]	207 838 5115	sethdesrosiers@gmail
Paola Araujo	12 Poland St	[illegible]		
Tom Pelling	80 Melbourne St	[illegible]	207	[illegible]
Sam Cosgrove	1 Sumner Crt	[illegible]	—	—
Alexandra Barton	1 Sumner Court	[illegible]		
Jake Gold	88 Canal St	[illegible]		
Wun Qi Kong	88 Canal St	[illegible]		wunqikong@icloud.com
Savannah Davis	305 Melba St	[illegible]	254-760-1482	savvy3301@gmail.com
Jennifer Davis	9797 E US Hwy 80	[illegible]	254 760-7144	[illegible]
Cheryl Heeman	57 Savoy St	[illegible]	—	—
Beth Snyder	81 North St	Beth Snyder		snyderbes@gmail.com
Nathan Finberg	42 Morning St	[illegible]	—	nathan.finberg@gmail.com
Betts Mayer	211 Sheridan St	[illegible]	207-749-2246	bettsgmayer@gmail.com
Rhonda Green	156 Sheridan St	[illegible]	617.447.8511	rhondagreen88@gmail.com
Douglas Sax	229 Sheridan St	[illegible]	207.807.8582	dsax100@gmail.com

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Name	Address	Signature	Phone #	E-Mail
Cole Watson	[illegible]	[illegible]	[illegible]	[illegible]
Keith Taylor	11 N Street #2	[illegible]	978-578-3681	hollalooka@yahoo.com
Erica England	11 North St #2	[illegible]		
Jim Cole Elliot	Cole 45 Montreal	[illegible]	207 871-4898	[illegible]
Diane Ly	1 North St #3	[illegible]	858-279-8173	
Nick Lesser	1 North St #3	[illegible]	347-788-3780	
Christopher Stewart	81 North St	[illegible]	207 712 4402	Stewart-Christopher [illegible]
Leslie Stewart	63 Melbourne	[illegible]	[illegible]	2596 1 Stewart 185
Robert Derry	63 Melbourne	[illegible]	207-653-5950	Robert Derry [illegible]
Bennett Jacks	223 Sheridan St.	[illegible]	513-658-0925	BENMJ223@GMAIL.COM
Dylan Hartzberg	176 Coyle St.	[illegible]	262-328-5188	[illegible]@gmail.com
Elizabeth Owens	197 Sheridan St.	[illegible]	207 751-8646	eliza.owens23@gmail.com
Stephanie Doyle	43 Neal St	[illegible]	207.318.6254	
Donna Williams	85 Machigonne St.	Donna Williams	207 838-7217	donnawilliams1727@gmail.com
Steven Williams	"	Steven Williams	"	" "

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Name	Address	Signature	Phone #	E-Mail
Ellen Gilliam	36 Wellstone Dr	[illegible]	576-3973	elbaug7@gmail.com
Marianna Pratt	224 Sheridan St	Marianna Pratt	400-1020	[illegible]@gmail.com
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Nancy Machesney	213 Sheridan St	[illegible]	207-653-0666	dmaches101@aol.com
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Leslie Hart	215 Sheridan St	[illegible]	917 364 3687	bleslehart@gmail.com
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Richard Rindenbach	284 Danforth St. Apt. 806	[illegible]	(207) 747-7400	[illegible]
Marianne Chapman	33 Melbourne St	Marianne Chapman	207 775-0254	mjchapman@maine.rr.com
Joel Chapman	33 Melbourne St	Joel W. Chapman	207-775-0254	jchapman9@maine.rr.com
Nora Daoud	401 Cumberland Ave #401	Nora Daoud	—	—
Gail Dawson Gray	95 Park St 04101	[illegible]	207 780 8142	[illegible]
Elizabeth A Streeter	66 Quebec St 04101	Elizabeth A Streeter	207-409-4559	streeter.beth@gmail.com

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Name	Address	Signature	Phone #	E-Mail
Sondra Bogdanoff	74 Lincoln St, Portland	Sondra Bogdanoff	207-318-5123	
JOAN LEITZER	25 MONUMENT ST. "	Joan Leitzer	207-233-2666	
NANCY BRAIN	118 CONGRESS ST	Nancy Brain	207-776-3525	
ANN CASADY	205 SHERIDAN ST	Ann Casady	207-450-4745	anncasady@yahoo.c
Peter Pitagoff	205 Sheridan St	[illegible]	207-615-6334	
DANA HERWOOD	1057 OCEAN AVE.	[illegible]	207 523-0230	
Mary Casale	39 Waterville St	Mary Casale	207-210-7810	
Beth Sorensen	81 Danforth St.	B. Sorensen	207-318-0579	bethsorensen64@gmail
Jacquelyn Pisano	71 Sherman St.	J Pisano	(207) 756-3441	
Kate Murray	91 Beckett St.	Kate Murray	207-747-8159	czhurrmt@yahoo.com
Patty Jo Walton	107 Walnut St	Patty Jo Walton	207 749 5209	
Robert Butt	880 Forest Ave.	Robert Butt	207-756-2916	
Kathleen Bender	11 North St	KATHLEEN BENDER	207 239 6380	
Melissa Lavoie	Standish, ME	[illegible]	207 551 6636	melissa.lavoie@opportunityalliance.org
Leyla Wilson	Sweden Portland, ME	[illegible]	207 387 5859	

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	Name	Address	Signature	Phone #	E-Mail
1.	Claire Fitts	77 Wisonoski Neck Scarborough		420-6420	
2.	Charlie Fitts	"	"	510-7656	
3.	Sidney Tibbetts	2 Abbi Lane Scarborough, ME			
4.	Jeanne Tibbetts	2 Abbi Lane Scarb			
5.	Elizabeth Woods	38A Columbia Ave Brunswick			
6.	Jonathan Wilde	33A Columbia Ave. Brunswick			
7.	Rachel Roberts	33 Melbourne St.		207-775-0258	Chapman1946@gmail.com
8.	Jaye Gorham	20 Essex St Portland		207-671-7430	jayegorham@gmail.com
9.	Jean McManamy	10 Wallis St		329-1232	mjmcmanamy@gmail.com
10	David Cowie	32 North Street		207 318 1810	dcowie@maine.rr.com
11	Lynne Cooper	410 Danforth St		854-8741740	
12	Louise Little	32 Northst. #4d		207-329-7671	louise.little5@gmail.com
13	Brad Nelson	4 Pilgrim Ln Windham			
14	Alex Richmond	41 Mountain Road Nort		207 [illegible]	
15	Heather Hewitt	12 Bradbury Ln		207 415 5603	

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Bill Rumsey	156 Sheridan St		617 628 7455	brumsey@comcast.net
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HEATHER CATES	200 Sheridan St.	Heather Cates	978-273-0471	TONYAHEATHER@YAHOO.COM

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Denis Allepesorg	213 SHERIDAN ST		207 653 2663	DMALLEPESORG@GMAIL.COM
Stacy Mokes	43 Prospect St		732-207-5726	writemokes@gmail

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[illegible] Rosertson	222 Sheridan St	[illegible]	508 648 660	[illegible]@gmail
Eriu Dunn	222 Sheridan St	[illegible]	617-935-1790	eriudunn2seed.com
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BJ McCollister	207 Sheridan St.	BJ Mcollister	207-332-0110	BJ@resurgamgroup.com
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Tyler Silva	476 Washington	[illegible]	207 415 8363	tylsilva@gmail.com
Andrea Sauer	65 Munjoy St	[illegible]	414 852 4650	andrayan@gmail.com
Angel Soler	65 Munjoy St	[illegible]	414 690 6580	angel.soler@[illegible]
Julia Kirby	20 EMERSON ST	[illegible]	207 450 6897	Juliadoyle[illegible]@[illegible]
MICHAEL DIXON	4 MONUMENT ST	[illegible]	207 653 9854	[illegible]@gmail.com
Tina Davidson	12 Hillcrest W	[illegible]	207 766 6605	TinaMarie Davidson@yahoo.com

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Name	Address	Signature	Phone #	E-Mail
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Linda Cohn	1 Portland Sq Portland ME	Linda Cohn	207-772-3761	ljcohnpayson.com
Jennifer Edes	1 Portland Sq. Portland	Jennifer Edes	207-329-6206	jbe@hmpayson.com
Jocelyn King	46 Eastern Prom Portland		917 749 4974	jpeking@gmail.com
Norma Knox Eide	59 Lafayette St Portland		207-650-1104	Norma2446@maine.com
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Jeffrey Dawson	33 Morning St #2	Jeffrey Dawson	207 831 7582	jeffreydawson@gmail.com
[illegible]	71 St Lawrence		207-441-2826	JAEELING@aol.com
Elizabeth Handley	56 Wilson St		207-321-7855	
Elsa Sclafo	75 High St			
Larry Hanway	419 Cumberland Ave	Larry Hanway	504-762-6569	larry22hk@yahoo.com
T Adams	579 Forest Ave		207 228 3492	

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Name	Address	Signature	Phone #	E-Mail
Mona Dahan	401 Cumberland Ave	[illegible]	207 776 9867	
Amy Freedberg	9 Willis St	[illegible]	617-797-8349	
PEGGY SHAFFER	223 SHERIDAN ST	[illegible]	513-658-6047	SHAFFEMS@gmail.com
Kira Shepard	5 Brookside Dr	[illegible]	(207) 450-0396	KShepar1@skidmore.edu
Doug Faherty	197 Sheridan St	[illegible]	207 757-5901	[illegible]
Ann Marie Ray	158 North St	[illegible]	207 776-2368	[illegible]
Bradley S Peacock	217 Sheridan St	Bradley S Peacock	312 371 7833	bpeacock@peacockmine.com
Shannee Sax	229 Sheridan St	[illegible]	207-807-8582	SS@hmpaysonv.com
Fulton Rae	92 Cumberland Ave	[illegible]	207-232-7015	fultonrae@gmail.com
Danielle Lester	92 Cumberland Ave	[illegible]	207-232-4306	elleinad532@yahoo.com
Joseph Forlick	196 Sheridan Street	[illegible]	607-228-1863	jfor.ew@[illegible].edu
Michael Walsh	151 North St	[illegible]	207 830-9767	
Roberto Rodriguez	17 Sanborn St.	[illegible]	207-450-9729	
[illegible]	[illegible]	[illegible]	[illegible]	
[illegible]	[illegible]	[illegible]	[illegible]	

Citizen Petition:

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Name	Address	Signature	Phone #	E-Mail
Richard Price	85 Leach Rd Scarb, ME		207-284-3755	R.Price@me.com
Pamela Stephenson	10 Old Orchard Rd Scarb ME		207-229-1303	
Noah Petrucci	51 Applecrest Dr.		207-519-6265	bjpetrucci@hmpayson.com
Kenneth Berg	85 Codman Street		207-671-7111	kberg@falconbridgeglobal.com
Joseph Olsen	4858 Brighton AVE		207-632-7996	joeolsen70@gmail.com
Adrienne Wilson	13 Alfred St South Portland		207-318-8697	adwilson1311@gmail.com
Terry Taylor	55 E Bridge St Westbrook		207 899 6607	tst@hmpayson.com
John S. Belivean	218 WASHINGTON AVE Portland ME		207-756-3220	JSB@hmpayson.com
Carolyn Young	135 SHELDON #201 PORTLAND 04101		207-899-2276	cyoung@
Wanda Valadia	27 Merrill St		207-274-4918	Wanda@RedRockDesignAlliance.com
Carolyn Swartz	21 Morrill St		9177145743	Carolynswartz@gmail.com
Terry	29 St. Lawrence		207-514-8989	
Eric Ellis	246 Eastern Prom		203 676 3109	
~~Mary Grant~~	~~48 Congress St~~	~~Mary Grant~~	~~207-774-5561~~	~~mgrant@me.com~~
Ryan Donahue	102 Cumberland Ave		315-252-1959	

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Name	Address	Signature	Phone #	E-Mail
Jess Adam	79 Congress St. #1 Portland	[signature]	617.710.7813	jessnicoleadam@me.co
Lara Butera	75 congress #2	[signature]	802-379-8343	larabutera@gmail.com
Amy Piscopo	79 Congress #1	[signature]	603-440-3774	amy.piscopo@gmail.com
Catherine Forthofer	42 Morning St #3	[signature]	207-664-8448	catherine.forthofer@gmail.com
Ann Landsberg	105 North St, #2	[signature]	207-899-1043	alandsberg@aol.com
Susan Selbe	61 Jeanne St	[signature]	2076048068	susanselbe@gmail
Elizabeth Chase	40 Eastern Prom A	[signature]	207 400-4406	lwupydog2355@gmail
Diane Stoller	113 Newbury	[signature]		dkstoller@[illegible]
Kate McIlhenny	83 vesper st unit 2	[signature]	207-415-7286	kpmcilhenny@gmail
Eric Oberg	142 North St	[signature]		[illegible]
Gabe Reissman	12 Back Cove Est	[signature]	512-431-7346	reissmang@gmail.com
Michelle Breidenbach	73 Congress St Portland ME	[signature]	410-4662145	mabreid@[illegible]
Kristen Stevens	77R Congress St	[signature]	(207) 807-7808	stevenskristen270@
Kellie Donovan	270 Eastern Prom #1	[signature]	207 653-2649	gmail.com kelliedonovan1@gmail.com
Lucy Gills	104 Morning St	[signature]	603 341 6838	lucygills@gmail.com

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Name	Address	Signature	Phone #	E-Mail
Santo Peter Dorstell	111 Congress	[illegible]	207-838-1472	[illegible]
JAMES LOBLEY	[illegible]	[illegible]	207 874 8664	JAMES LOBLEY [illegible]
Matthew Roberts	110 Marginal Way #263	[illegible]	207-319-2868	
[illegible]	72 Morning St	JonHAMMOND	207-239-0957	HAMOITO@YAHOO.COM
[illegible]	10 Walnut St	[illegible]	207-245-0744	[illegible]
Phoebe Mott	51 Morning St	Phoebe Mott	603-209-0762	
GLADYS BAUDELOT	51 MORNING ST	[illegible]	818 317 7139	
Jordi Mas	42 Morning St	[illegible]	949-683-3835	
Deb Kranin	19 Murray St	[illegible]		
NATHAN EMBERG	42 MORNING St.	[illegible]	207.807.7067	nathan.fmberg@gmail.com
Ben Delong	4 Monument St	[illegible]	207 550 7958	
Shannon Stevens	151 North St	[illegible]	207-577-2369	shannon.stevens1@gmail.
Scott Berry	41 Howard St	[illegible]	207-233-5879	
Sam Patel	52 Hanover St	[illegible]	620-915-9419	
Chet Meehan	39 O Brion	[illegible]	207 775 7513	

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Name	Address	Signature	Phone #	E-Mail
Michael Coyle	219 Sheridan St		814 571 3223	twigbeast@gmail
Angela Coyle	219 Sheridan St		(814) 571-3222	Coyleangela22@gmail
[illegible]	17 East Cove Street		207-615-2965	[illegible]
JOHN WACKERLY	62 INDIA ST		305-548-2995	[illegible]
Gabriel Carvalho	132 Marginal Way		207-413-9314	[illegible]
John Scott	24 Crestview		207-807-2811	[illegible]
Moriah Hughes	28 Winthrop St.		207-374-2172	[illegible]
Robin Lee	27 Willow St		20-578-0437	[illegible]
Karen Balabanian	78 Warwick St.	Karen J. Balabanian	707-266-2038	[illegible]
John Renzetti	78 Warwick St		701-885-4056	[illegible]
Bethany Reed	29 Deering St		617-543-5350	[illegible]
Kelly Coyle	165 Craigie ST	Kelly Coyle	207 233-2554	[illegible]
Nancy Lawrence	70 Revere		207 712 9343	[illegible]
[illegible]	[illegible]		[illegible]	[illegible]

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Name	Address	Signature	Phone #	E-Mail
Jayson DiBiase	5 maple Ridge Dr	[illegible]	207-573-7361	Jayson.DiBiase5@gmail
Paula Matthews	151 Pearl St Apt 1	[illegible]	609-425-0658	paulabmatthews@gmail.com
MICHAEL HOWLAND	45 CEDAR ST	[illegible]	207 691-0623	dyerridge bu[illegible]
Hannah Kramer	3 Forest Circle Apt 2 04103	Hannah Kramer	(207) 415-2402	hannahharleen@gmail.com
Janine Rynkowski	278 Veranda St Cent	[illegible]	207-233-7039	Jrynkows@Gmail.com
Rick Spiller	14 Dartmouth ST #1	Richard Spiller	207-632-[illegible]5789	black2swan3@yahoo.com
Josh Skelton	60 Woodland Rd	[illegible]	908-967-3644	Joshua Skelton [illegible]
Shannon Copley	10 Burnham St	[illegible]	7138220092	shannon copley92@gmail.com
Susan Morris	118 Congress St	[illegible]	202-257-92[illegible]	susanvmorris@gmail.com
Laurie Perzley	273 Congress	[illegible]	2076713551	lbperzley@gmail.com
Chris Ziegos	150 Park St #1	[illegible]		
Eric Evans	75 West St.	[illegible]		eric@[illegible]

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Name	Address	Signature	Phone #	E-Mail
[illegible]	249 Danforth St Pond	[illegible]	207-518-6217	[illegible]
[illegible]		[illegible]	207-232-0729	[illegible]@hmpayson.com
Jenny Gleason	456 Brighton Ave	[illegible]	207-332-5305	jrg@hmpayson.com
Keara Wagner	21 Edwards St. Portland	[illegible]	603-986-2065	KOW@hmpayson.com
Katherine von Salza Brown	120 Sherman St, Portland	[illegible]	207-602-9613	KGV@hmpayson.com
Barbara Cough	55 Four Winds Rd Portland	[illegible]	207-899-6844	bec@hmpayson.com
Thomas de Pierce	52 Forecide Common Falmouth, Me	[illegible]	207-310-0850	tmp@hmpayson.com
James Light	12 Lughman St	[illegible]	207-671-5319	James@Jameslight
Moira A. Salewski	85 Berkshire Rd.	[illegible]	(207) 749-2380	msalewski@gmail.com
[illegible]	18 Lincoln St.	[illegible]	(207) 751-[illegible]	
Joshua Cote	26 [illegible] St Portland	[illegible]	207 484-8422	[illegible]@gmail.com

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Name	Address	Signature	Phone #	E-Mail
Alexis Wing	75 Congress St	[illegible]	207 939 9234	[illegible]
[illegible]	[illegible]	[illegible]	917-676-1[illegible]	[illegible]
[illegible]	17[illegible] Congress St	[illegible]	207-415-5002	[illegible]
[illegible]	165 York	[illegible]		
[illegible]	165 York	[illegible]	207-879-7742	[illegible]
Julia Kirtland	234 E. Prom	[illegible]	•	[illegible]
David Roberts	234 E. Prom #5	[illegible]	207	david.r.c.skier@gmail
Eric Handley	56 Wilson Ave	[illegible]	617-[illegible]-32766	[illegible]
Nina Hope	25 Anderson St	[illegible]	215-990-8972	ninahopecreatived gmail.com
STEVE DAVIS	25 ANDERSON ST	[illegible]	215-990-8971	sspringer davis @gmail.com
FRED WILLIAMS	227 SHERIDAN ST	[illegible]	207 415 6260	fwilliams56@gmail.com
~~[illegible]~~	~~227 SHERIDAN ST~~		~~614 226 2641~~	~~[illegible]~~

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Name	Address	Signature	Phone #	E-Mail
ARLENE SCHWIND	357 SPRING, PORTLAND	Arlene Schwind	207-871-7649	APALMERS@MAINE.RR.COM
WILMONT M. SCHWIND	"	[illegible]	207-415-8747	SCHWIND@GWI.NET
Nancy Walker	18 Quebec, Portland	[illegible]	2074002051	nancylulu.walker@gmail.com
Dorothy Rodney	46 Walnut ST Port	Dorothy Rodney	772-4184	
Silvan Shawe	35 Clinton St Portl	[illegible]	207-747-7836	silvan@cultivating community.org
Brenda Brush	46 Hamblet Ave	Brenda Brush	207-409-2259	brenda.brush@yahoo
Leandu eMambambo	12 hunt street	Leandu eM.M.	207-408-0730	Mambambalandu@gmail
MELVYN AGillan	36 Hackmore Ave	Mel [illegible]		
Armando	9 Cedar St	Armando Pedro	207.408.0550	armando102kcesar2
KEVIN ROCRAY	12 Hillcrest West	[illegible]	207-766-6091	KevinRocray@gmail.com

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Name	Address	Signature	Phone #	E-Mail
LAUREN PERSKY	600 CONGRESS ST PORT	[illegible]	617 290 6579	laurenperskyorackstrom.com
Patricia Proulx-Lough	36 Rosemont Ave	[illegible]	207 766 105	proulxlough[illegible]
Joe Powers	162 Congress St	[illegible]	802 349 6857	joseph.e.powers@gmail.com
John Lough	36 Rosemont Ave	John A. Lough	207-383-5149	jlough1@pm.me
BRIANA HOLT	13 WATERVILLE ST	[illegible]	207 331 6836	[illegible]@gmail
Megan Munzel	37 Kinney St	[illegible]	646 673 5639	megan[illegible]
Justin LeVasseur	8 Fernald Pkwy	[illegible]	207 392 1365	[illegible]
CARLOS CUELLAR	83 MACKWORTH ST	[illegible]	207-841-2198	[illegible]
Steve N'IES	1831 Washington Ave	[illegible]	207-400-6352	[illegible]
Joanne Sacher	12 O'BRION St.	[illegible]	860-614-5000	jsacher@cox.net

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Richard Pri	85 Lincoln Rd Saco, ME	[signature]	207-284-3750	R.Pricir@me.com
Pamela Stephenson	10 Old Orchard Rd Saco ME	[signature]	207-229-1303	[illegible]
Noah Petrucci	51 Applecrest Dr	[signature]	207-519-6265	bjp@hmpayson.com
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John S. Beliveau	218 Washington Ave Portland ME	[signature]	207-756-3630	JSB@hmpayson.com
Peter Bloom	220 Sheridan St. Portland	[signature]	718-974-9928	pbloom22@gmail.com
Janet Greenfield	220 Sheridan St. Portland	[signature]	917-374-2360	janetgreenfield570@gmail.com

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Name	Address	Signature	Phone #	E-Mail
GARY GOLDBERG	10 Gable Court Portland	[signature]	207-522-4589	g.goldberg@[illegible]
MEG SMITH	197 PINE STREET	[signature]		[illegible]
Sundy Pov	973 Washington Ave	[signature]		[illegible]
Ethan Hoyt	65 Hicks Street	[signature]	207-4081813	ethanhoyt52@[illegible]
Lynn Stout	27 Sherman St	[signature]	5306554812	lynnstout1@yahoo.[illegible]
Lilia Lysiuk	180 High St	[signature]	5082215495	lilia_lysiuk@comcast.net
Nancy Connolly	90 Crescent	Nancy Connolly		
Raymond T Pike	705 Westbrook St. Ro	Raymond T Pike	207 899 [illegible]	
R. Margolis Pineo	22 Emerson St	[signature]	207-808-3162	
Millissa Wlodylo	132 Washington Ave	[signature]	850-450-7886	mwlodylo@gmail.com

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Name	Address	Signature	Phone #	E-Mail
Rene Sutherland	66 State St. Portland		449-[illegible]5885	rcnesutherland
[illegible]	340 Eastern Prom Rd		207-[illegible]-3473	[illegible]
[illegible]	16 Woodsworth		287-480-0254	[illegible]
Chantal Scott	10 Victoria St Ptld		207-899-7641	[illegible]
Francine D'Alfonso	39 Holly St Portland		207-272-3703	[illegible]
Amy Boer	96 St George		207-358-1195	[illegible]
JANET BLANCHARD	58 Thirlmere		207-450-7480	[illegible]
Fiona Schwbeck	119 Vannah Ave		207-735-7116	[illegible]
[illegible]	149 Hartley St		207-653-1827	[illegible]
Anna Donatelli	35 Sherwood St		2076501317	[illegible]

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Name	Address	Signature	Phone #	E-Mail
Porter Galvin	196 Sheridan St [illegible]	[illegible]	207-[illegible]	[illegible]
Tracy Peacock	217 Sheridan St	[illegible]	312-[illegible]	tracy.peacock[illegible]
Deborah Cole	71 Walnut St	[illegible]	207 754-5855	[illegible]
[illegible]	117 [illegible] Rd	[illegible]	[illegible]	[illegible]
Abdullah [illegible]	[illegible]	[illegible]	207 [illegible]	[illegible]
Sylvia Stevens	229 Sheridan St.	[illegible]	(614) 226-2641	sylvia120@gmail.com
Andrew Marsters	210 Sheridan St.	[illegible]	207-831 4726	andrew marsters@me.com
Brian Cronin	145 Anderson St. #4	[illegible]	207-232-0538	[illegible]
Tambra Gallant	111 Franklin St #2	[illegible]	207-446-7585	tambrajgallant@gmail.com

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Name	Address	Signature	Phone #	E-Mail
Andy Bachman	204 Sheridan St	Andy Bachman	718-730-2223	andy.bachman@gmail.com
Yael Reinharz	204 Sheridan St.		6463274158	yael.reinharz@gmail.com
Clarice Lima	409 Cumberland Ave		9176090666	clarice.lima@gmail.com
[illegible]	113 Franklin St		2136087971	[illegible]
Candice Lee	118 Congress St.	Candice Lee	307 467 1234	cthatcherlee@gmail.com

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Name	Address	Signature	Phone #	E-Mail
Jessica	47 Ayl St	[illegible]	207-239-1607	[illegible]
Shuna	116 Sheridan St	[illegible]	(215)932-2236	
Nadia	6 Eastern Prom	[illegible]	508-345-9080	nhashemll@aol.com
Becca Garibaldi	[illegible]	[illegible]	978-417-6326	[illegible]

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Name	Address	Signature	Phone #	E-Mail
Wei-Hsing Wang	42 Wellstone Dr		2078710665	weihsing2@gmail.com
Jane Springborn	340 Eastern Promenade Unit 145	Jane Springborn	207-831-4436	springborn777@gmail.com
Stephen Bookin	203 Sheridan St	Stephen Bookin	971-266-7679	bookin43@comcast.net

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Name	Address	Signature	Phone #	E-Mail
Annamaria Whitman	48 Pitt st	[illegible]		
Alex Vaz	27 Cypress St	[illegible]	207-[illegible]	
Kate Mettale	2 Acorn Cumberland	[illegible]		

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Name	Address	Signature	Phone #	E-Mail
Lindsay Mann	122 North Street	Lindsay Mann	610-613-8322	lindsaymann@gmail.com
Susan Mann	122 North Street	S Mann	609-351-6058	susanmiz@gmail.com

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Name	Address	Signature	Phone #	E-Mail
Mimi Levy	135 Sheila #3		207 [illegible] 3796	Mimilevy@[illegible]
[illegible]	135 Sheridan St 203	[illegible]	919 699 9720	[illegible]

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Name	Address	Signature	Phone #	E-Mail
David Margolis Pineo	22 Emerson St	David Margolis Pineo	207-[illegible]-[illegible]5	[illegible]
Elizabeth Margolis Pineo	22 Emerson	[illegible]	207-317-7071	margolis@[illegible]

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Name	Address	Signature	Phone #	E-Mail
Andrew Kaufman	137 North St, Portland	Andrew M Kaufman	207-523-0628	kaufmanandrew@gmail.com

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Name	Address	Signature	Phone #	E-Mail
Alan Johnston	151 Congress St.		314-2894	swim4zen@hotmail.com
FAUSTINO DONATELLI	109 CONGRESS ST		774-3111	
S. Peter Donatelli	111 Congress St		835-1472	
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Douglas Fillmore PP	14 Emerson St		3023835741	none
Markus Reppenhagen	55 Morning St		207-939-4944	mreppenhagen@yahoo.com
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Erin Shaw	119 Congress St.		207-590-3533	inkcube526@gmail.com
Pamela Jack	26 North St		207-450-9108	pamjack1@gmail.com
Anne Wilder	92 North St		203-247-0741	annie.wilder@gmail.com
Callie Jacks	4 ROMASCO LN		513-658-5325	CALLIEJACKS@GMAIL.COM

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Name	Address	Signature	Phone #	E-Mail
Shelby Jolicoeur	23 North st	[signature]	207-9748742	Shelby.Jolicoeur@gmail.com
CHRIS AKERLIND	44 MONUMENT	[signature]	2074209997	CAKERLIND
John LIEBEL	59 SARGENT LANES	[signature]	540-216-1462	JACK.LIEBEL[illegible]
Julia Berner-Tobin	71 St Lawrence St	[signature]	6035027801	jbernertobin@[illegible]
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Genevieve Breitbach	42 Morning St	[signature]	603-632-3455	genevieve.breitbach@gmail.com
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Harry Podolsky	81A Vesper	[signature]	(207) 475-8185	
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Diane Demos	33 Morning St #1	[signature]	207-831-4888	dmdemos8@gmail.com

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Name	Address	Signature	Phone #	E-Mail
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Samantha Harris	14 Cobbert Rd	[signature]	207-329-3177	samantha207Harris@gmail.c

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Name	Address	Signature	Phone #	E-Mail
John Marston	101 North St Apt 5	[signature]	(802)235-8656	marston20@gmail.com
Natalie Marston	101 North St Apt 5	[signature]	(612)670-8858	natalie.cs.11@gmail.com
Dan Sexton	101 North St	[signature]	207 318 8368	[illegible]
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Ian Stanley	77 Congress Apt 3	[signature]	609-480-9184	ilctstan@gmail.com
Lisa Herschbach	77 Congress	[signature]	6092164545	lherschb@gmail.com

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Name	Address	Signature	Phone #	E-Mail
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Eldon Mayer	211 Sheridans	[signature]	207 400 2430	vikensupper@gmail.com
Kaley Smith	75 Chestnut St.	[signature]	978-844-2028	k.camp0492@gmail.com
Peter Smith	75 Chestnut St.	[signature]	207-491-7024	pcsmit09@gmail.com

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Name	Address	Signature	Phone #	E-Mail
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Torianne Pease	21 Veranda St, Apt R	[illegible]	207-272-7149	whatwhome123@gmail.com
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Mary Allhisar	73 Brackett St	[illegible]	650-776-4686	g.mail.com
Edith Meserve	49 Greystone Lane	[illegible]	617 835 6[illegible]	[illegible]@[illegible]
Michael Scott	56 Sherman St #3	[illegible]	207 756-9361 56 [illegible]	MKScott56201[illegible]
[illegible]	[illegible]	[illegible]	[illegible]	" " " "
Kurt Lauenstein	176 Eastern Prom	Kurt Lauenstein	336-337-2045	kurtlauenstein@gmail.com
Sherry Dickstein	176 Eastern Prom	Sherry Dickstein	336 337 2049	sadingso@gmail.com

Planning Board Workshop ReCode 9.17.24

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to planni...@portlandmaine.gov

Attached please find comments regarding ReCode.

Submitted for Citizens in Support of the Eastern Promenade--Washington Avenue Overlay Zone

Attached documents include:

Eastern Promenade--Washington Avenue Park Overlay Application
Map Amendment
Overlay Section
Vicinity Map

Eastern Promenade—Washington Avenue Overlay: A Proposal for a Height Overlay for the Northwestern End of the Eastern Promenade Park

"*Portland's open spaces are integral to its character, serving diverse ecological, public health, and transportation purposes. They simultaneously provide opportunities for water access, recreation, cultural and community connections, and food production. Portland's Plan highlights the need for high-quality connections between existing open spaces and open spaces that are responsive to the programmatic needs of the community."*
(Portland's Plan 2030, Page 82)

I. INTRODUCTION

The northwestern end of the Eastern Promenade Park embodies Portland's Plan 2030's vision for an "*active city*" that "*provides access to the city's waterways, forests, and play spaces, as well as supporting transportation, food production, public health, cultural events, plant and animal habita*t." (Page 54)

Situated between North Street and Washington Avenue, this section of the park is home to the North Street Community Garden, East End Community School Garden and Outdoor Classroom, Mount Joy Orchard, and a bee and butterfly garden. Listed on the National Register of Historic Places since 1989, it offers expansive views of Back Cove, Portland city skyline, and Mt. Washington. Throughout the year, residents and visitors come to the park to walk, run, garden, sled, explore the natural environment, enjoy the expansive vistas, and watch the sun set over Back Cove.

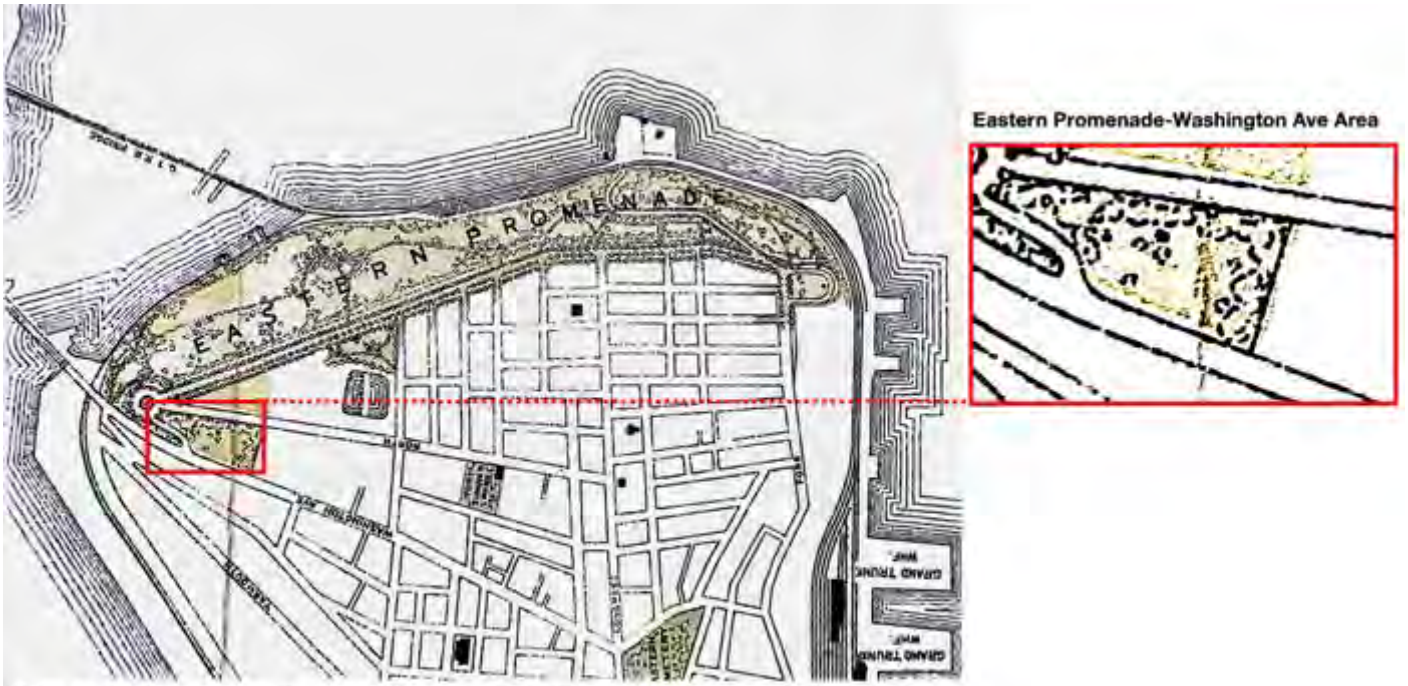
In a densifying city, protecting open space is even more critical as it serves as a public backyard where residents and visitors have access to greenspace, sunlight, views, nature, and recreational space.

Portland's Plan 2030 is about balancing diverse and sometimes competing goals to create a resilient, livable, equitable city for all. Specifically, it offers a roadmap to balance development with the need for open space. ReCode Portland's process has not addressed this critical need for balance in its focus on increasing density, augmenting transportation corridors, and addressing the housing crisis.

This application for a height overlay for the northwestern end of the Eastern Promenade Park [170 North St. Parcel # 008 A007001] seeks to address this imbalance following the precedent established by the Fort Sumner Park Overlay that protects the same values and policy goals.

II. BACKGROUND

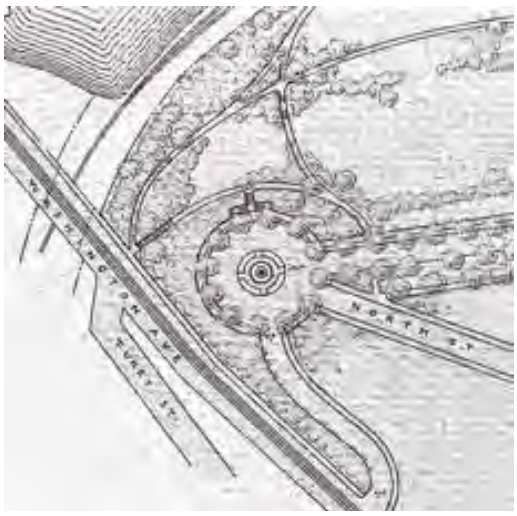
History



City of Portland ME. General Plan for Park System – Eastern Promenade
Olmsted Brothers Landscape Architects
Brookline Mass. June 1905

The Eastern Promenade was first created in 1837 as a scenic drive around the edge of Munjoy Hill, stretching from Fore Street to Washington Avenue. Over the next 70 years, the surrounding park slowly began to take shape. In 1905, the city of Portland hired the Olmsted Brothers Landscape Architecture firm to improve the Eastern and Western Promenades as part of an integrated park system for the city.

On October 5, 1909, Portland City Council and the Mayor agreed that the Eastern Promenade consisted of "*all that portion of land lying between Atlantic Street and Washington Avenue, including the roadways, walks, paths, lawns and slopes, and including street know as Cutter Street and East Cutter Street, and East Commercial Street; also portion known as Northern Concourse and roadways, walks, paths, lawns, and slopes between Northern Concourse and Washington Avenue*." (City of Portland Annual Report, 1909) Over the next century, the Park expanded to include commemorative monuments, playgrounds, ball fields, tennis courts, picnic grounds, public beach, bathhouse, swimming pool, recreational and commercial boat ramps, bandstand, ice rink, sledding hills, and community gardens.



In its 1905 design, the Olmsted Brothers fully integrated the northern section of the Eastern Promenade into the park with the design of the Northern Concourse, which is now home to the Loring Memorial. Constructed between 1905 and 1906, the concourse anchored the north end of the

park. With its circular design, it enhanced the almost 270-degree views to encompass Mt. Washington, Back Cove, and Portland city skyline, which includes Portland City Hall and Cathedral of the Immaculate Conception.

In addition, the Northern Concourse design incorporated the northern, western, and southern slopes enclosed by North Street, Eastern Promenade, and Washington Avenue. Reviewing the 1905 Olmsted plan, Park Commissioners noted that, "*quite an important change has been made at the northerly end of the driveway at the Eastern Promenade by the building of the Concourse at this point to intersect with Washington Avenue*."

This critical component of the Olmsted plan specifically was designed to link the Eastern Promenade to Back Cove and further define an integrated Portland park system.

The Eastern Promenade Park has been listed on the National Register of Historic Places since 1989. "*The Eastern Promenade*," as the 2004 Eastern Promenade Master Plan concludes, "*was and still is considered by many as Portland's most important character defining public open space.*"

Current Conditions

The western end of the Eastern Promenade, situated between North Street and Washington Avenue, is home to the North Street Community Garden, East End Community School Garden and Outdoor Classroom, and Mount Joy Orchard.

This section of the Eastern Promenade Park also includes Jack Path and Back Cove Trail, which are part of an extensive trail and park system and pedestrian landscape that links to Back Cove Park, East Bayside and West Bayside Trails, the northeastern end of the Portland waterfront, and Ft. Sumner Park. In addition to enjoying the expansive views, residents and visitors use this section of the park for active recreation—walking, running, gardening, sledding, nature study—throughout the year.

Portland's Plan 2030, "Park Equity" Map (appendices)

North Street Community Garden

Bee and Butterfly Garden

Benches along North Street

North Street Community Garden and East End School

Jack Path

Development Pressure

In Fall 2023, a 45-unit condominium building at 218 Washington Avenue was constructed directly across from the park. This building partially obstructs views of Back Cove.

Four-story, 55 ft (with rooftop appurtenances) at 218 Washington Avenue

In July 2024, Redfern Properties requested zoning code map and text amendments for a new development at 165 Washington Avenue, immediately abutting the park. If approved as proposed, the proposed 75 ft. building will obstruct a significant portion of the view of the Portland skyline including views of Cathedral of Immaculate Conception and Portland City Hall.

Seven-story, 75 ft. building (not including rooftop appurtenances) proposed as part of Redfern Properties, LLC application zoning code map/text amendment at 165 Washington Avenue

In addition, as part of Recode Portland, the Planning Department is recommending that parcels abutting and across from this section of the park be up-zoned from B-1/B-1b to B-2b. Phase II ReCode recommendations have identified Washington Avenue as a priority high-density transit corridor. All of Washington Avenue including the parcels adjacent to and abutting the Washington Avenue section of the Eastern Promenade Park have been identified as a target area for future high-density mixed-use development.

III. RELEVANT POLICIES, GUIDELINES, AND REGULATIONS

Portland's Plan 2030

- *Continuing to preserve and develop open spaces, and improve connections between them, is integral to the health and well-being of Portland's residents, visitors, and ecology. The City's public spaces are central to its ability to foster neighborhood vitality, sense of community, recreational opportunities, environmental health, arts and cultural programming, economic development, and local mobility. A walkable, bikeable, and accessible network of open spaces is an invaluable and necessary element of an equitable, healthy, and vibrant future.* (Page 54)
  - Local Goals:
    - *Sustain and build our system of parks, trails, and open spaces to enhance our quality of life, protect our environment, and promote the economic well-being of our remarkable city by the sea. Preserve the intrinsic values of the park and open space system, including historic resources, vistas, healthy ecosystem functions, and biological diversity*. (Page 57)
  - Future Strategies:
    - *Encourage physical and visual access to Portland's waterfront — Casco Bay, Back Cove, and the Stroudwater, Presumpscot, and Fore Rivers — as a "blueway" network and an extension of public space for local and regional recreation and transportation needs*. (Page 60)

City of Portland Land Use Code

Article 5. Zones. Table 5-G. Open Space Zone Purpose Statement
To preserve and protect open space as a limited invaluable resource; to permit the reasonable use of open space, while simultaneously preserving and protecting its inherent open space characteristics to assure its continued availability for public use as a scenic, recreation, and conservation or natural resource area….and to develop an open space system throughout the city, which provides the highest quality parks, plazas, and pedestrian environment. (Section 5-8)

Article 6. Use Standards. A. R-OS Zone 2.
Buildings and structures shall not obstruct significant scenic views presently enjoyed by nearby residents, passersby, or users of site. (Section 6-30)

Article 14. Site Plan. 14.6.4 Site Design Standards B. Shadow
All developments outside the B-3, B-5, B-6, and B-7 zones shall be designed to avoid and/or mitigate the adverse impacts of shadows cast by new structures or building additions from falling on publicly accessible open space. (Section 14-14)

Article 14. Site Plan. 14.6.4 Site Design Standards. D. View Corridors.
The massing, location, and height development shall not substantially obstruct public view corridors identified in the Downtown Vision View Corridor Protection Plan. (Section 14-14)

Article 14. Site Plan. 14.6.4 Site Design Standards. E. Historic Resources. 2.
When any part of a proposed development is within 100 feet of any designated landmark, historic district…or historic landscape district, such development shall be generally compatible with the major character-defining elements of the landmark…. For the purposes of this provision, "compatible" design shall be defined as design which respects the established…visual characteristics *that exist in a given setting*. (Section 14-14-15)

Downtown Vision View Corridor Protection Plan
Section VIII. View Corridors, Visual Landmarks, and Gateways. A. View Corridors
Standard: The placement and massing of proposed development shall not substantially obstruct public views to landmarks and natural features from those locations identified on the View Corridor Protection Plan. (Page 38)

Gateways: Washington Avenue to Cumberland Avenue and Congress Street from the East
There are opportunities to enhance these entrances by preserving view corridors and panoramic skyline views along or from these corridors, reinforcing and enhancing the scale, character and placement of buildings along these entrance routes. (Page 40)

IV. ANALYSIS

Integrity

Current development/redevelopment and ongoing development pressure are already affecting the integrity of the northwestern end of the Eastern Promenade Park (Recreation & Open Space Zone ROS) negatively, which includes the northern, western, and southern facing slopes between North Street and Washington Avenue.

Zoning map amendments proposed as part of ReCode Portland also will have a negative impact upon this section of the park, by increasing maximum height and density allowances for those lots abutting and adjacent to this section of the Eastern Promenade Park. Specifically, the nine lots directly across Washington Avenue, which are currently zoned B-1b (45 ft. height limit) will be rezoned to B2-b (65 ft. height limit); and the lot that abuts the end of the park next to the Mt. Joy Orchard will be rezoned from B-1 to B2-b. Note that this maximum height limit does not take into account workforce housing height (WFH) bonuses, which will allow building heights of 75 ft. with provision of 25% of units and 90 ft. with 75% or more of these units. These changes will not only obstruct the expansive views from the park but also will negatively impact patrons' experience of the historic park design and physical landscape.

Existing and proposed buildings on the up-zoned parcels within the park's vicinity will negatively impact the integrity of the park landscape, its historic design, the park trails that support connectivity, and existing view corridors.

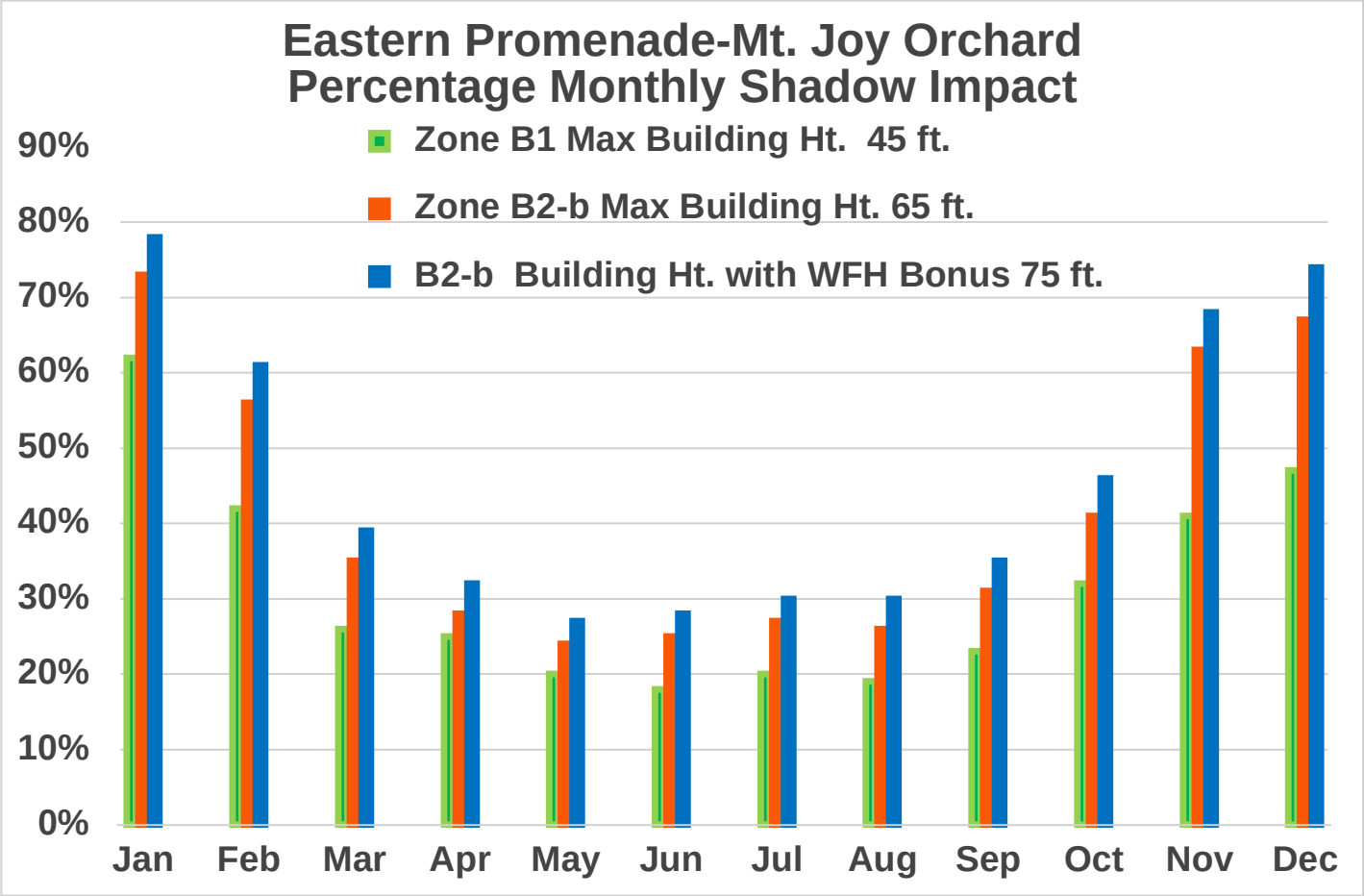
Specifically, sunlight hours in the park will be affected throughout the year, Jack Path will be walled in, and the majestic and expansive views, for which the park was originally designed, will be significantly altered. Most notably, the views of Back Cove and the city skyline enhanced by the 1905 Olmsted design will be substantially obstructed.

Shadow Impact Analysis

An analysis of the shadow impact of adjacent lots developed to the proposed maximum density and scale including a complement of 25% WFH shows that 20% or more of the park area occupied by the Mt. Joy Orchard will be in shadow for over 45% of the total daylight hours from October through February. (See representative shade graphics below).

Designated Park Area for Shadow Impact Analysis

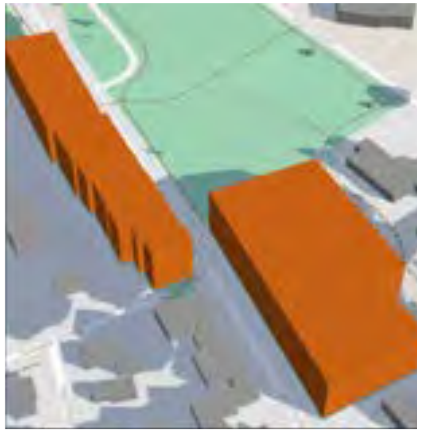
Blue area represents 20% of designated park area. Shadow impact is defined as $\geq$ 20% of designated park area



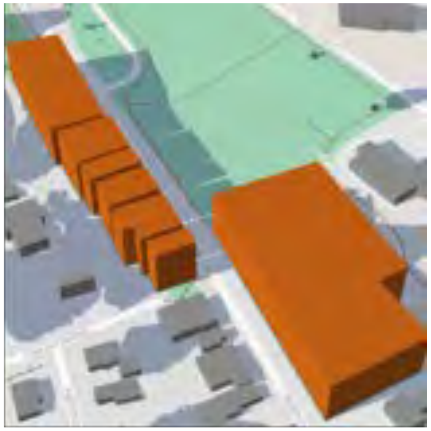
Shadow imagery of the designated park area shows that the park experience will be significantly affected by building shadows under the proposed B2-b zoning guidelines. During the winter months, 20% or more of the designated park area will be in shadow for almost half of the daylight hours. During the spring and summer months, 20% or more of the designated park area will be in shadow for almost a third of the daylight hours. The designated park areas will experience significant building shadow in the morning and afternoons—times with the highest pedestrian park use.

Shadow imagery during the morning and afternoon at Fall Equinox (September 22), Winter Solstice (December 21), Spring Equinox (March 20) and Summer Solstice (June 21) (next page)

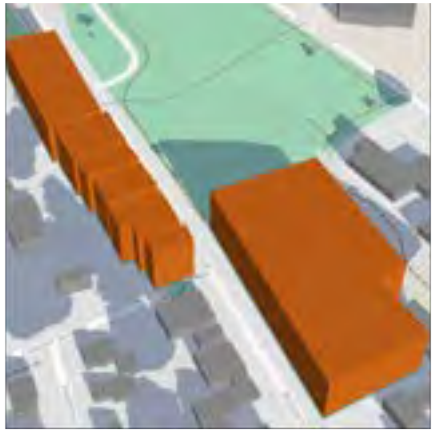
Fall Equinox Morning
Shadow at 9:00 am



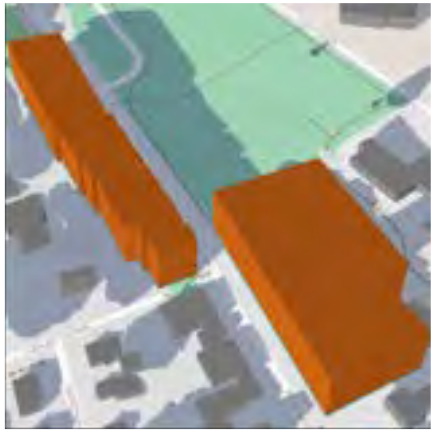
Fall Equinox Afternoon Shadow
at 4:30 pm



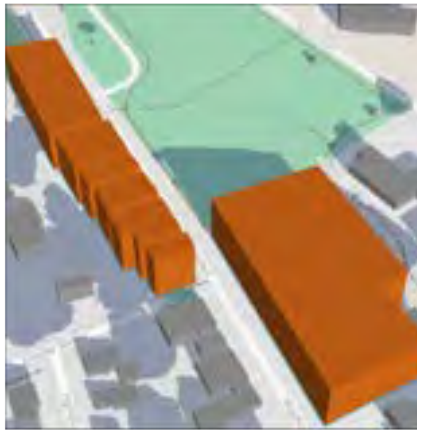
Winter Solstice Morning
Shadow at 10:00 am



Winter Solstice Afternoon
Shadow at 2:30 pm

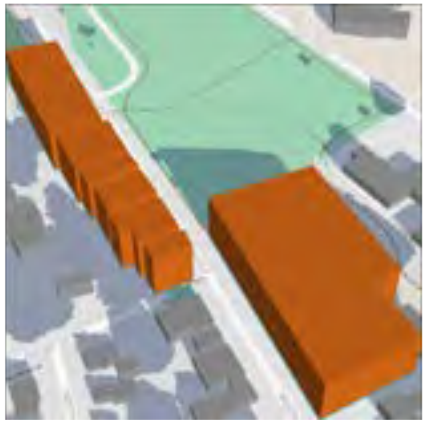


Spring Equinox Morning
Shadow at 9:00 am



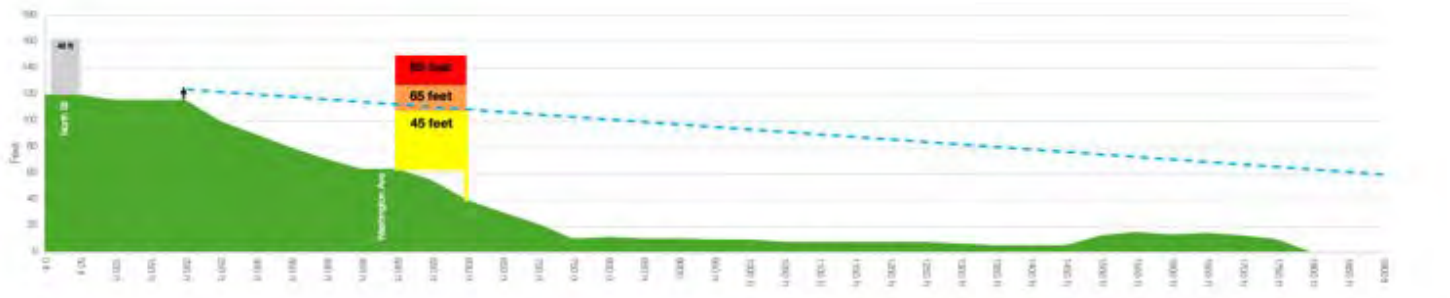
Spring Equinox Afternoon
Shadow at 4:30 pm

Summer Solstice Morning
Shadow at 9:00 am



Summer Solstice Afternoon
Shadow at 5:30 pm

Park View Impact Analysis



Although people now conflate the Eastern Promenade (street) with the Eastern Promenade Park, as originally conceived in 1837, the Eastern Promenade was created as a scenic drive—a thoroughfare—designed to showcase the majestic and expansive views of Casco Bay and Back Cove. It was a pedestrian recreational space where urban dwellers could walk or ride, taking in fresh air, enjoying the scenery, and connecting with their neighbors. Over the next 70 years, land adjacent to the road was purchased by the city to create the park and protect the scenic views.

As noted earlier, the Northern Concourse was one of the key elements of the 1905 Olmsted Plan, and its purpose was to integrate the northern, western, and southern slopes between the Eastern Promenade, North Street, and Washington Avenue and to expand the scenic views to encompass Back Cove and the Portland city skyline. These dynamic scenic views are the defining feature of the Eastern Promenade Park that provide the basis for its inclusion on the National Register of Historic Places.

At the June 5, 2024 Planning Board Workshop, Planning Director Kevin Kraft stated that as part of ReCode Phase II the Planning Department will recommend the nine lots directly across Washington Avenue from the park, which are currently zoned B-1b (45 ft. height limit), be rezoned to B2-b (65 ft. height limit); and the lot that abuts the end of the park next to the Mt. Joy Orchard be rezoned from B-1 to B-2b. Note that these height limits do not take into account workforce housing (WFH) height bonuses, which will allow building heights of 75 ft. with provision of 25% WFH units and 90 ft. with provision of 75% WFH units.

Upzoning these properties will significantly obstruct the expansive views from this section of the park between North Street and Washington Avenue.

View Corridor Impact Analysis

The four-story condominium at 218 Washington Avenue is 55 ft. tall including rooftop appurtenances. The view of Back Cove from the top of the hill above Washington Avenue is partially obstructed by this building. A building of 65 ft. or more would completely block the view of Back Cove from the park, thus altering the intent of the original design and impinging on the park landscape.

The proposed seven-story, 75 ft. (excluding rooftop appurtenances) mixed-use building proposed for 165 Washington Avenue, which abuts the park to the south will block views looking back to the city skyline, which encompass the spire of the Cathedral of Immaculate Conception and dome on Portland City Hall, both of which are identified as visual landmarks in Downtown Urban Design Guidelines.

These view corridors are signature components of the park design, which is listed on the National Register of Historic Places. They serve as a park amenity that draws residents and visitors alike. To protect this important view corridor, Portland citizens are proposing the adoption of a height overlay zone for properties immediately adjacent to this portion of the park.

View of Casco Bay taken from the stone table behind the East End Community School Garden and Outdoor Classroom

View looking from ridge looking back toward Portland skyline with concept plan for the mixed-use project at 165 Washington Avenue

V. ZONING CONTEXT

Current Zoning Designations

Portland ReCode Zoning Designations

The proposed overlay zone is located within a mixed-use residential and commercial neighborhood composed of multifamily housing, elementary school, and commercial structures along Washington Avenue. Properties to the south and west adjacent to and abutting the park currently are zoned R-6, B-1 and B-1b. The purpose of the R-6 zone is to "*set aside areas… for housing characterized primarily by multi-family dwellings at a high density" and "to conserve the existing housing stock and residential character of neighborhoods by controlling the scale and external impacts of professional offices and other non-residential uses*. (Land Use Code Table 5-B)

The purpose of the B-1 zone is to "*provide limited areas for the location of small-scale commercial establishments intended to serve a local market*," stating further that they "*should be designed for pedestrian scale and to provide convenient access for nearby residents to walk in to purchase goods and services."* (Land Use Code Table 5-D)

The purpose of the B-1b zone is "*to provide appropriate opportunities for the establishment of small-scale ground floor commercial space*" and "*to provide the opportunity for mixed use and high residential density*." (Land Use Code Table 5-D.)

Building Height regulations state that that properties located within the R-6 zone are permitted building heights of 45 ft. for principal structures (Land Use Code Table 7-A); structures in B-1 and B-1b are permitted a maximum height of between 45 ft. and 65 ft. depending on the property use and dimensions (Land Use Code Table 7-E). Within these zones building height is measured from the average grade of the site, allowing for instances where structure extrusion may surpass the aforementioned maximum heights.

.

VI. PROPOSED TEXT AND MAP AMENDMENT

The proposed text and map amendments presented below focus on the height overlay provisions proposed to be included within the B-1/ B-1b zone. Note the apex is located at the stone table, the highest point of the park on the ridge above Washington Avenue.

Proposed Ordinance Amendments

1. Amend Table 7. E. Mixed Use Zone Dimensional Standards

Side Setback B-1/B-1b	Principal: None, except 5 ft. if abutting residential zone. *Except as provided under the Eastern Promenade-Washington Avenue Park Height Overlay (Table 7. E. Mixed Use Dimensional Standards)*
Structure Height (max) B-1/B-1b	On-Peninsula: 45 ft. except 50 ft. along Congress Street commercial first floor and residential above. *Except as provided under the Eastern Promenade-Washington Avenue Park Height Overlay (Section 7.E. Mixed Use Zone Dimensional Standards)*

2. Amend Section 8 by adding 8.11.

B-1/B-1b Height Overlay Ordinance Amendment (Eastern Promenade-Washington Avenue Park)

Add a new section as follows:

8.11.1 Applicability

Eastern Promenade-Washington Avenue Park Overlay: This overlay is established to protect the public interest by limiting the impact of development on the quintessential views of natural resources and the changing Portland skyline from the Eastern Promenade-Washington Avenue section of the Eastern Promenade Park. There is established a key apex point in the Eastern Promenade-Washington Avenue section of the Eastern Promenade Park at 43°40'12.85"N 70° 15'13.72"W. The Eastern Promenade-Washington Avenue Park Overlay includes all land within 500 feet, or the B-1/B-1b boundary, whichever is closer, of this key apex point.

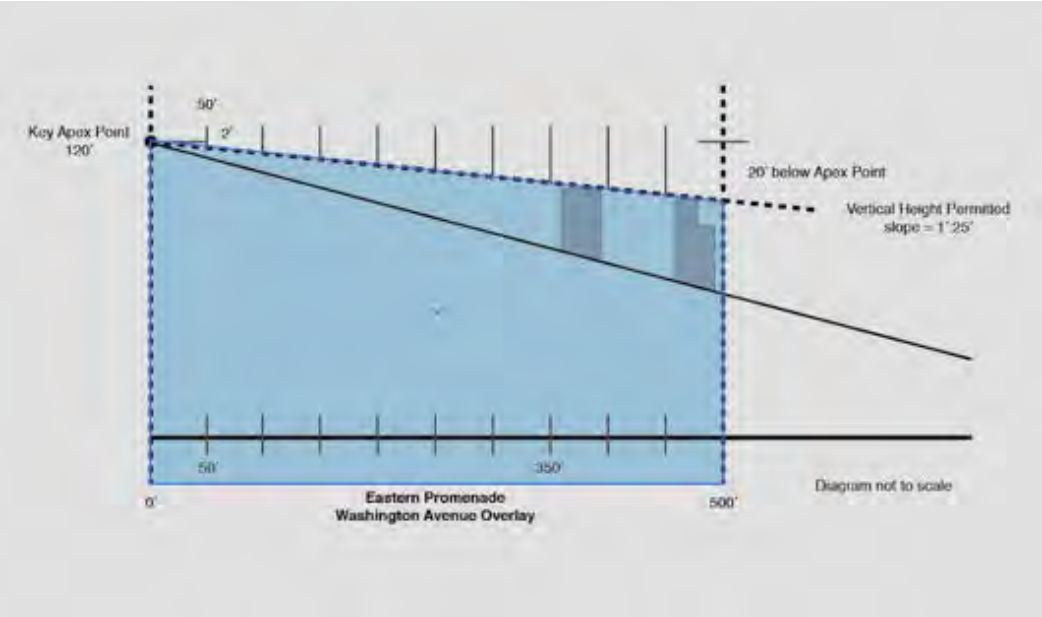
8.11.2 Standards

Notwithstanding any other section of this Ordinance, development in the Overlay shall be subject to the following additional provisions:

- *The top of structures, including rooftop appurtenances, within the overlay shall not exceed the baseline vertical height of the apex point 120 ft). For each 25 ft. radially away from the apex point, the vertical height permitted in the Overlay is reduced by 1 foot (see figure below).*
- *The minimum building setback from the park property shall be 15 feet.*

8.11.3 Review Process

Any project within this Overlay shall go to the Parks Commission for a recommendation to the Planning Board regarding potential impacts on the Eastern Promenade-Washington Avenue Section of the Eastern Promenade Park.



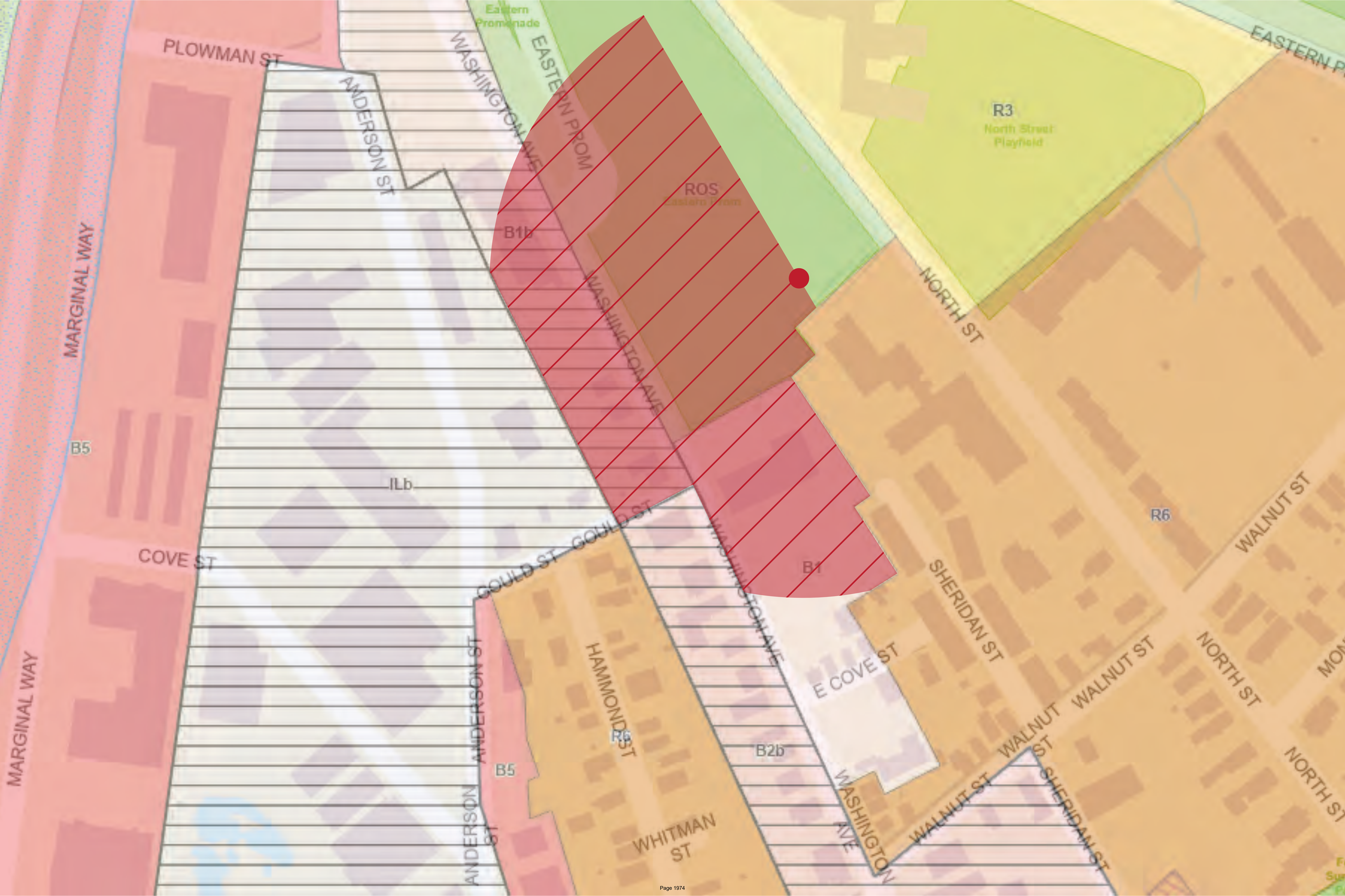
Ordinance graphic (to be included in ordinance). Note: within the Overlay, permitted height is reduced by 1' for each 25' away from the apex point (not to scale).

Zoning map amendment (to be included in ordinance) (not to scale)

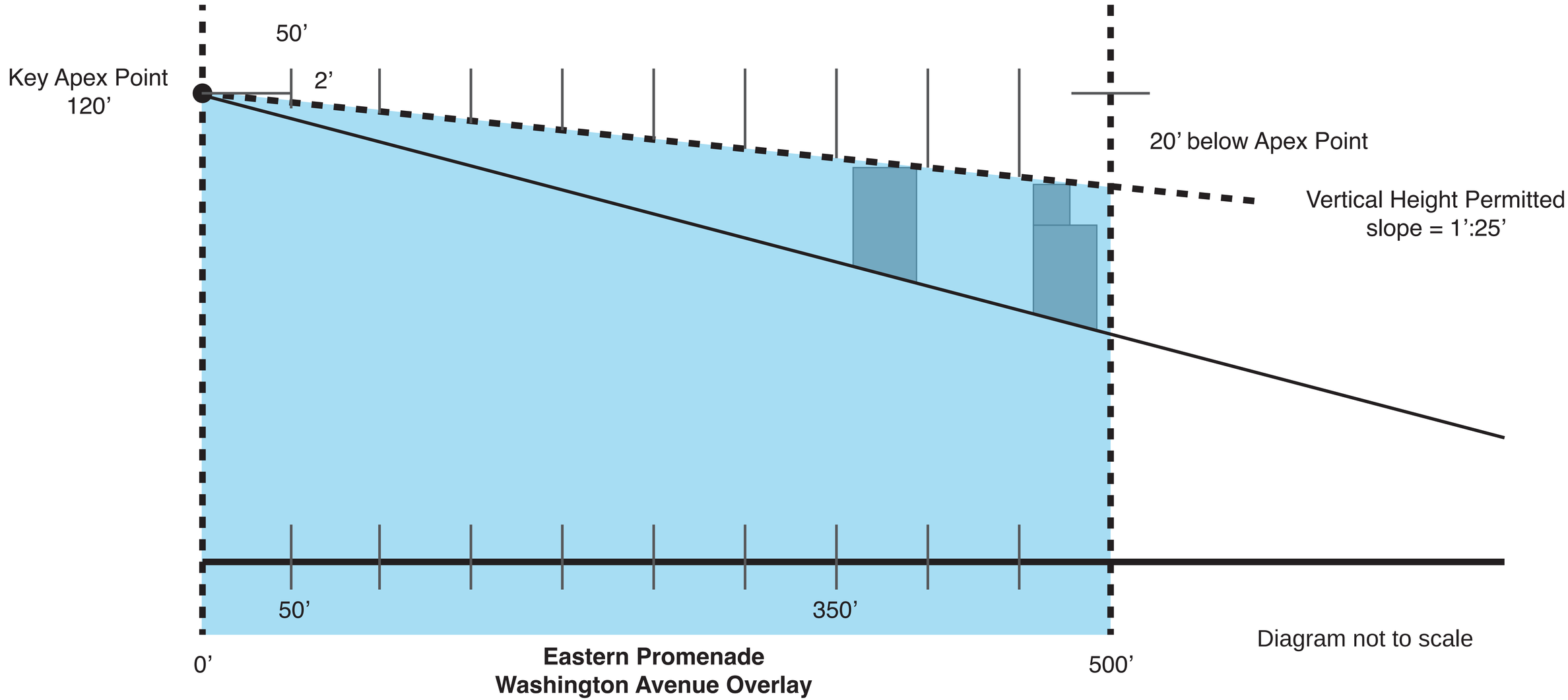
A. Proposed Ordinance Discussion

There are 70 parcels on Washington Avenue between 1-295 and Congress Street. The proposed overlay would directly impact 7 parcels: *010 A010102, 010A019001, 010 A016001, 010 A036001, 010 A030001, 010 A031001, 010 D001001.* Note parcel *010 A010102* would be a non-conforming structure.

Vicinity Map



PLOWMAN ST
ANDERSON ST
WASHINGTON AVE
EASTERN PROM
Eastern Promenade
ROS
Eastern Prom
R3
North Street Playfield
EASTERN P
B1b
MARGINAL WAY
NORTH ST
B5
ILb
COVE ST
GOULD ST
B1
R6
WALNUT ST
SHERIDAN ST
E COVE ST
HAMMOND ST
B2b
WHITMAN ST
WASHINGTON AVE
NORTH ST


50’
2’
Key Apex Point
120’
20’ below Apex Point
Vertical Height Permitted
slope = 1’:25’
50’
350’
Diagram not to scale
0’
500’
Eastern Promenade
Washington Avenue Overlay

Eastern Promenade—Washington Avenue Overlay
Vicinity Map

Apex at Stone Table 120 ft.

ReCode Workshop Written Testimony

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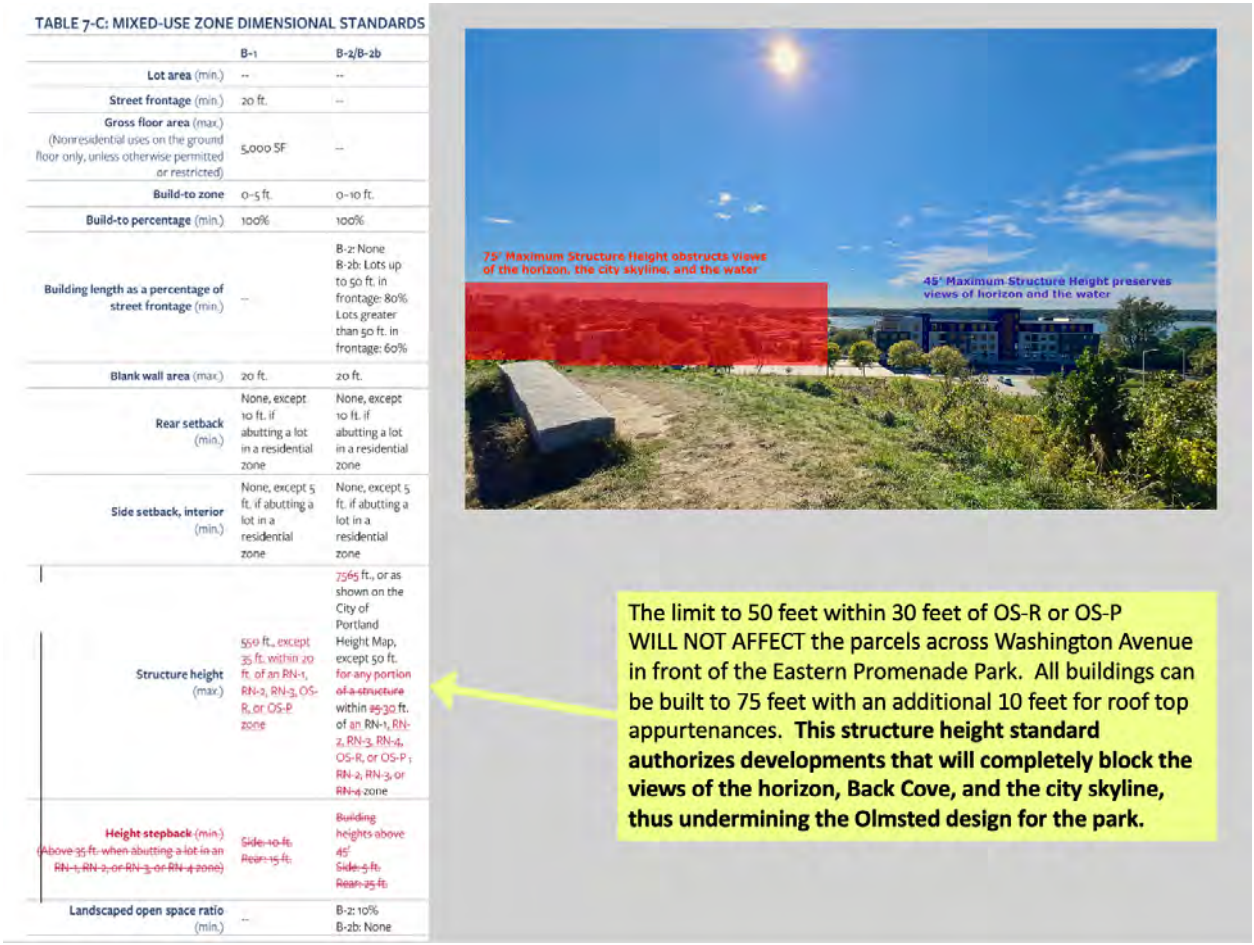
P S Sep 11, 2024, 4:15:22 PM (17 hours ago)

to planni...@portlandmaine.gov

Attached please find written testimony regarding ReCode final draft changes.

WRITTEN TESTIMONY SUBMITTED BY PEGGY SHAFFER REPRESENTIVE FOR CITIZENS FOR EASTERN PROMENADE—WASHINGTON AVENUE PARK OVERLAY
PLANNING BOARD WORKSHOP—RECODE (9/17/24)



Members of the Planning Board, you are the only remaining public decision-makers that have the power to convey public concerns and recommend revisions to the final draft of ReCode that will go before City Council.

To date, 468 Portland residents have signed a petition in support of an Eastern Promenade—Washington Avenue Height Overlay following the established precedent of the Fort Sumner Park Overlay.

On 7/30/24, written testimony was submitted for the ReCode workshop conveying concerns about ReCode's conflicts with existing ROS goals in *Portland's Plan 2030* and regulations in *Portland's Comprehensive Land Use Plan.* At that time, we stated our intention to submit an application for a height overlay to protect the park.

On 8/12/24, we submitted the application for a text and map amendment to the Planning Board application website. Two weeks later, on 8/26/24, we were invited to meet with Planning

Department staff and the city attorney, who informed us that we had no standing to submit this application (per Article 5.3 *City of Portland Land Use Plan*) because the Eastern Promenade Park is owned by the City of Portland.

Director Kevin Kraft of the Planning Department advised that we should submit our application for the Overlay as a comment to the final Planning Board ReCode Workshop, which we have done. We were told that the only other alternative was for a city councilor to ask the city manager to request that the application be considered by the Planning Board. We contacted our District One Representative, Anna Trevorrow, multiple times and received no response. We will continue to reach out to members of the City Council.

Given *Portland's Plan 2030* goals and *City of Portland Land Use Plan* regulations, given that the Eastern Promenade is on the National Register of Historic Places, and given that almost 470 residents who use the park have signed a petition in support of the Overlay, we strongly believe that the application for the Eastern Promenade—Washington Avenue Overlay deserves to be discussed by the Planning Board on its own merits.

The ReCode Portland website includes approximately 560 comments made between 6/23 and the present, including multiple comments submitted by individual commenters. These comments focus on all aspects of ReCode. Our application should not be lost among them. To relegate it to a single comment among many submitted on the final version of ReCode disenfranchises those residents who signed the petition, who use the park, and who pay taxes for its upkeep.

The current final version of ReCode does not address the conflicts between ReCode text and map amendments and our current zoning code regulations for parks and open space zones. These specific regulations are identified in the Eastern Promenade—Washington Avenue Overlay Application.

A preliminary review of this latest, final version of ReCode reveals that it does make changes that threaten the Eastern Promenade Park. Notably, all of Washington Avenue, even those parcels abutting and across from the Eastern Promenade Park have been rezoned B2b, which allows buildings of 75 feet. *Article 13. E. Historic Resources Section b....proposed development within 100 feet of any designated landmark ....* has been stricken. *Article 17 now 16.5 Protections for Properties Listed on the National Register of Historic Places* has also been removed from the final draft of ReCode.

The one concession that has been made in Table 7-C (Mixed-Use Dimensional Standards) that restricts the maximum building height to 50 feet within 30 feet of an OS-R or OS-P zone, affects only one parcel immediately to the south. This rule will not affect the parcels across Washington Avenue in front of the Eastern Promenade Park. All those parcels, which are 100 feet deep, can be built to 75 feet with an additional 10 feet for roof-top appurtenances. As shown in the analysis presented in the Eastern Promenade—Washington Avenue application, this will not only create significant shadow impact in the park, but it will also obstruct the view

of the horizon, the city skyline, and Back Cove for which the park was designed; and it will detract from the park landscape, all in conflict with current land use regulations.

The Planning Department argues that Site Plan Review (SPR) offers the safeguard necessary to ensure that developments on properties across from the park do not obstruct views of the horizon, the city skyline and Back Cove, and that the development does not conflict with other code regulations protecting parks and open space.

However, it is our understanding that in the SPR process only legal standards contained in the adopted land use code can be used to alter a proposed building plan. Without an adopted formal park height overlay, no legal grounds exist to challenge the maximum height otherwise allowed under the ReCode previsions.

Guidelines protecting the parks are already documented in the city's comprehensive plan. To comply with these guidelines, legal standards must be established in the land use code and those protections should be fully integrated into the text and map amendments recommended in the final draft of ReCode.

A height overlay for the northwestern section of the Eastern Promenade Park will affect six parcels. It allows for the core goals of ReCode, designed to increase residential density, to be balanced with existing zoning code guidelines regarding OS-R and OS-P zones. It accommodates new development and acknowledges that the views from the park can change, while protecting the unique qualities of the park and the core principles underlying the historic Olmsted design.

Given that the Eastern Promenade Park is a defining feature of Portland established over one hundred years ago to be preserved and protected for the benefit of future generations, we request that the Planning Board recommend that the Eastern Promenade--Washington Avenue Height Overlay, the request for which has been submitted as written testimony, be included in the final version of the ReCode Portland text and map amendments forwarded to City Council.

Contact: Peggy Shaffer
223 Sheridan St.
Portland, ME 04101
Email: shaffems@gmail.com
Cell: 513-658-6047

recode portland final draft feedback 0 views

adam platz Sep 11, 2024, 10:16:15 PM (11 hours ago)

to recodep...@portlandmaine.gov, Helen Donaldson

Hello City of Portland Staff,

First off, thank you for all the hard work that you have put into the Recode Portland initiative thus far.

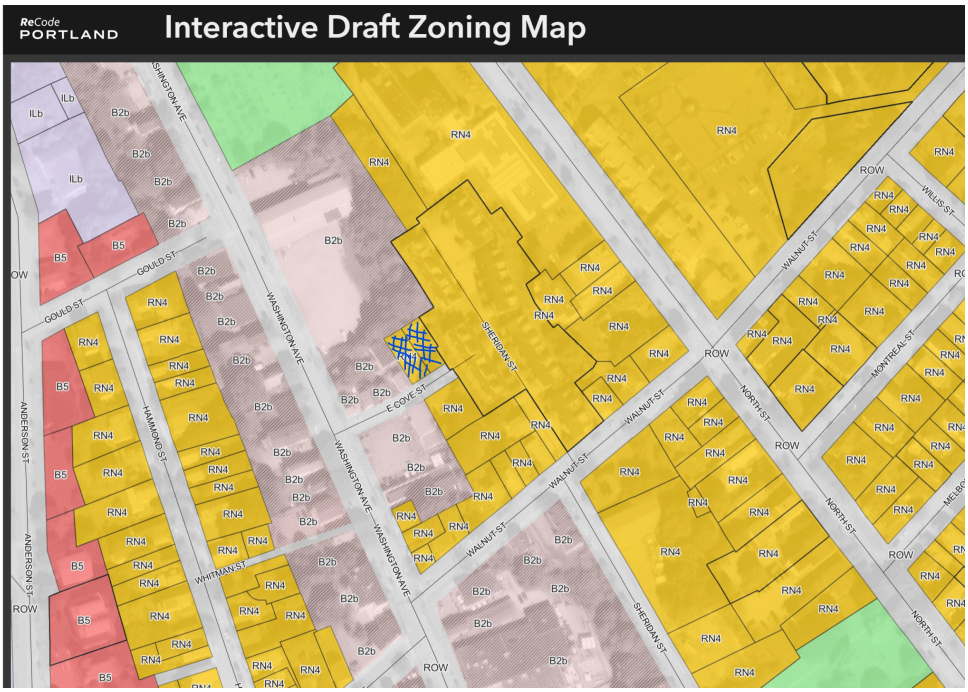
I was recently made aware of one of the final drafts of the new zoning map and had some feedback. I own two properties/three parcels at 11,9, and 3 East Cove St and have for a decade. It appears on your map that you are splitting the B2B/RN4 zones between several of my properties. You have included 11 east cove in the B2B while 9 and 3 east cove will be RN4.

Is there a reason that all of these properties are not B2B? If you look further south, all of the properties cornered by Walnut and Sheridan are B2B. Furthermore, all other houses on my side of the street will be B2B. As well as all of the residential house on the west side of Washington. It seems odd for my parcels to stick out like a sore thumb compared to the abutting parcels on East Cove. Keep in mind, I have to enter my home from Washington. East cove is not a thru st.

It would be my preference to have my properties zoned like the properties around it. It seems inequitable that all the neighbors would be rezoned in a different class. Furthermore, East Cove Street is technically an abandoned rd. Has the code department considered what happens when all of the neighboring parcels develop to B2B standards and I do not. I can a problematic future for 3 and 9 East Cove in the future as I become cornered on all 4 sides by high rises.

Thank you for listening.

- Adam



ReCode Workshop Written Testimony

2 views

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Sep 12, 2024, 3:12:52 PM (19 hours ago)

to planni...@portlandmaine.gov

Attached please find a revised map and text document to amend to the Eastern Promenade--Washington Avenue Overlay Application.

WRITTEN TESTIMONY SUBMITTED BY PEGGY SHAFFER REPRESENTIVE FOR CITIZENS FOR EASTERN PROMENADE—WASHINGTON AVENUE PARK OVERLAY APPLICATION
PLANNING BOARD WORKSHOP—RECODE (9/17/24)

Revisions to text and map amendment for Eastern Promenade—Washington Avenue Overlay Application

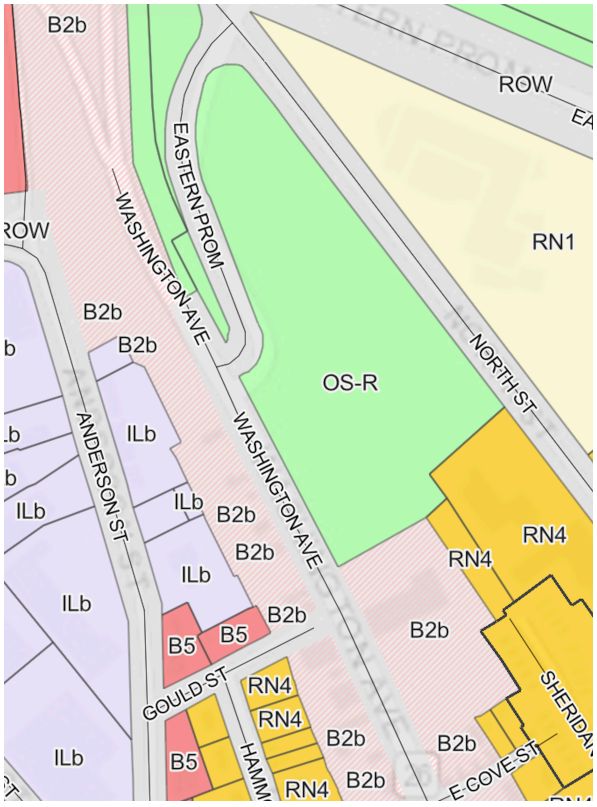
Eastern Promenade—Washington Avenue Overlay Application Revision in response to final draft text and map amendments for Portland ReCode. Specifically, revised TABLE 7-C: MIXED-USE ZONE DIMENSIONAL STANDARDS and revised zone map. (See below)

ReCode—Revised Table 7-C

TABLE 7-C: MIXED-USE ZONE DIMENSIONAL STANDARDS

	B-1	B-2/B-2b
Lot area (min.)	--	--
Street frontage (min.)	20 ft.	--
Gross floor area (max.) (Nonresidential uses on the ground floor only, unless otherwise permitted or restricted)	5,000 SF	--
Build-to zone	0–5 ft.	0–10 ft.
Build-to percentage (min.)	100%	100%
Building length as a percentage of street frontage (min.)	--	B-2: None B-2b: Lots up to 50 ft. in frontage: 80% Lots greater than 50 ft. in frontage: 60%
Blank wall area (max.)	20 ft.	20 ft.
Rear setback (min.)	None, except 10 ft. if abutting a lot in a residential zone	None, except 10 ft. if abutting a lot in a residential zone
Side setback, interior (min.)	None, except 5 ft. if abutting a lot in a residential zone	None, except 5 ft. if abutting a lot in a residential zone
Structure height (max.)	~~55~~ ft., except 35 ft. within 20 ft. of an RN-1, RN-2, RN-3, OS-R, or OS-P zone	~~75~~65 ft., or as shown on the City of Portland Height Map, except 50 ft. ~~for any portion of a structure~~ within ~~25~~ 30 ft. of an RN-1, RN-2, RN-3, RN-4, OS-R, or OS-P ; ~~RN-2, RN-3, or RN-4~~ zone
~~**Height stepback** (min.) (Above 35 ft. when abutting a lot in an RN-1, RN-2, or RN-3, or RN-4 zone)~~	~~Side: 10 ft.~~ ~~Rear: 15 ft.~~	~~Building heights above 45'~~ ~~Side: 5 ft.~~ ~~Rear: 25 ft.~~
Landscaped open space ratio (min.)	--	B-2: 10% B-2b: None

ReCode—Revised Zone Map



VI. PROPOSED TEXT AND MAP AMENDMENT

The proposed text and map amendments presented below focus on the height overlay provisions proposed to be included within the B-2/B2b zone.

A. Proposed Ordinance Amendments

1. Amend Table 7. C. Mixed Use Zone Dimensional Standards

Side Setback B-2/B-2b	Principal: None, except 5 ft. if abutting residential zone. *Except as provided under the Eastern Promenade-Washington Avenue Park Height Overlay (Table 7. C. Mixed Use Dimensional Standards)*
Structure Height (max) B-2/B-2b	75 ft., or as shown on the City of Portland Height Map, except 50 ft. within 30 ft. of an RN-1, RN-2, RN-3, RN-4, OS-R, or OS-P zone. *Except as provided under the Eastern Promenade-Washington Avenue Park Height Overlay (Section 7.C. Mixed Use Zone Dimensional Standards)*

2. Amend Section 8 by adding 8.11.

B-1/B-1b Height Overlay Ordinance Amendment (Eastern Promenade-Washington Avenue Park)

Add a new section as follows:

8.11.1 Applicability

Eastern Promenade-Washington Avenue Park Overlay: This overlay is established to protect the public interest by limiting the impact of development on the quintessential views of natural resources and the changing Portland skyline from the Eastern Promenade-Washington Avenue section of the Eastern Promenade Park. There is established a key apex point in the Eastern Promenade-Washington Avenue section of the Eastern Promenade Park at 43°40'12.85"N 70°15'13.72"W. The Eastern Promenade-Washington Avenue Park Overlay includes all land within 500 feet, or the B-2/B-2b boundary, whichever is closer, of this key apex point.

8.11.2 Standards

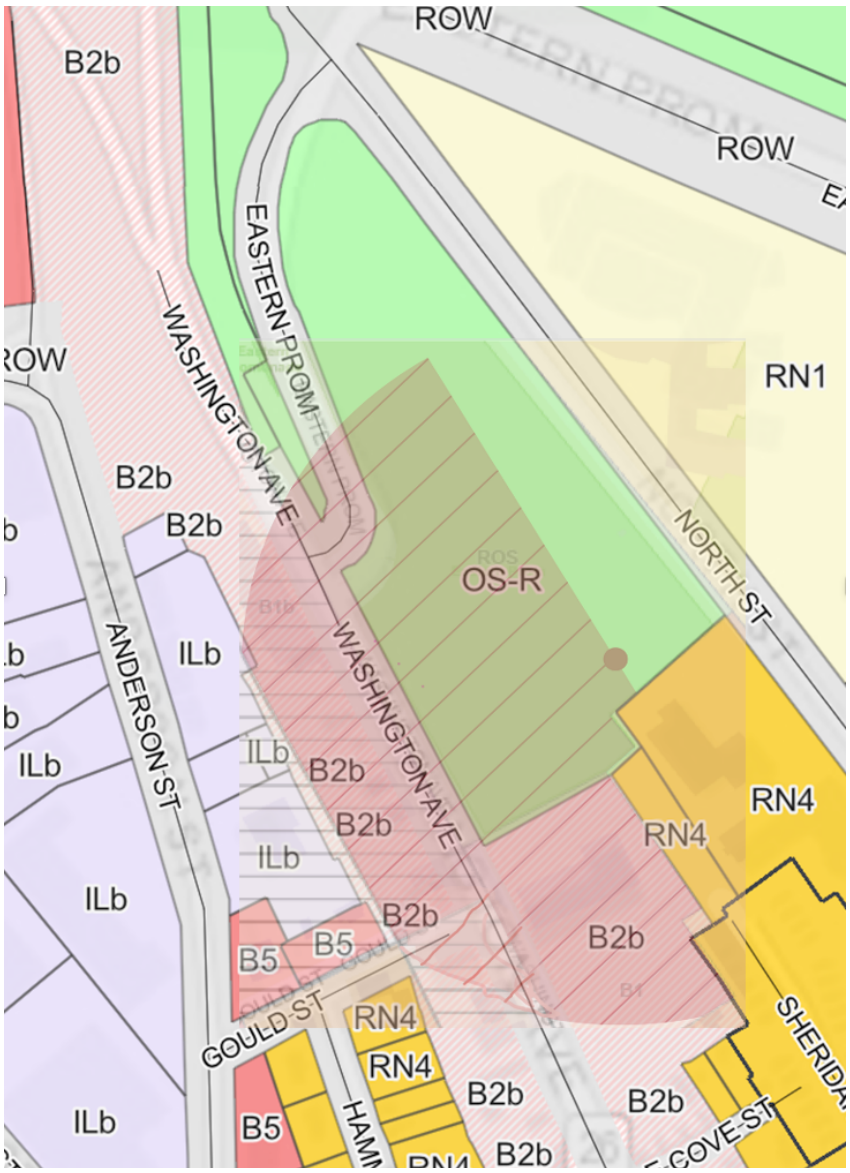
Notwithstanding any other section of this Ordinance, development in the Overlay shall be subject to the following additional provisions:

- *The top of structures, including rooftop appurtenances, within the overlay shall not exceed the baseline vertical height of the apex point 120 ft). For each 25 ft. radially away from the apex point, the vertical height permitted in the Overlay is reduced by 1 foot (see figure below).*
- *The minimum building setback from the park property shall be 15 feet.*

8.11.3 Review Process

Any project within this Overlay shall go to the Parks Commission for a recommendation to the Planning Board regarding potential impacts on the Eastern Promenade-Washington Avenue Section of the Eastern Promenade Park.

Rough Draft of Revised Map Amendment



Support East Prom/Washington Ave Overlay

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1 view

Liz Hays
to planni...@portlandmaine.gov

Sep 12, 2024, 10:51:18 PM (11 hours ago)

Dear Portland Planning Board Members,

I request that the Planning Board recommend that the East Promenade/Washington Avenue height overlay, the reques which has been submitted as written testimony, be include the final version of the ReCode Portland text and map amendments forwarded to City Council.

Sincerely,

Elizabeth Hays
107 North St.
Portland, ME 04101

Eastern Prom Overlay 1 view

Subscribe

Richard Marino 7:16 AM (3 hours ago)

to planni...@portlandmaine.gov

I would like to add my name in favor of the Eastern Prom Overlay.
Regards,
Richard Marino
Portland
Sent from my iPad

Parks + Housing = Smart Growth Support for the Overlay Proposal and recommendations for RECODE PORTLAND

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DAVID MACHESNEY 8:49 AM (1 hour ago)

to planni...@portlandmaine.gov, md...@portlandmaine.gov

Dear Portland Planning Board,

Although we understand the intention of RECODE PORTLAND, we personally do not support it as written. We believe it is not a mindful vision for the city's future for the following reasons:
1) We see no transportation studies / impact of how this increased density will affect Portland . To expect new housing will not have at least one car for every available unit is not realistic. We worry about parking , traffic and the true reality of individuals getting in and out of the city. Shouldn't this be a consideration BEFORE building bigger? How will this affect quality of life for all citizens, tourists , businesses?
2)Seemingly unrealistic changes of where code changes from B1 to B2 can and should occur. Corridors for building in the Bayside/Franklin Ave area are much more accessible and feasible to downtown, grocery shopping, services etc. Why is the city not pursuing larger development there? Why is Washington Ave the focus for changes to height when this part of the city still has a neighborhood feel ,is narrow, dense and already has issues with its entrance/exit to 295. Does the city truly want to open a Pandora's box of potential safety nightmares here?
3)The park system, particularly the Eastern Promenade, has been established since the 1800's . Better effort should be made to commit to preserving all vistas from it . As RECODE is written now , (including height restrictions changes) it would destroy this. Living in a city ,open spaces with light for all to share is crucial. 75 foot buildings will not only block panoramic views of the cityscape, it will more importantly limit sunshine year round from the part of Eastern Promenade that faces west. It would be shortsighted for the city to allow this magnificent view to be compromised in any way.

Thank you for your consideration and reflection,

Sincerely,
Nancy and David Machesney
Sheridan St

9/17/24 PB Meeting on Recode Request

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1 view

Karen Snyder 8:52 AM (1 hour ago)

to Planning Board

Dear Planning Board Chair Mazer and Planning Board Members,

I am requesting that the Planning Board consider and recommend the Eastern Promenade Washinton Avenue Height Overlay proposal created by a large group of D1 residents who have been disenfranchised by their elected representative. There have been at least 400 people, mostly residents, that signed a paper petition to ask for this recommendation.

This group's request has already been submitted to written testimony and asked to be included in the final version of the Recode Portland text and amendments which will be forwarded to City Council soon.

As I have been predicting for years and now decades, the characteristics of Portland, ME that long term residents use to love are being erased by the greed of the real estate industry. This board can ultimately and legally stop this removal of all the characteristics that once made Portland, ME special.

Regards,
Karen Snyder
D1 Long Term Resident
Provider of "real" affordable housing to residents.

Recode final draft - Bayside comments 0 views

Avery Yale Kamila 8:06 AM (2 hours ago)

to recodep...@portlandmaine.gov, Kevin Kraft, Sarah Michniewicz, Anna Trevorrow

Dear Planning Team,

Thank you so much for all your work on this document. It is looking really good. I'm hopeful these changes will encourage more development, more density and more neighbors. To that end, I've noticed a number of things that will hinder development in Bayside, reduce quality of life and continue to keep certain off-peninsula neighborhoods at suburban density levels. They are:

1. In the RN-4 district (which includes parts of Bayside), there is a minimum lot size of 2,000 square feet. If you compared this against the zoning map that lists the lot sizes in Bayside https://assessors.portlandmaine.gov/maps/map.aspx?sIndex=0&idx=15&LMparent=20, you will see that this makes a number of former house lots, torn down during the racist urban renewal era that decimated Portland's population and quality of life, unbuildable. This is a major missed opportunity, considering that Bayside is ideally suited to residential development. I want to live in a neighborhood of densely packed houses and no surface parking lots. But this restriction on lot size in the RN-4 zone makes prime lots unbuildable in the heart of downtown.

2. Is there a way to permit building on lots that had a house in 1924, but it was torn down and now the lot is unused or a parking lot? What kind of special condition can be created for these situations?

3. I'm confused by the fact that in the largest city in Maine, this proposed zoning does NOT allow townhouses - the definition of city living - in three residential zones. That needs to change if Portland is serious about growing its population.

4. I continue to worry that the height overlay you've allowed for the block that includes PHS and the First Parish Church puts those historic buildings that contribute greatly to resident quality of life - both have gardens and mature trees - in danger of demolition. Why doesn't that block have the same height limit as the adjacent block that contains City Hall?

5. In the Site Planning landscape standards the requirement of one tree per 5,000 sq is low, considering many house lots in town are 2,000 sq and often have at least one and sometimes multiple trees on the property. My Bayside lot is 2,300 sq and I have 13 trees on the lot. One per 5,000 sq is way too low given the problem on heat islands downtown.

Thank you for your work. We need more housing and more trees in Bayside, and with the suggested tweaks listed above we can get there.

Sincerely,
Averty

—
Avery Yale Kamila, AOLCP
Co-founder
Portland Protectors
PO Box 4242
Portland, ME 04101
207-780-0915
www.facebook.com/portlandprotectors

Feedback on Impact Fees 0 views

Coveside Coffee 8:55 AM (1 hour ago)

to recodep...@portlandmaine.gov, abul...@portlandmaine.gov

Hello,

We wanted to provide a bit of feedback on the impact fee structure as laid out in the final draft document.

When we opened our coffee shop 3+ ago we had to file a change of use switching us from “office” to “retail” triggering a transportation impact fee of over $8000. That was a truly enormous sum for a small business such as ours. Is there really no way to spread this fee out over a couple of years? Or to take into account the large private parking lot that we, for example, have to maintain? We were quite happy to have our fee directed towards the installation of a sidewalk out front of our building, but this would not be an option for most other small businesses facing this type and scale of fee.

The fact that these fees are calculated by *ground floor* square footage also seems to disproportionally affect small businesses such as ourselves who have a small, repurposed one-story building. It seems that a more sophisticated metric that takes into account more than just ground square footage in increments of 1000sqft should be possible.

In addition, the process for requesting modifications seems entirely out of reach for small businesses such as ourselves and seems only within the realm of possibility for a large developer with architects and engineers on hand to provide the required documentation. We initially requested a fee reduction taking account installation of a bike rack on our property. The city ultimately denied the request but not before we first paid our architect to draw up a plan showing exactly where the rack would go based on the city’s requirements.

Thank you for your time and consideration,

Zara Bohan and Andrew Nesheim
Owners, Coveside Coffee

Coveside COFFEE

183 Park Avenue - 049 A006001

0 views

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Jessi Higgins Denslow <jhdenslow@gmail.com> 11:50 AM (5 hours ago)

to planning@portlandmaine.gov

Good Morning,

I'm reaching out today with the hopes of meeting with the City to discuss the feasibility of upzoning our parcel at 183 Park Ave, Portland, 04102.

It's my understanding that the City is not accepting map amendments until the ReCode is complete, however we believe there is a significant benefit to updating the parcel due to its continuity with the current R-6 - it seems to be the only residential parcel on the peninsula zoned R-5 (and to be zoned RN3 according to the final re-code draft). Currently, there is only a three-family residence on the block, but the lot is a sizable inner-city property, approximately 13,000 square feet. We believe there would be significant benefit to the surrounding area if it could be considered for upzoning given it's arterial location, either to match the future B2-B zoning on the opposite side of the street (so we can provide a mix of housing and retail options that serve and enhance the livability of the surrounding Parkside community), or to RN4, to allow for development that contributes to the City's housing availability goals.

Please let me know if there's any further information I can provide, or if there's a time we could meet to discuss any of the above.

Jessi Denslow
jhdenslow@gmail.com
857-701-8218

Comments on Recode

0 views

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Ann Casady
to planni...@portlandmaine.gov

11:38 AM (5 hours ago)

September 13, 2024

To: Portland Planning Board
Re: Recode Final Draft Workshop

Portland's uniqueness is defined but its dramatic landscape anchored by open green space at either end of the peninsula. The peninsula is a finite space, making these well-preserved Promenade Parks designed by the Olmsted Brothers even more important to protect. I am for significantly increasing affordable housing and developing walkable neighborhoods. That effort needs to ensure that our parks as they were intended are kept intact, including honoring the existing view corridors.

I urge the Planning Board recommend that the Western part of the Eastern Promenade along Washington Avenue be protected with a height overlay by including that in the final version of the ReCode Portland text and map amendments forwarded to City Council.

This follows the precedent of the Fort Sumner Park Overlay. The goals are similar, limit the impact of development on the integrity of the park landscape, its historic design, the park trails that support connectivity, and existing view corridors. ReCode Portland does not comply with City of Portland Land Use Code regulations, which state that the purpose of park and open space zones are "to preserve and protect open space as a limited invaluable resource." The current final version of ReCode include zoning changes that threaten the Eastern Promenade Park. Notably, parcels on Washington Avenue abutting and across from the Eastern Promenade Park have been rezoned B2b, which allows buildings of 75 feet.

Any changes to our land use code must include legal standards that preserve and protect the integrity of the Eastern Promenade Park for the benefit of future generations. A height overlay for the northwestern section of the Eastern Promenade Park will affect only six parcels. It allows for the core goals of ReCode, designed to increase residential density, to be balanced with existing zoning code guidelines regarding park and open space zones.

Thank you.

Ann Casady
Portland resident

Eastern Promenade/Washington Ave Height Overlay

Subscribe

0 views

Linda Englert
to planni...@portlandmaine.gov

11:59 AM (4 hours ago)

Dear Members of the Planning Board:

We all recognize that residents and visitors alike regard our city as special because of several unique factors. One of the most often cited is the Eastern Promenade, which affords all-too-rare public access to natural beauty and vistas. Our forebearers recognized this vital community element nearly two hundred years ago when the Eastern Promenade was laid out for the enjoyment of everyone, and it is our covenant and obligation to maintain this park for all.

To protect the park for the future, I request that the Planning Board's submission of the final version of the ReCode Portland text and map amendments to the City Council recommend inclusion of the Eastern Promenade/Washington Avenue Height Overlay that has been submitted as written testimony. Development in this unique area can be reasonably designed to achieve both needed housing and public park protection.

We must preserve this gift that was wisely set aside for the public. Once it is gone, it is gone forever.

Linda Englert
193 Sheridan Street
Portland, ME 04101

Eastern Prom / Washington Ave Overlay

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0 views

Herb Adams 12:19 PM (4 hours ago)

to planni...@portlandmaine.gov

Please add my voice to those requesting that the Eastern Prom / Washington Ave Overlay be recommended and included in the next step . The Promenade was established over a140 years ago as a vista for all the citizens of Portland, a treasure to belong to all future generations. The views should not be for sale to developers . They belong to us all, and to those who will follow us.

I urge that the Eastern Prom /Washington Ave overlay be included and the vitas preserved.

Thank you

Herb Adams
Adjunct Professor
History and Government
SMCC
hadams@smccme.edu

Division 30 bonuses for affordable housing?

0 views

Christian MilNeil 1:56 PM (3 hours ago)

to Helen Donaldson, recodep...@portlandmaine.gov, Brian Frost

Hi Nell,

I just received an email from Maine Affordable Housing Coalition (MAHC) warning us that the ReCode proposal might eliminate the Division 30 affordable housing bonuses that the city approved in 2017 (in part to legalize the Portland Housing Authority's proposals for new housing on Front Street and Boyd Street).

Can you confirm if this is the case?

If true, I'd like to strongly encourage the Planning Department to reconsider. While the proposed ReCode changes would generally make housing more viable, one of the chief advantages of Division 30 is that it gives affordable housing developers a regulatory leg up against market-rate developers and private homebuyers, because we're allowed to build more affordable units per parcel.

By loosening zoning rules *for affordable projects only*, Division 30 allows affordable housing developers to be more competitive with market-rate developers by granting them more lucrative land uses by right.

And if you look at the number of affordable tax-credit projects that have been permitted since 2017, I think there's a strong case that it's working – the city went from permitting one or two LIHTC projects with 30-60 units per year before 2017, to permitting an average of 200 units/year since 2018.

MAHC alleges that a number of new affordable housing projects built and approved in recent years would no longer be legal under the proposed ReCode zoning if Division 30 gets eliminated, because agencies like PHA wouldn't be allowed to build as tall in the B and R7 zones (where we have a lot of potential projects in the pipeline).

Christian MilNeil
- - - - - - - - - - - - -

Form Submission - Contact us Re:Code - Recode

0 views

Squarespace Sep 15, 2024, 10:41:16 AM (23 hours ago)

to recodep...@portlandmaine.gov

Sent via form submission from *ReCode Portland*

Name: Deb Keenan

Email Address: debkeen2@cs.com

Subject: Recode

Message: REJECT REODE. Paving over paradise and making it into an 8+ story building is no one vision for solving the long neglected "housing crisis" by those who "suddenly" recognize it is a problem and rush to solve it now; by profiting; BECAUSE; gobs of FREE MONEY has arrived to fund and subsidize developers.
Look at developers and planners rush to embrace solving the homelessness problem and the housing crisis now , after recently saying" NOT the private sectors problem to solve: we aren't social workers". Now suddenly they all claim to BE social workers , community partners and problem solvers; NOT profiteers, when their is someone else's/.taxpayers money in ? DON'T be fooled: They will take the FREE money and squander it and solve nothing.

This problem was 50 years in the making: starting with elimination units and whole neighborhoods called blighted, by the 1ST planning board . during urban renewal Go to the Portland Room in the libarary to look it up if you were not here or born yet. Then NOT keeping their promise to rebuild what they tore down; pushing resident to the suburb (creating sprawl) and making down town business district into a ghost down for decades . (30,000 less consumers) Our population dropped 30,000 (it was 80,000 and still growing in the 40;s) in 3 decades, because of THAT plan . Be careful what you wish for; you might not like it or the long term consequences .

AH... planners, developers and councilors, ever colluding in the name of "progress" to the detriment and bankruptcy of PORTLAND, yet again? And OH "That VIEW!!", I wished out of state developers would stop "discovering" and exploiting us and leave us alone in our quant little city! I wished politician and people of ambitions; would not use us a stepping stone to somewhere else ; as they "DISCOVER" themselves and have growing pains !!! WE already are paradise; leave us alone!! STOP trying to make us into where you left for your own comfort zone. and I am not talking immigrants. YOU are welcome I;m talking people who think they have a better vison and do not. Portland is good at being Portland not some where else; with TOD but no functioning mass public transit system? Have you ever been a pedestrian tryng to cross Woodfords Corner, Morrills Corner, Allen' Corner . heck Congress Street new fangled "right turn on red" has been a killer for pediestians!! Have you ever tried to cross a commuter road way to catch a bus to work ? TRY it some time. Does the bus get you to your place of work, especially if you work odd hours like after 5pm or before 6 am ? Where do you think all the pedestrian deaths are coming from? People who cannot get out of their cars and are NOT expecting a pedestrian to cross Forest Ave , Brighton Ave or any commuter way to catch a bus. How many homeless pedestrian have been killed on RIVERSIDE STREET already, in less then a year , trying to cross the street to catch a bus or do an errand ? You people have no common sense!!! The City is NOT walkable on TOD/ commuters ways!!! People do NOT stop at businesses there. People cannot cross the streets there...pedestrian lights cycle are too shirt and messes with commuter traffic; so they will Not make the pedestrian light cycle any longer it is like playing whack a mole; with the pedestian as the mole. how fast can you cross street can you beat tthe light or the commuter traffic cursing you and eager to get home? PED friendly;/walkable what a joke!I I Idare you to try to cross Forest Ave, Brighton Ave , Woodfords Street. Allen , Auburn, Washinton Ave you;d have to have a death wish. Ped friendly walkable/ bikeable!!! GIVE me a break. Do any of you live off penisula? . Do any of you take the bus to work ? what about home, again? on a commuter way? How about grocery shopping?, laundry? it's would be like playing whack a mole. or heck dodge cars or dodge ball. Back

to the drawing board. This is a joke of a plan!! REJECT IT and do your job; serve Portland residents NOT developers. I know it is confusing and intended to be: YOU are the planning board NOT the economic development departmemt.

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Does this submission look like spam? Report it here.

Urbanist Coalition of Portland Public Comment Regarding ReCode

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Todd Morse 10:39 AM (2 hours ago)

to planni...@portlandmaine.gov

Chair Mazer and Members of the Portland Planning Board,

Attached is our public comment regarding ReCode.

Thank you,
Todd Morse

Chair Mazer and Members of the Portland Planning Board,

The Urbanist Coalition of Portland (UCP) supports efforts to modernize Portland's land use code (ReCode). Throughout this process, we have said that the status quo is insufficient to address the needs of our city today and into the future. We are encouraged that the Planning Staff and the Planning Board have heard this feedback from us and other groups, and have responded by taking positive steps towards addressing these concerns in the latest ("final") draft of the ReCode changes.

We commend the work of the Planning Board and the Planning Staff. They have been engaging with the public and listening to feedback. The present ReCode draft is the result of a robust democratic process that incorporates public feedback. We would like to see a version of this ReCode proposal pass.

We still feel there are areas where this ReCode proposal could be doing a lot more to meet the goals set out in Portland's comprehensive plan and to address Portland's housing, climate, and economic needs. Last year, UCP put forth an initial proposal that we felt would meet those goals; we still stand behind that proposal and will continue to advocate for it. However, the draft before the Planning Board makes some significant strides towards our goals, and after seven years, it is time to send this proposal before Council and implement these changes to begin addressing our housing and climate crises. Because of this urgency, we have selected what we feel are proposals that will change the current draft the least while providing the most value for Portland. These proposals are less than we would ideally like but we feel they are reasonable, simple, and realistic.

The core of these proposals is fostering vibrant transit corridors and nodes surrounded by a natural gradient of residential density that will make these places truly thrive. They allow for middle-density housing in places that make sense, encourage affordable housing, and plant the seeds for new neighborhood centers to grow. We believe these goals are the goals of ReCode and of Portland. We hope you consider our proposals to achieve them.

Urbanist Coalition of Portland

Proposals

Incremental Density Around Priority Nodes

UCP is encouraged that priority nodes are being zoned for density. However, these nodes are compact and residential zones surrounding them are dramatically less dense. Allowing gentle density around these nodes will make commercial activity and transit in the nodes themselves more viable. The land use code has a zone that is commonly mapped around these nodes and allows slightly denser residential: RN-3 (current R-5). However, this zone is still predominantly built around single-family standards. We have a series of recommendations to bring this zone closer to the standards of RN-4, our on-peninsula multifamily residential zone. We feel that the neighborhoods more like Munjoy Hill and the West End should be possible to build off-peninsula surrounding priority nodes and corridors.

Recommendations

- Use
    - Add multifamily housing as an unconditional use in the RN-3
- Dimensional
    - Reduce the minimum lot size in RN-3 from 5,000 to 3,000
    - Increase height in RN-3 from 35 ft to 45 ft (38 ft to 49 ft if our height recommendation below is also adopted)
    - Reduce rear setbacks to 10 ft
    - Reduce front setbacks to 5 ft

Gentle Density in Residential Neighborhoods

LD2003 and previous ADU legislation opened the door for gentle density in Portland's residential neighborhoods. However, dimensional limits still prevent Portland from realizing the potential of these changes and building pedestrian-oriented structures. In particular, lot area per dwelling unit requirements should be eliminated. These requirements are redundant with other limits like lot coverage, minimum lot size, and

height restrictions. Without the reduction or elimination of these limits, other updates will not have a significant impact.

Recommendations

- Eliminate minimum lot area per dwelling unit requirements.
- Reduce front setbacks to 5 ft or the average of adjacent front yards, whichever is smaller
- Allow setbacks of 5 ft for detached structures with a footprint of 750 square feet or less
- Reduce minimum lot size in RN-1 and RN-2 to 5,000 square feet
- Allow low-impact commercial uses like retail, restaurants, and coffee shops below 2,000 square feet on the first floor in all residential zones

Transit-Oriented Development

We are encouraged that our priority nodes are being zoned for density and certain corridors such as Brighton Avenue were prioritized with additional mixed-use zoning. We have no preference between prioritizing our transit corridors with mixed-use zones versus specific transit-oriented development zones. However, there are still gaps along these corridors that we feel must be addressed to support a frequent, reliable, transit service.

Recommendations

- Zone our priority corridors as specified in Portland's Comprehensive Plan for dense mixed-use development

Allow Mixed Use in Industrial and Office Zones

In the previous workshop, we heard feedback that preserving industrial land is important to Portland's goals. This makes sense, but we think that there is still value in allowing a mixture of uses, including housing, in the small amounts of industrial land on the peninsula. This represents a tiny fraction of our industrial land but it is the fraction that is most impactful for housing.

Urbanist Coalition of Portland

Currently, our office zone only covers the Unum office. While redevelopment is unlikely, it complicates the land use code to have an entire zone type for one location. There is also no reason why this site should not be considered for mixed use in the future.

Recommendations

- Remap the industrially-zoned land on the peninsula to a mixed-use zone
- Remove the office zone and remap the area with a mixed-use zone

Do not add Barriers to Multifamily Housing

Most of this ReCode proposal will make building multifamily housing easier, but there are two places where this ReCode will make it more challenging: building length maximums, and landscaped open space minimums. These are new limits proposed that don't exist today and they undermine the impact of some of the other great changes in this ReCode proposal. Multifamily buildings require multiple stairways and often an elevator. This requires buildings to take up a larger footprint for the same amount of interior space. Portland should not be making it harder to build multifamily housing.

Recommendations

- Do not add any building length maximums
- Leave landscaped open space minimums as they currently exist (20% in RN-4 only)

Update Height Measurement

Modern buildings require thicker floors to accommodate for more thermal and sound insulation as well as mechanical ventilation. This makes buildings more environmentally friendly and energy efficient. The heights in Portland's land use code intend to allow a certain number of stories, but the calculation was done at a time when stories did not require as much height. A small height increase per floor will

ensure that Portland continues to allow the same number of stories when built to modern standards with hardly any noticeable difference from the outside.

Also, the way Portland measures height is ambiguous and does not reflect people's experience of buildings. This creates uncertainty for projects and arbitrarily different requirements for height depending on the shape and slope of the site. Height should be measured from the front sidewalk so the height limit reflects the experience of pedestrians. However, this may require more careful thought than we have time for in the ReCode process, so we should at least carefully define height measurements as post-construction grade to avoid ambiguity. This allows developers to build the intended number of allowed floors while still building high-quality homes with functional amenities that people want.

Recommendations

- Allow for more height per story by allowing 38 ft of height in all zones that currently allow 35 and 49 ft of height in all zones that currently allow 45.
- Define height based on the front sidewalk of the property rather than using the grade of the lot.
- If this is too complicated, we should at least explicitly define height measurement to be measured from post-construction grade and exempt grade measurements at elements like entrances, exits, light wells, and garages.

Affordable Housing Bonuses

In the most recent ReCode proposal, affordable housing height and setback bonuses were removed so the overall limits could be expanded without unintentionally allowing too much. However, dimensional bonuses can be a powerful tool for encouraging affordable housing development and they can help realize the housing goals of LD2003. Rather than height, Portland can use a lot coverage maximum bonus in residential zones to maintain another incentive for affordable housing.

Recommendations

- Add lot coverage minimum bonus applied to all residential zones of 10% from 20-49% affordable and 20% for 50-100%. If landscaped open space minimums are preserved, an exemption from this should also be added.

Thank you for your consideration,

The Urbanist Coalition of Portland
Todd Morse, President
contact@urbanistportland.me

Urbanist Coalition of Portland

Recode Portland Zoning Amendment

0 views

Subscribe

fsre...@aol.com 11:28 AM (1 hour ago)

to public...@portlandmaine.gov, planni...@portlandmaine.gov

Dear Planning Board Members,

We live in an 1803 home built by Captain Nathaniel Dyer, which is just above Angelo's Acres. Our comments will address two Recode proposals.

If we're interpreting the new Recode proposals correctly, and they are rather confusing at best, the area of Commercial Street starting at the International Terminal and going east on both sides of the street, is in the new B5 zone and will allow the new height of 75'. We strongly disagree with this for several reasons.

However, the main reason is this: There was a peninsula height study and recommendation done in the past that recommended the tallest buildings should be allowed on the top of the hills in the peninsula, while limiting the size at the bottom to much smaller heights. This is so wise in many ways, both esthetically and in allowing most residents and tourists to be able to share views of our stunning harbor. For as you know, this view contributes to our multi billion dollar tourist trade, while also inviting new residents. Why we would want to further block what is one of nature's most appealing sights by increasing the height from 40' to 75' is, in effect, a daunting question?

The second issue is the proposal to remove from Article 13, the requirement of an historic preservation review for developments within 100' of a designated landmark. In our opinion this does indeed diminish the role of the Historic Preservation Board, which we believe can use all the power we can provide including the necessity of the City Council to accept the Preservation Board's recommendations.

We respectfully ask that you reconsider these amendments.

Frank & Sharon Reilly
Portland

Letter to be included for ReCode Workshop

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0 views

welm...@gmail.com 11:39 AM (1 hour ago)

to Planning Board

Members of the Planning Board,

Portland's current land use code has several issues in regard to the allowance and measurement of building height. This is clearly evident in letters and public comments to the Planning Board as well as current 80B lawsuits in front of the courts currently. Definitions, height measurement methodology, site plan and reporting requirements and height allowances will benefit from a deep examination and thoughtful reform. Recode offers this opportunity.

Current language and definitions were written and put in place decades ago at a time when Portland did not experience significant building activity. Without the pressure of growth, the current language and methodology did not get a rigorous test as there was not as much resistance to change or proclivity to litigious activity. As is well known, Portland experienced population decline between 1950 to 1980 (~78,000 to ~60,000) and then a very slow increase from 1980 to present where Portland has now regained the population of the City in 1920 (~69,000). For 65 years Portland was in decline or stagnant. Portland is starting to grow and facing the dynamics of change caused by climate change, demographics, historically high building costs and a shortage of homes never experienced in Maine's history means looking at Portland's Land Use Code requires a new point of reference. One high-value area that the City needs to seriously consider is changes to its' methodology for height measurement.

Through the examination of Portland's height measurement methodology, shortcomings are recognizable that run counter to the purpose and intent of why height is regulated in zoning code. Simpler methodology can be adopted to remove variability in building conditions and deliver uniformity in the actual height of a building that will serve Portland in important ways going forward. Changes will result in more effective and efficient use of land and higher quality buildings that will stand the test of time for residents of Portland to enjoy across many generations.

Three of the most obvious issues with the current methodology include:

(1) it doesn't measure the true height of a building being proposed, but instead it is a relative measure of the height compared to the land around the building's perimeter at 4 corner points or multiple points.

(2) it delivers high variation between actual height allowances and how high the building stands above the street and sidewalk.

(3) It doesn't allow for a consistent building height envelope for designers, builders and developers. If the City allows 45' height allowance, which is intended for 4 floors of living or commercial space above ground, a downward sloping lot may only be able to accommodate 3 levels, or they need to build short floors and may only have 38' of actual height allowance from FFE (First Floor Elevation) to roofbeam. While on an upward sloping lot the designers may have 48' or more from the FFE to roofbeam.

Currently buildings are going through Planning Board approval with significant inconsistencies in regard to height. Recently, projects that are technically 45’ in height are only able to be built to 40’ or 43’ in actual height while other buildings are, by the current methodology, reporting a height of 42’ while actually being close to 49’. This level of variability is not necessary and is damaging in multiple aspects to multiple parties involved in the creation of housing and other commercial buildings.

In crafting these recommendations 10 recently approved commercial buildings planning board packets, site plans and architectural drawings were studied. Fifteen different cities land use code, including several in Canada, were reviewed as well as writings from the American Planning Association and Planetizen.

Next, the implications of different methodologies on parcel locations within a block and the existing elevation conditions of land parcels throughout Portland were considered.

The following situations were identified and evaluated:

6 Parcel Elevation Condition Cases

A. Flat Parcel
B. Upward Sloping Parcel
C. Downward Sloping Parcel
D. Raised Parcel – immediate elevation gain above street level
E. Steep Upward Sloping Parcel* *(Average Finished grade measurement allowed)*
F. Mid-parcel building site with no adjacency to road or sidewalk

- *For parcels with average elevation gain of 10’ over the first 100’ of the parcel qualifies for using the Average Finished Grade elevation methodology. The Actual Building Height measurement is still required.
- To determine average elevation gain of a parcel measurements must be taken at 5 equidistant points along the front and at 20’ increments into the depth of the parcel

5 Parcel location Cases

A. Corner Parcel – Two sides with street frontage
B. Mid-Block Parcel – Single side street frontage, bound by two homes or plots on each side
C. Through Block Parcel – Two or three sides with street frontage on a shared block
D. Full Block Parcel – Four sides with street frontage
E. Mid-parcel building site with no adjacency to road or sidewalk (i.e. Campus, PRUD)

Special Considerations (addressed separately by City)

Flood Plain

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Recommendation #1

Utilize two step method to determine building height:

1. Determine ABPE (Allowed Building Plane Elevation): Allowable Building Plane Elevation is determined by adding 24” to the highest point along the sidewalk or, if no sidewalk exists, 42 inches above the highest point along the street frontage* around the perimeter of the parcel. This establishes the elevation plane from where the building height measurement will be taken and where a building can be placed to fully utilize height allowance. The building does not have to build the FFE (First Floor Elevation) within this plane but one of the required measurements will be measured from this plane.
2. Determine the Actual Building Height (ABH): The actual building height is measured from the top of the finished first floor elevation (FFE) to the bottom of the roof beam on a flat roof and half way up the slope of a sloping roof (utilizes current measurement techniques for different roof types found in CH 14)
3. Neither measurement can exceed height allowance

*24” above sidewalk and 42” above street level allows for future curbing and sidewalks and allows for enough elevation to prevent the building from flooding during heavy rains as well as to allow light wells and fire egress points if needed for below grade space. It also is in accordance with the City’s Design Guidelines of an FFE (First Floor Elevation) 24” above grade.

FFE will typically be the first floor above ground and/or the first floor with commercial or residential use.

Portland’s current methodology doesn’t deliver consistent building heights, doesn’t measure the actual height of a building, doesn’t provide uniform conditions for architects, engineers and developers to utilize land as effectively as possible and that allows them to deliver a level of consistency that would greatly improve the longevity and livability of Portland’s housing stock. The proposed changes will lead to more homes being able to be built and homes that will better stand the test of time and improve the health, safety and wellbeing of Portland residents.

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Recommendation #2

Increase height limits for mixed-use and multi-home buildings of 3+ units to reflect new construction methods, increased building performance needs and building code requirements

Allow 10’ floor to ceiling heights for residential units and 15’ for commercial/retail ground floor units and 24” floor/ceiling assemblies between floors and 30” for roof thickness.

Stories	Current Height Allowances (ft)		Bonus Height Allowances(ft)	
	Residential	Mixed Use*	Residential	Mixed Use*
3	35	40	36.5	41.5
4	45	50	48.5	53.5
5	55	60	60.5	65.5
6	65	70	72.5	77.5
7	75	80	86.5	91.5

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*Commercial/retail on 1st floor

Bonus Height Allowances are not simply to add height. They are granted when 7 conditions are met that will yield superior quality buildings, commercial spaces, and most importantly, homes. It is to improve Portland's housing stock, create buildings that remain relevant, highly livable and desirable for 100+ years and improve the safety and health of residents.

Mandatory

1. Buildings with 3+ homes/du's
2. Floor to Ceiling heights of at least 9' per floor and not to exceed 10' (except 1st floor commercial units which can be 15')
3. Minimum blower door test rating of 1.0 ACH at 50 pascals with both positive and negative pressure testing methods
4. Windows with U-Value of 0.143 and R-Value of 7
5. Meet or exceed MUBEC Plus insulation ratings

2 of the following must be met

6. Certified or tested to LEED Silver or higher, Living Building Challenge, Passive house Standards, Net Zero homes.
7. Main source of heating/cooling is electric heat pump, geo-thermal or other environmentally friendly source
8. Integrates ERV/HRV systems
9. Installed PV array with generating capacity rating exceeding 15kW
10. Green Roof exceeding 50% of the roof
11. Projects that include 25% or more units that are rented at 80% or below AMI levels or project that sell 25% or more units at 120% AMI or below.

With Recode comes the opportunity to re-examine how we treat and think of height in our zoning code. We need to re-ask ourselves what the purpose is we are trying to achieve in the context of the current challenges facing Portland. Like the need to reduce environmental impact, embrace urban design that improves our health, happiness and connectiveness, how best to address the lack of supply and high costs of housing coupled with the need to accommodate a growing population.

Our current methodology does not meet the needs of the City or the purposes of regulating height. It falls short in providing for the well-being of its' citizens. It leads to ineffective and wasteful use of land, diminishes housing production, increases building costs and harms the quality of the housing that gets built.

The current regulations would make sense if the primary reason for decisions of maximum allowable heights is to take into account the effect on a neighbor's (who is subject to the exact same rules) possible views or shadows that may be cast on their property but we would have to discount that their home effected all the other neighbors views and also cast shadows. Or perhaps how a pedestrian walking down the street perceives the height of the building and it is assumed that the pedestrian is negatively impacted by a building that is 10' or 15' taller than a typical single family home or that they can even distinguish the difference between a 42' building and a 47' building.

But what often is deprioritized, or not considered, is the effects of Portland's current height measurement methodology on the design, construction and cost of the building being built. We need to consider the effect of these three dimensions on the quality of Portland's housing stock as well as future occupants and their quality of life. The quality of the space they will inhabit is extremely important and needs to be acknowledged. Height allowances impact natural light, air quality, outdoor areas like balconies, rooftop decks, storage areas, the feel of the indoor space, etc. Now is the time to improve this important aspect of Portland's Land use regulations.

Thank you for your consideration,

Tim Wells

Public Comment (Recode) - Front Porches

Subscribe

0 views

Casey McCormack 11:56 AM (1 hour ago)

to planni...@portlandmaine.gov

Hello Portland Planning Board,

I apologize for my very late-in-the-process comment, but I am writing to advocate for a change to the porch exception language in Section 7.6.4. The current language basically allows small portico-styled porches less than 50 square feet as an exception to the general setback requirements. I would like to see that provision expanded to allow building-width front porches – not just porticos.

The reasons for this are many.

First, **building-width front porches are simply more aesthetically pleasing than porticos**. Think of a typical ranch, cape cod, or foursquare in Portland. Now imagine each with a 50 square foot portico jutting out from the façade. Now imagine them with a full-width front porch. Front porches simply look better.

Second, **front porches are more architecturally versatile**. With a front porch, you can hide a second-story bump out on a garrison-styled home or break-up the façade on a small footprint two-story house. Front porches offer a flexible design element that is accretive to the aesthetics of a neighborhood and helps curate the types of communities I believe Portland would like to encourage.

Third, **front porches build community**. I think any new urbanist would agree that front porches create friendlier front yards, more human-centric streets, and build better communities. Unlike porticos, front porches are not just for wiping your feet – they are also for sitting, people watching, and talking with neighbors. Look no further than Portland's own PORCHFEST as an example of how porches tie communities together.

The current language is in Section 7.6.4 states as follows:

Any setback may be occupied by a one-story entrance porch not enclosed, with or without a roof, if the area of the porch does not exceed 50 square feet nor the projection from the building exceed six feet.

I know that I am late to the game here. So… if you agree with me that we should be incentivizing (or at least allowing) homeowners to build full-size porches (and not just porticos), I've tried to come up with some different options for how the existing language might be made more permissive:

Option #1 – Maximum Setback Encroachment Front Porch Exception

Any setback may be occupied by a one-story entrance porch not enclosed, with or without a roof, if the encroachment onto the setback does not exceed the lesser of (1) [eight] feet or (2) half the distance to the front lot line from the line of the setback.

Note: The "eight feet" can be adjusted depending on consensus, but my sense is that designers do not recommend front porches that have a depth of less than six feet.

Option #2 – Minimum Allowance for Existing Homes

Any setback may be occupied by a one-story entrance porch not enclosed, with or without a roof, if the area of the porch does not exceed 50 square feet nor the projection from the building exceedssix feet; provided, however, that a one-story entrance porch may be added to any existing single-family residential building if the porch has a depth of no more than [eight] feet and does not encroach beyond 10 feet into the setback in the RN-1 and RN-2 zones, beyond 7.5 feet in the RN-3 zone, or beyond 2.5 feet in the RN-4 and I-B zones.

Note: The maximum encroachment distances I've recommended in the last sentence are equal to half the distance of the default setbacks (i.e. without lots available for averaging) described in the definition of "Setback, front" on Page 7-5.

Again, apologies for the late-in-the-process comment. We are two working parents with three young children and I simply don't have a ton of extra free time to focus on things like the Recode. It is only because we are looking at the possibility of adding to our house that I came across this provision. If we added a second story and built only a portico, it would simply look funny. However, a full-width front porch could really make a new addition look much more inviting, community-friendly, and aesthetically pleasing.

Thanks,

Casey McCormack

Recode Workshop Comments

0 views

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Timothy Wells

to Planning Board

12:09 PM (1 hour ago)

Dear Planning Board Members,

The current Recode draft is a significant move in the right direction. I applaud the work and effort put into this by City staff over the last 8 or so years. There are a couple of areas that still need attention. Some are very simple and others require more understanding and discussion.

Height Allowances and Measurement Methodology: I would like this to be studied and revamped. A complete overhaul may be worthy of a workshop of its own. I would like to see it addressed in this Recode but it may be too much to address in the short time frame currently scheduled.

If the current methodology is not addressed two very important pieces of language around height measurement should be addressed:

1. Definitions of Average Grade – This language needs to include the words post-construction or finished grade. As the PB and City Staff know, I am currently involved in an 80B lawsuit that directly related to the City's definition of Average Grade. The Maine Supreme Court, at oral arguments, asked why the City did not make this language more clear. It is not sufficient to only add that the definition of Average Grade is different on the Islands. The Plaintiff in the 80B suit argues this exact point. It apparently does not clearly speak to the intention of the City on the main land. This is from the court. Is there a downside to adding this language when it seems it is clear that this language led to an 80B lawsuit against the City and a viable project that was approved by the Portland Planning Board? Clarity in language would serve the public, the courts and the City.
2. When choosing points of measurement around the perimeter of a building certain points should be excluded. It is imperative that sub-grade levels of a building are able to be fully utilized for best use. This often requires light-wells, ingress/egress doors and garage doors for underground parking. Measuring to the base level of a basement or underground garage does not allow a building to utilize the full height allowance and the City loses a level of housing which it desperately needs. This is very harmful, especially in times of high cost construction. It changes the financial calculus and can prevent a project from being viable. If these areas are not exempt from including in the average grade calculation, we are actively making a decision to use land wastefully and to not be focused on getting homes built in Portland. Many municipalities, including Everton, WA and Vancouver exempt these areas from average grade calculations.

Landscaped Area – I noticed that landscape area requirements were added to some zones and increased from 20% to 30% in the current R6. This is not necessary. There are already 7 different limitations that need to be planned around. The City requires street trees. Portland is a city not a suburb. We need to use land wisely so we don't cut down forests, build houses on farmland, grasslands and wetlands. An extra 10% of landscaped area will not allow for lot coverage allowances to be achieved in some cases. How do you have 60% lot coverage, 30% landscaped area,

impermeable area and a driveway into underground parking or surface parking? This should be reduced to 20%.

Thank you very much for your time and consideration.

Timothy L. Wells

Tim.wells@sjvproperties.com

207.807.3876 Mobile

ReCode Final Draft 0 views

Subscribe

Kate Lemos McHale 1:42 PM (1 hour ago)

to planni...@portlandmaine.gov

Please find attached letter with recommendations regarding the final draft of the proposed ReCode. Thank you as always for your consideration and for all the thoughtful work that has gone into this effort.

Best,

Kate

Kate Lemos McHale

Executive Director

Greater Portland Landmarks

Office: 207-774-5561
Direct: 207-358-7065

www.portlandlandmarks.org

511 Congress Street, Suite 107

Portland, ME 04101

Mailing Address:

P.O. Box 17533

Portland, ME 04112

Greater Portland Landmarks
Historic character enriches our lives

Greater Portland Landmarks
PO BOX 17533
Portland, ME 04112

16 September 2024

RE: RECODE Final Draft

Chair Mazer and Members of the Planning Board,

Greater Portland Landmarks wants to thank the planning and historic preservation staff for meeting with us and addressing many of our comments on edits to Chapter 2, 3, and 16 related to the Historic Preservation Ordinance. Landmarks supports a comprehensive update to the City's land use code to make it more user-friendly while advancing goals of the city's comprehensive plan including promoting more equitable housing production and transit-oriented development, fostering resilience in the face of climate change and supporting the working waterfront, and of course, promoting historic preservation as well as good new design in our city. We are grateful and heartened to see that many of our previous public comments on ReCode have been addressed and wish to submit the following remaining comments for the Planning Board's consideration.

We support proposed new dimensional changes that build upon the characteristics of Portland's neighborhood's that were of necessity built close to a variety of destinations, including public transit. We believe neighborhoods like those off Brighton, Washington, and Forest Avenues are good models for a more transit-oriented city. These neighborhoods are home to single family, two family, and multi-family structures as well as mixed-use buildings that are a roadmap for development in Portland to achieve City goals for creation of a variety of housing types and denser neighborhoods with services close to residents. We also support proposed changes that would permit commercial uses at strategic locations in residential neighborhoods to recreate the historic mix of land uses that organically developed in Portland's neighborhoods in the late 19th and early 20th centuries that can help the city become less car dependent.

While much of the conversation has been on how the proposed changes might catalyze new construction, we also urge that the land use code incentivize retention of existing structures to the greatest degree possible. Two recent planning initiatives, Portland's Plan 2030 and One Climate Future, identify sustainability as a key goal and priority for the city's future. We are concerned that the more permissive dimensional standards may, as the city experienced on Munjoy Hill after the 2015 zoning changes, unintentionally encourage teardowns and exacerbate the loss of diverse affordable housing options in the city's residential neighborhoods. Teardowns have adverse environmental effects, including increased solid waste and energy impacts that do not support the City's sustainability goals.

Where new construction is appropriate in existing neighborhoods (vacant lots, non-residential structures, non-contributing structures, and parking lots) our concern is that new construction should not just fill the permitted building envelope, but should integrate into the existing fabric, even if it is larger in height or massing. The design standards, their focus on the examination of context, and their application will be crucial to facilitating that neighborhood integration. An essential part of the operationalization of ReCode requires finalizing the updated design standards and incorporating them into the land use code by appropriate references stating that a proposed development must meet both zoning dimensional standards and the design standards. We look forward to seeing the updated design standards manual and hope they will be brought forth for adoption as soon as possible.

We also offer the following specific comments:

- *Chapter 7 Dimensional Standards, Rules of Measurement*

We feel strongly that the definition and/or rules of measurement for building height should be measured from predevelopment grade in all neighborhoods, not just on the islands, to ensure that no development can game the system and achieve a height out of scale with its neighbors.

- *Table 7A Residential Neighborhood Zone Dimensional Standards*

The proposed front setback language of "average of adjacent front yards, - 5 feet", along with the additional height allowances in some situations has the potential to exacerbate the feeling of a new residential building being out of context. In neighborhoods where buildings are located close to the sidewalk, but not at the sidewalk, or where streetscapes are predominated by a lower height intermediary form, like a porch, at the street front, the five-foot allowance could mean a building with a tall street wall right at the sidewalk could be built and be out of context with its neighbors.

Design Standards are critical to integrating development utilizing the new dimensional standards into existing neighborhoods and the language allowing front setbacks closer to the street edge than its neighbors may have a negative impact on visually integrating a project into its context. In this sketch, a street where many houses have a front porch, a new building with its main mass right at the sidewalk would be out of character with its neighbors, whereas if the main mass of the building was also set back from the street, its greater height and width would have less of a visual impact.

We suggest removing the "minus five feet" provision or including some additional language setting out a minimum setback consistent with the streetscape, for example:

> "*Front setbacks for new structures that exceed the height of adjacent structures by 15% or more shall be 5 feet or the average setback of adjacent structures, whichever is greater*."

- *13.6.4. E Historic Resources*

The proposed draft eliminates a long-standing provision known as the "100' rule", whereby under site plan standards, for projects within 100' of a landmark or historic district or historic landscape district, City staff or the Historic Preservation Board would provide the planning board an advisory opinion on the impact of the proposed site plan project on the adjacent district or landmark. This has helped to ensure that new projects immediately adjacent to important historic landmarks or at the edge of districts respect the visual development patterns, materiality, and the predominant details of a historic area, especially for the pedestrian experience, and we urge that it not be eliminated in its entirety.

- *16.4 Interim Protection Standards*

The proposed draft reduces protections for historic resources by eliminating review of alterations or additions during the designation process, which for a historic district designation can be several months. Bad actors could potentially alter a property the City seeks to protect in the interim.

- *16.5.1.E. Applicability*

The proposed draft removes art projects proposed by the City's public art committee from planning staff and/or historic preservation board review. There have been several temporary and permanent art installations

in the city's historic parks and districts over the years. While we agree that review of the art itself is the role of the Public Art Committee, we feel strongly that the review of the *location* of an art installation and the *installation process and methodology* should be added back into the proposed draft because it is critical in protecting adjacent historic materials and features.

- *16.6.3 Standards for Review of New Construction and Additions*

The proposed draft has removed language regarding the reversibility of additions and the protection of archaeological resources during project construction from the standards for review of additions and new construction, although they remain in the Standards for Alterations (16.6.2). We think that retaining them in section 16.6.3 is important and less ambiguous, or at the very least adding language to note that *in addition to the standards for alterations, the following must be met for new construction.*

- *16.2.3 Classifications within a historic designation.*

The proposed draft has added language that individual landmarks, when included in a historic district or historic landscape district, will be considered contributing. Currently the review of proposed work on a landmark building, because of its high significance, will include all sides of the building, not just those readily visible from the public way in order to protect all significant features. By classifying a landmark in a district as contributing, we believe there is some ambiguity in the proposed text as to how that landmark would be reviewed, and that the proposed statement needs additional clarification so that all landmarks are equitably reviewed and protected.

Although we have identified these areas of concern, we also have many areas of the proposed land use code revisions that we firmly support. We feel strongly that many of the edits made to the Historic Preservation Ordinance and related chapters have made it more concise and user friendly while maintaining the provisions necessary to continue the city's status as a Certified Local Government as determined by the Maine Historic Preservation Commission in their guidelines for CLG communities. We commend and thank the planning and historic preservation staff for these efforts.

Thank you for considering our views as you consider this significant rezoning proposal that will impact the character of Portland's development for years to come.

Sincerely,

Kate Lemos McHale
Executive Director

Recode

0 views

Subscribe

E M 2:12 PM (24 minutes ago)

to recodep...@portlandmaine.gov, planni...@portlandmaine.gov

I was a member of ICPAC, the committee that rewrote all of Portland's industrial zones in the 1990's. ICPAC developed the current IL, IM, and LH zones. The IL zone was meant to ensure the compatibility of uses in that zone with adjacent neighborhoods - hence the term "low impact," instead of the former "light industrial."

In the proposed Recode, I count 10 uses that are permitted or conditional in both B2/B2b and IL zones. (And all IL uses are permitted in B2/B2b zones if they are in structures under 10,000 square feet.) If those uses are in an IL zone adjacent to a residential zone, both the rear and side setbacks are 35 feet. If those uses are in a B2/B2b zone adjacent to a residential zone, the required rear setback is only 10 feet and the side setback is only 5 feet. Height is limited to 50 feet in the IL zone; maximum height is 75 feet in the B2/B2b zones (50 feet within 30 feet of a residential zone).The landscaped open space requirement is 35% in the IL zone; it is only 10% in the B2, and none is required in the B2b.

What has happened to the concept of ensuring the compatibility of industrial and commercial uses with adjacent neighborhoods? It has survived in the IL, but is not present in the zoning of the "mixed use" zones. And although Recode renames business zones "mixed use" zones, mixed-use development is only encouraged - not required - in those zones. High-impact commercial development that is not mixed-use and is neither neighborhood-friendly nor pedestrian-friendly is permissible in those zones and is likely to occur, especially in larger off-peninsula zones. Ten-foot rear and 5-foot side setbacks would apply, for example, to a large chain auto parts store. Much more needs be done to mitigate impacts to residential neighbors. Increased set-backs are needed, with required landscaped buffers; structures over 50 feet should not be allowed within at least 50-100 feet of a residential zone; and more thoughtful use standards are needed (for example, restricted hours of operation and deliveries in B2/B2b zones adjacent to neighborhoods). And has any thought been given to mitigating impacts of commercial development on the residents of existing and future housing located within the mixed-use zones?

TOD's were recently added to the Recode final zoning map draft, including at Allen's and Morrill's corners. It makes no sense to add high-intensity zones to intersections that have had failing levels of service for years (and also have some of the highest crash rates in the state). Small scale, pedestrian-friendly mixed-use development is what is needed at these intersections - not 80-foot-high buildings. It would make much more sense to zone for less intense uses and to restrict high-auto-trip-generating commercial developments and restaurants at (and near) heavily congested intersections.

Despite attempts at outreach, most residents of Portland are not aware of the very significant zoning changes in the proposed Recode. The Planning Department has worked very hard, is under enormous pressure, and is understandably eager to finish with Recode. But this is much too important to rush. Please slow the process down and provide outreach that will, in terms that are understandable to a Portland resident with no planning background, spell out (and graphically depict) the types of development the proposed Recode zoning would allow. Most residents don't have the expertise (or the enormous amount of time required) to explore and understand the ramifications of the proposed Recode.

Increasing density is easy; increasing density in a way that preserves quality of life for the residents of Portland is more difficult. Thank you for your hard work on the very complex and important task of rewriting Portland's zoning.

Eleanor Mann

Comments on Recode Revisions and Proposed Zoning Map

0 views

Lisa Chase 2:00 PM (1 hour ago)

to recodep...@portlandmaine.gov, Helen Donaldson, Anne Coughlin, timmi thesellersplace.com, Barbara Carter

I am writing to follow up on a comment I submitted online regarding the proposed revisions to Section 4.3.1. I do not understand the purpose of this provision as it appears to mean that any lot that is "nonconformning" because it does not meet the minimum lot size or street frontage is still considered buildable. If that is the case, it seems to mean that minimum lot size and street frontage requirements are not in fact requirements. This makes no logical sense. Please explain the rationale for this revision.

In addition, I am submitting comments on the proposed zoning map that proposes that 2 areas on Peaks Island which have historically been used by the public for recreation purposes and shoreland access would be zoned IR1 or IR2. This would be completely contrary to the Portland 2030 Plan. These areas should be properly zoned as "Open Space". I have attached maps detailing the areas in question. Finally, the proposed zoning map identifies areas on Peaks Island as OS-R, but there is no definition of OS-R in the draft code. In addition there is a definition for "Open Space, public", but in Table 5-A, OP-P is listed as "Open Space Preservation" which would appear to be a typo. Based on the draft code, it is unclear which open space designation would be consistent with the public's historic use of the two shoreland areas highlighted on the attached maps.

Lisa Chase
Advocates for Shorland Access on Peaks

I-B
IR2
IR1
ROW
No Name
MERIDIAN
ADAMS ST
WHITEHEAD ST
RICHARD ST
RYEFIELD ST
GARDEN PL
NEW ISLAND AVE
OAK AVE
GREENWOOD ST
TORRINGTON AVE
TORRINGTON POINT RD
SEASHORE AVE
HADLOCK CV

084 R021
4,650 Sq. Ft
4,287 Sq. Ft
8,422 Sq. Ft
084 R025
084 R019
084 R015
084 R009
5,140 Sq. Ft
084 R018
084 R017
4,500 Sq. Ft
084 R016
4,500 Sq. Ft
10,557 Sq. Ft
084 R022
3,075 Sq. Ft
49,965 Sq. Ft
084 R014
084 R011
ROW
Sq. Ft
084 V001
1,472 Sq. Ft
084 V010
084 V013
084 V008
084 V012
084 V014
084 V009
084 V011
3,796 Sq. Ft
084 V015
084 V002
3,778 Sq. Ft
084 V007
084 V006
084 V003
3,425 Sq. Ft
3,736 Sq. Ft
084 V005
084 V004
084 S006
34,548 Sq. Ft
ROW
084 Y001
20,650 Sq. Ft
28,973 Sq. Ft
084 X001
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City of Portland, DPS
esri

Find address or place
084 H018
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084 H012
084 H011
084 H005
084 H021
084 ROW
084 N027
4,109 Sq. Ft
084 H009
5,800 Sq. Ft
084 N038
58,832 Sq. Ft
084 H008
1,906 Sq. Ft
084 H006
084 E012
084 N039
084 N005
2,958 Sq. Ft
53,941 Sq. Ft
ROW
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084 E013
084 N007
084 E014
4,141 Sq. Ft
084 N033
084 N009
4,855 Sq. Ft
3,312 Sq. Ft
084 N010
084 N008
4,480 Sq. Ft
084 N012
084 N011
ROW
11,350 Sq. Ft
22,992 Sq. Ft
5,590 Sq. Ft
1,959 Sq. Ft
084 O003
5,894 Sq. Ft
084 U001
13,182 Sq. Ft
8,182 Sq. Ft
084 O004
084 O002
084 U010
084 O001
084 U003
084 U004
084 U002
15,480 Sq. Ft
65,340 Sq. Ft
084 O005
City of Portland, DPS
esri

ReCode

0 views

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Markos Miller Sep 16, 2024, 6:37:38 PM (17 hours ago)

to planni...@portlandmaine.gov

Members of the Planning Boards,

I was pleased to see many of the revisions staff have offered to the ReCode document.

These include:
Simplified Zones, More Transit-Oriented Development, and More Mixed Use.

There is one step that I believe does not sufficiently address Portland's comprehensive plan's goal to create more walkable neighborhoods. Multifamily Housing around Neighborhood Centers are best achieved by nearby multifamily housing. This provides a gradual transition between denser neighborhood centers and the less dense residential zones, increasing the viability of local businesses and transit.

I ask that you advocate for changes in the final ReCode document to help address this issue.

Thank you for your service to our community,

Markos Miller
17 Atlantic St.

NNEPRA Letter to Portland Planning Board

Subscribe

1 view

Patricia Quinn 12:04 AM (11 hours ago)

to planni...@portlandmaine.gov, Van Note, Bruce A, James Cohen

Please see attached for consideration at the Planning Board workshop on 9/17/24.

Thank you.

Patricia Quinn

Executive Director

Northern New England Passenger Rail Authority

75 W Commercial Street, Suite 104

Portland, Maine 04101

207-780-1000 x105

207-252-1153 c

Notice: Under Maine law, documents - including e-mails - in the possession of NNEPRA that are received or prepared for use in connection with NNEPRA's business may be public records. There are very few exceptions. As a result, please be advised that what is written in an e-mail could be released to the public and/or the media if requested.

NORTHERN NEW ENGLAND
PASSENGER RAIL AUTHORITY

September 17, 2024

City of Portland Planning Board
389 Congress St
Portland, ME 04101

Re. ReCode Portland Zoning Amendments
Objection to striking “Intermodal transportation facility” use in the I-Mb zone

Dear Chair Mazer & Members of the Board:

The Northern New England Passenger Rail Authority (NNEPRA) requests that the Portland Planning Board not accept a specific proposed edit to the final draft of ReCode. The edit in question relates to a use restriction in the I-Mb zone, which only appears in the final version of draft ReCode Phase II made available to the public on September 6, 2024; NNEPRA was made aware of this proposed edit on September 10, 2024. This change has significant ramifications to years-long study and analyses undertaken by NNEPRA and MaineDOT to relocate the train station in Portland, a process which has included close coordination with key stakeholders, including the City of Portland.

NNEPRA is a quasi-government agency established by the Maine State Legislature to oversee the operation of passenger rail service to and within Maine. We hold the service agreement with Amtrak for operation of the Downeaster passenger rail service.

A strategic initiative of NNEPRA, in partnership with MaineDOT, is to relocate the Downeaster station in Portland to a mainline location on Portland’s peninsula. The current Downeaster Portland station is located at the Portland Transportation Center (PTC) which is on a branch line approximately 1 mile from the CSX mainline. Accessing the current station requires time consuming reverse moves, creating conflicts between freight and passenger trains. The current station location constrains growth and causes passengers additional travel time. At its current location, the Portland station requires 20 additional daily train movements as compared to a future mainline station, aggregating to 31,000 hours of additional passenger time, 8,600 gallons of additional fuel, and $973k in cost, annually. The resulting additional travel time makes the Downeaster less competitive with roadway modes, and a less attractive alternative for regional mobility.

NNEPRA has been actively studying site alternatives for a future mainline station located on the Portland peninsula over the past 5 years, with substantial engagement of key stakeholders, including City of Portland staff, nearby property owners, and members of the public. NNEPRA and MaineDOT recently hosted two virtual public meetings. On April 24, 2024, three potential site alternatives were presented to the public with feedback solicited. On August 13, 2024, the site alternative location that was determined to best fulfill the goals of the project, “Site 3”, was presented to the public with feedback solicited. “Site 3” was strongly preferred in comments from key stakeholders and the public throughout the process and was determined to be the site which best meets project goals by the NNEPRA Board of Directors during a June public board meeting. “Site 3”, can be accessed by both St. John Street and the Mercy Hospital campus off

the Fore River Parkway. More specifically, this site is located between addresses 108 to 148 St. John Street on the northern edge of the I-Mb zone, abutting the adjacent B2 zone.

As part of the site selection process, NNEPRA and our consultant team partners, have been focused on several key project needs and goals, including:

- Railroad operational and safety considerations
- Parking and automobile accessibility
- Connectivity to existing and future pedestrian, bike, and transit networks
- Access to the Portland Layover Facility (PLF) located on Thompson's Point
- Support for future additional connecting rail service
- Land use, including current & future allowed uses and opportunities

The constraints and opportunities for the sites that were evaluated under these criteria can be reviewed online by watching the recorded public presentations or reviewing PDF versions of the presentations at the following link:

https://www.nnepra.com/project/portland-station-relocation/

As presented at our public meetings, consideration for land use at the alternative sites was one of the key factors evaluated by NNEPRA in our analyses. NNEPRA has been aware of the current ReCode process by the City of Portland and has met with City Planning staff multiple times over the past several years to gain perspective and feedback and to provide the City with updates on our analyses.

"Site 3" resides within and at the northern edge of the I-Mb zone abutting the B-2 zone along St. John Street. Under the current zoning, and throughout the City's ReCode process, the I-Mb zone is one of only a few zones in the City that allow for an "Intermodal Transportation Facility". The final draft changes for Phase II ReCode, made available to the public and NNEPRA on September 6, define the term "Intermodal Transportation Facility" and strike it as an allowed use in the I-Mb zone.

NNEPRA agrees with the added definition for "Intermodal transportation facility" into the Land Use Code under Section 3 – Definitions, as follows:

> **Intermodal transportation facility.** A facility where two or more modes of transportation intersect, passengers can transfer between modes, and basic passenger amenities are provided.

NNEPRA does not, however, agree with striking this use from use Table 6-F associated with the I-Mb zone, while adding it as an allowed use to other zones (B-2/B-2b, B-3, B-4, TOD-1, TOD-2).

Proposed Final Draft (9/6/2024):

TABLE 6-F: PERMITTED AND CONDITIONAL USES IN INDUSTRIAL & AIRPORT ZONES

		I-L/I-Lb	I-M/I-Mb	I-H	A-B[1]	Use Standards
	Live/work dwellings	●				
Institutional	Airports				●	
Institutional	Child care centers + small child care facilities	●	●			6.4.9
Institutional	Emergency shelters	◐	◐	◐		6.4.14
Institutional	Places of assembly	●				6.4.30
Commercial / Service	Bars				●	6.4.6
Commercial / Service	General offices	●	●			6.4.15
Commercial / Service	General services				●	
Commercial / Service	Hotels				●	
Commercial / Service	Market gardens	●				6.4.25
Commercial / Service	Recreation and amusement centers	●	●			
Commercial / Service	Restaurants				●	
Commercial / Service	Self-storage facility		●	●		6.4.37
Commercial / Service	Specialty food service	●	●			
Commercial / Service	Veterinary services	●	●	●		
	Animal-related services	●	●	●		6.4.4
	Auto service station	●	●	●	●	6.4.5
	Construction & engineering services	●	●	●		
	Dairies	●	●	●		
	Food & seafood processing, packing, and distribution		●	●		
	High-impact industrial uses			●		
	Impound lots		●	●		6.4.20
	~~Intermodal transportation facilities~~	●	●	●		

The elimination of “Intermodal transportation facility” use from the I-Mb zone does not align with the purpose statement of that zone (see discussion below) and is a sudden and unexpected change to a current use allowance. Public comment logs from the ReCode process do not reflect public requests for elimination of this use, and in fact public comments substantially request consideration for more and broader allowable uses within the City’s industrial zones, not less. The designated transportation facility use was an important factor considered by NNEPRA and MaineDOT in the evaluation of the “Site 3” location. Neither NNEPRA, nor MaineDOT, were made aware of this proposed change throughout the regular engagement with the City over the past several years, including multiple correspondence and meetings in 2024. City Staff informed NNEPRA of this change on Tuesday, September 10, following the City’s release of this change as part of the final draft of ReCode on September 6.

This proposed change does not align with the purpose statement of the I-Mb zone, both in the current (adopted) language and under the proposed final draft language. The I-Mb zone includes the following purpose statement under the current and proposed final draft of the land use code:

Current (adopted):

TABLE 5-F: INDUSTRIAL AND AIRPORT ZONE PURPOSE STATEMENTS

I-M, I-Ma, & I-Mb	To provide zones in areas of the city in which low- and moderate-impact industries and transportation-related uses will coexist. I-M and I-Ma zones are located on arterials or collectors. The I-Mb zone is similarly located on the peninsula. These locations provide for direct access onto arterials, thereby protecting residential neighborhoods from drive-through traffic. The purpose of the I-M, I-Ma and I-Mb industrial zones is also to provide for larger industrial buildings and for the limited or controlled use of areas outside of structures for storage of materials and machinery. These facilities often require large volumes of imported materials and products which result in large volumes of shipping and receiving. Often uses may be highway-oriented and transportation-related, thus relying on citywide and regional transportation infrastructure. Industrial uses in these moderate-impact industrial zones may require separation from higher-impact uses.

Proposed Final Draft (9/6/2024):

TABLE 5-G: INDUSTRIAL AND AIRPORT ZONE PURPOSE STATEMENTS

I-M & I-Mb	To provide zones in areas of the city in which low- and moderate-impact industries and transportation-related uses will coexist. I-M zones are located on arterials or collectors. The I-Mb zone is typically located on the peninsula. These locations provide for direct access onto arterials, thereby protecting residential neighborhoods from drive-through traffic. The purpose of the I-M and I-Mb industrial zones is also to provide for larger industrial buildings and for the limited or controlled use of areas outside of structures for storage of materials and machinery. These facilities often require large volumes of imported materials and products which result in large volumes of shipping and receiving. Often uses may be highway-oriented and transportation-related, thus relying on citywide and regional transportation infrastructure. Industrial uses in these moderate-impact industrial zones may require separation from higher-impact uses.

In summary, while NNEPRA agrees with the step to define the term “Intermodal transportation facility” in the City’s Land Use Code as part of this ReCode process, we do not agree with striking this use allowance from the I-Mb zone. The proposed change contradicts the purpose statement of the I-Mb zone and disrupts the multi-year planning process undertaken by NNEPRA and MaineDOT.

Sincerely,

Patricia Quinn

Patricia Quinn, Executive Director
Northern New England Passenger Rail Authority

Cc:

Form Submission - Contact us Re:Code - RN-3 Zoning Setbacks for Corner Lot

0 views

Squarespace

to recodep...@portlandmaine.gov

Sep 16, 2024, 6:52:17 PM (17 hours ago)

Sent via form submission from *ReCode Portland*

Name: Peter Smith

Email Address: peterthornsmith@gmail.com

Subject: RN-3 Zoning Setbacks for Corner Lot

Message: Hello, I am currently working on plans for a single family house that will be in the new RN-3 Zone. I am concerned that a line has been removed from the current Land Use Code that reads as follows:

Corner lot setbacks.

"In case a principal residential structure has its front yard upon the long side of a corner lot, the rear setback may be reduced to a depth not less than the required side setback on the lot, provided that the aggregate of the widths of both sides and depths of front and rear yards is not less than the similar aggregate of required dimensions of all setbacks if the front yard were faced on the short side of the lot."

If there is someone I can speak to about this language that would be extremely helpful as my current site plans take this into account.

Thank you,
Peter

Manage Submissions

Does this submission look like spam? Report it here.

Overlay for Washington Avenue

1 view

Subscribe

Ruth Freeman <ruth.w.freeman@gmail.com> 11:57 AM (2 hours ago)

to planning@portlandmaine.gov

Dear Planning Board,

I strongly urge you to support the Eastern Promenade—Washington Avenue Overlay. Please amend ReCode to protect the park for future generations.

Thank you!

More thoughts on recode 0 views

Gretchen Greenberg 12:38 PM (1 hour ago)

to recodep...@portlandmaine.gov

Members of the planning board:
As a Portland resident, I wanted to add a few thoughts on recode. I admit, I am still a bit overwhelmed at all the information, descriptions, and changes but will attempt to add my thoughts and concerns:

- Overall, I appreciate the city allowing more flexibility for housing, particularly housing by transit areas.
- I find some of the height allowances a little overwhelming off the peninsula. A maximum height of 80 feet seems high and frankly, a little drastic. I live off Allen Avenue and still enjoy the residential feel of my neighborhood. Yet, the corner is a good place for housing being close to supermarkets, a pharmacy, and a bus line but the proposal for the height is too high, too much.
- With increased housing, how is the city planning for increased traffic and usage in the transit oriented development zones? Allen's Corner is currently one of the busiest intersections in the city. More development will increase traffic. I currently walk to the Northgate shopping area regularly. Crossing Auburn Street can be daunting. How will safety features be incorporated in this area and other TOD areas be considered? If we want walkable neighborhoods and urban areas, they need to be safe.
- The lack of requirements for parking worries me. I understand that parking lots can be considered a waste of space. While public transportation and cycling is an option for some, it isn't for many families and seniors. I am concerned that lack of parking will cause people to park their cars on the streets and side streets in residential neighborhoods. More street parking can also be a hazard to pedestrians and cyclists. Street parking in residential neighborhoods detract from the walkability in a neighborhood. Parking will be problematic during snow storms. I was told by someone at an informational meeting on Recode that no parking requirements was not a problem in other cities, or that developers provided parking because otherwise, there would not be tenants. Nevertheless, it doesn't seem logical to me and I urge the planning board to consider a minimum parking requirement.
- Am I reading it correctly that single family lots will be required to have 3 & 4-unit buildings? Many young families moving to Portland ideally want a single family home with a yard for their kids. It can be a small lot, but it is a single family. At least that is what I wanted to have when I moved to Portland with a young family. There is a need for housing for all kinds of people in Portland.

Thank you for considering my comments and thank you for working to improve housing availability in Portland.

Gretchen Greenberg
165 Delaware Court, Portland

Fwd: ReCode/Grandfathered lots 0 views

Dan Anderson 1:12 PM (1 hour ago)

to Dan Anderson, recodep...@portlandmaine.gov

Daniel W. Anderson
Dan Anderson Real Estate, Inc.
Portland, ME. 04103
dan@danandersonrealestate.com
207-712-3741

Begin forwarded message:

From: Dan Anderson <dan@danandersonrealestate.com>
Date: September 17, 2024 at 12:27:45 PM EDT
To: recodeportland@portlandmain.gov, abullett@portlandmaine.gov
Cc: Alex Coupe <alex@danandersonrealestate.com>, Ann Machado <amachado@portlandmaine.gov>, Helen Donaldson <hcd@portlandmaine.gov>, Kevin Kraft <kkraft@portlandmaine.gov>
Subject: FW: ReCode/Grandfathered lots

Hi All,

I have written about this earlier and would like to re-fresh this topic it in your minds in hopes to get some feedback.

I am also including my city councilor representative (Anna Bullett) to get some council traction on this matter.

I am developing a grandfathered lot split on Jackson Street in Portland for an entry level new home.

At the pre-application meeting with the city, Ann Machado mentioned that this scenario would not exist in ReCode.

The existing Portland neighborhoods were developed on subdivisions recorded on plot plans in the early to mid-1900's. Many houses were constructed on double lots for privacy and/or long-term investments.

Without this provision remaining in the code, it is akin to purchasing a few lots in an approved subdivision to build a home on one lot and retain the other lots as a long-term investment or for privacy, only to find out that years in the future these lots are no longer buildable because they are in the same name.

In all neighboring municipalities (Portland, South Portland, Westbrook) these "grandfathered" lots are considered lots of record, and can be developed.

Currently, the zoning reads

1. You need to demonstrate that these are *lots of record*.

Article 3 defines a lot of record as: *A nonconforming parcel or area of land that: a) is separately described in a deed or on a plan recorded in the Cumberland County Registry of Deeds as of the date designated in the relevant provision of this chapter and b) conformed to the requirements of this chapter as of the date designated in the relevant provision of this chapter.* You need to provide a chain of title for the two lots dating back to June 5, 1957, to show that they were described as separate lots from the present back to 1957 to prove they are "lots of record".

2. If you can demonstrate that they are *lots of record*, to develop them separately you need to meet the criteria outlined in section 4.3.1.B. The first part of this section states:

B. A lot of record that has been held in common ownership with any adjoining lot(s) at any point after the relevant date below shall be considered a buildable lot only if: 1) none of the lot(s) are in the Shoreland Zone; ***2) any existing structure meets, or will be modified to meet, the applicable setback dimensions;*** *and 3) it meets the following minimum standards:*

THE NEW RECODE:

In 4.3.1 and 4.3.2 nonconforming lots....section 4.3.2 does not allow a grandfathered lot held in the same ownership to be separated and developed.

The lot we are purchasing is a vacant lot at 28 Jackson street which includes an existing house and a vacant lot. The vacant lot was used as a large yard and garden The homeowner is a neonatal nurse at Maine Health. She owns both lots. They are titled in her name. With current zoning codes she can financially benefit from selling the home and lot separately to maximize her retirement nest egg.

The house was sold to her with the extra lot many years ago. She always looked at the extra lot as a savings account.

Unfortunately, in the proposed Recode in section in 4.3.2 the language strips away the potential of that vacant lot to be developed.

I urge you to re-consider this language in the recode. The existing code for this type of lot provides for a much-needed alternative in-fill housing as opposed to large new

subdivisions. We have used the existing code for grandfathered "in fill" lots to build many "beginner & retirement" style modest affordable new homes in Portland over the years. It would be a loss not to be able to offer the Portland public the ability to develop these grandfathered "in fill" lots to build modest new homes at affordable prices.

Daniel W Anderson

Designated Broker/Certified Appraiser

(C): 207-712-3741 O): 207-878-3206

Dan Anderson Real Estate, Inc.

1326 Washington Ave

Portland, ME 04103

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Recap from yesterday's ReCode Workshop

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3 views

Todd Morse <todd@urbanistportland.me> Sep 18, 2024, 9:37:15 AM (yesterday)

to planning@portlandmaine.gov

Planning Staff and Planning Board,

Thank you for a great workshop. You discussed all of the substantive issues about ReCode in depth. Your comments were insightful and informed by the comprehensive plan. Though many of our proposals were not adopted I felt they were addressed and I came away with an understanding as to why the Planning Board and Planning Staff felt that way.

I just had one point I wanted to clarify based on the discussion regarding height per floor. We were not requesting that we determine height by number of stories, just that certain heights be increased by a few feet to accommodate taller stories. Specifically 35 ft be increased to 38 ft and 45 to 49. This is under the assumption that the goal of 35 ft is to get 3 stories and 3 ft adds one foot per story, similar to 49 ft. Once you get beyond 49 ft the impact of the height of the building starts to be more of a concern than achieving a certain number of stories so this would not apply anywhere beyond what is currently 45 ft.

I also feel that the public hearing should not be moved from the 24th. I know it is a tight turnaround but the meeting has been noticed and the council workshop has already been scheduled. Moving this meeting could have ripple effects on the entire ReCode timeline. If ReCode is delayed too long it will push it to a new council and a new workshop may be necessary, pushing it as far as 2025. There was substantial discussion and consensus building among the board in this meeting and there has been ample public discussion and notice. If length of the meeting is a concern, UCP has largely made our final Planning Board commentary and we acknowledge there will likely be no further changes in the public hearing. We do not plan to make as substantial of a public comment as we did in the workshop. If the meeting is delayed, please inform us and the public as soon as possible. We have shared the timeline in our newsletter and on social media and we would like to update people.

Thank you,
Todd Morse

ReCode Workshop 09/17

1 view

Subscribe

Ryan Fecteau <RFecteau@avestahousing.... Sep 18, 2024, 10:17:07 AM (yesterday)
to planning@portlandmaine.gov

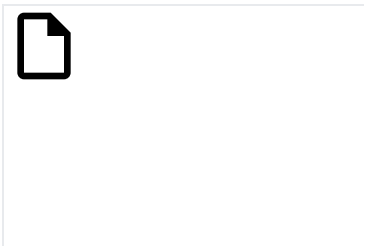
Hi there,

I shared these comments in person yesterday. Here are my written remarks for the record.

Best,

Ryan

Ryan Fecteau (he, him, his)
Senior Officer of Planning & Partnerships
Avesta Housing
p: 207-245-3305 | c: 207-414-2471
www.AvestaHousing.org
View current job openings with us.



Chair Mazer and fellow members of the Planning Board,

My name is Ryan Fecteau and I am the Senior Officer of Planning and Partnerships at Avesta Housing. Avesta is the largest nonprofit affordable housing developer in Northern New England. We own and manage over 3,000 homes across Maine and New Hampshire with nearly 4,700 residents. In Portland, we have 23 properties, including two in development, and over 1,600 residents.

We are extremely thankful to the City of Portland Planning Board, the Planning Department, and the hundreds of residents who have engaged in the ReCode process. This is a monumental opportunity to further the city's mission to increase access to safe and affordable housing. The latest housing study from MaineHousing and the State of Maine shows a need for 84,000 homes in the state by 2030. ReCode will help Portland do its part in tackling the housing crunch.

In addition, the significant changes offered in ReCode will set the standard for surrounding communities. Portland has an opportunity to demonstrate bold leadership for the region and the state. This is exciting for the future of housing in the city and nearby towns, which are likely to look at Portland's efforts when determining what changes they can make to spur housing development for their current and future citizens.

However, we have concerns regarding one item that we hope can be addressed as an amendment to final adoption. **We are concerned with the elimination of height bonuses for affordable housing developments.** While it is true that ReCode is more generous overall in terms of height, the elimination of this provision would compress the number of units in some circumstances.

For example, 89 Elm St., which will have affordable, rent and income restrictions on all its units, has already been approved by the Planning Board, and is yet to be developed, would have 49 fewer units under this version of ReCode. Porter Station, which Avesta opened last winter, would have likely lost 10 units if the height restrictions imposed in B-zones adjacent to R-zones would have been applicable at the time of its approvals. At just two properties, ReCode's removal of height bonuses would have resulted in the loss of 59 units of affordable housing. Furthermore, it seems counterintuitive to create legally nonconforming developments, especially of recently completed or yet to be completed projects.

We are extremely grateful for your attention to this suggestion and for your overall efforts to modernize Portland's codes.

Best regards,

Ryan Fecteau
Senior Officer, Planning & Partnerships

Comments on Recode Revisions and Proposed Zoning Map

4 views

Lisa Chase Sep 16, 2024, 2:00:59 PM (3 days ago)

I am writing to follow up on a comment I submitted online regarding the proposed revisions to Section

Megan Cindrich Sep 16, 2024, 3:35:35 PM (3 days ago)

Hi, Lisa - Thank you for sharing these thoughtful comments about the proposed changes to the Land Use

Helen Donaldson Sep 18, 2024, 4:17:36 PM (19 hours ago)

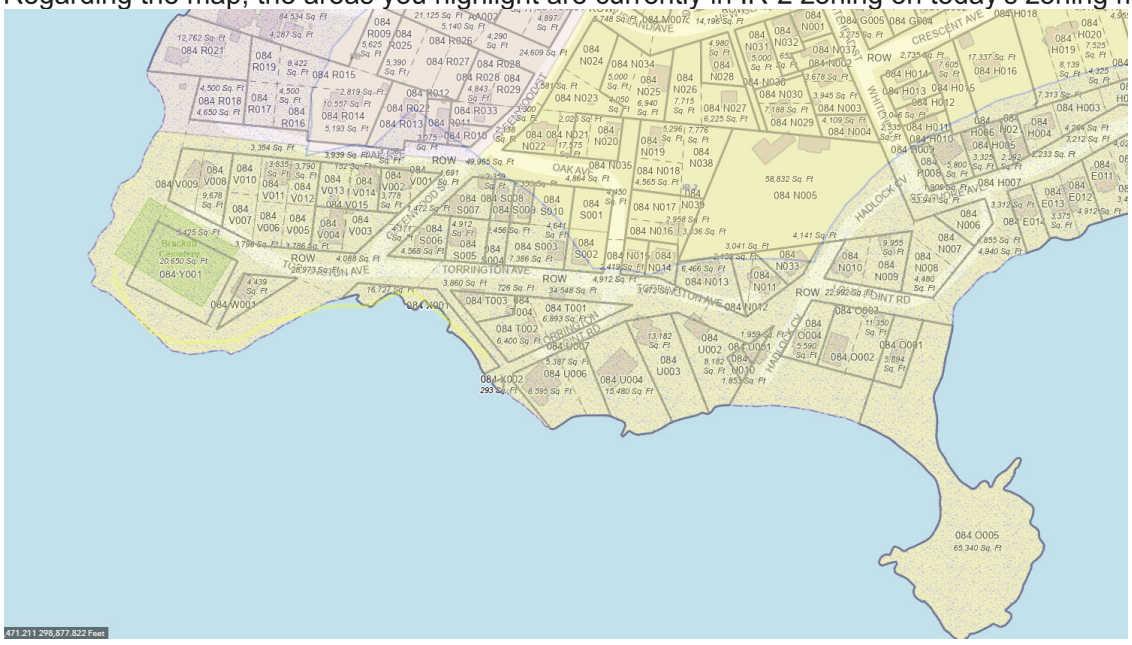
to Megan Cindrich, ReCode Portland, Lisa Chase, timmi thesellersplace.com, Barbara Carter

Lisa,

I wanted to follow up on your email just to provide some more information.

Under the land use code, it is not legal to create a new nonconforming lot (i.e. a lot that fails to conform with minimum lot size or street frontage requirements). However, there are existing, previously recorded lots today that are nonconforming, because they were created under a previous iteration of the land use code. Section 4.3.1 addresses these types of lots.

Regarding the map, the areas you highlight are currently in IR-2 zoning on today's zoning map:



Under ReCode, we are proposing to rezone the Brackett Cemetery parcel to OS-R. However, we have not proposed any zoning changes on the parcels you identified below. See the proposed map here:

Last, the OS-R is the proposed designation for that parcel at the Brackett Cemetery. In Article 5 of the draft, which includes the zone purpose statements, you can find the "OS-R Recreation and Open Space Zone." The draft is located here: https://static1.squarespace.com/static/5a75f43a692ebeeb1159413d/t/66e2f2c5e6d4bf18dc37f0df/1726149331269/Final+Draft+LUC_9_4_24-compressed.pdf

Best,
Nell Donaldson

--
Nell Donaldson
Director of Special Projects
City of Portland
(207) 874-8723
hcd@portlandmaine.gov
planning & urban development

Lisa Chase Sep 18, 2024, 4:27:04 PM (19 hours ago)

to Helen Donaldson, Megan Cindrich, ReCode Portland, timmi thesellersplace.com, Barbara Carter

Nell - Thanks for your email. As to the area that I highlighted on the map, my intention is to advocate for the zoning to be changed to open space from its existing IR-2 and IR-1 designations. My apologies if this was not clear.

As to the language of Section 4.3.1, I still don't follow how this provision works. For example, a lot that is currently 2500 sq ft, will not meet the new proposed 3000 sq ft lot size, so am I correct that it can be built upon if what is proposed to be built will meet all the other dimension requirements?

Lisa

Notice: Under Maine law, documents - including e-mails - in the possession of public officials or city employees about government business may be classified as public records. There are very few exceptions. As a result, please be advised that what is written in an e-mail could be released to the public and/or the media if requested.

181 Virginia St, Portland, ME 0 views

Ray Ruby Sep 18, 2024, 5:54:28 PM (21 hours ago)

to recodep...@portlandmaine.gov

Hello,

We just received the mailer and have tried hard to figure out the changes on the interactive map.

Our address is above and the only question at the moment is if our kids will still be in the same school (Lyseth) or will the recode send them to a new school.

Thank you

-Ray Ruby

Building height clarifications

0 views

Subscribe

Jesse Thompson 10:14 AM (1 hour ago)

to recodep...@gmail.com, kkraft, Helen Donaldson, planni...@portlandmaine.gov

Members of ReCode Planning Staff and Planning Board members, thank you all for your extensive Workshop on Tuesday.

As a practicing architect I wanted to add some technical commentary to the height discussion, especially as relates to the B Zones. There was a lengthy discussion about 75'-0" vs 90'-0" and what might be appropriate in B zones. I personally agree that building height should be defined in feet instead of stories, stories vary too much to set max height of a city with.

However, as I watched the discussion, I think it would be very helpful for the Board and the Public to relate height to typical story heights in a non-legally binding way, especially since residential buildings typically follow very clear patterns of construction.

On a flat building site, most buildings larger than 4 floors have a mixed-use ground floor. That ground floor is typically about 14'-0" tall to allow for mechanical ductwork and other services and deep structural beams that the upper floors do not contain. Upper floors are typically 11'-0" floor to floor.

With this math, again on a flat site, a 75'-0" height limit leads to a **6 story building** typically.
(14+11+11+11+11+11= 69'-0").
A 90'-0" height limit leads to a **7 story building**, perhaps an **8 story max** if the designer cuts down ceiling heights in the building.

Listening to the discussion, I think it would be very helpful for the public and board to link heights to stories during deliberations two using non-binding language like "typically" or "usually" so that maximum heights are not just picked out of thin air with numbers that "feel right", but instead get us the types of neighborhoods we want in our city. We have 6 story buildings already all over our B Zones, a 75-0 height limit is not as large as it seems in reality.

One more clarification, because it came up:

A High Rise building is a specific type of safety measure defined in NFPA fire code. Once you are above High Rise height you have to provide an Emergency command center for the fire department, back up safety systems for the elevators and emergency lighting, and upgraded standpipes that bring water to the upper floor sprinklers. It is important to note that a High Rise building is greater than 75'-0" to the **top occupied floor level,** not to the roof. A High Rise in Portland would typically be more than 85'-0" tall measured from the lowest access point on the site, it would be larger than 75'-0" tall. They would only be built in zones that allow up to 90-0 in height.

I also want to voice formal support for the current Height Definition as measured from Average Grade to the Top of Roof Beam. The major reason this is how it is measured (instead of Barbara's steady recommendation to go to the highest point of the building, a way to downzone heights honestly) is that the Inspections Department can verify this during Construction and make sure a building is compliant before construction proceeds too far. It is easily verifiable, which is critical to Inspections proceeding smoothly. It also does not penalize buildings for having thick roof insulation, which sits above the roof beam typically. These two factors are why it is important to keep the height definition as it sits currently and not to change it.

Thank you,

Jesse Thompson
PRINCIPAL, FAIA, LEED AP, CPHC (he-him)
Maine Licensed Architect

Kaplan Thompson Architects
102 Exchange Street, Portland, ME 04101
direct: (207) 536-4672
***cell:* (207) 210-8253**
kaplanthompson.com

Zoning Question 0 views

Sherri Alexandrovich 11:59 AM (3 hours ago)

to recodep...@portlandmaine.gov

Hello - It has been brought to my attention that adding mental health therapy for the residents of Peaks Island has been made a priority for 2024/2025. I am a licensed mental health clinician in MA and recently got my license to do therapy in Maine. I am struggling with finding space on the island to provide services and my house is not commercially zoned therefore not a current option. A friend of mine who lives on the island sent me an article regarding upcoming zoning and mapping changes and I was hoping to talk with someone about the possibility of changing my property from residential to commercial so that I could use my house for therapy. I primarily live in Mass and bought a house on the island last year we use for vacationing. It would make a perfect location to offer therapy to the community if I could change the zoning.

I would be happy to come to the island for 9/24 meeting if you think that would be helpful to talk with someone in person,

Thank you and I look forward to hearing from you. 508-254-2384 Sherri Alexandrovich

Sherri Alexandrovich MA CAGS LMHC
Founder/CEO
New Beginnings Wellness Center Inc
1280 Main Street
Worcester MA 01603
PH - 508-254-2384 FAX - 508-754-1115
www.newbeginningswc.com

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Form Submission - Contact us Re:Code - Forest Avenue B2c to B2

0 views

Squarespace 11:43 AM (2 hours ago)

to recodep...@portlandmaine.gov

Sent via form submission from *ReCode Portland*

Name: VALERIE WRIGHT

Email Address: vwright22@hotmail.com

Subject: Forest Avenue B2c to B2

Message: It looks like Forest Avenue between Saunders and Baxter Woods on the west side of the street is proposed to change from B2c to B2. What does that mean? What is the difference between B2c and B2?
Thank you.

Manage Submissions

Does this submission look like spam? Report it here.

Resident comments on ReCode

0 views

Subscribe

Sandra Knakal

11:23 AM (2 hours ago)

to planni...@portlandmaine.gov

Greetings.

I have 3 major concerns over the ReCode that is proposed for the City of Portland.

1. **Height increases**. I think it's unnecessary to significantly increase the height restriction within the peninsula of Portland. It will drastically change the environment and the feel of the city and provide little in the way of benefit. **Please don't dramatically increase the heights of buildings on the peninsula.**
2. **Affordable housing requirements**. I believe it is critical that all developers are required to provide some affordable housing. And they should NOT be allowed to buy their way out of those requirements. We need affordable housing units and it should always be required without the potential to make a deal to avoid that requirement.
3. **Parking for new developments**. Some parking should be required in some form for all new developing properties.

Thank you for taking my comments into consideration.

Sandi Knakal
42 Morning Street
Portland, ME 04101
518-527-8246

ReCode-North Deering 0 views

Anton Ascanio Sep 21, 2024, 10:41:15 AM (2 days ago)

to recodep...@portlandmaine.gov, md...@portlandmaine.gov

To the Portland City Council Planning Board-ReCode,

Looking at the recent ReCode Portland proposals for the East Deering and North Deering areas (Bates St through Allen's Corner) it is an extreme plan to change the layout and family friendly culture of our community. My parents have owned and raised their family in a home on Washington Avenue since the early 1960's. I am now raising my boys in the same home.

Like most people, families chose to purchase homes off of the peninsula because they DID NOT want to live in an urban environment. Now, looking at proposals for rezoning to Transit Oriented Development (TODs) to allow buildings with 80' height limits, no density limits and no setback or parking requirements, I can say confidently that we citizens of East and North Deering absolutely DO NOT want this urbanization of our area.

Instead, we all understand the need for more housing, there needs to be a more reasonable approach when making recommendations that would change the landscape and culture of an entire community. As a neighborhood through The Friend's of Allen's Corner, which I am a member, we have been working on how to make that intersection more pedestrian friendly and neighborhood oriented. Let us continue creating our vision for what works best for us without forcing zoning on us before our work is done.

Let me be clear, we all understand the need for more housing, especially affordable housing. Rather than force all of Portland to look like the urban centers of Boston, Brooklyn or Washington, DC.

Sincerely,

Anton Ascanio

Traffic Studies 0 views

Phyllis Guevin Sep 21, 2024, 6:10:20 PM (2 days ago)

to recodep...@portlandmaine.gov

Please email traffic studies around any zone changes or new building.Traffic is at its max for a decade especially at Morrills and woodfords corner.We need more local gas stations And convenient parking lots.Phyllis Guevin

Sent from my iPad

Form Submission - Contact us Re:Code - supply a description of the ledgends in the map as to what they mean, allow and disallow.

1 view

Squarespace Sep 22, 2024, 9:02:39 AM (yesterday)

to recodep...@portlandmaine.gov

Sent via form submission from *ReCode Portland*

Name: Pete Peterson

Email Address: janepetemaine@gmail.com

Subject: supply a description of the ledgends in the map as to what they mean, allow and disallow.

Message: Please supply a description of the legends in the map as to what they mean, allow and disallow.

Manage Submissions

Does this submission look like spam? Report it here.

Form Submission - Contact us Re:Code - code question

0 views

Squarespace Sep 22, 2024, 10:32:15 PM (12 hours ago)

to recodep...@portlandmaine.gov

Sent via form submission from *ReCode Portland*

Name: Paul and Mary Bloch

Email Address: leadingejinvestments@gmail.com

Subject: code question

Message: Hi there! We have a multi unit at 12 Clifton Street in Portland. On the property there is also a very old large garage. We believe it used to be a barn. It is structurally compromised and beginning to lean. We have been told various opinions on what to do from tearing down the garage to trying to renovate/reconstruct it. We are having a hard time understanding what the code says about this. Ideally we would like to put a garage with an ADU above it and use the same footprint. Can you give us information regarding next steps with regards to permitting and the code? If we tear down the structure, are we able to rebuild on the existing footprint? Is there any time constraints?

Obviously this project will require significant money to do this and ideally we would ilke to add an additional unit. Thank you for your help!

Mary and Paul Bloch
LeadingEJInvestments@gmail.com

Manage Submissions

Does this submission look like spam? Report it here.

Form Submission - Contact us Re:Code - 139 Newbury Street, Portland Maine

0 views

Squarespace
to recodep...@portlandmaine.gov

8:48 AM (1 hour ago)

Sent via form submission from *ReCode Portland*

Name: Phil Notis

Email Address: philnotis@gmail.com

Subject: 139 Newbury Street, Portland Maine

Message: Hello,

What is the proposed zoning change to the address 139 Newbury Street along with permissible uses.

Thank you,

Phil Notis

Manage Submissions

Does this submission look like spam? Report it here.

Megan Cindrich <mcindrich@portlandmaine.gov>

Fwd: New recommendation from Recode to Peaks Island Committee questions

1 message

Helen Donaldson <hcd@portlandmaine.gov> Wed, Sep 25, 2024 at 2:49 PM
To: Megan Cindrich <mcindrich@portlandmaine.gov>

For the record.

I added this to the spreadsheet already.

---------- Forwarded message ---------
From: **Mary Lou Wendell** <marylouwendell@gmail.com>
Date: Wed, Sep 25, 2024 at 9:33 AM
Subject: New recommendation from Recode to Peaks Island Committee questions
To: Helen Donaldson <hcd@portlandmaine.gov>, Mary Lou Wendell <marylouwendell@gmail.com>

Dear Ms. Donaldson:
My name is Mary Lou Wendell. I have lived on Peaks Island in the middle of the IR1 zone for 25 years and have raised three children here. Our home is surrounded by woods in this residential zone. Our property is adjacent to Travers Tuttle, a Portland Public Works employee who works on the island and whose property faces upper Central Avenue. A few years back, Mr. Tuttle began operating an illicit commercial auto repair shop out of a two-plus story, plastic-covered, airplane hangar "garage," replete with a pneumatic car lift, he built on the back of his property (that is within spitting distance from my home) all in violation of his building permit, which was for a one-story wooden building. While Mr. Tuttle was allowed to keep his facility through an after-the-fact permit, I was able to eventually get the city's housing office to cite him and warn him to stop running his commercial auto repair shop out of this IR1 zone. Mr. Tuttle also was obviously not licensed in any way. This happened only relatively recently. The process of getting Mr. Tuttle to stop has caused great harm to me and my family, both because of the extreme nuisance and noise, and in the ensuing community blowback Mr. Tuttle organized against me and my family.for working to get the city to stop him from running this dangerous and noisy side business from the island's residential zone.

I have been watching the Recode process closely up until eight or nine months ago, and checking in since then occasionally. Last winter, I spoke at length with Christine Gramando about your survey that was conducted of islanders that included a question about interests in an auto repair shop on the island. Ms. Gramando said your office asked the question to see if there was real interest in expanding into any zone to allow for this, and the conclusion was there was not.

I have checked the Recode website thoroughly and see only that a final proposal has been created, along with a final zone map, all that was posted just this month, according to your website.

I see no information about anything new that is being proposed since then by your office to create an "IB2 zone" that would include Central (where Travers Tuttle lives) that would allow for an auto repair shop. This would be a dramatic change both in the Recode proposal and to the island, yet it appears the Peaks Island Committee is considering this exact proposal they are saying is coming from the city.

The PIC has not made this proposal public to islanders, nor have they referenced it on any agenda item, nor have they referenced it in any meeting minutes to date. I am only learning there is something going on with the proposal (from the city?) of an "IB2 zone" that would go up Central Avenue by a recent story in the Peaks Island News. I have begun asking questions of the PIC about this, and they have only said that you have made a formal proposal they are considering and will be discussing and voting on tonight.

So now I am asking you to please provide me with a copy of your proposal to the PIC that has to do with expansion of the island's business zone to upper Central Avenue. And please explain why none of this has been made public and why there is no reference to these last-minute changes that are not referenced anywhere on the Recode website, a website that just this month specifically references the "final recommendations" and a "final zone map" that includes nothing about an expansion of the island's business zone to upper Central Avenue that would allow an auto repair shop (where a city employee is currently and illicitly operating an auto repair shop in what is now a residential zone.)

If any of the details of what I am being told is being proposed by your office are incorrect, please correct me and explain what the Recode office has, in fact, proposed at this late date, provide me with a copy of that proposal, and please also explain why now and why none of this new proposal is listed on your website.

Thanks in advance for your time.

Mary Lou Wendell
146 Ledgewood St.
Peaks Island, Me.
207-221-7666, 207-210-5756 (cell)

--

Nell Donaldson
Director of Special Projects
City of Portland
(207) 874-8723
hcd@portlandmaine.gov

planning
& urban
development

ReCode II - PublicComment 0 views

Subscribe

Anne Pringle Sep 25, 2024, 2:36:19 PM (19 hours ago)
to Planning Board

As an engaged citizen I do my best to follow proposed policy, consider its implications, and comment responsibly, as I did during development of the Comprehensive Plan.

That said, I have found it very hard to follow the development of ReCode, both I and II. I certainly support simplifying the Land Use Code, which is extremely hard for the average person to decipher and fully understand.

I appreciate the tremendous staff effort that has gone into redrafting the Code, but I fear unintended consequences, just as have been demonstrated by the 2015 R-6 density changes.

The intent then, as now was, to create more “affordable housing” stock by allowing more density in that zone. I have followed this closely over the years and feel that just the opposite has resulted. Developers paid high prices for small frame single-family or two-family dwellings in the Munjoy Hill neighborhood, asserted they were unsalvageable, and tore them down to build big boxy flat-roofed condos, sold for high six figure sale prices. Bottom floors were taken up by garage door openings and stair towers, not living units or porches, breaking with the existing development pattern and context.
While money was paid into the Duson Housing Trust Fund, I believe the contributions made were disproportionate to the value of the existing affordable housing that was lost. The vast majority of new “affordable housing“ has been for those below 60% of the AMI and supported by the LIHTC and TIFs, at high unit cost. Very little, if any, new housing has been created for “the missing middle”, who cannot afford either high market prices or rents. New housing production, therefore, has been for the very poor or the very rich.

There are those who assert that creating more supply will eventually produce “affordable housing”. I read the recent PPH article on the benefit of increasing supply, but count me as a “supply skeptic”. How long will this “trickle down” take to materialize in a city like Portland? Where has that result been demonstrated in a similar-sized city?

I am very concerned that, once again, increasing density city-wide, especially in previously single-family zones and along transportation corridors, will not produce the intended results, any more than it has on Munjoy Hill. Does the City have a specific and effective plan to assure that increasing density will produce a full range of affordable housing units?

Has any analysis been done of the existing housing stock, city-wide and by neighborhood? Size (square footage, number of bedrooms), existing use, size of lot, potential change of use under the proposed changes?

I suggest that staff do some “what if” scenarios on properties that might be targeted with these proposed changes. For example, a small ranch on a large lot that could perhaps accommodate four units, with the proposed reduced setbacks and expanded lot coverage. What might be paid for that ranch as a single-family house in the current market vs. what a developer would pay for that ranch, tear it down, and spread the acquisition cost (which would become the lot cost) over

four units? Would this produce "affordable housing"? I suspect not. That is exactly what has happened on Munjoy Hill. How can this be avoided if the proposed zoning changes are made?

See following this comment, prior formal comments by the Western Promenade Neighborhood Association in August 2023, and March 2015. No response was received to the issues raised.

These are just initial thoughts. **Assuming there will be at least one more public hearing, I will have more specific comments, especially on the revised housing definitions which, for a decade, I have been advocating for change**.

Finally, please ask staff what is the status of a redraft of the Design Manual? Pre-pandemic, the then-Planning Board made a redraft a high priority. A group of us peninsula residents drafted some proposed language changes and presented them to the then-Planning Director, who stonewalled us and held off any changes for the past four years…. Change in the Design Manual is long-overdue.

Anne Pringle
Neal Street

WESTERN PROMENADE NEIGHBORHOOD ASSOCIATION

August 8, 2023

To Portland Planning Department

Re: ReCode II Comment

On March 9, 2015, the WPNA sent a formal letter (attached) expressing concerns about the then-proposed (later-enacted) density changes to the R-6. On its face, it made sense to conform zoning to the then-existing development pattern, which would not have been allowed under the existing zoning.

Unfortunately, we believe that the "unintended consequences" we foresaw have come to pass on Munjoy Hill. And now, it appears that the density proposals in ReCode II might follow the same approach and thwart the policy objective that failed on Munjoy Hill – to produce more affordable housing.

Before going forward with the public review process, we **formally urge that you slow the process down and take stock of what has happened on Munjoy Hill** since the density was change. <u>These questions must be answered</u>:

~~How many existing units were demolished? What was the location and assessed value of each of those units? At the then-assessed value, were these units considered "affordable"?

~~How many new units were created, either on cleared land or vacant land? What was the sale price of each unit created?

~~How many "affordable units" were created on Munjoy Hill? How many units were affordable to "the missing middle" vs. subsidized housing?

~~If developers opted out of creating the required affordable units, how much money was contributed to the Duson Housing Trust Fund? How many "affordable" units, in aggregate, would those donations have created in this expensive construction market?

~~Was there a net loss of affordable units on Munjoy Hill?

ReCode II could produce very significant and unintended changes in Portland's housing stock and affect the composition of its residential neighborhoods, as the R-6 changes have on Munjoy Hill. Let's take time to "get it right".

WPNA looks forward to a formal response to this request for analysis.

This letter is intended as a formal comment on ReCode II.

Very truly yours,

(s) Anne B. Pringle
President

WESTERN PROMENADE NEIGHBORHOOD ASSOCIATION

March 9, 2015

Portland Planning Board
389 Congress Street
Portland, ME 04101

Re: Proposed Changes to the R-6

Dear Planning Board Members:

I am writing as the President of the Western Promenade Neighborhood Association to provide comments regarding the proposed changes to the R-6 zones in the City.

First, we appreciate and agree with the basic approach of better conforming zoning to the existing development pattern and to allow existing structures more flexibility in meeting the needs of owners. That said, "the devil is in the details" and we have the following comments:

1) Unintended Consequences We are very concerned that the proposed significant increase in density will result in thedevelopment of even more housing that is unaffordable to the vast majority of Portland residents. In particular, we continue to be concerned about the potential for the smaller, affordable single-family houses to be cut up to small condos for couples.

2) Focus First As suggested in a prior email comment, perhaps the focus should first be on "stranded lots", development of which is constrained by existing zoning. Apply the proposed new zoning regime to these lots and see what kind/cost of housing is proposed before making a wholesale change in the entire R-6.

3) Development and Development Criteria It is evident that the reduction or functional elimination of many of the R-6 zone limitations is a significant benefit to the development community. The City and its citizens should get something in exchange for the reduction in the limits:

- *Higher Building and Energy Efficiency Requirements* – As a *quid pro quo* for the elimination of many limits on building and/or renovation, the City should adopt its own building code for the R-6 which would, for example, require any new construction and/or major renovations to be done to a LEED standard or the highest energy efficiency standards that can reasonably be met.

- *Provision for Plantings and Planting Requirements* – Trees, shrubs and plantings are visually appealing, but also reflect and absorb heat. An accessible example is the difference between parking one's car on a hot day on a shopping center parking lot, versus a city street with trees and plantings. Studies have been conducted showing a "heat trap" effect in cities without plantings. With the changes in reduced set-backs, etc., the amount of trees and plantings might be minimal, if left to a developer. The City should mandate a provision for trees and plantings as part of the R-6 revisions.

4) Impacts. The R-6 proposals simply lower the restrictions on building. As described above, the City and its citizens should not, as an unintended result, lose what is now an appealing city-scape. Even renovations and conversions have an impact. Additional meters, wiring and non-owner occupations will change the current "feel" of Portland, and likely not in a positive way.

Allowing garage openings of any size in the front façade of new townhouses will bring a undesirable suburban design element to the peninsula and does not in any way reflect the current development pattern of garages or off street parking spots to the side or rear of properties. NO garage opening should be allowed in front facades, period.

The City should consider expanding the Historic District areas to allow oversight on new construction. For example, aesthetically, when previously one started up Congress into Munjoy Hill, the sense was that one was entering a neighborhood. Just the few higher elevation structures recently constructed on Congress Street have changed how that is experienced. Because of the impact of those few buildings, it feels now that one remains in an extension of an urban core area.

Lastly, we add an important general comment. The sentiment expressed by the staff and Planning Board seems to imply that new building in the R-6 will necessarily result in more affordable housing. That idea is misplaced. The most expensive and desirable land, of which there is a scarcity, is on the peninsula. If a developer is going to incur the expense of acquiring such land and building on it, it is not going to be for the purposes of creating affordable housing. It will be to capture the explosive market demand both in the sale and rental market. As Economics 101 seems to indicate that increased density will allow a property owner to set a higher asking price, which would then be spread over the increased number of units. Depending on the market premium the added density provides, it seems unlikely that workforce housing will be produced.

The Western Promenade Neighborhood Association appreciates the early outreach to neighborhoods and encourages the Board to give very careful consideration to the many concerns being expressed by residents.

Very truly yours,

(s) Anne B. Pringle
President

recode portland

0 views

Subscribe

Tom Pearson

9:36 AM (1 hour ago)

to planni...@portlandmaine.gov

Please vote against the recode. If you want Portland to become like New York City then by all means vote for it. As a long time Portland resident I love Portland because it is not like New York or other big cities. The elimination of single family home neighborhoods is like ending the american dream. 80 foot high buildings with no parking? That's ridiculous, this is Maine, most people need a car, especially families with kids. Some moderate revision of zoning codes to help increase housing is a good idea but recode goes way overboard.
Tom Pearson
20 Atlantic St.

Fwd: Recode letter regarding PPAC annual allocation

0 views

Sean King
to ReCode Portland

10:13 AM (1 hour ago)

FYI, public comment for Recode specific to Chapter 14. Article 21 Public Art.
Thank you, Sean

Sean King, PLA
Urban Designer
389 Congress Street, 4th Floor
Portland, Maine 04101
(207) 874-8901
sking@portlandmaine.gov
(he/him/his)

planning & urban development

---------- Forwarded message ---------
From: **Lin Lisberger** <lin.lisberger@gmail.com>
Date: Tue, Sep 24, 2024 at 6:35 PM
Subject: Recode letter regarding PPAC annual allocation
To: Sean King <sking@portlandmaine.gov>

Hi Sean,
Thanks for the lengthy discussion today. Here is my letter regarding the PPAC assessment and the recode discussion.
Lin

--
Lin Lisberger
www.linlisberger.com

LIN LISBERGER

29 Waterville St #2
Portland, ME 04101
207-712-0955

To the Planning Board:

As a 9 year member of the Portland Public Art Committee, and chair of the committee for 7 of those years, I saw all too clearly how expensive it is to maintain, promote and acquire public art. The amount of money allocated to PPAC is clearly not enough. Maintenance is extremely costly and eats up a fair portion of the annual expenses. Buying public art has also increased enormously and cannot be done successfully on such a limited budget. The allocation of ½ of 1% of the CIP has been in place for almost 25 years and it is time to reassess and double that amount to 1%.

Portland is a vibrant city and cannot continue its growth and prominence by ignoring the impact of public art. The recode is a perfect opportunity to reinforce the commitment of Portland to its wonderful public art collection.

Sincerely,
Lin Lisberger

ReCode

0 views

Subscribe

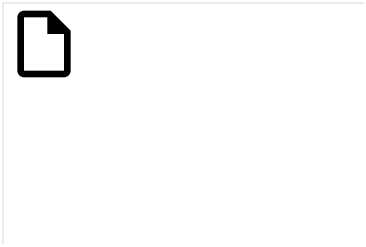
Robert Kahn

11:05 AM (1 hour ago)

to planni...@portlandmaine.gov

To All Members of the PPB

Please see attached Opinion Piece published in the 26 Sept 2024 PPH
Thank you - Robert Kahn, Portland



Opinion Letter to the Portland Press Herald
Re: ReCode
Date: 23 September 2024

Cities, states, our entire country is in need of affordable housing. But will Portland's proposed replacement of the current zoning ordnance with ReCode be a solution which creates such intense building density, in all housing not just affordable housing, as to cause serious problems which will impact present and future citizens.

Proponents of ReCode's increased density offered other cities with similar code changes as successful examples for Portland to follow. Were those cities on the Gulf of Maine with its warming waters, rising sea levels and higher storm surges?

Not mentioned in ReCode is any consideration of the cumulative impacts to the infrastructure needed to support the large number of new living units. The density increases in the ReCode will allow, and intends to encourage, more structures pressed into all existing land area. The removal of open land, setbacks, yards, lawns, gardens is the removal of pervious soils which helps mitigate storm water run off. Where will storm water run off, coming with increasing intensity and frequency, go when more and more drainable surface soil area becomes impervious with additional buildings?

With increased higher density in living units will come more toilets. How many more? Lots. Does the water treatment plant (sewage) have the capacity to accommodate the increase which ReCode surely will demand? Will more toilets and lower landscape capacity to absorb storm water introduce sewage back ups in basements which is now occurring in some areas of cities for the first time (Toronto summer of 2024)? Have engineering studies been done to address these long range planning infrastructure questions? If not, I think this to be irresponsible if not negligent. Portland's slogan may need to be changed from, "Yes, Life is Good Here", to Yes, we smell it, too.

Has Portland's fire department reviewed and commented on the ReCode? Buildings packed so closely together and with increased heights as this code allows, will increase the challenges to the PFD doing their already dangerous job. We should keep in mind that firefighters want to return safely home each night like the rest of us.

These are not frivolous concerns meant to get in the way of needed affordable housing. They are realistic possibilities that could impact the health, safety and welfare of Portland's citizens today and in the future. These cumulative impacts are quality of life issues. They are objectives in what we should be aiming for in building sustainable communities.

Notwithstanding the public involvement at a number of public meetings, I question if the visual impacts, the sense of feeling and sense of comfort to be experienced within this denser built environment has been completely understood by the participants. Architectural elevation drawings and scale modals should have been provided in the public meetings to help people understand what significant changes are being proposed in residential and other neighborhoods. For example the RN-6 zone is allowing 65 foot building heights with property setbacks of only 5 feet. Two structures built on adjacent properties could be built only 10 feet apart, which is a little over one parking space wide. There's not much privacy with two open windows directly across from each other at this distance. But I suppose the bright side with check to jowl living is that we'll know what our neighbors are up to.

Portland will not be changing its zoning ordnance at this magnitude for decades to come. We must be thinking with long, long thoughts, not just attempting to solve today's affordable housing problem. Long range planning and short term solutions can be accommodated if, if we think and fully consider the consequences of all decisions very carefully. Should mistakes, oversights and rush to judgments happen in this arena today, the future social and financial consequences are often demeaning to people's lives, expensive to correct and often won't be remediated, if at all, for generations into the future.

Robert Kahn
Portland 207-321-9028

Recode changes

0 views

Subscribe

ru...@maine.rr.com
to planni...@portlandmaine.gov

11:40 AM (23 minutes ago)

Planning Board Members

There is a really good letter to the editor in today's paper against the Recode proposed changes. Please read it. As a lifelong resident and a longtime Realtor in Portland, I totally agree with him that our housing capacity is maxed out and cramming more housing in small places is going to ruin the quality of life for us and is not going to provide "affordable housing". In will also put too much stress on the school system, as well as the infrastructure – especially the sewer system. The proposed setbacks and height of buildings allowed will make this look like New York City without enough sun in our yards to grow a garden. And where will everyone park? Most of our city streets are so narrow there is not enough room for fire or emergency trucks to get through.

That letter writer should run for City Council! It is so troubling that a handful of people are determining the future of our great city. Maine is a big state – let's start developing land a bit North of Portland and it will give us the "affordable housing" we need. The only people benefiting from these Recode changes are the developers.

Jean Russo

Portland

RE-code 0 views

Deb Keenan 12:06 PM (1 hour ago)

to recodep...@portlandmaine.gov

To Planning BOARD, staff, director and council. RE recode

Zoning is a law, like all others, like traffic law. It's purpose is to direct what can be build where and under what standards; in order to minimize the conflict created by incompatible uses being beside each other. Zoning makes sense, when respected and enforced . It helps, compels and requires us to be "good neighbors"; sometimes against our own wishes. It helps us get along and respect each other's different needs, and space to NOT intrude on each other unnecessarily.

Residents generally want peace and quiet and safe streets for their children, pets and themselves. They want a resting place, at he end of the day, when their hard work is done; whether school or work .

Offices, business and industry have different needs. They want and need HIGH TRAFFIC and easy access for their workers, customers and their goods.

I know there are exceptions; but traditionally zoning has provided business and office in the central city, industry at the edges of town and near highway for easy access by trucks, with their intrusive noise and smells, far away from others,and to meet THIER own needs. Residents traditionally have been in the burbs near trees, woods, nature with quiet streets for their needs. Yes needs vary, and evolve; BUT what doesn't change, is respect for OTHER NEIGHBORS' needs and NOT to be unnecessarily intruded upon.: ALL '" LOVE and respect your neighbor like yourself, like.. "

YOUR job as Planning Board members is as enforcer/policeman. YOUR PRIMARY job is to make sure the existing law and rules are followed: That neighbors DO respect each other, according to the rules and laws. MOST neighbors do, automatically, being all " law and order ", " respect and love your neighbor" like. BUT some do not, and think they are "special" and some should be allowed to break the rules. They come in like a bull in the china shop, saying, " I am MORE important, so give me MY way or else." We all know people who want to BREAK all rules and feel entitled to do so. YOUR job is to STOP them; NOT pave the way FOR them. YOU are PUBLIC servants, serving THIS community and their MANY different needs.

Every ten years it is YOUR JOB, with the community's input, to reassess our comprehensive MANAGED growth plan, just in case zoning is NO LONGER working, meeting our needs and needs some tinkering to meet NEW needs.

OUR affordable housing problem started with the razing of thousands of housing units and hundreds of small businesses during the decades of urban renewal, 50 years ago. The first Planning attempt promised to rebuild and replace what they razed; and never did. Plans

are as good (or as bad) as those who are charged to implement them. That is the real hard work.

NOINE of you (or the council) were trained to be planners. YOUR "expertise" and innate bias is limited to what you do in your day job. YOUR training is limited to what OTHERS tell you(and their own biases). YES planning is a profession with extensive training. STAFF have it. YES people can learn on the job and acquire knowledge. BUT you are volunteer appointments. You are no more "expert" then the public that you are charged to serve, and you, like all of us, come with your own biases. YOUR reappointment are automatic. This work takes extensive time and thought to the long term consequences.

WHY "RECODE"? IS our zoning no longer meeting OUR needs? WHAT needs are NOT being met and why? We have been BUILDING to beat the band.

What we have been building, however, seems to me, to BE LUXURY over priced housing to accommodate 2nd homeowners from out of state.

In my opinion, COVID saved that market. Thanks to the governor , we were one of the safest places on mother earth. Thanks to " work at home" , we became even MORE attractive:. people could live anywhere and they chose Maine. BUT the consequences was, as of any hot market , escalating prices (and taxes). MAINERS were shut out: more became homeless and unhoused.

We already had an affordable housing problem, 50 years in the making. DUE to neglect to the actual needed demand of affordable housing, that the private sector had not met. Many people scrambled and worked hard to try meet the growing needs. BUT we failed. WE did not build what was needed/demanded ,when it was needed and squandered our resources (land and money) on the wrong thing. COVID highlighted an existing and growing problem, as people were housed in tents. We scrambled to use hotels , build new mega shelters ,as the private sector BUILT more and more over priced LUXURY housing aggravating an existing problem. "We aren't social workers . Solving social problems is not OUR thing or responsibility" developers proclaimed . AND then the trickle down theory of housing developers;, "whatever we BUILD will frees up other (lower priced) units. BUT that theory does not work and falls flat on its face, when what is "freed up" is out of state units . or no freeing up at all , as with 2nd homers. Then if we add the air B+B problem. "vacations for all' ; gobbling up needed units and we have homes/units for none. Yup we have made a heck of an "affordable housing" mess , thru neglect and active poor decision making.

I was a part of those writing our comprehensive housing plan back in 2000.. nearly 25 years ago now.. That plan had us building a mere 1000 housing units in 10 years, when we actually had the possibility of solving the problem. We never came close to meeting that goal!! Plans on paper are often NOT realized; they need a whole community commitment to be realized!!!

DO you believe developers are any more committed to building affordable units now; then before, even with the governor's incentives?? I'm not. Have they become social workers, willing to solve social problems? Once the incentives are gone; so is their commitment to affordable housing. We should RE-FUND HUD, this should be/ needs to be .a national committment, with GOVERNMENT solving this social problem!! Let the private sector do what they do best and Government do what THEY do best. This "public private partnership" has NEVER worked to build affordable housing. The need/plea for DEREGULATION is just an excuse to build MORE LUXURY housing, when the incentives

are gone. Developers ,who are by nature profit driven; want the taxpayers money; that is all.

This recode has been developer driven, from beginning to end, with organized lobbying to the governor to deregulate and throw out ALL zoning. It is a developers dream and a community's night mare. Yes we need and want affordable housing but not by throwing the baby (ZONING) out with the bath water, which is what RECODE does. It is an extreme solution.

This is a failed plan that gives permission to build anything any where, neighborhood consequences (and being a good neighbor) be darned !! Compatible or not ; conflict free or not. ABILITY and right to "fight back" by any legitimate means- gone. It was orchestrated by a planning director who is no longer here and will be voted on by elected officials who will no longer BE elected officials or accountable (and will be lame ducks) on November 5th!!! That is NOT democracy... it is an attempted coup!!!

Public comment for October 8, 2024

0 views

Subscribe

Kat Zagaria Sep 26, 2024, 2:20:43 PM (19 hours ago)

to recodep...@portlandmaine.gov, planni...@portlandmaine.gov, Kelly Hrenko, Phoebe Cole, Anna Berke, Sharon Dennehy, Sean King

Hello,

Please find attached a public comment submission for the hearing agenda item of October 8, 2024, on the subject of allocation of funds to the Portland Public Art Committee.

We encourage you to contact us with any questions or concerns.

Sincerely,

Acquisition Subcommittee
Portland Public Art Committee
Members: Phoebe Cole, Kelly Hrenko, and Kat Zagaria Buckley

--
Kat Zagaria
She | Her

www.katzagaria.com
IG: @katzagaria
Director of Exhibitions and Outreach, University of Southern Maine

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Current & Upcoming Projects (on-view):

- **Watch a conversation** with artist and poet Summer Hart on her work *Out in May Back in October.*
- Attend the opening reception of my next exhibition, ***under/current*** with artist Stephanie Garon, on October 3.

Acquisitions Subcommittee
Portland Public Art Committee
Members: Phoebe Cole, Kelly Hrenko, and Kat Zagaria Buckley

Thursday, September 26, 2024

City of Portland
Planning Board, Planning Division
389 Congress Street, 4th Floor
Portland, ME 04101

To the City Planning Board for Consideration:

We, the Acquisitions Subcommittee of the Portland Public Art Committee, respectfully request that the Planning Board consider a modest increase to the Committee's budget in its ReCode meetings. This increase is crucial for Portland to maintain its status as an arts destination, one that prioritizes reflecting all citizens in its art collection through the active acquisition of new work.

The Portland Public Art Committee's budget, a mere ½ of 1% of the City's annual Capital Improvement Fund, struggles to cover the maintenance expenses for our collection of 61 works while supporting the commissioning and acquisition of new work. The aging status of our public art collection and the rising cost of materials and engineering have made this allocation insufficient to achieve the twin goals of maintenance and acquisition.

The stewardship of beloved but aging memorials and monuments incurs the majority of public art maintenance costs. Many of these works pre-date the 1993 adoption of the first public ordinance and the 1994 formation of the Public Art Committee. In FY24, the conservation of our collection accounted for 38% of our operating budget. With 20% reserved for contingency funds, we had just $20,000 to commission new public artwork. Taking into account today's material costs and the Committee's charge to steward public works that last for twenty years or more, $20,000 is not capable of creating new public art for our City. Such works routinely cost upwards of $50,000 to build. While the Committee has, at times, saved over the course of years for new acquisitions, such elongated timelines pose challenges. Particularly pernicious is the reality of committee turnover, which can be detrimental to the sustained and clear communication with a dedicated point-person needed to shepherd such projects. Additionally, unnecessarily elongated timelines diminish the Committee's

capacity to be agile, accept work on more traditional timelines, and respond with appropriate urgency to community needs and opportunities that might arise.

Given these factors, the Portland Public Art Collection's growth in recent years has stagnated. The Committee's limited budget has the practical effect of constraining our acquisitions to projects that are either fully funded or come to us through collector or artist donations. These projects overrepresent a particular segment of the Portland population, namely, the segment with funds to decide on artwork for their neighborhood or those with the ability to donate a work. In this way, unelected individuals are disproportionately represented in the City's collection— a collection that, by virtue of its use of municipal funds, should be egalitarian in its reflection of all citizens. Furthermore, a lack of funds for the commission and acquisition of public artwork disconnects the Committee from local and emerging artists in Portland, hindering our ability to support them. We are compelled to note that the aforementioned disparities affect the well-being of our public life.

Other US cities of Portland's size allocate 1% of their City's tax revenue for their public artwork budgets. We urge the Planning Board to consider a .5% increase of funds, or 1% of 1% of the Capital Improvement Fund, to be put towards the Public Art Committee's activities. This increase in funding will allow the Committee to achieve its goals and ensure its alignment with our City's egalitarian motto. *Resurgam* must encompass the uplifting of *all* citizens. We believe the City is uplifted through the equal representation of its citizens in public space. If the City can meet this request, we will achieve a more democratic and inclusive collection, one that allows all Portland citizens to rise.

We look forward to achieving this goal in close partnership and coordination with the Planning Board and sincerely thank you for your time and consideration.

Signed,

Phoebe Cole
Kelly Hrenko
Kat Zagaria Buckley

Members of the Acquisitions Subcommittee
Portland Public Art Committee

Cosigned: Anna Berke, Chair, Portland Public Art Committee

CITY OF PORTLAND, MAINE

HISTORIC PRESERVATION BOARD

Robert O'Brien, Chair
Brad Miller, Vice Chair
Hilary Bassett
Ashley Keenan
Valerie Paquin-Gould
Brian Sosebee
Rob Whitten

RECOMMENDATION OF THE HISTORIC PRESERVATION BOARD
RE: ReCode Portland

INTRODUCTION

The Historic Preservation Board ("Board") held two workshops on May 29 and July 17, 2024 to conduct a preliminary review of the second wave of changes to the City's Land Use code under ReCode Portland. Specifically, the Board reviewed the proposed changes to Article 2, Administration, Article 3, Definitions, and Article 16 (currently Article 17), Historic Preservation.

The Board took the opportunity at the workshops to give feedback and suggestions to staff and have since been provided with a revised version of Articles 2, 3 and 16 for review and consideration at the hearing on August 7.

SUMMARY OF ISSUES DISCUSSED

During the Board's May 29, 2024 and July 17, 2024 workshops, the following topics were discussed:

- The category of landmark for designation of individual properties,
- The criteria for designation and their consistency with the National Register Criteria,
- The wording of Subsection 16.2.2(C) in comparison with the wording of Subsection 17.4.1(D) of the current code,
- The automatic nomination for local designation of properties listed on the National Register,
- The language defining reviewable activities,
- Parameters around exempt activities such as roof-mounted solar energy systems and heat pumps,
- The relationship between the historic preservation standards for review and the underlying zoning,
- The wording of the standards for review,
- The ability of the Board to formally provide comment to the Zoning Board of Appeals with regards to variance applications, particularly concerning matters related to dimensional standards, within historic districts, and
- The appropriateness of the Historic Preservation Board as the review authority for certificate of economic hardship applications.

RECOMMENDATIONS

Based on the discussion at the workshops and considering the feedback from staff as well as public comments received, and pursuant to Chapter 14, Section 2.2.8 (S), the Board makes the following consensus recommendations to the Planning Board related to the proposed amendments to the Land Use Code under ReCode.

1. The Board recommended that the existing historic designation criteria of Subsection 16.2.2(A) be retained with minor changes to more closely align with the National Register Criteria, as suggested by the Maine Historic Preservation Commission. Staff incorporated this recommendation under Subsection 16.2.2(A) of the final draft.

2. The Board recommended that the language of Subsection 16.2.2(C) be revised to more closely match the language under Subsection 17.4.1(D) of the current code. Staff incorporated this recommendation under Subsection 16.2.2(C) of the final draft.

3. Based on feedback from the Maine Historic Preservation Commission, the Board recommended that the local historic designation process not be automatically initiated after a property is listed on the National Register. Staff deleted the language of Subsection 17.6.2 & 17.6.3. (These sections had been revised as Section 16.5 under the second wave drafts reviewed by the Board during the workshops.)

4. The Board recommended that the historic preservation program retain some ability to review roof-mounted solar energy systems when they are proposed in conspicuous locations. Staff have incorporated this recommendation into the new Section 16.5.1(H) of the final draft.

5. The Board was supportive of carving out specific exemptions from historic preservation review for certain appropriately placed exterior heat pumps and other mechanical equipment. Staff have incorporated this recommendation into Subsection 16.5.1(I) of the final draft.

6. The Board was supportive of amending the standards for review of new construction to clarify that new construction may consider the entirety of the surrounding historic context. Staff have incorporated this recommendation into Subsection 16.6.3 of the final draft.

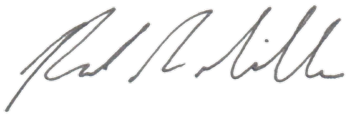
7. The Board recommended that review of certificates of economic hardship should remain with the Zoning Board of Appeals. Staff have incorporated this recommendation into Section 16.7 of the final draft.

8. The Board is supportive of the commitment to retain Portland's Certified Local Government Status and recommends that staff incorporate any changes to the code recommended by the Maine Historic Preservation Commission to retain that status.

The Board thanks staff for incorporating these proposed changes into the revised drafts of ReCode I and urges the Planning Board to retain these changes in the final version which it ultimately advances to the City Council.

Thank you for your time and consideration.

Respectfully Submitted,



08/30/2024

Brad Miller
Historic Preservation Board Chair Pro Tempore
for the August 7 public hearing

Date

Cc: Evan R. Schueckler, Historic Preservation Program Manager
Kevin Kraft, Director - Planning and Urban Development
Nell Donaldson, Director of Special Projects
Amy McNally, Associate Corporation Counsel

Housing Supply Bootcamp

Portland, ME

January 27, 2023

Background

On January 27, 2023, 14 external stakeholders and numerous city officials convened for an intensive six-hour Housing Supply Bootcamp focused on identifying barriers and solutions to expand Portland's housing stock. Facilitated by Jeffrey Lubell and Stephen Whitlow from Abt Associates and Vicki Been and Jess Wunsch from the Housing Solutions Lab at the NYU Furman Center, the session aimed to build knowledge and brainstorm new ideas for helping the City increase the production of diverse housing types.

This report briefly summarizes the main ideas that emerged from the session. It is organized into three main sections: (A) Top Priorities; (B) Barriers; and (C) Solutions. The summary doesn't represent recommendations from the consultant team, but is provided as stakeholder feedback for the City of Portland to consider in its own decision making process. See the Appendix for the agenda and list of attendees.

A. Top Priorities

Participants identified various barriers and solutions for increasing the City's housing supply. When asked to identify their highest priorities, participants most commonly selected one or more of the following three solutions:

1. **Increase the allowable height and density** and **eliminate required setbacks** on the Portland Peninsula and along major streets off-p Peninsula. This increase in building envelope would improve the financial feasibility of residential development in those areas.

2. **Increase staffing for the permitting and planning departments**. Lengthy permitting and approval processes increase costs, causing some developers to shift development away from Portland to nearby communities where permitting timelines are perceived as faster. Adding staff to these departments, perhaps in the form of an interdisciplinary innovation team to shepherd certain categories of projects through the process, could help expedite these processes. Associated permitting revenue could help offset the staff costs.

3. **Generate revenue for affordable and workforce housing through general obligation bonds**. A growing number of cities are using general obligation bonds as a way to generate revenue that can be used to help make desired development feasible. These funds would give Portland greater ability to support development types that are difficult to finance.

B. Barriers

The following are the principal barriers that external stakeholders identified to the increased production and diversity of the City's housing supply:

Construction Cost Increases

- Sharp increases in **materials costs.**
- **Increased labor costs** related to shortages of skilled labor.
- **Higher interest rates** have reduced the amount of debt that can be borrowed against a set rent or home purchase price.
- One result of the construction cost increases is a shift from non-luxury multifamily rentals to **luxury rentals, condos, and hotels**, which can better absorb higher construction costs.

Regulatory Barriers

- **Expanded inclusionary zoning (IZ) requirements under recent referenda** have increased the share of affordable units required from 10% to 25% and deepened the level of required affordability from 100% of AMI to 80% of AMI. These new requirements, especially when combined with construction cost increases, have made it virtually impossible to build new housing of 10 units or more without public subsidy.
- **Height limits, density limits, stepbacks, and setbacks** impede the development of larger projects that can better take advantage of economies of scale.
- **Insufficient land zoned for multi-family** limits potential for housing development.
- **Limitations on the availability of density bonuses,** which are available in certain districts but not others, inhibit their usefulness.
- **Building code requirements and stringent application of the standards** result in increased construction costs and a longer permitting process.

Approvals Processes

- The approvals process for new development can be **lengthy**, adding time and cost to projects.
- Review processes can be **duplicative**, with projects going through multiple layers of City and public review. Projects that need subsidy also go through duplicative review processes. There can also be duplicative inspection processes.
- **Development review technology is cumbersome,** making status tracking difficult. The development review interface may be particularly challenging for small developers. .

- **Insufficient staff in permitting and planning departments** to process applications expeditiously.

- **Challenges getting approval for adaptive reuse and renovation projects**. The City requires rehabs to obtain a permit before beginning construction, but with adaptive reuse projects, an applicant can't always know the location of the building's pipes and wiring without opening up the walls. Also, the City now requires renovation projects to document the existing building in its entirety, which adds complexity and costs.

- **Public comment requirements are not flexible enough** to allow a meaningful exchange of ideas and can be duplicative.

Opposition

- Opposition to new development is perceived to be particularly challenging in **lower-density locations off-peninsula.**

- Housing development can face **public opposition,** which can come from some historic preservation advocates, open space and land conservation advocates, people concerned about traffic congestion, and wary neighbors.

Challenges to Accessory Dwelling Units (ADUs)

- **Lack of awareness of ADUs** and the process for getting one approved.

- Hard to know **where to start**, how to find a builder, how to go through permitting, etc.

- **Financing** for ADU construction.

Public Understanding

- There seems to be a **lack of understanding** among members of the public, and possibly elected officials, **about the realities of the development process** and the effects of things like the new IZ policy on the City's ability to achieve its equity and inclusion goals. If developers cannot make the numbers work under the new IZ policy, they won't build at all or will shift to build luxury rentals, condos, and hotels, which can better support the higher costs.

- Some members of the public still seem to hold a view of Portland as a **sleepy city where things shouldn't change much**. This contributes to support for goals like historic preservation or open space conservation without necessarily a full accounting of the equity and inclusion risks related to housing underproduction.

Other Barriers

- **Referendum** process makes it too easy to adopt new policies that sound good on paper but may be counterproductive. It's challenging to communicate the downsides of proposed referenda, as the public is generally not very sympathetic to developers.

- **Lack of transportation options** limits the ability to build at higher densities. Portland needs more bike lanes and regional transportation solutions that allow people to get where they want to go without a car.

C. Potential Solutions

The following are potential solutions that external stakeholders identified to help increase the production and diversity of the City's housing supply:

Height and Density Increases

- Increase the permissible **height** of buildings and **eliminate setback** requirements on the Portland Peninsula and along major arterials (e.g., Brighton, Forest, Congress, and Washington Avenues, and anything with four lanes could support 12 stories).

Inclusionary Zoning

- **Identify "offsets" that would make it easier for developers to meet the heightened IZ requirements**. For example, one idea is to make the **affordable housing density bonus** available citywide rather than just in a limited number of zones.

- **Conduct an analysis** to determine whether (and if so, how) the new inclusionary zoning requirements are affecting Portland's housing supply. If the analysis suggests that the policy is suppressing needed development, **consider revisions to the IZ requirements** and/or new offsets to make more developments financially feasible.

- **Make pro forma financial statements or other data available** to help members of the public better understand the **effects of heightened inclusionary zoning requirements** on the supply of housing and the impacts that a reduced housing supply has on affordability and equity.

Development Opportunities

- Engage **employers that own land** as partners to make land available for development. (See Mercy Hospital as an example.)

- Prepare an inventory of **parking lots** owned by individual retailers and other businesses to identify whether some could be developed as housing.

- Strengthen partnerships between the **Portland Housing Authority (PHA)** and the City and State to expedite and expand efforts to develop additional affordable homes on land owned by the PHA.

- Study the potential to **repurpose some office space** as housing.

- Consider additional ways to **make publicly owned land available** to develop affordable homes, including land owned by entities like the MaineDOT or Portland Water District.

- Provide regulatory tools to **discourage vacant land and vacant buildings**, including the potential for financial penalties, thereby encouraging development and redevelopment.

- Evaluate the possibility of allowing residential uses in **industrial areas.**

Planning Process Modifications

- **Establish a "concierge" service** to help shepherd larger or more complicated housing projects through the permitting process and other necessary approvals.

- **Fast-track** the approvals processes for projects that provide housing, including missing middle housing.

- **Improve the permitting tracking system** so that developers can better understand where their application stands and what needs to happen next.

- Facilitate **alignment and collaboration between the planning and permitting departments** to identify opportunities for streamlining and expediting both processes.

- **Eliminate redundant reviews and building inspections**, such as the duplication that happens when a project uses historic tax credits or other housing subsidies. Use remote inspections.

- Develop new processes to facilitate **adaptive reuse** (such as not requiring that contractors know where utilities are located before they can file for a permit). Examine whether requirements for updating older building systems during rehabilitation can be streamlined.

- Develop **pre-approved designs** for standard housing types (such as ADUs and triple-deckers) to provide greater certainty to developers and expedite the approvals process.

- **Increase the frequency of planning board meetings** and/or **reduce the number of projects that require planning board approval** to expedite the approvals process.

Public Participation Process

- **Streamline public participation** requirements to increase flexibility and reduce duplication. (For example, public consultation needs to happen within a certain number of days of Planning Board, so if the public participation occurs earlier, it would need to be repeated.). Flexibility in required neighborhood meeting timing and format, as well as which meetings were required to allow public comment were specifically mentioned.

- **Educate city residents about the public participation process** so they can engage meaningfully and have realistic expectations.

Staffing Changes

- **Add staff to the planning and permitting departments** in a targeted way to expedite planning/permitting/inspections.

Fundraising Ideas

- **Streamline the process of establishing tax-increment financing districts** to generate more revenue that can support affordable housing.

- Consider the use of **general obligation bonds** for affordable housing.

Coalition Building

- Contact individuals or groups involved in supporting **recent referendums** on inclusionary zoning etc., to facilitate a conversation about the practical effects of these changes on the City's ability to develop housing affordable to moderate-income households.

- Build a coalition to support **education and advocacy of** efforts to reduce barriers to new development, similar to a builder's association, Urban Land Institute (ULI) chapter, or YIMBY (short for "Yes in My Backyard") group.

Other

- Identify ways to **more comprehensively support the development of ADUs**. This could include, among other things, pre-approved designs, help with financing, scoping, identifying contractors, and permitting.

- **Conduct trainings for new developers** to help them learn about the building industry and how to navigate the planning and other approval processes.

- **Expand training for building contractors** to help meet the labor shortage.

AGENDA

- **Setting the stage**
- **What did the facilitation team learn from stakeholders about barriers to increased supply?**
- **Identifying the barriers to an increased supply of housing**
- **Lunch**
- **What possible solutions did stakeholders share?**
- **Identifying possible solutions**
- **Prioritizing solutions: Identify the top 3-5 actionable items and the next steps for each**
- **Wrap up and next steps**

ATTENDEES

Stakeholders

Kevin Bunker, Developers Collaborative
Evan Carroll, Bild Architecture
Erin Cooperrider, New Height Group
Catherine Culley, Redfern Properties
Sean Dundon, Former Planning Board Member

Tom Landry, Benchmark Real Estate
Michael Martone, Hayrunner/MEREDA
Christian Milneil, PHA Board Member/Reporter (off-duty)
Mara Pennell, Bath Savings Bank
Cordelia Pitman, Wright-Ryan Construction
Maggie Stanley, Westbrook Development Corporation an dPlanning Board Member
Nathan Szanton, Szanton Company
Jesse Thompson, Kaplan Thompson
Jay Waterman, Portland Housing Authority

City Staff

Mary Davis, Interim Director, Housing and Economic Development Dept.
Nell Donaldson, Director of Special Projects, Planning and Urban Development Dept.
Christine Grimando, Director of Planning, Planning and Urban Development Dept.
Matthew Grooms (Development Review Services Manager, Planning and Urban Development Dept.)
Chris Jennette, Recode Consultant, Camiros
Kevin Kraft, Deputy Director of Planning, Planning and Urban Development Dept.
Christina Stacey, Permitting Manager, Permitting and Inspections Dept.

Elected Officials

City Council Member Pious Ali
City Council Member Roberto Rodriguez

Housing Solutions Lab

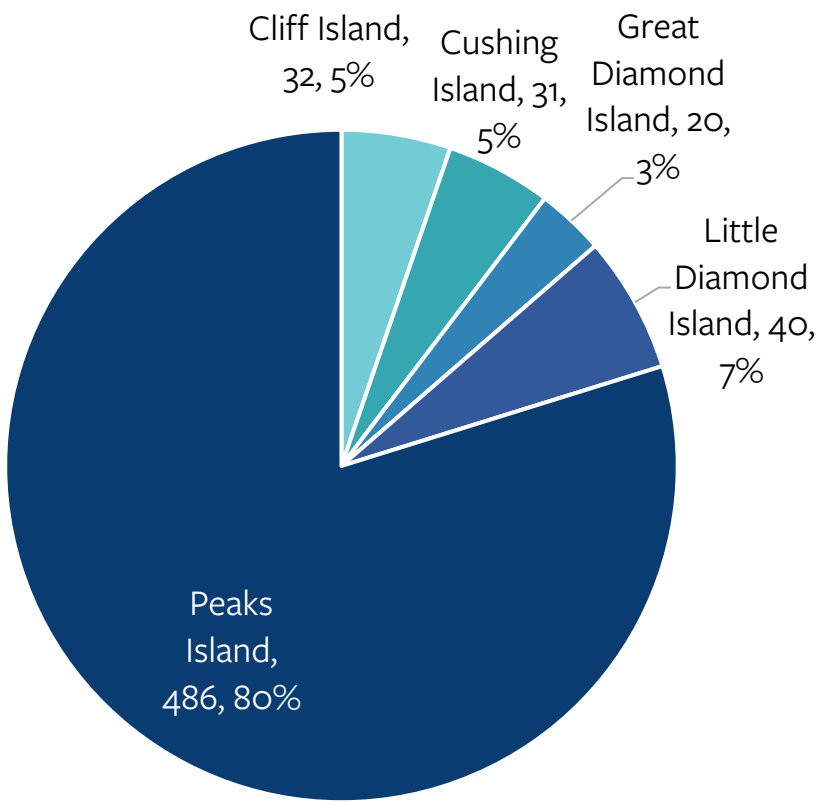
The Housing Solutions Lab at the NYU Furman Center works with cities across the country to design, monitor, and evaluate promising local housing policies. With funding support from the Robert Wood Johnson Foundation, the Lab seeks to help cities advance evidence-based local housing policies that promote racial equity; increase access to opportunity; and support resident health and well-being. The Lab serves cities of all sizes, with a focus on small and midsize cities (those with populations of 50,000 to 500,000).

Abt is a mission-driven consulting organization with expertise in research and technical assistance across a range of policy domains, including housing and community development, financial capability, health, education, workforce development, food security, climate resilience, and the environment. Abt is pleased to partner with the NYU Furman Center on Local Housing Solutions.

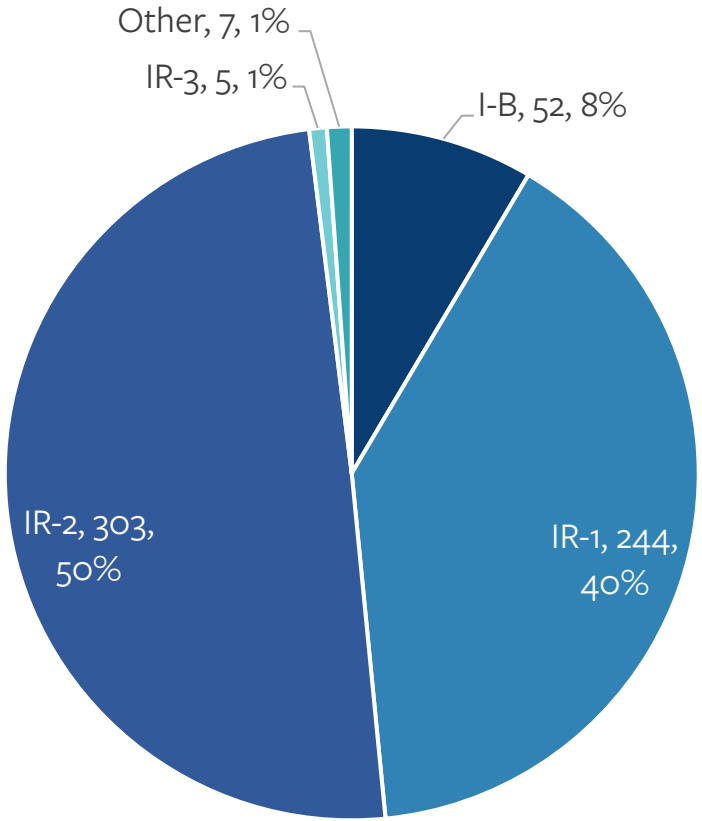
HOUSING SUPPLY BOOT CAMP IDEAS	
Idea	Type
Increase permissible height of buildings and eliminate setback requirements on the peninsula and along major arterials	Code change
Create 'offsets' that make it easier for developers to meet heightened IZ requirements (e.g. expand affordable housing density bonus)	Code change
Analyze the impact of the new IZ requirements on housing production and revise policy as necessary	Study (and potential code change)
Make developer pro formas accessible to generate understanding of the financial impacts of heightened IZ requirements	Education
Make other data available to generate understanding of housing production, affordability, and equity	Education
Engage employers that own land as housing partners (e.g. through disposition of property or development)	Program
Inventory surface parking lots to identify housing opportunities	Study
Strengthen partnerships with PHA and the state to expedite and expand efforts to add units at PHA properties	Program
Study the potential to repurpose office space as housing	Study
Consider additional ways to make publicly-owned or quasi-publicly-owned land held by others (e.g. PWD, MaineDOT) available for housing development	Study
Create tools to discourage vacant land and buildings (e.g. financial penalties) and thereby encourage redevelopment	Code change
Evaluate possibility of allowing residential uses in industrial areas	Study
Establish a concierge service to shepherd larger housing projects through permitting	Process
Fast-track housing project approvals	Process
Improve permitting tracking system	Process
Identify opportunities to streamline and expedite planning & permitting review	Process
Eliminate redundant reviews and building inspections (e.g. reviews for housing subsidies & city permit review)	Process
Develop new processes to facilitate adaptive reuse	Process
Develop pre-approved designs for standard housing types	Process
Increase the frequency of Planning Board meetings and/or reduce the number of projects that require Planning Board approval	Process/Code change
Streamline public participation requirement to increase flexibility and reduce duplication	Process/Code change
Educate residents about the public participation process to ensure realistic expectations	Process
Add staff to the planning and permitting departments	Process
Streamline the process of establishing TIF districts to generate more affordable housing revenue	Process
Consider the use of GO bonds for affordable housing	Study
Open communication channels with advocacy groups supporting recent referenda to facilitate a conversation about the practical effects of these changes	Education
Build a coalition to support education and advocacy around housing production	Education
Comprehensively support the development of ADUs (e.g. help with financing, scoping, identifying contractors, permitting, pre-approved designs)	Program
Train new developers on the building industry and review and approval process	Program
Expand training for building contractors to help meet the labor shortage	Program

SUMMARY OF FINDINGS:
ReCODE ISLAND ZONING QUESTIONNAIRE

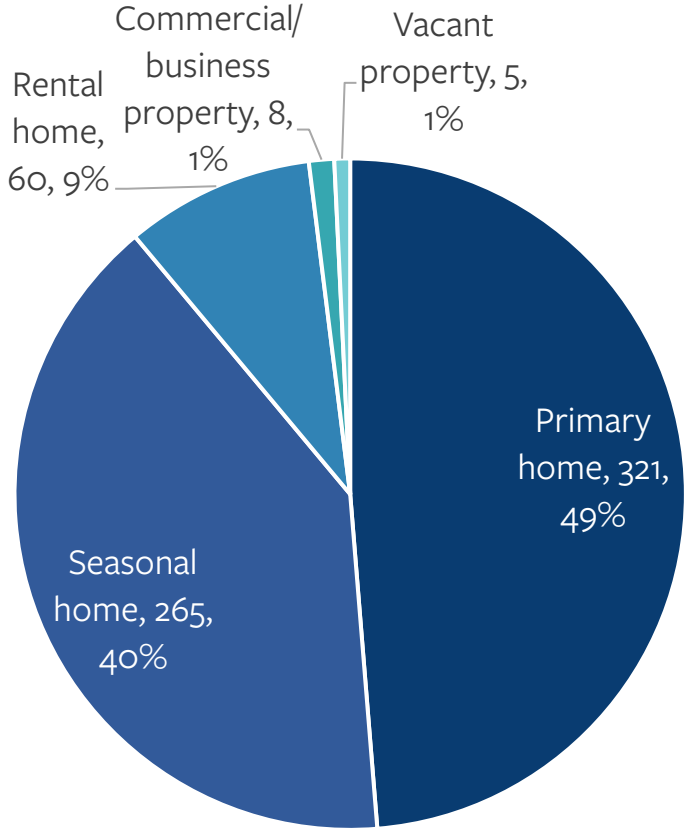
8/29/22 – 10/3/22
616 respondents



On which island do you own/rent property?

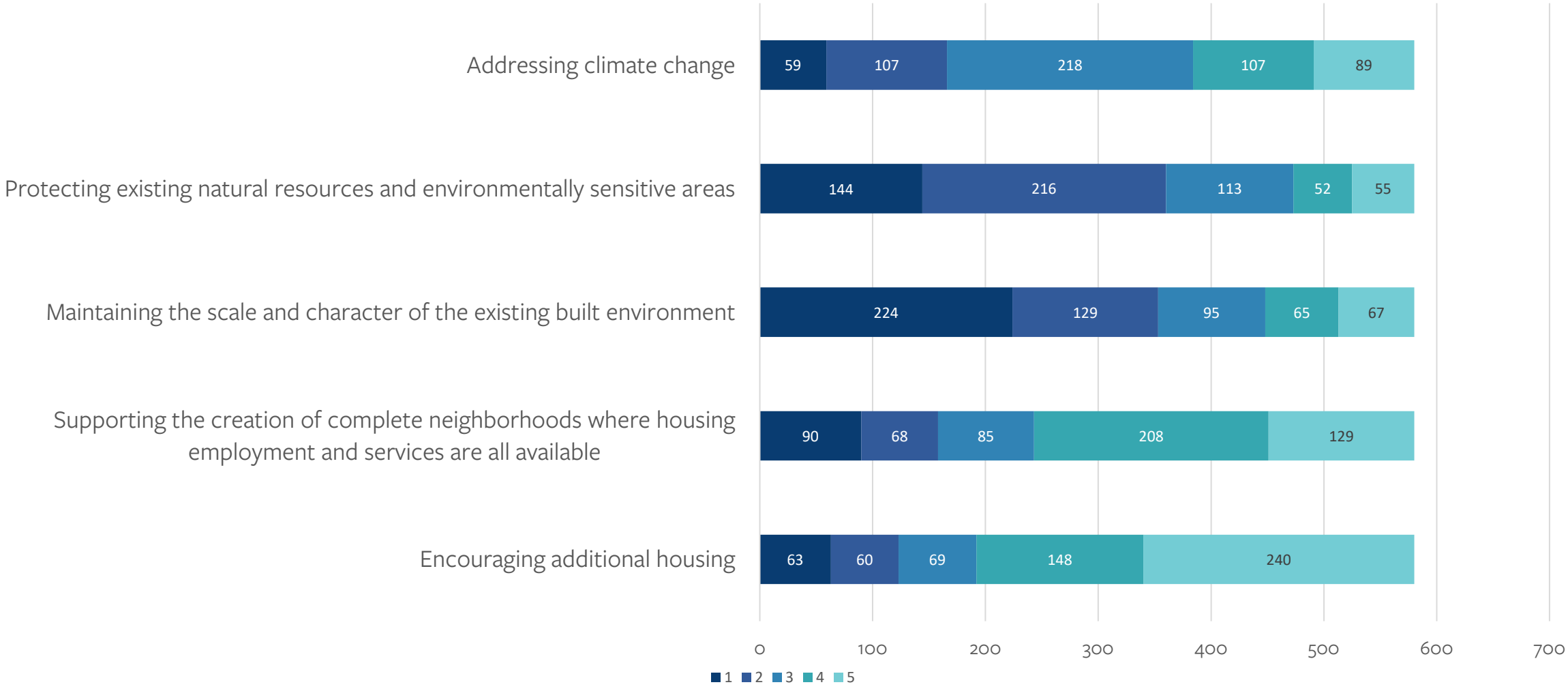


In which zone do you own/rent property?

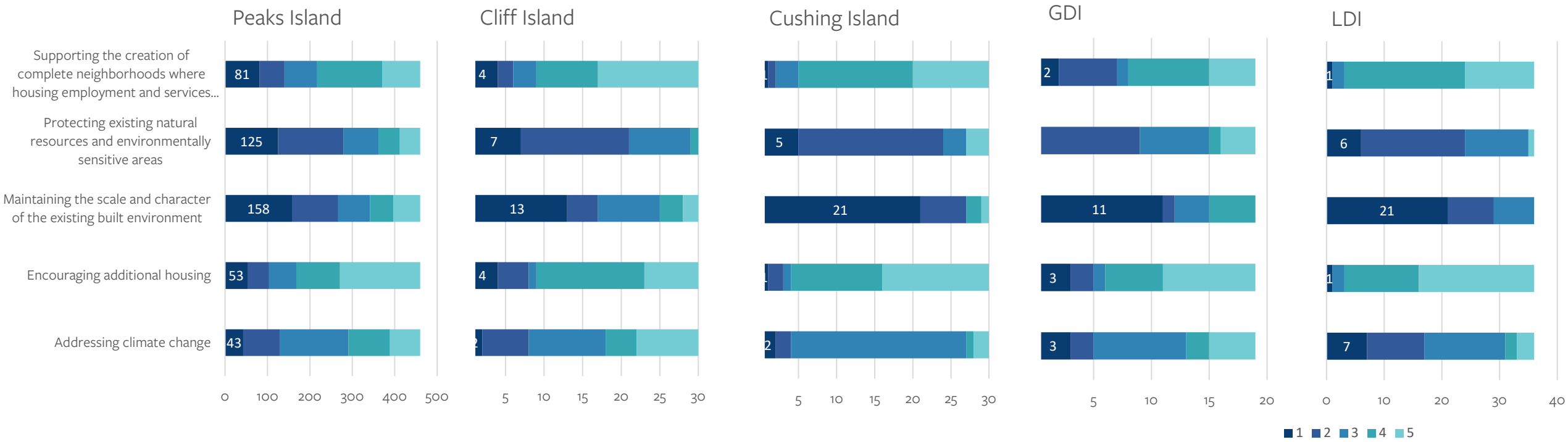


How would you describe your property?

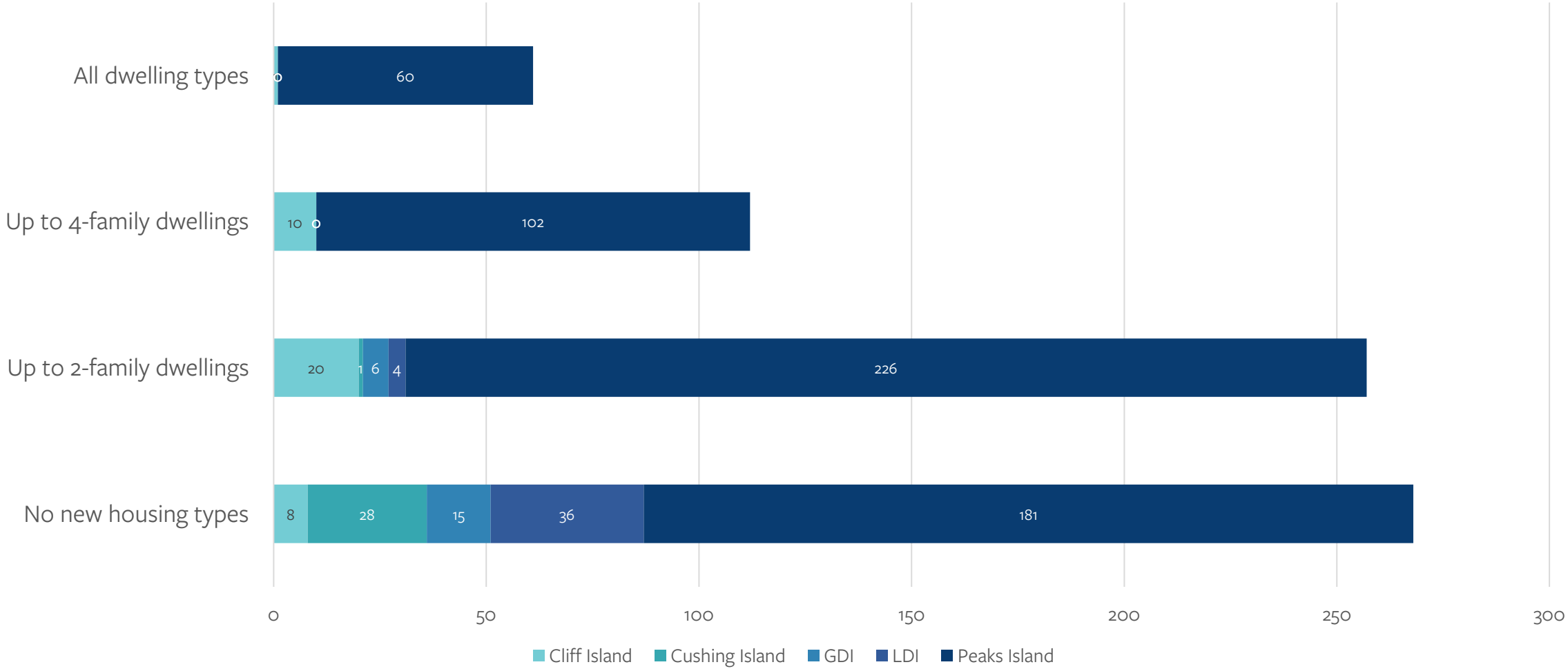
Rank the following issues in order of importance (1 = most important/5= least important) on the island on which you own/rent property.



Rank the following issues in order of importance on the island on which you own/rent property.

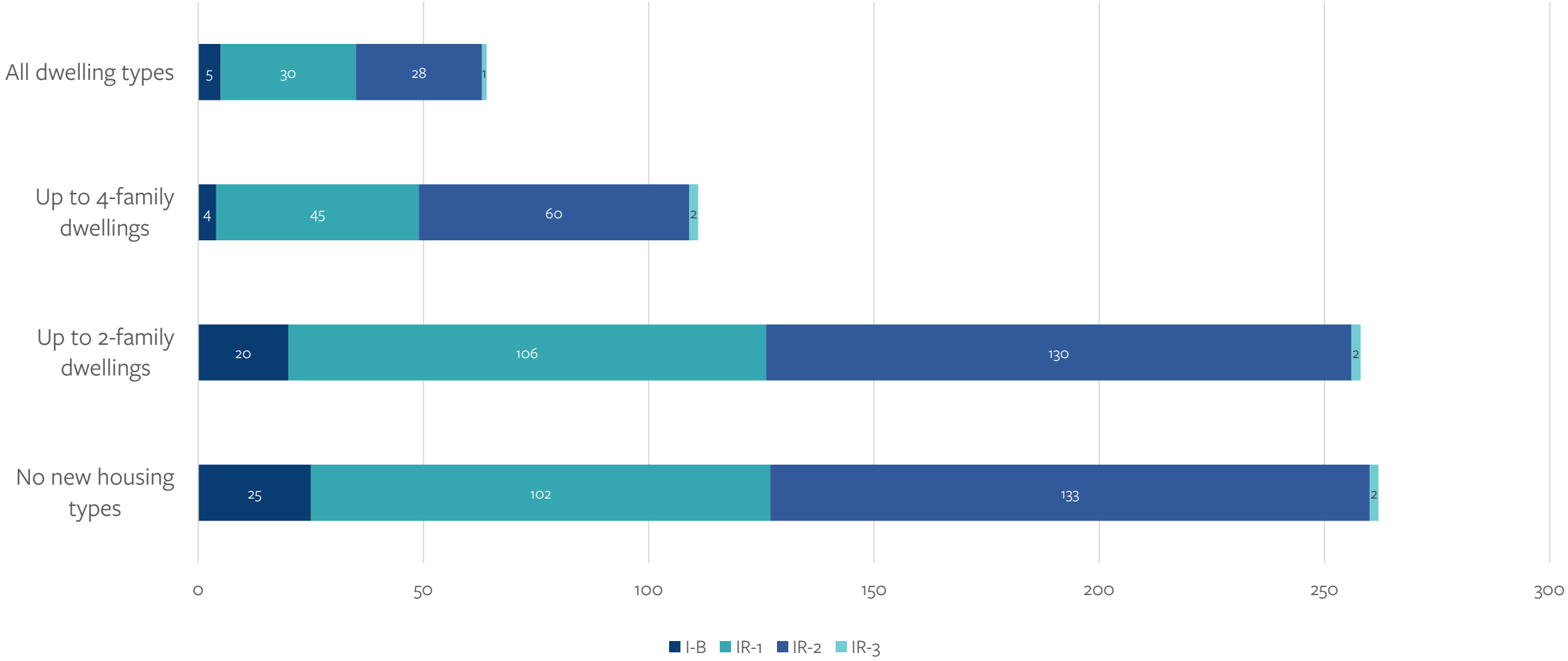


In terms of housing types, most island zoning solely permits single-family housing.
To encourage more housing, which of the following housing types would you support?



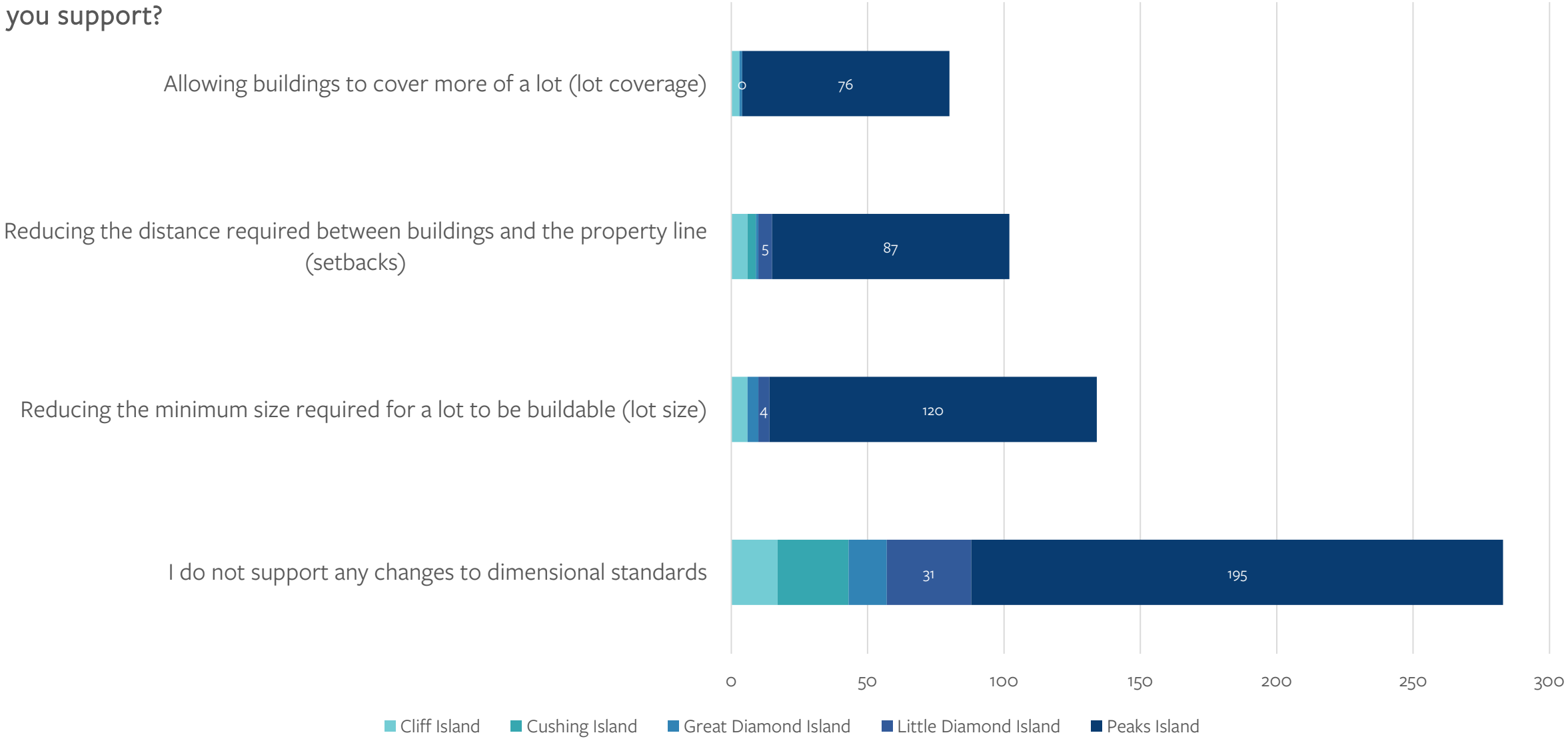
Note: For purposes of this chart, this question and responses have been paraphrased.

To encourage more housing, which of the following housing types would you support? (Select all that apply.)

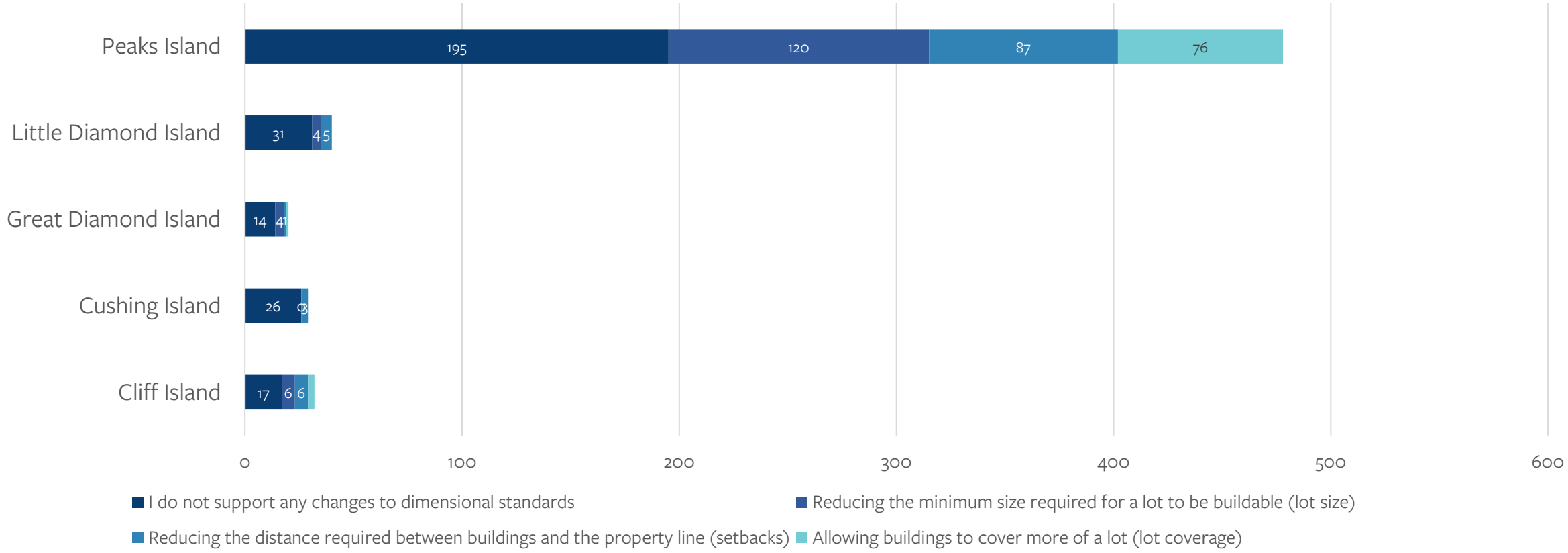


Note: For purposes of this chart, this question and responses have been paraphrased.

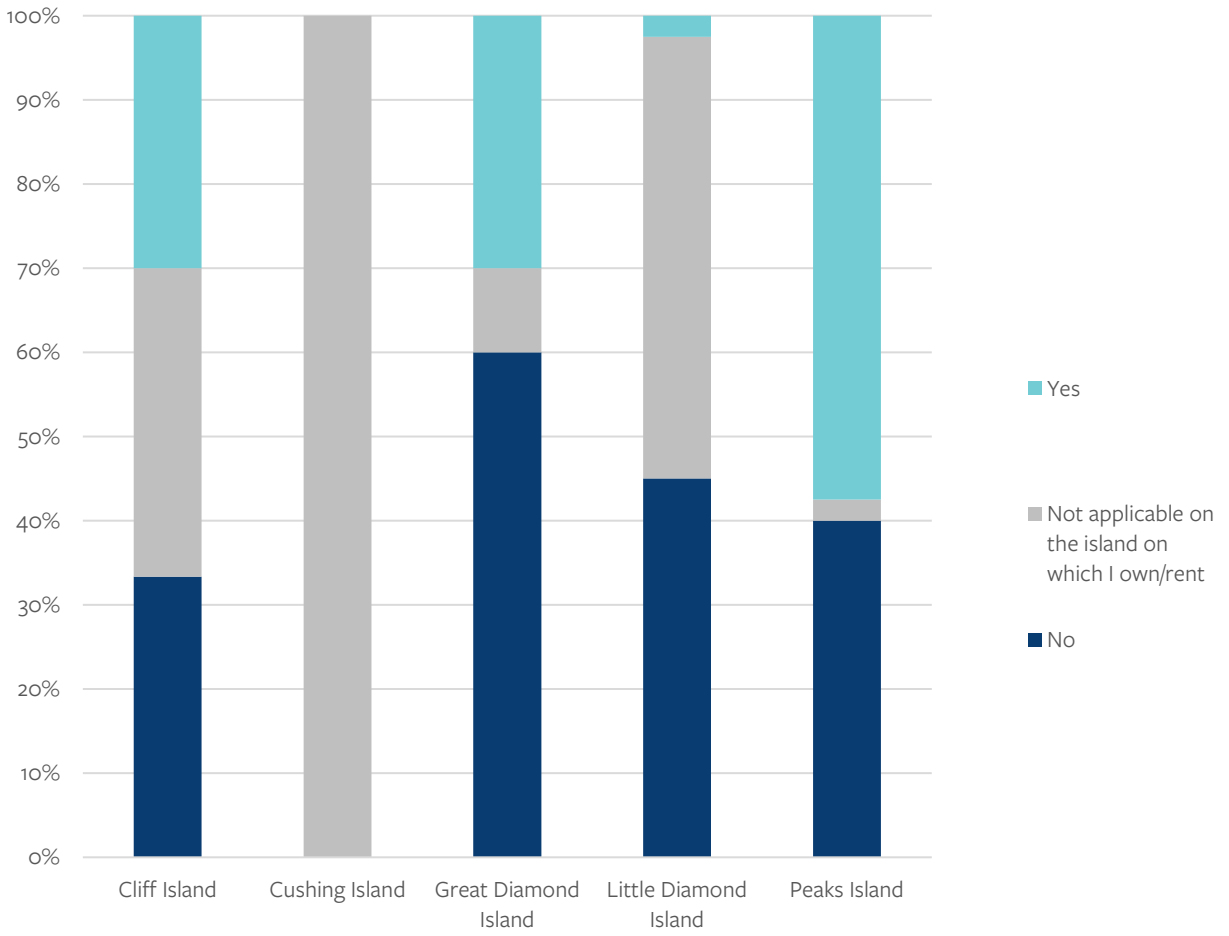
In order to encourage additional housing, including Accessory Dwelling Units (i.e. smaller, independent units on existing residential properties), which of the following changes to dimensional standards would you support?



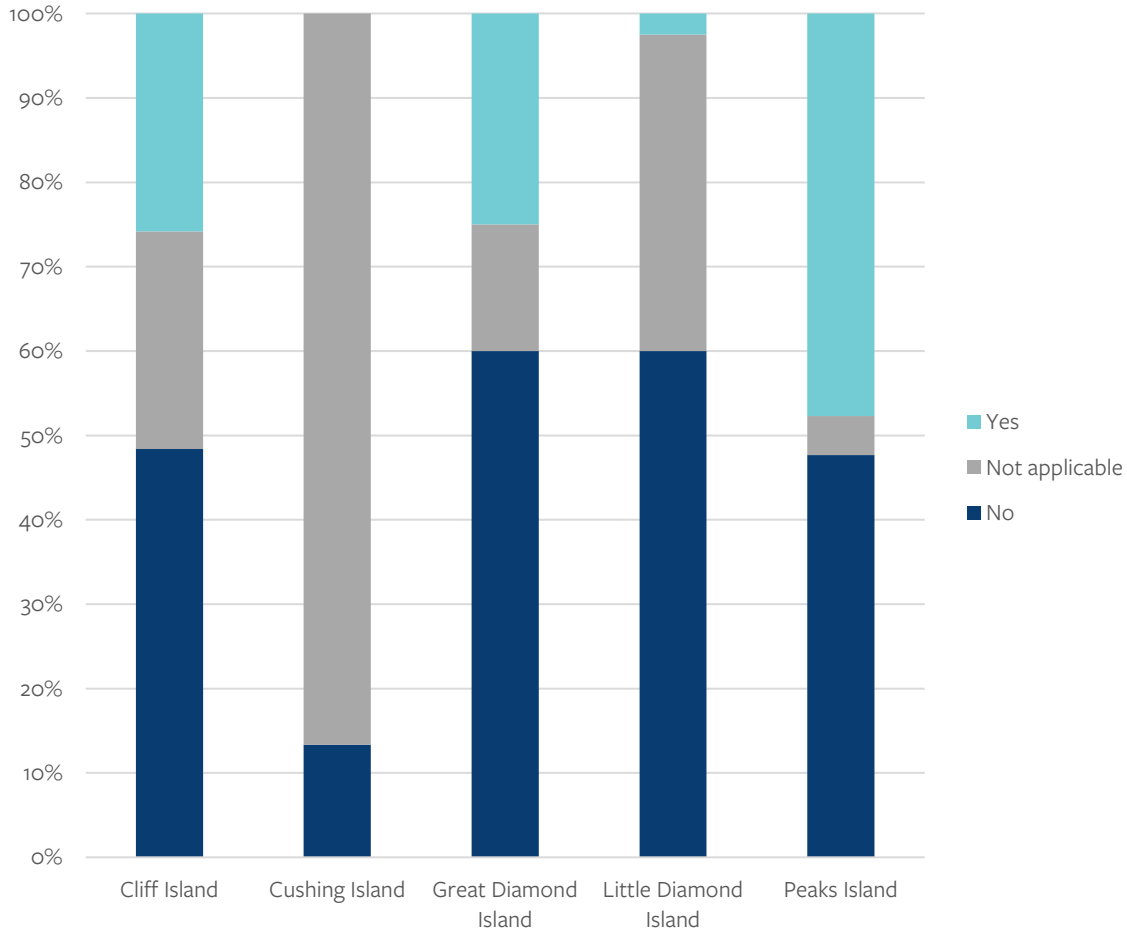
In order to encourage additional housing, including Accessory Dwelling Units (i.e. smaller, independent units on existing residential properties), which of the following changes to dimensional standards would you support?



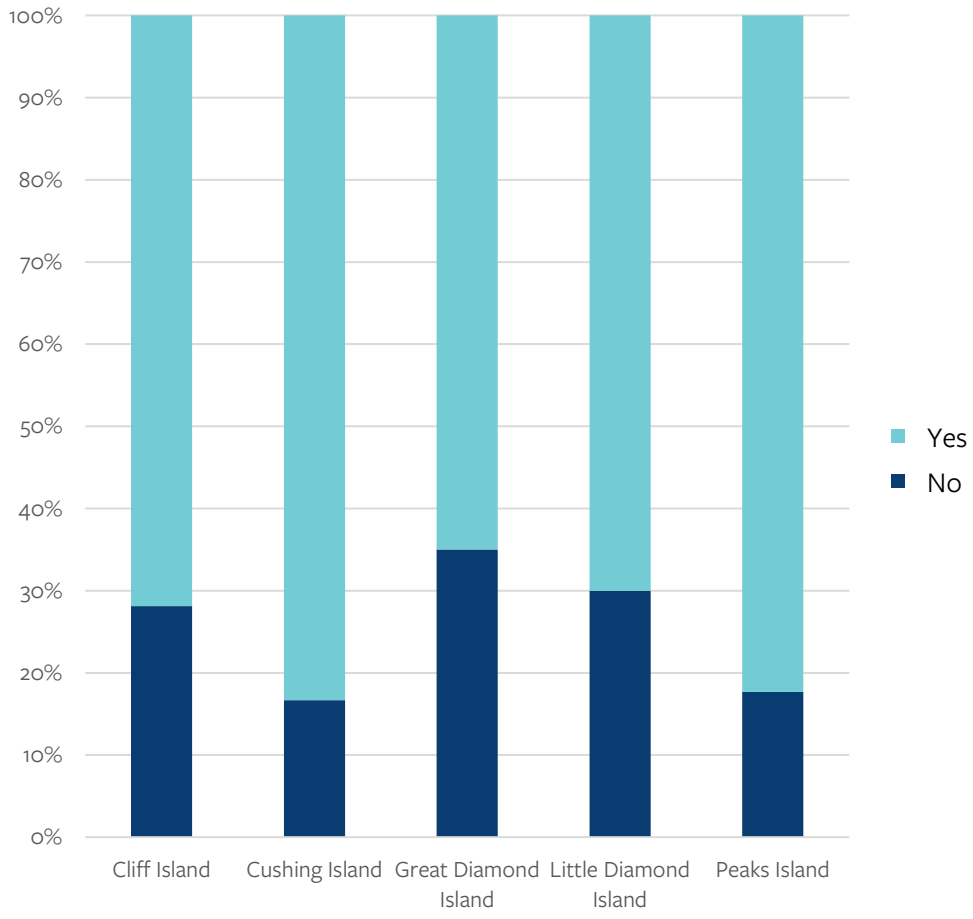
The existing I-B zone is the primary place on the islands where auto service stations, bed and breakfasts, restaurants, retail, and services are allowed. Do you support more flexibility around the range of commercial uses permitted in the I-B zone?



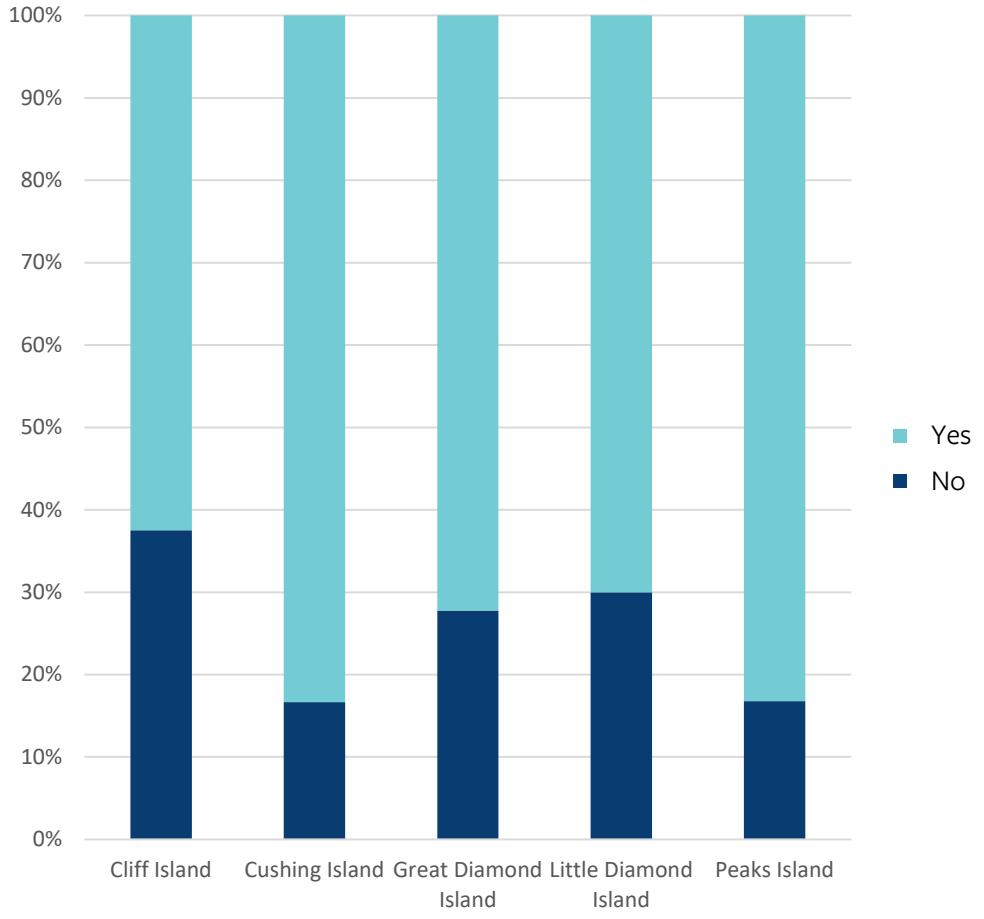
Do you support the expansion of the I-B zone to additional locations on the island on which you own/rent property?



Do you support limiting the uses permitted within areas of the island that are most vulnerable to storm surge and sea level rise?



Do you support additional requirements to ensure that development in flood-prone areas of the island can better withstand the effects of sea level rise and storm surge?



RECODE OPEN HOUSE COMMENT SUMMARY BY MAJOR TOPIC AREA

ReCode PORTLAND

Following is a summary of comments received at a series of three ReCode open houses held over the course of two days on August 16 and 17, 2023. The open houses were held at the Downtown branch of the Portland Public Library, Lyseth Elementary School in North Deering, and the Peaks Island Community Center. Altogether, 95 attendees formally signed in (38 at the Downtown open house, 28 in North Deering, and 29 on Peaks Island).

Comments are organized based on the article of the land use code to which they most directly apply, the open house at which they were made, and their specific topic area. Major themes from each open house are identified at the outset of this summary, and comments on organization and process, along with miscellaneous comments, are grouped at the end.

MAJOR THEMES

Downtown

Major themes from attendees at the Downtown open house included ways to expand neighborhood non-residential and middle density housing opportunities across the city. Attendees requested additional flexibility in dimensional standards, while also articulating their support for clear rules of measurement and regulations that are sensitive to the existing built context.

North Deering

Attendees at the North Deering open house expressed support for proposed Transit-Oriented Development zones and zone consolidation, and encouraged additional work around additional small business and housing opportunities, with dimensional flexibility to align. Attendees also expressed concern about the city's capacity to bear the impacts of proposed changes, particularly changes to the residential use permissions to promote additional housing.

Peaks Island

Themes that emerged from the Peaks Island open house included expanding opportunities for non-residential uses in IR zones, further changes to dimensional standards to allow flexibility on non-conforming and small lots, and support for the proposed cottage court housing type. Attendees also expressed some concern about Peaks Island's capacity for development.

Throughout all three open houses, attendees provided suggestions about the process surrounding the first wave of changes, with some practical recommendations about how to communicate proposed changes and some broader comments about the pace of the process and the extent of public engagement opportunities.

ZONES

New Transit-Oriented Development (TOD) Zones

Downtown	North Deering	Peaks Island
• The entire peninsula should be zoned TOD-2 ♡ • Light rail down Congress or Cumberland.	• [Like most] added TODs. • I like TOD zones. • Love the ideas of TODs! • [Like most] TOD Zones. • No need for TOD. • [Like most] TOD at Allen's Corner! • [Like most] height near transit!	

Zone Restructuring

Downtown	North Deering	Peaks Island
	• I like the changes for R1 and R2. • [Like most] R1 + R2. ♡ • R-4 should be R-6. (It is mansions only.) • RN-3 talks about Western Promenade but it also covers a lot of residential Portland? • R-5 should be R-6. • Westminster Edgeworth plat - move R-3 to R-5. • [Concerned about] B-2 and B-2b consolidation.	

USES

Non-Residential Reuse/Commercial Uses

Downtown	North Deering	Peaks Island
• Neighborhood non-residential reuse has the right idea for supporting neighborhood businesses. Would love to see it extended beyond "reuse" to apply to all structures. • Protect & encourage neighborhood business in residential areas. • We need the "corner store" allowable in all zones and all buildings. • Allow all buildings constructed or modified for commercial use to be used for commercial. • Allow residential buildings to be used for retail as long as the building can be converted back. • If you want to control business in residential areas, how about limiting businesses that do not provide goods and services to the neighborhoods or are blank storefronts. • 118 Congress St. got height bonuses and 1st floor retail with community support. • These storefronts are dead – e banking and showroom for high-end condo interior design. Not food, not stuff the neighborhood needs. • Non-residential reuse seems too restrictive and hard/laborious to back up. I own a 3-unit on Cumberland Ave. First floor is a business and has been a business for 70+ years. This is R-6 so business use is grandfathered. The structure was originally built for residential use. There is wallpaper behind the storefront windows. One year of vacancy terminates this use. This is not	• Want small businesses in new construction. (+1) • "Reuse" is arbitrary and limiting. (+1)(+1) • Look at non-residential reuse in RN-2. Why can't a non- residential be reused as a 3-family or 4-family? • No hotels in residential neighborhoods. • Reuse is conditional downgrade from B-1b. (+1)	• Consider low-impact industrial as a permitted use (support, landscapers, truck parking. • More information on "lodging or boarding" houses on Peaks Island please. • Clarify ways artists can have functional studios (with sales) in IR-1 and IR-2. • Small island provisions in IR-2 – open to non-residential? • What about a non-residential structure on a "small island lot"? • Need opportunities for neighborhood non-residential. • IR-2 small lot (5,000 sf) could be put on sewer. Could an alternate use be a historical society building? If so, what parking would be required, if any? • IR-2 small island lots – sewer not likely. What uses might be allowed. Note: They adjoin an unused – 50' wide paper road. Could the paper road somehow influence how the lots (15 sf total) be used?

good. Need to better support and encourage neighborhood scale businesses.

- Can clinics be allowed in multi-family residential properties? Portland Housing Authority has a great partnership with Greater Portland Health at our projects, including Sagamore Village, Riverton Park, Franklin Towers and hopefully more. Health is housing (and vice versa). We need the ability to provide basic healthcare services to our residents on-site.

- In R-6, some businesses are grandfathered in current R zones. Long-standing business uses are threatened with tenant turnover. Should be B zones (ie. Cumberland, Franklin, and Washington).
- How do we get "complete neighborhoods" when neighborhood business is only allowed in places where the non-residential use structure already exists?

Residential Uses

Downtown	North Deering	Peaks Island
• Dwelling, townhouse requires each unit be on separate lot so no units can be above other units? Is this compliant with LD2003? • Multi-family – this should be broken into mid and large scale. 5-25 units is different than 100 units and should have more places in the city. • Should make it easier to build middle-density buildings (5-10 units or so). Shouldn't group 5+ units into only the highest density zones. • Need to catch mid-density housing types better. Small scale multi-family (5-20) is different than 100 units. Something of this scale needs to be called out. • Allow more multi-family, especially small ones. • Encourage the creation of more housing through renovation and new construction. • B-1 and B-2 should allow at least 4 units of density. No need to stop at 2! (+1) • RN-2 - concerned about converting single-family dwellings to multi-family. • Kill the PRUDS!	• Does not address affordable housing. • I would like to see discussion of affordable housing. • I am concerned that the deed restriction requirement will hinder the development of ADUs. Please strike out 6.6.2.A.7. See AARP's model ADU ordinances/best practices. • Yes to more housing! Yes to ability to build 2 or more units per lot! Yes to higher density! • Multi-family reuse in RN-2 shouldn't be limited to non-residential. What about massive old Victorians? (+1) • Don't limit number of units. Let dimensions control. • Still arbitrary density limits in R- zones. Why not higher? • Need to delete dimensional standards for 3- and 4-units in RN-1 and RN-2 in dimensional table.	• Want more flexibility for density for affordable housing – duplexes? • [Concerned about] flexibility for IR-2 uses -access units. • [Concerned about] flexibility for IR-2 zone - ADUs, increase density. • Would like even more flexibility to allow for greater density on island. • Revisit permitting 2-family conversion on the island.

Places of Assembly

Downtown	North Deering	Peaks Island
• Places of assembly should be permitted for multi-family properties especially in RN-4 through RN-7. Needed to provide resident services to low-income residents in affordable projects.	• Place of assembly at 8? Too restrictive. (+1) • Ban religious buildings.	• Nonconforming lots – open up to place of assembly.

DIMENSIONAL STANDARDS

Minimum Lot Size

Downtown	North Deering	Peaks Island
• Lots should not have to be any bigger than 5,000 sf in any part of the city. • Max lot sizes are too small in some zones. ReCode seems to aim to permit density that would be bare minimum for walkable 10 min. neighborhoods where basic goods and services are available to neighborhoods.	• Lot minimums still too big. • Lot sizes too big. • RN-2 – 6,500 sf – what about lots that are below that minimum? Make nonconformity provisions refer to "legal when created." • Lots of record to 1957? Go away with that date!	• Get rid of current clause that declares that no lot size variances can be granted in IR-1 or IR-2. • Minimum lot size for residential is still too big. • Nonconforming lots – minimum lot sizes in IR-1 and IR-2 are still too small. • Reduce minimum lot size in IR-2 for small island lots. • Reduce minimum lot size in IR-2 for small island lots to 3,000. • Is 4,000 small enough for small lot provision?

Height

Downtown	North Deering	Peaks Island
• Concerned about change in height in B-2b. • Max. height limits seem too low. (City desperately needs to increase housing supply?) • Heights on mainland should be measured from pre-development topography. • For grade measurement it should be measured from the front façade on the street and not points around foundation. • Grade should be based on street experience. • Height measurements need to be refined to reflect new building methods and climate change and noise isolation. • Height – how will measurement work with punch outs?	• Excited for the new height maximums. • Additional height in B-2b is extremely useful in allowing modular to be an option since it has a 2x unusable premium space (1" – 10" typical vs. 12" for stick built). • [Concerned] about increasing height from 45 ft. to 65 ft. [in B-2/B-2b]. • Need more height at the corner of Elm and Cumberland (105'). • Advocating for more height on corner of Elm and Cumberland. Increase from 85' to 105'. • Prefer Temple Street to be consistent 325'. • Heights along Franklin should relate to width of new Franklin Street.	

Building Lengths

Downtown	North Deering	Peaks Island
• Building length restrictions – the problem isn't that buildings are too long, the problem is that they are too far apart. • Also, the draft standards would reduce developable area when sidewalks are extended to a lot. Leads to bad incentives for walkability. • Max. building lengths in TOD-1 zones are way too small. 75 ft. should be 200 ft. (+1) • RN-5 – consider lot merger controls instead of building length to deal with scale and mass. • We failed on Eastern Waterfront redevelopment. Smaller lots encourage human scale and architectural variety. No more block-sized buildings and no more stupid street names like Freedom Way and Thames. • Building lengths – will these make PHA properties non-conforming? Should there be a carveout for affordable housing? Lot coverage may also be an issue. Make affordable housing bonuses across all zones, match LD2003.		

Cottage Courts

Downtown	North Deering	Peaks Island
• [Like most] cottage courts. • Cottage courts only allow 25% two-family structures, [the] rest must be single. Remove this requirement! Does it comply with LD2003?	• [Like most] cottage courts!	• Allow cottage courts on Peaks. • Add IR-1 and IR-2 to permission for "cottage court" development. • Cottage courts should be allowable on islands also.

Setbacks

Downtown	North Deering	Peaks Island
• Update setback to allow addition to homes on smaller lots to keep families in the community that need a little more space.	• Setbacks too high.	• Consider reducing setbacks on land parcels that border "undevelopable land" like PILP land or wetlands. • Side setbacks and rear setbacks on small lots – consider provisions to allow trading one side for other. • Space/bulk exceptions (e.g., entry porch provision) – consider adding similar language for other types of spaces. • Accessory structure setbacks are too large. • 10 ft. setbacks for accessory structure in IR-2 is too big. • ADU setbacks are too large. • Accessory building side setbacks under small lot – reduce like the mainland.

Lot Coverage/Floor Plate Requirements

Downtown	North Deering	Peaks Island
• Do not like the 10,000 sf maximum floor plate for towers, current (small) towers barely fit. • 10,000 floor plate is too limiting. • For sustainability and equity, all zones, but particularly the downtown zones, need more trees, greenery and open space. Instead of 100% lot coverage how about 99%? Or some other way to incorporate landscaping into all projects.		• Increase lot coverage under small lot provisions.

Dimensional Standards and Design

Downtown	North Deering	Peaks Island
• [Like most] integrity of built environment in R-6. • Do we define frontage and encourage or demand that buildings face the street and provide primary entrance to the street? • RN-5 needs standards for compatibility and context sensitivity. • What is the character of Bayside? • Separation of Munjoy Hill from Washington Avenue especially by East End School and park does not reflect residential/commercial use by residents. • B-2b zone from 295 to Congress along Washington Avenue does not reflect Munjoy Hill neighborhood – walking, green space. Should be rezoned	• Please clarify that "blank wall" doesn't include side elevations.	

OTHER

Impact of Changes

Downtown	North Deering	Peaks Island
• Not aggressive enough to address pressing challenges. Need for housing affordability and climate change. • RN-5 – will all of this just lead to more teardowns? • Bayside – need to plan with sensitivity to existing neighbors (single-family homes) in Bayside. Development (height, views, parking) can change the neighborhood and push out the little houses, trees.	• Need evaluation of potential impacts [of use changes]! • How many people can the city manage? • [Concerned about] impacts of urbanization (noise pollution, increased traffic, environmental, stress on city resources). • Too aggressive - urbanization of off-peninsula. • Infrastructure – our roads, sewer, water and all other systems are not keeping up with the growth. • The transition between zones – if homes abut commercial land, we need greater and larger buffer zones of green, trees and nature to protect the homes. Airport area is perfect example of noise, air pollution and more with little protection from further expansion. • More homes, town houses, condos on smaller lots means more traffic, pollution and depletion of natural resources. The continual state of global warming is devastating to our neighborhoods, our ocean, lakes, rivers, air. We will become like Florida or any other state. That is not why we live in Maine. • [Concerned about] unintended consequences.	

Organization

Downtown	North Deering	Peaks Island
• [Like most] consolidated terms. • [Like most] streamlined presentation [of uses]. (+1) • Have the [dimensional standards] terms and language been vetted with legal counsel for clarity to avoid future lawsuits? Clarity for builders and property owners.	• [Like most] clarity [in definitions]. • [Like most] easy to read. • Consolidated and clarity is good. Could go further. • Clickable links in PDF of code TOC [Table of Contents].	

Process

Downtown	North Deering	Peaks Island
• Process [is] rushed. • Geared to interests of developers over residents. • Additional ways to engage the public. • I think it would be useful to include old standards next to new standards. • Why was there no opportunity for public comment? After hearing 'presentation' hard to see how it relates to the needs and desires of current Portland workforce? • The staff did a very nice job!	• Zoning changes not equitable across the city. • Process – do neighborhood meetings everywhere. • Process! • What if non-english speaking members came tonight? A verbal presentation of each article presented on picture boards and opportunity for questions. Hard to understand the language on the boards. • I appreciate that the city is going to hold more meetings and opportunity for more information, clarification, and question and answer periods. It is crucial to us residents – especially since we do not get to vote on this. • It would be helpful to have comparison charts (What you can do now, what will change). • We need to have comparison tables and charts not just recode charts. • Tables do not match up with proposed changes.	

Miscellaneous

Downtown	North Deering	Peaks Island
• Expand Metro for young and old. • Parkside cannot expand land. • Old Port retail is failing. • Marketing waterfront is important. • [Like most] added market gardens. • Support waterfront industrial uses (fishing, marine repair, etc.) • [Like most] temporary uses! • [Like most] more permissive dimensional standards. • [Like most] more permissive [dimensional standards]. • [Dimensional standards] better support integrity of built environment. • [Like most] anti-sprawl. • Need to incorporate trees/landscaping when 100% lot coverage allowed. • Look at area behind Moran's Market on Forest Avenue for more B-1, B-2 or RN.	• Love market gardens. • What type of structures are allowed in each zone? • [Concerned about] some of the language in the text. • [Concerned about] on-/off-peninsula?? • Please look at parcels that awkwardly split zones and choose one (ex. Washington Ave. and Hammond St.	• Allow building on paper streets. • Integrate with the legal department a public forum on paper roads and development vs. conservation. • Values are changing.

ReCode
PORTLAND

MYTH

ReCode will end single-family neighborhoods.

FACT

ReCode would expand the types of housing that are allowed in off-peninsula residential zones, allowing single-family, two-family, three-family, and four-family dwellings as well as up to 2 ADUs on any residential lot.

These types of housing are known as "missing middle" and are commonly found in many of Portland's neighborhoods today. See Table-6A for a list of permitted uses in residential zones.

MYTH

ReCode will result in the demolition of affordable family housing and require single-family lots to have 3- and 4-unit buildings.

FACT

There is no requirement in ReCode to construct 3- or 4-unit buildings anywhere.
Homeowners can still choose to maintain or build single-family homes. It's important to note that 3- and 4-unit buildings are already permitted on any residential lot due to amendments adopted by the City Council in December 2023, in compliance with State Legislation LD 2003. You can find more details about these changes here.

There is a need for diverse housing options, including for families, and ReCode aims to supports housing choice.

ReCode
PORTLAND

MYTH

ReCode does not allow childcare facilities.

FACT

ReCode allows childcare facilities in more locations than today.
Under the current proposal, the only places childcare would not be permitted as a use are in the high impact industrial, airport, and open space zones.

Childcare facilities use standards are specified in Section 6.4.9. Further, family childcare providers are allowed for the care of up to 12 kids as a home occupation.

MYTH

ReCode does not support mixed-use neighborhoods.

FACT

ReCode proposes both use and map changes that encourage commercial uses within or near residential areas.
These changes are designed to support complete neighborhoods or the "20-minute city," allowing for more neighborhood-scale business uses in residential zones and more neighborhood-scale business zones near the places where people live.

ReCode
PORTLAND

MYTH

ReCode retains industrial zones which are no longer important to the economy.

FACT

Portland is currently facing an industrial land crisis, marked by the significant loss of over 90 acres of industrial land over the past decade. Coupled with a strong demand for industrial space, this has led to an exceptionally low vacancy rate of 0.6%, compared to 1.4% across the region in 2024. This shortage of industrial land in Southern Maine presents a serious challenge to the region's economic growth and sustainability.

In response, ReCode proposes to retain core industrially zoned areas in strategic locations critical for businesses - such as areas with easy access to I-95, railroads, the waterfront, and the Jetport. These zones are situated away from residential neighborhoods, where there is less competition for land from high-value uses, and where residents are less impacted by noise, odors, and other operational factors from businesses.

ReCode
PORTLAND

MYTH

TOD zones are mapped in limited areas.

FACT

ReCode strategically maps 7 TOD zones at key nodes that currently anchor residential neighborhoods. Portland has many neighborhoods, each anchored by commercial areas with businesses, many of which are served by large expanses of underutilized surface parking. Adding dense housing and jobs in these areas near public transit is a common sense approach to support convenient lifestyles, limit the need for car ownership, lower congestion, reduce carbon emissions, and provide a town center for every neighborhood.

MYTH

ReCode will prohibit off-street parking.

FACT

ReCode will continue to allow off-street parking, but only so much. Portland currently mandates a minimum number of parking spaces for all uses, with options to waive these requirements across much of the city. ReCode proposes to eliminate these minimum requirements altogether, following the lead of many successful cities across the country. The proposal will preserve the option to create parking, but no one will be forced to build parking if they could better use space for housing, a yard, outdoor dining, or other important features.