MARK DION (MAYOR)
PIOUS ALI (A/L)
APRIL FOURNIER (A/L)
ROBERTO RODRÍGUEZ (A/L)

ANNA TREVORROW (1)
VICTORIA L. PELLETIER (2)
REGINA L. PHILLIPS (3)
ANNA BULLETT (4)
KATE SYKES (5)

CITY COUNCIL WORKSHOP

ReCode Phase II

October 28, 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/7371/media

AGENDA ITEMS:

ReCode Phase II Workshop

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: October 23, 2024
RE: ReCode Phase II – Workshop #2

I. INTRODUCTION

On October 8, 2024, the Planning Board voted unanimously (7-0) to recommend the work products of Phase II of ReCode, the city's initiative to comprehensively rewrite the City of Portland land use code and amend the zoning map. This recommendation also includes a minor amendment to the existing conditional rezoning agreement for properties in the vicinity of Diamond Cove and Great Diamond Island. The Planning Board found the amendments to be consistent with the City of Portland's comprehensive plan. The Board recommended these proposals to the City Council for their adoption without amendments.

The City Council's review of ReCode Phase II follows five Planning Board workshops and a public hearing where the Board evaluated the draft components of ReCode Phase II, considered revisions to previously presented materials, and received public input.

On October 28, the City Council will hold its second workshop on Phase II of ReCode, building on the initial workshop held on September 30. This session will provide an overview of the Planning Board's recommendation, along with updates from City staff on topics raised by the Council during the previous workshop held on September 30. These updates will include summary of a follow-up on dimensional standards in the RN-4 zone, specifically regarding building length and minimum open space requirements, and the land use framework and policy rationale for retaining the remaining limited industrial land in Portland.

II. NEXT STEPS

The City Council's first reading took place on October 21, 2024. The City Council's public hearing is scheduled and has been noticed for November 4, 2024.

III. ATTACHMENTS

Attachment A: CC ReCode Workshop #2 Memo 10.28.2024
Attachment B: ReCode Phase II – Workshop Presentation
Attachment C: CC ReCode Workshop #1 Memo 09.30.2024
Attachment D: Planning Report to City Council
Attachment E: Final Draft Land Use Code 10.08.2024
Attachment F: Final Draft Land Use Code redlined 10.08.2024
Attachment G: Final Draft Zoning Map 10.08.2024

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).

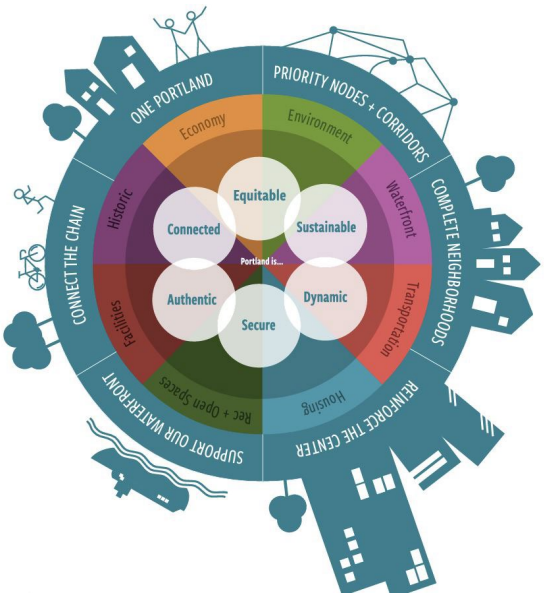


Figure 1: Visualizing Portland's Comprehensive Plan

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*.

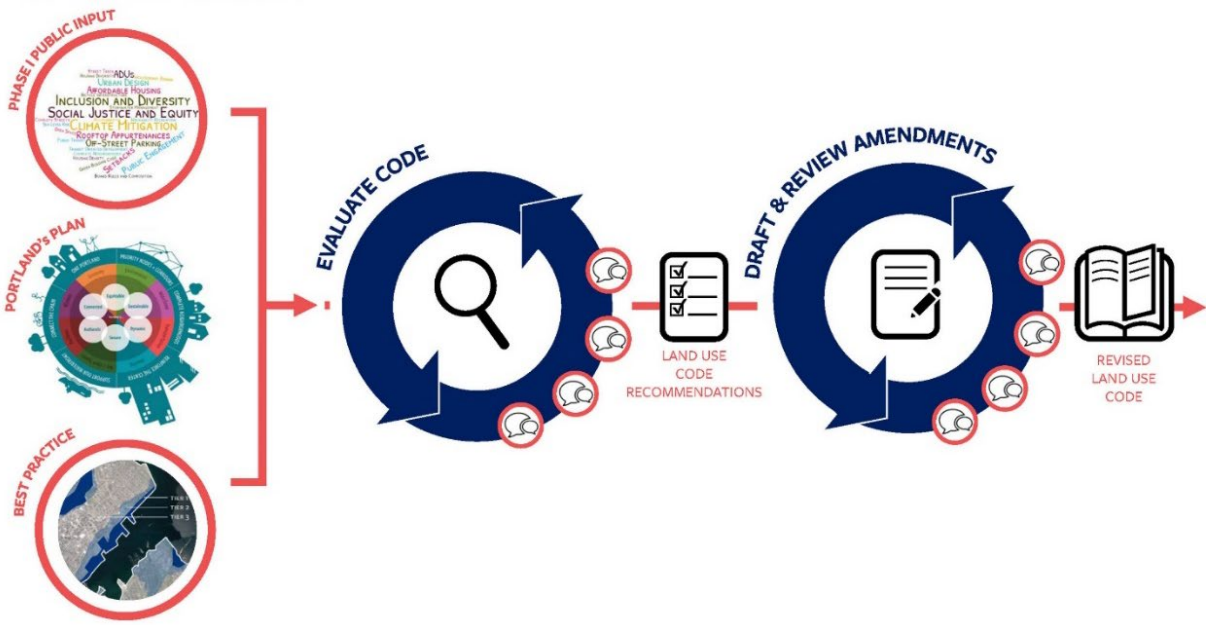


Figure 2: ReCode Phase II process

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)

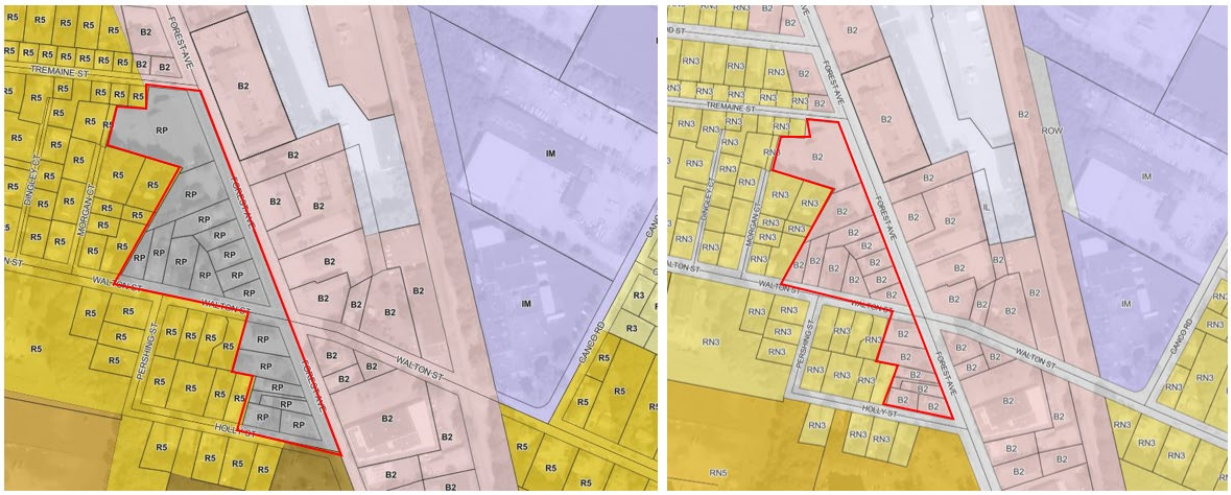


Figure 10: Existing R-P zoning (Left), Proposed ReCode Conversion to B-2 zone (Right) | Forest Avenue

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)

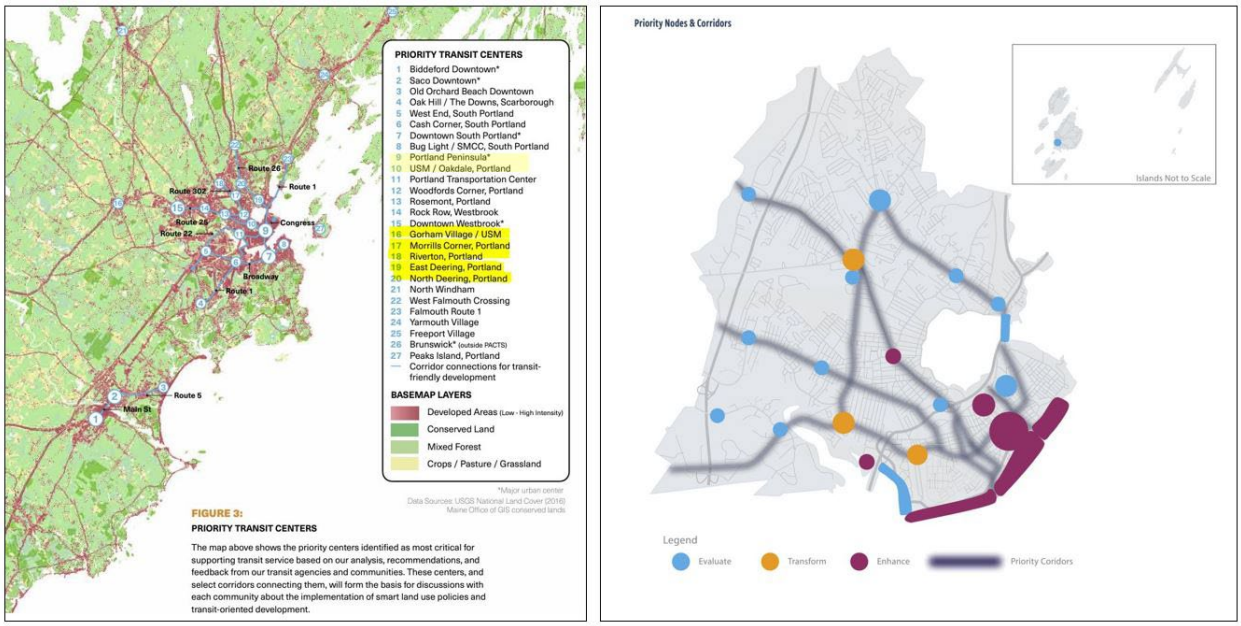


Figure 12: Identified Priority Transit Centers (Transit Tomorrow) (Left) | Portland's Plan 2030 Nodes & Corridors Map (Right)

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.

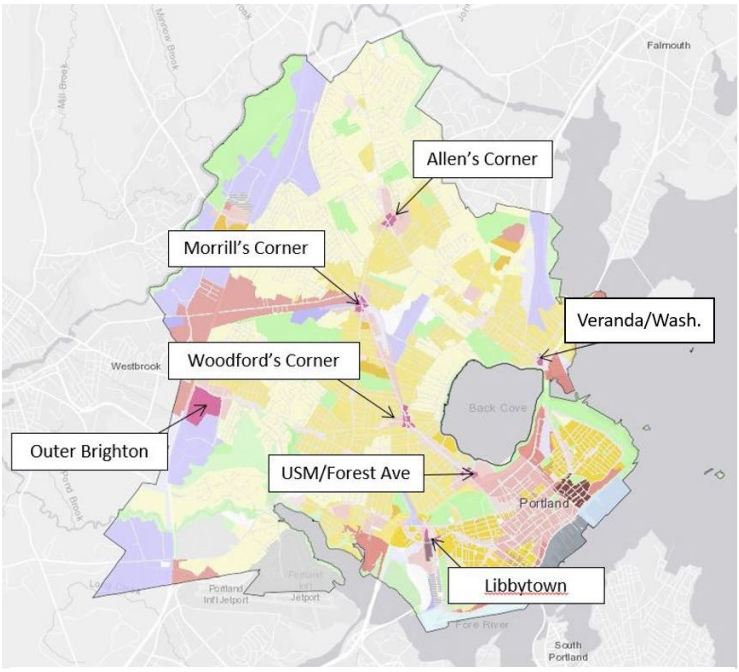


Figure 13: Areas where TOD zones are proposed to be mapped

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

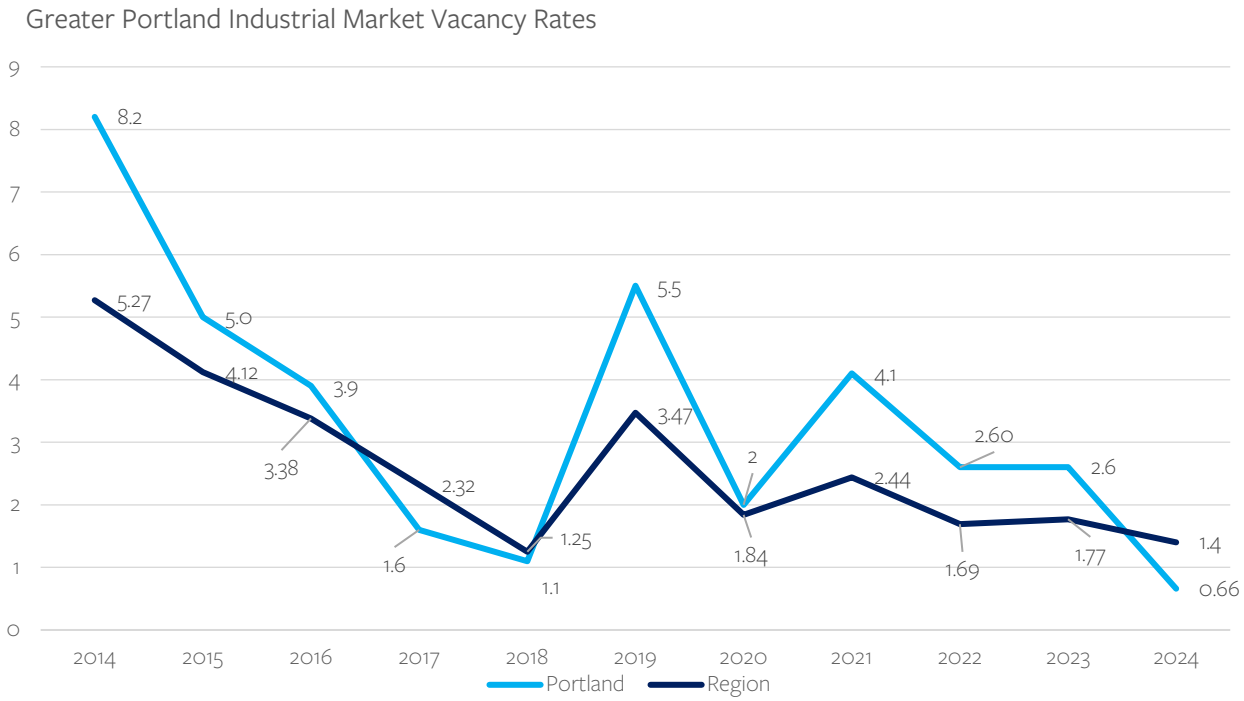


Figure 15: 2024 Southern Maine Industrial Market Survey | Dunham Group

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

PLANNING BOARD REPORT
TO CITY COUNCIL
PORTLAND, ME

ReCode
Land Use Code Text Amendments, Zoning Map Amendments,
& Conditional Rezoning Amendment
City of Portland, Applicant

Submitted to: Mayor Dion & City Councilors **Council Public Hearing**: November 4, 2024 **Council 1st Read**: October 21, 2024	**Prepared by**: Kevin Kraft, Director Nell Donaldson, Director of Special Projects **Date Prepared:** 10/16/2024

I. INTRODUCTION

On October 8, 2024, the Planning Board voted unanimously (7-0) to recommend the work products of Phase II of ReCode, the city's initiative to comprehensively rewrite the City of Portland land use code and amend the zoning map. This recommendation also includes a minor amendment to the existing conditional rezoning agreement for properties in the vicinity of Diamond Cove and Great Diamond Island. The Planning Board found the amendments to be consistent with the City of Portland's comprehensive plan. The Board recommends these proposals to the City Council for their adoption without amendments.

The Council review of ReCode Phase II follows five Planning Board workshops and one public hearing where the Planning Board considered these draft products of ReCode Phase II, reviewed revisions to previously-presented materials, and heard public comment.

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).

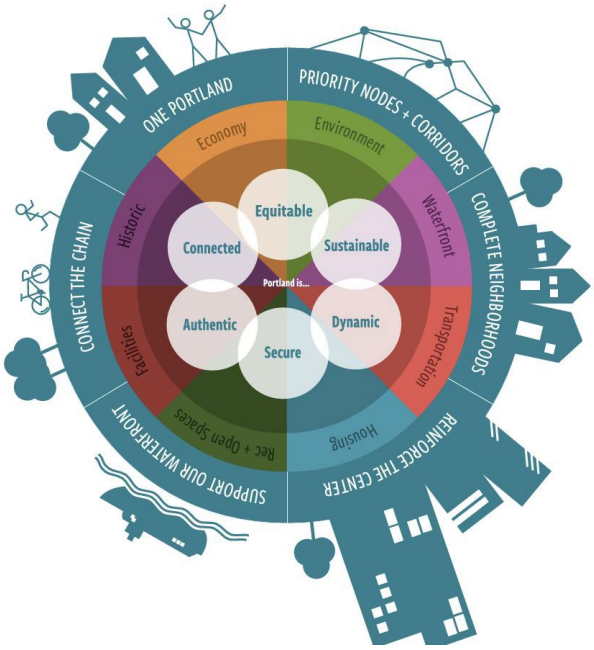


Figure 1: Visualizing Portland's Plan

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 significant redundancies, and could be difficult to navigate. In its 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 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 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 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 land use code and zoning map amendments that directly address these issues.

IV. PHASE II 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 firm 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 the drafting and review of code and zoning map amendments (*Figure 2*). 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 analyzed 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, and made a series of recommendations related to basic use regulations, dimensional standards, and the City's existing zones. The evaluation also included

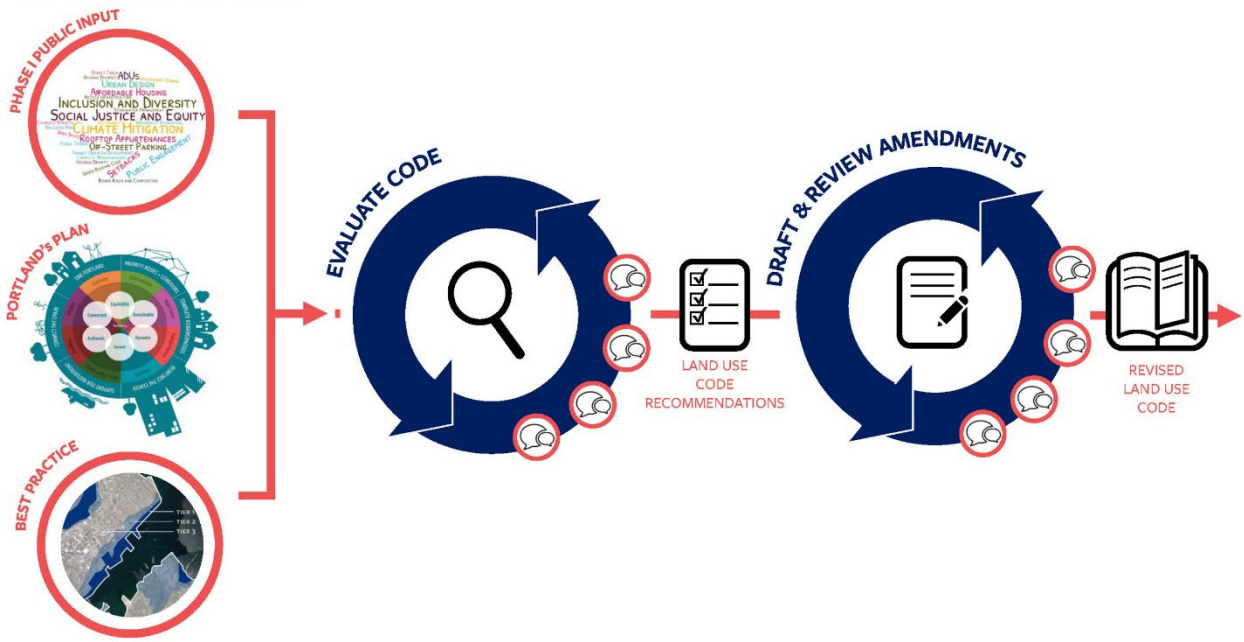


Figure 2: ReCode Phase II Process

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 ensure consistency with the goals of *Portland's Plan*.

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 of these articles 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 public comment period in the fall of 2023, the process of reviewing 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.

Beginning in the late 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 conducted internal reviews with Permitting & Inspections, Housing & Economic Development, and Corporation Counsel on the drafts, as well with the Maine Department of Environmental Protection regarding shoreland-related edits.

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, providing 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 to 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 questionnaires, public forums, and online commenting.* The City conducted significant public engagement around the code evaluation, including a city-wide questionnaire, an island questionnaire, a series of public forums, and an online document comment portal. Almost 200 residents responded to the city-wide questionnaire, over 600 responded to the island questionnaire, 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. Findings of the code evaluation public engagement are summarized here.

Figure 3: North Deering Community Conversation SWOT Analysis

- *"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 draft changes 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. Summaries of feedback on the first wave changes can be found on the ReCode website here.
- *"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. Feedback is summarized on the ReCode website here.
- *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*. Translation services have been offered as a component of Recode newsblasts.
- *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.
- *Historic Preservation Board engagement.* The public process has also featured two workshops with the Historic Preservation Board and one public hearing. Each of these meetings has provided an opportunity for public comment.
- *Council engagement.* Last, staff has 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
- September 2024: A workshop with the full City Council on the final ReCode draft
- October 2024: A second workshop with the full City Council on the final ReCode draft

V. SUMMARY OF PUBLIC COMMENT THEMES

The ReCode process has resulted in a wide range of feedback. For the Board's review, individual comments received via email and form submission have been compiled and included as *Attachment 5*. Comments on the first wave of draft changes proposed under ReCode, along with responses, are included as *Attachment 6,* and comments and responses on the second wave are included as *Attachment 7*. Summaries of input on the land use code evaluation can be found here, findings of feedback on the first wave of draft changes can be found here, and summaries on the second wave can be found here.

The public feedback on ReCode reflects a range of perspectives (*Figure 4*). Throughout the process, many community members have advocated for changes to support more housing development across the City's lower-density residential zones, as well as broad-ranging commercial and mixed-use opportunities, including within existing residential and industrial areas. Some have suggested that TOD (Transit-Oriented Development) zones should be extended along the entire length of major arterial streets like Brighton and Forest Avenues. Others have expressed support for mapping TOD zones in areas near key intersections. Commenters have also encouraged greater building heights, particularly where transit service can be found.

Conversely, there are significant concerns from other members of the public about increased density and building heights, particularly off-peninsula, with fears that these changes could alter the character of lower-scale residential neighborhoods and drive families out of Portland. Concerns about parking have been raised, with some worried that increased density may create 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 expressed opposition to TOD zoning. Many

Figure 4: Sample of ReCode comments

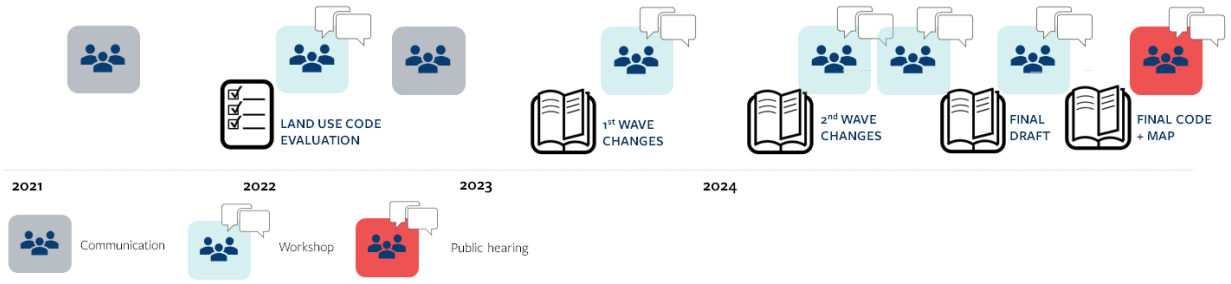


Figure 5: ReCode Planning Board process

commenters, particularly from off-peninsula neighborhoods, have expressed concerns with allowing more residential units on smaller lots. Throughout the ReCode process, staff has aimed to balance these perspectives within the broader framework of *Portland's Plan*.

VI. PLANNING BOARD REVIEW

The Planning Board met six times over the course of the ReCode Phase II process, reviewing all major work products. In January of 2022, the Board held its first full workshop on ReCode, reviewing the findings of the land use code evaluation. In the summer of 2023, the Board met to discuss the first wave drafts. The Board's review of the second wave drafts began with a workshop in June of 2024, which was followed by a second workshop in July. A final workshop on the draft changes was held in September of 2024, and a final hearing was held on October 8 (*Figure 5*).

A number of recurring themes emerged during the Planning Board's deliberations:

- *Residential zone structure and permitted uses.* Over the course of several workshops and a public hearing, the Board heard repeated public input on residential zoning. The Board broadly supported the consolidation of the R-1, R-2, and ultimately, the R-3 zones into the proposed RN-1 zone. While the Board unanimously supported consolidating residential zones, some Board members expressed concerns about the potential for tear downs resulting from expanded residential use permissions, particularly in relation to affordable housing bonuses under LD 2003. These Board members raised the possibility that changes adopted as a result of LD 2003 could lead to demolition of smaller-scale naturally occurring affordable single-family homes, replaced by 10-unit buildings. Some Board members expressed a preference for limiting the four-unit use permission to existing vacant lots off-peninsula and limiting existing developed lots to single or two-family dwellings to discourage demolitions. Other members, in contrast, expressed an interest in more broadly allowing multi-family as a permitted use in the RN-3 zone. Multi-family is permitted in the RN-3 when adaptively reusing an existing nonresidential building, and ultimately, staff asserted that this approach is appropriate when combined with the allowance of four-family dwellings in any zone and a significant increase in multi-family density within mixed-use zones. Ultimately, no changes were made to address these topics, with the knowledge that the City will continue to track trends in LD 2003-related applications in the future.
- *Residential zone dimensional standards.* Within the residential zones, the Board broadly supported flexibility in setbacks, including for ADUs, directing staff to reduce rear setbacks to accommodate ADU construction. The Board also supported implementing building length maximums as a tool to manage lot consolidation and building size in residential zones with a finer-grained lot pattern where multi-family is permitted. With the addition of a building length requirement, the Board was

also supportive of adding a provision that would allow an applicant to seek relief from the building length maximum through the Planning Board, based on a set of findings.

- *Height*. The Board's review included discussion on the methodology for measuring height, base height allowances, and height bonuses. Ultimately, members of the Board expressed support for maintaining the existing rules for measuring height, with language to clarify and provide more consistency in measurement. While the Board was unanimous in supporting the idea of increasing base heights the Board did express varying opinions about base heights proposed for mixed-use zones, particularly in the off-peninsula context. At the final workshop, members generally agreed that 55' is suitable for a zone like the B-1, 75' is suitable for a zone like the B-2/B-2b, and that additional height downtown is appropriate. Some Board members expressed concerns about increasing base building heights while also retaining a height bonus for affordable housing, which is not frequently utilized and creates a lack of predictability for neighborhoods. After lengthy discussion, the Board generally supported the retention of height bonuses for affordable housing projects, on the premise that affordable housing bonuses exist today, and on the assumption that these bonuses give affordable housing some advantage in the marketplace. The Board supported the use of dimensional standards like stepbacks to manage transitions between mixed-use and adjacent residential and open space zones.
- *Number and placement of Transit-Oriented Development (TOD) zones*. Initially, staff proposed a relatively limited application of the TOD zones in two locations anchoring portions of the proposed alignment for the Gorham-Westbrook-Portland rapid transit corridor. Based on substantial public input, the final draft includes a number of additional TOD zone locations, particularly at many of the city's major intersections identified in the comprehensive plan and *Transit Tomorrow,* the regional transit plan. These locations were selected not only based on planning, but also on the availability and frequency of transit service, existing market potential or readiness, colocation with a study or planned infrastructure project, and the presence of institutions that create demand and attract people. Some Board members expressed concern about the application of the TOD zoning in some of the final draft locations, particularly Allen's Corner and Morrill's Corner, noting the lack of height and density there today, the frequency and reliability of existing transit service, and the value of the TOD designation relative to other mixed-use zoning. Ultimately, staff retained the areas proposed on the zoning map with the support of much of the Board membership, making the argument that the TOD zoning signals a place for investment in transit and infrastructure, supports efforts to secure grant funding for transit, and provides a platform for future land use policy that will only be more aggressive on TOD.
- *Industrial zoning*. Over the course of several workshops, the Board supported the concept of retaining our limited core industrially-zoned areas, primarily along Riverside Street, St. John Street, and Presumpscot Street. The Board did acknowledge the need to rezone around key corridors, like Franklin Street, where a mix of uses may be appropriate; the Board was broadly supportive of the staff's proposal to rezone large areas of existing industrially zoned land in Stroudwater to RN-1, Morrill's Corner to B-2 and RN-3, and portions of East Bayside to B-5. The Board also generally supported the prioritization of industrial uses within industrial zones, while allowing some flexibility in uses to allow the zone to adapt as the industrial economy evolves and allowing live/work dwellings in the I-L/I-Lb zones.
- *Off-street parking maximums*. Over the course of the Board's review, there was significant discussion regarding the implications of off-street parking maximums, with Board members expressing concerns about limits on parking, particularly in areas of the city with varying access to

alternative modes of transportation. Ultimately, the Board universally supported the establishment of parking maximums through the land use code, recognizing that the maximums as proposed are relatively generous, that *Portland's Plan* supports a transition to alternative modes, and that the shift in Article 18 could provide a framework for progressing the City's parking policy in the future.

- *Environment*. During the Board's review, members expressed a desire to impose stricter regulations through site plan review on development that may impact existing wetlands or natural resources, which are becoming increasingly rare in Portland. Additionally, Board members conveyed an interest in allowing green roofs to count toward the landscaped open space ratio and emphasized the importance of planting or preserving street trees as a critical consideration during site plan review.

VII. WHAT IS THE VISION FOR RECODE?

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 or job creation, nor does our land use code have control over external factors such as construction costs, interest rates, private property owner decisions, or building code requirements. Instead, it is intended to deliberately guide growth in a sustainable manner that supports livability for current and future generations. This framework encourages more efficient land use, linking densification to high-quality development and public transit. It also provides a structure for preserving the natural environment, minimizing sprawl, improving our water quality, and maximizing limited city resources, while maintaining the flexibility to adapt to evolving industries, lifestyles, and societal needs, ensuring that municipal regulations support and guide, rather than hinder Portland's progress.

VIII. FINAL DRAFT LAND USE CODE

ReCode includes 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 2*. A complete redline is included as *Attachment 3*. Broadly, the work can be summarized by article 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 include:

- *The addition of clarifying language,* including an explicit statement that the code applies to all land, uses, and structures in the city.
- *Revisions to 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 include:

- *Revisions to 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.
- *Updates to 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.
- *The addition of state-mandated shoreland language* to Zoning Board of Appeals sections, and *simplification of 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 include:

- *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. 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" RN 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 as a tool for Planned Unit Development and is currently co-located with an existing conditional zoning agreement (CZA) on Great Diamond Island, 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. These amendments, which simply attach the IR-3 zoning as it existed prior to ReCode Phase I to the conditional zoning agreement, are shown in *Attachment 9*. This change allows for the elimination of the IR-3 zone.
- *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 core 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-3, 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. 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 zones 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 a 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.

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 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:

- *Update administrative language* to reflect current practice.

- *Streamline site plan review thresholds.* ReCode proposes to change 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. Additionally, site plan review has been eliminated when changing any non-residential use to residential use to support the conversion of non-residential buildings, regardless of total number of residential units proposed. Further, 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*.

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 the final draft (*Attachment 8*). That draft:

- *Streamlines the purpose statement for the article.* The purpose statement has been 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.

- *Clarifies rules about the location of off-street parking and parking of commercial vehicles.*
- *Expands 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.
- *Modernizes 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.

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 on the zoning map.

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.

IX. FINAL DRAFT ZONING MAP

In addition to changes to the land use code, the final draft before the City Council includes changes to the zoning map. These changes can be viewed on an online map viewer and in *Attachment 4*. They 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 an existing conditional zoning designation.

3. Changes to Address Nonconforming Uses

In some areas of the city where there are existing nonconforming uses, such as corner stores or other nonresidential uses serving important functions in residential zones, new zoning is proposed to eliminate the nonconformity and support additional mixed-use development (*Figure 6*). In most cases, these areas

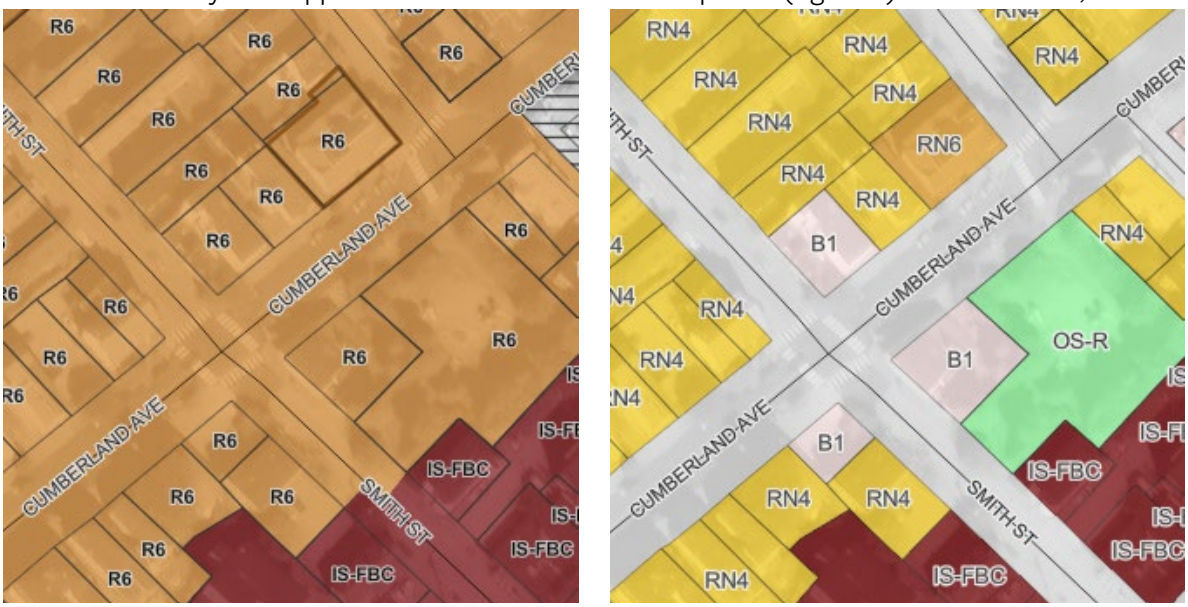


Figure 6: Example of proposed rezoning from residential to B-1 in the location of existing businesses and non-residential buildings at Cumberland Avenue and Smith Street.

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 (*Figure 7*). 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.

Figure 7: Example of proposed rezoning from R-3 (left) to RN-3 (R-5) (right) based on nonconforming lot pattern on Westminster and Edgeworth Avenues

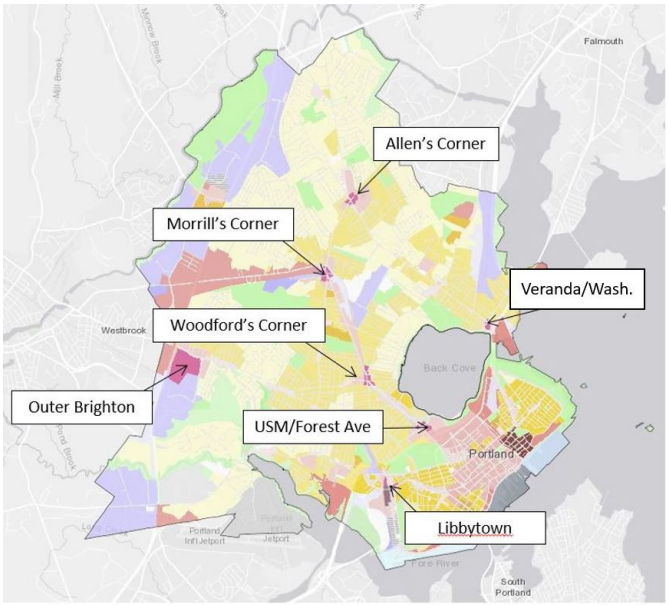
5. Policy-Based Changes

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. The future land use framework outlined in Portland's Plan emphasizes the state goal of promoting orderly growth and development in suitable areas while safeguarding Maine's rural character, making efficient use of public services, and preventing urban sprawl. Portland's Plan recognizes that decisions about how, where, and to what extent the city grows will significantly influence how well the city seizes opportunities before it. Strategically planned growth as proposed through ReCode will help Portland expand economic opportunities, enhance environmental health, strengthen neighborhoods, and optimize the use of municipal services and financial resources.

Figure 8: Underutilized site in Allen's Corner (left) | mixed-use development West End (right)

The zoning framework of ReCode builds on Portland's successful existing development patterns while guiding future changes and growth opportunities in key areas. The proposed zoning changes will support diverse housing options, concentration of jobs, pedestrian and transit accessibility, and the necessary infrastructure and services for a growing city. These changes prioritize areas that are essential to Portland's growth in the coming decades, particularly underutilized locations that are well-positioned for additional development due to their access to public transit, existing infrastructure, and ability to support surrounding neighborhoods (*Figure 8*).

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* (*Figure 9*). These seven nodes were selected to concentrate growth in areas that can support more efficient and robust transit services, fostering the density and critical mass needed to sustain public transit and local businesses. These areas also benefit from proximity to key economic drivers and institutions such as the University of New England, the University of Southern Maine, the Roux Institute, Maine Medical Center, Northern Light Mercy and potential major transit investments like a bus rapid transit line and a relocated train station. This approach helps prevents leapfrog development in areas less prepared to become major hubs, while encouraging growth in well-suited, underdeveloped areas that are positioned to develop first.



The comprehensive plan identified Allen's Corner, Veranda St/Washington Ave., USM/Forest Avenue, and Outer Brighton as key nodes to be evaluated for their potential to serve as centers for complete neighborhoods centered around public transit opportunities. Morrill's Corner and Libbytown, near Maine Medical Center, were designated as transformation nodes due to their existing built environment, established institutions, and access to public transit. Finally, Woodford's Corner was identified as a node for enhancement, recognizing its existing built form.

Figure 9: Proposed TOD zones

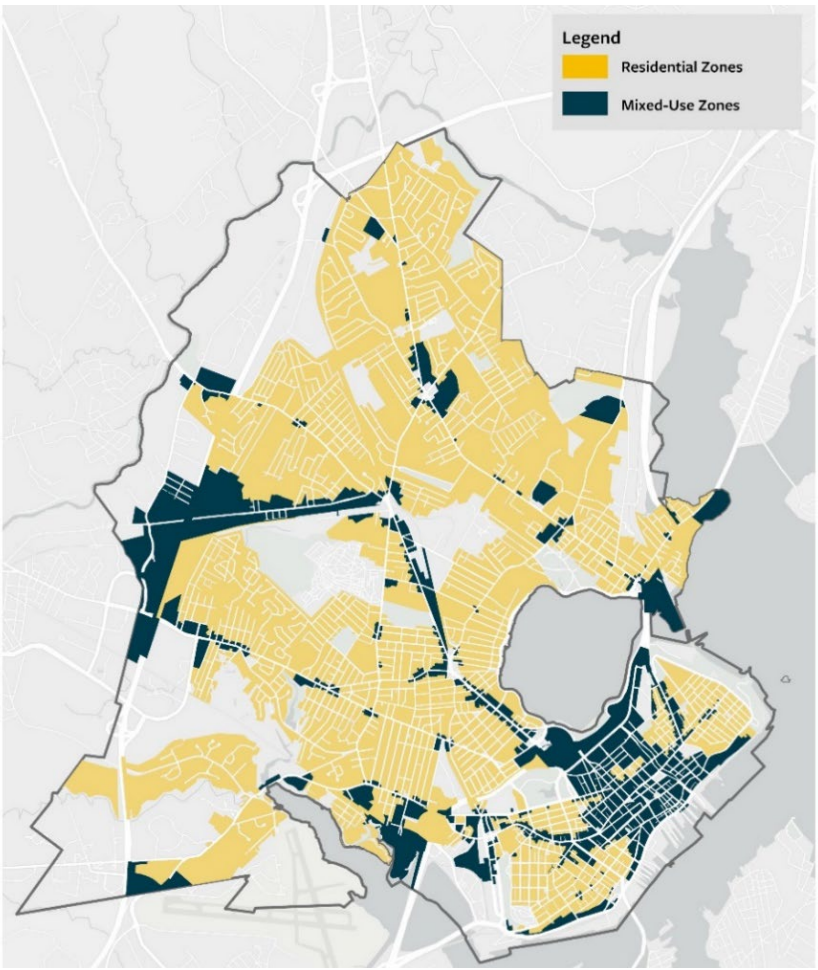


Figure 10: Proposed residential areas (yellow) and proposed mixed-use zones (blue)

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, and the expansion of B-5 zoning in areas like Franklin Street, which is poised for additional mixed-use development (*Figure 10*). These changes align directly with the future land use principles outlined in *Portland's Plan*, specifically addressing the need to support the development of complete neighborhoods.

Lastly, the map includes new open space zones to reflect the City's inventory of parks and public spaces, as well as the new CFROZ zoning designation. These changes respond directly to sustainability goals within *Portland's Plan,* helping the city to protect important open space resources and prepare for a future of climate change.

X. CONSISTENCY WITH *PORTLAND'S PLAN*

As noted above, ReCode is fundamentally tied to *Portland's Plan*. The land use code, as drafted in ReCode, is both consistent with and pursuant to the comprehensive plan adopted by the City Council. The revisions as drafted will advance key goals and objectives outlined in the plan's eight policy guides, as well as the future land use framework and elements of the plan regarding regional coordination. ReCode will guide Portland's growth, fostering an authentic, connected, equitable, sustainable, and dynamic city.

The proposed zoning map changes align with the future land use *section* of *Portland's Plan*. TOD zones have been mapped in seven strategic locations identified on the City's map of priority nodes and corridors, informed by studies such as *Transit Tomorrow* and *One Climate Future*, as well as by existing and planned public transportation and infrastructure investments. Mixed-use zoning has been both retained and expanded to support the concept of complete neighborhoods in areas critical to the city's growth over the next decade, based on three maps from the comprehensive plan: one depicting current dominant land use patterns, one showing a connected network of trails and open spaces, and another identifying corridors and nodes positioned for additional growth.

Greater Portland accounts for approximately half of the State of Maine's economic output. The city's historic industries—such as manufacturing, fishing, shipping, and tourism—remain relevant and are evolving, even as Portland's 21st-century economy becomes increasingly diverse. Portland simultaneously

serves as a financial and services center, boasts a biotech presence, a thriving local food scene, a port for international trade, a regional healthcare hub, a flourishing arts and culture environment, and a cluster for higher education. The proposed changes in ReCode support the city's historic industries by retaining small but vital industrial zones, essential for businesses that rely on convenient access to the interstate highway system, rail, Jetport, and waterfront. Additionally, the proposed changes reinforce the importance of Portland's Downtown, ensuring it continues to be a regional hub for both economic development and housing.

XI. PLANNING BOARD RECOMMENDATION

On the basis of material provided in the Planning Board report dated October 4, 2024, public testimony, and other information provided during the Planning Board's review process and at the October 8, 2024 public hearing, the Planning Board found that the proposed amended land use code and zoning map are consistent with the City of Portland's comprehensive plan and therefore recommends adoption of said amended land use code and zoning map to the City Council.

On the basis of material provided in the Planning Board report dated October 4, 2024, public testimony, and other information provided during the Planning Board's review process and at the October 8, 2024 public hearing, the Planning Board finds that the proposed amendments to the conditional rezoning for property in the vicinity of Diamond Cove, Great Diamond Island are consistent with the City of Portland's comprehensive plan, Section 5.3 of the land use code, and 30-A M.R.S.A. § 4352 (8), and therefore recommends adoption of said amendments to the City Council.

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

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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, 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.

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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:

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.

B. 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, 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

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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.

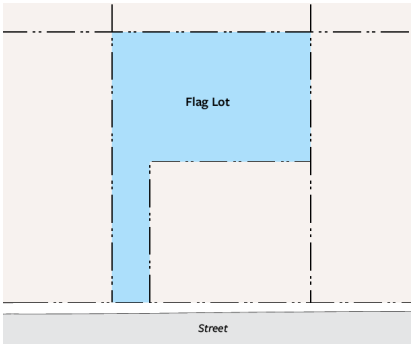

FIGURE 3-A: FLAG LOT

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.

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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

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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.

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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

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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.

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
	Cultural facilities			●	
	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
	General offices			●	6.4.15
	General services			●	
	Greenhouse/nursery (retail)			◐	6.4.16
	Hotels			◐	6.4.19
	Market gardens	◐	◐	●	6.4.25
	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				●			
	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	●	●	
Industrial	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
Industrial	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.

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.

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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.

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,

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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 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,

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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, 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

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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 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,

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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.
8. In residential zones, detached ADUs shall be subject to side and rear setbacks for detached accessory structures less than 250 square feet, as established in Article 7.

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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.

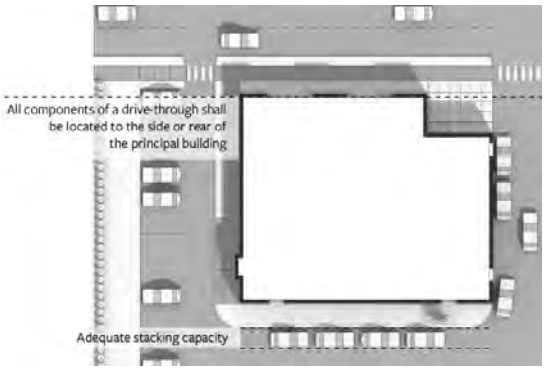

FIGURE 6-A: DRIVE-THROUGH SITING

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 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.

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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.

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

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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 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

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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 levels of wind energy systems shall include sounds generated in all conditions including

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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.

In all other mixed-use zones, storage of unregistered motor vehicles for more than 10 days, and outdoor storage of used automobile tires shall be prohibited.

B. No partially dismantled, wrecked, or junked vehicles shall be stored outdoors. This provision does not apply to vehicles undergoing repair.

C. 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.

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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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.

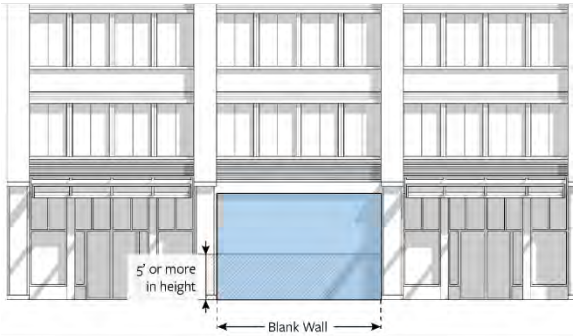

FIGURE 7-A: BLANK WALL AREA

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.

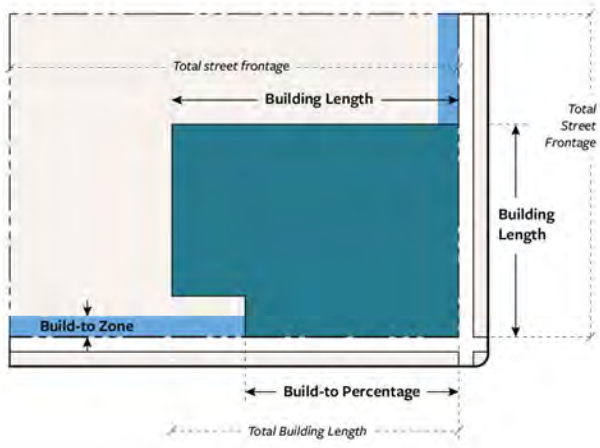

FIGURE 7-B: MINIMUM LENGTH AND BUILD-TO PERCENTAGE

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.

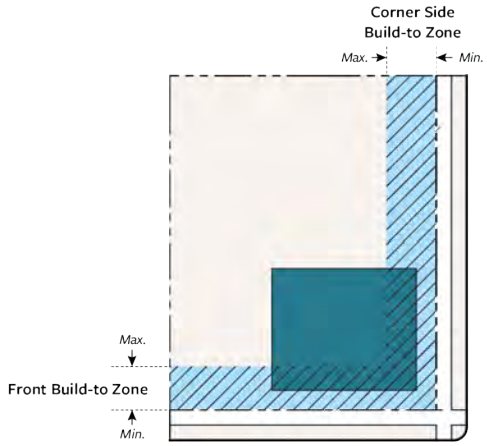

FIGURE 7-C: BUILD-TO ZONE

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, 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 after construction.

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.

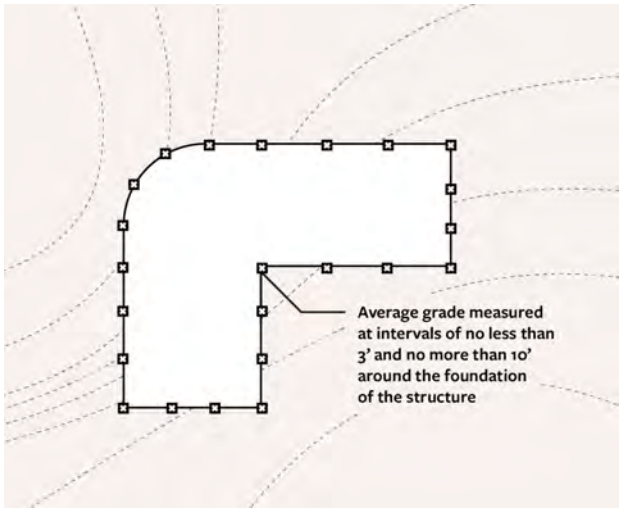

FIGURE 7-D: AVERAGE GRADE

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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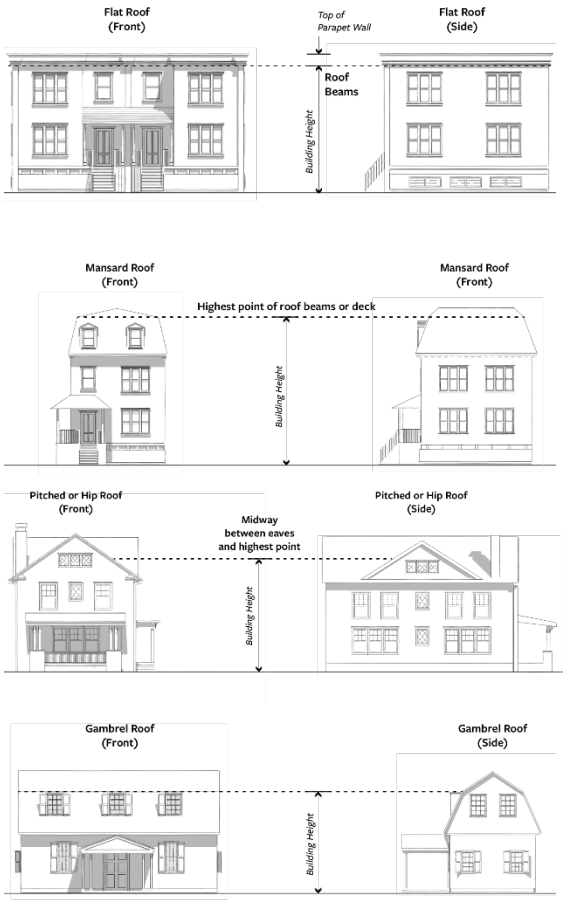

FIGURE 7-E: BUILDING HEIGHT MEASUREMENT

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.

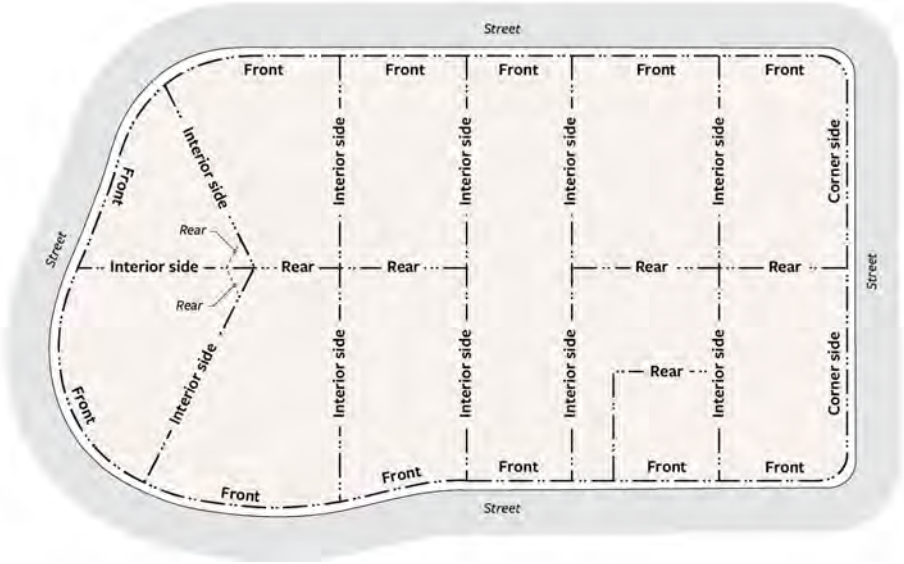

FIGURE 7-F: LOT LINES

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.

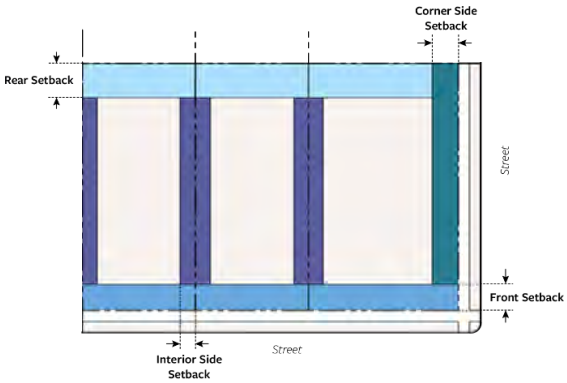

FIGURE 7-G: SETBACKS

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.

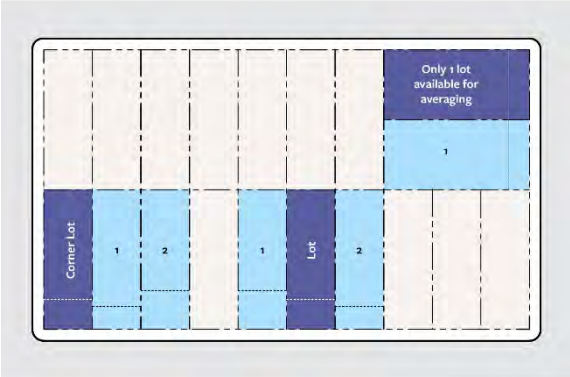

FIGURE 7-H: SETBACK AVERAGING

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.

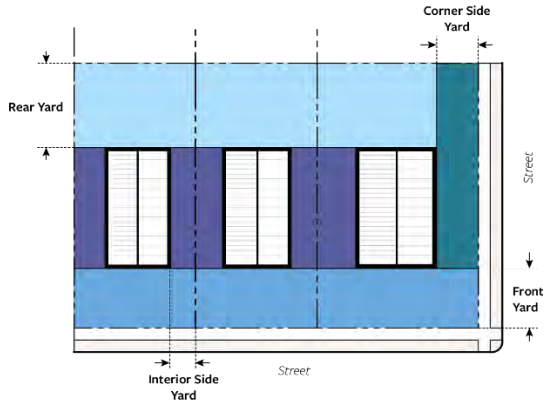

FIGURE 7-I: YARDS

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.	3 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%	20%	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.

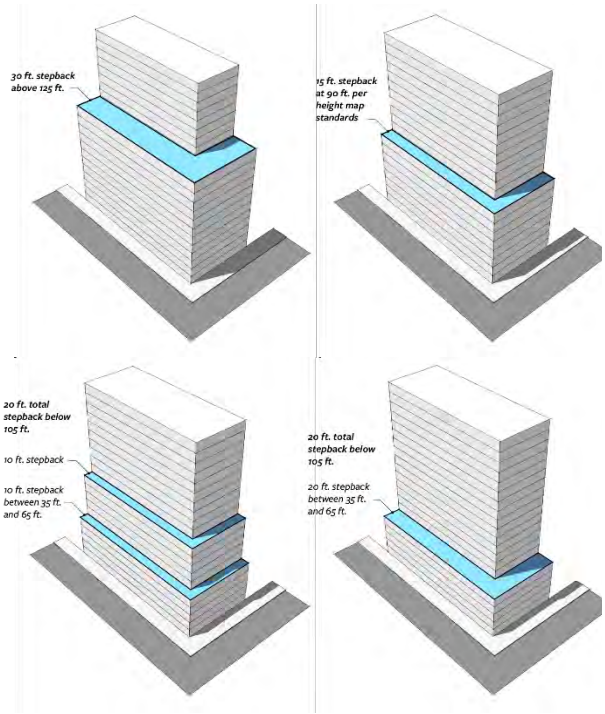

FIGURE 7-J: TOWER STEPBACK

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.

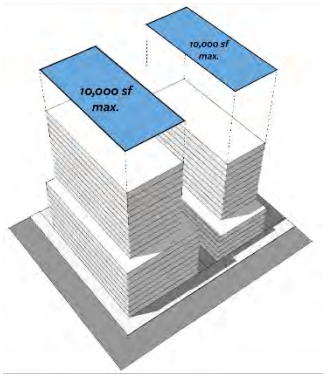

FIGURE 7-K: TOWER FLOOR PLATES

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.

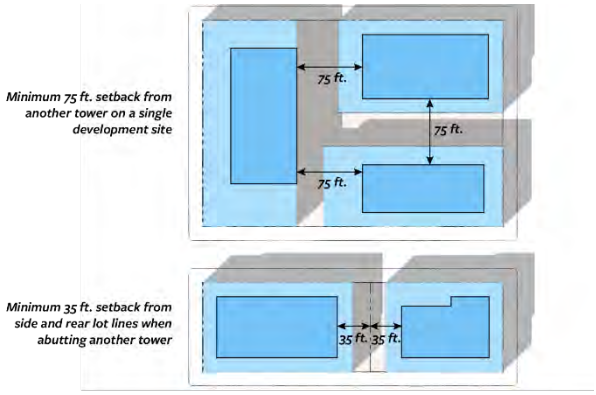

FIGURE 7-L: TOWER SEPARATION

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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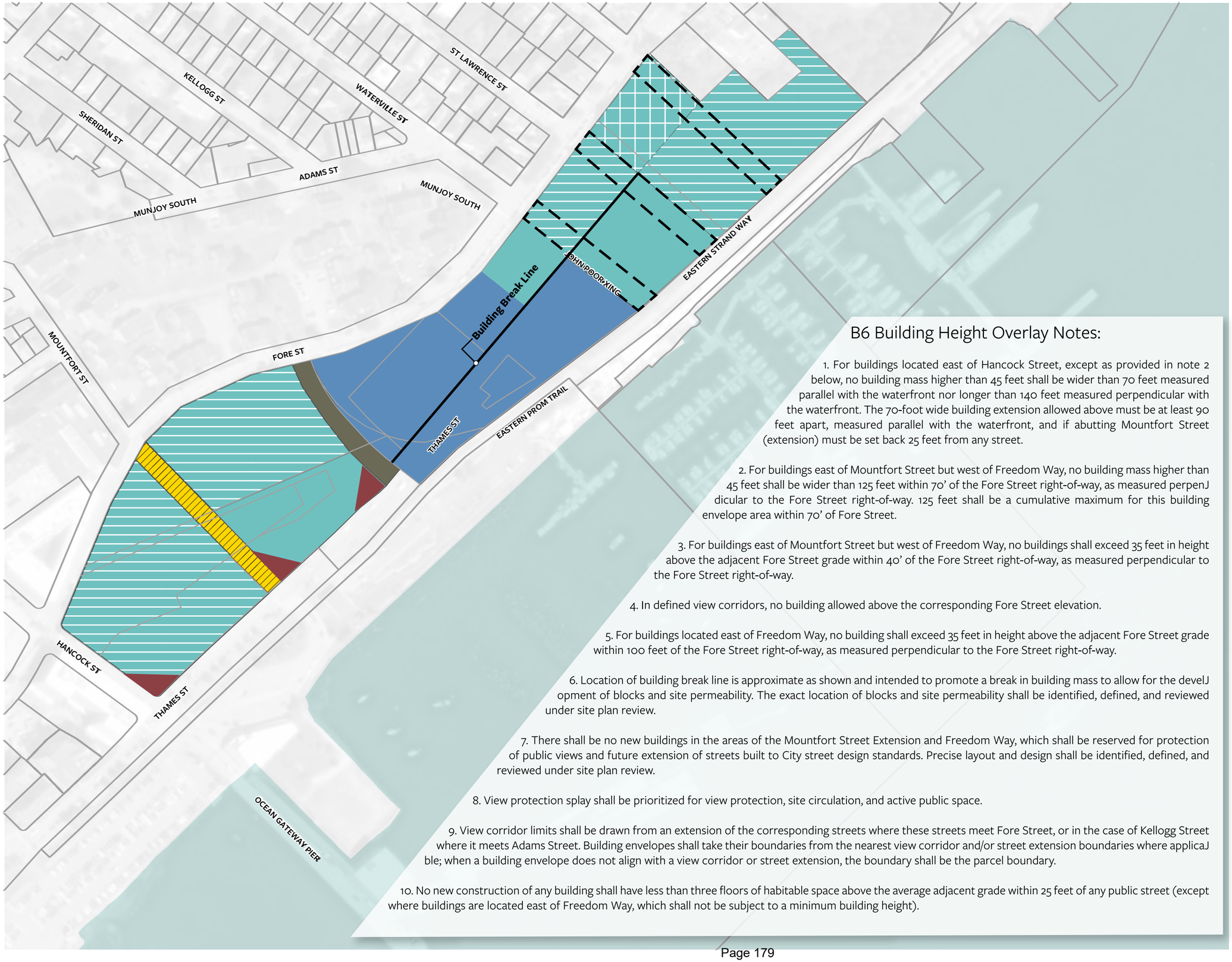
Portland, ME

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.

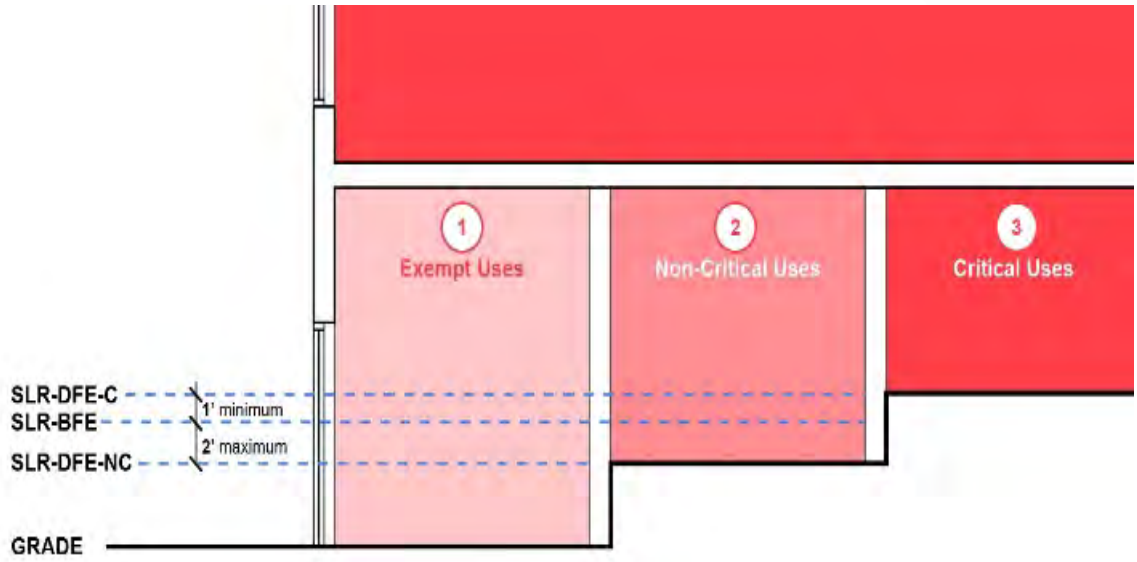

FIGURE 8-A: CFROZ USE CLASSIFICATIONS AND DESIGN FLOOD ELEVATION

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

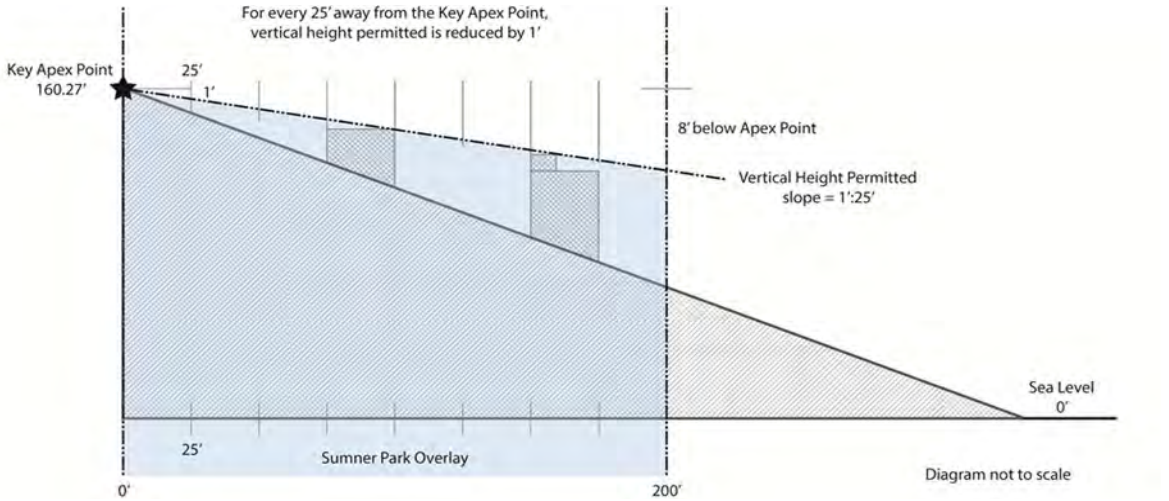

FIGURE 8-B: FORT SUMNER PARK OVERLAY PERMISSIBLE HEIGHT

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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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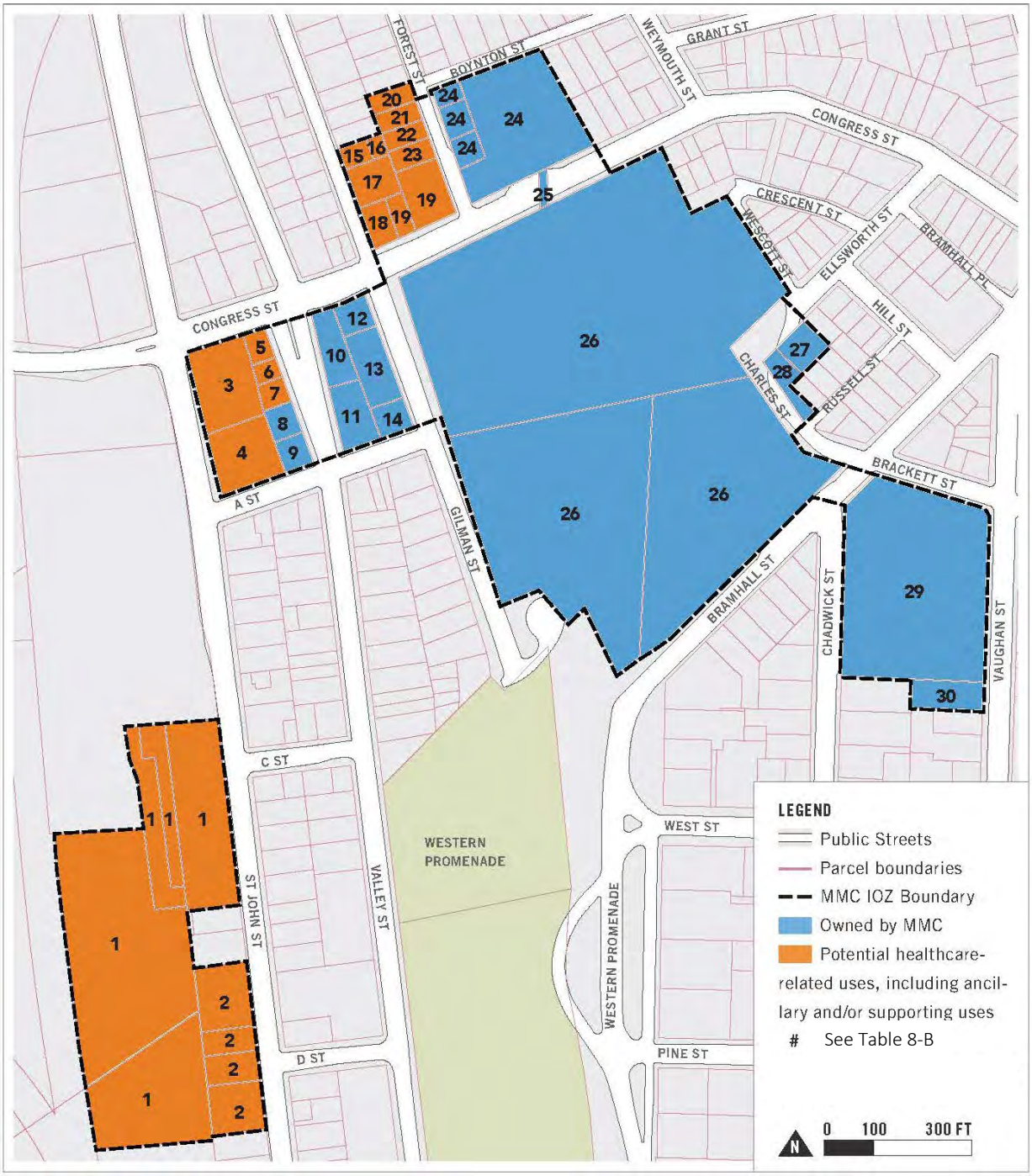

Note: Refer to Table 8-C for a list of permitted uses.

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.

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

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.

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.

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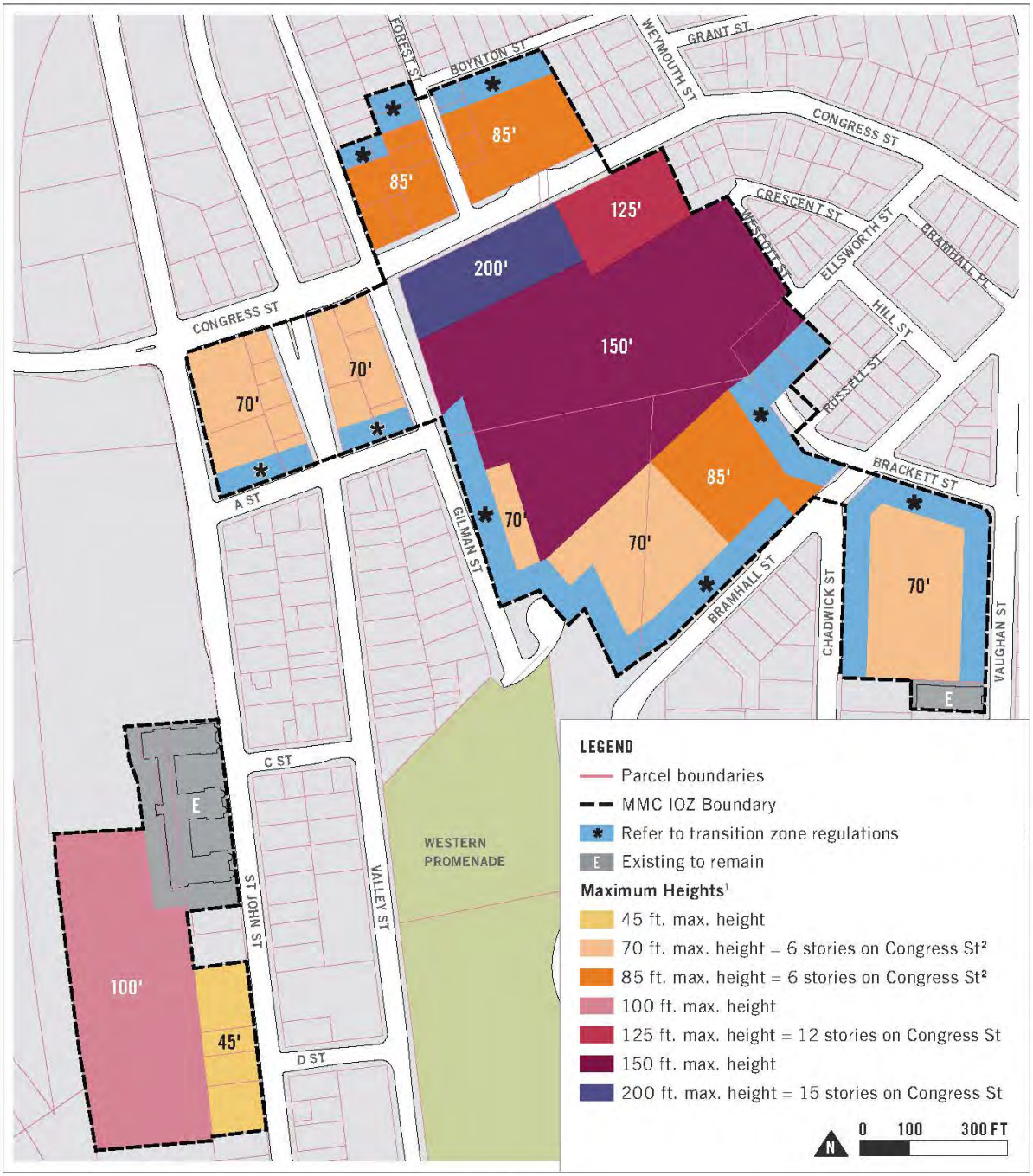
TABLE 8-D: MMC IOZ DIMENSIONAL REQUIREMENTS

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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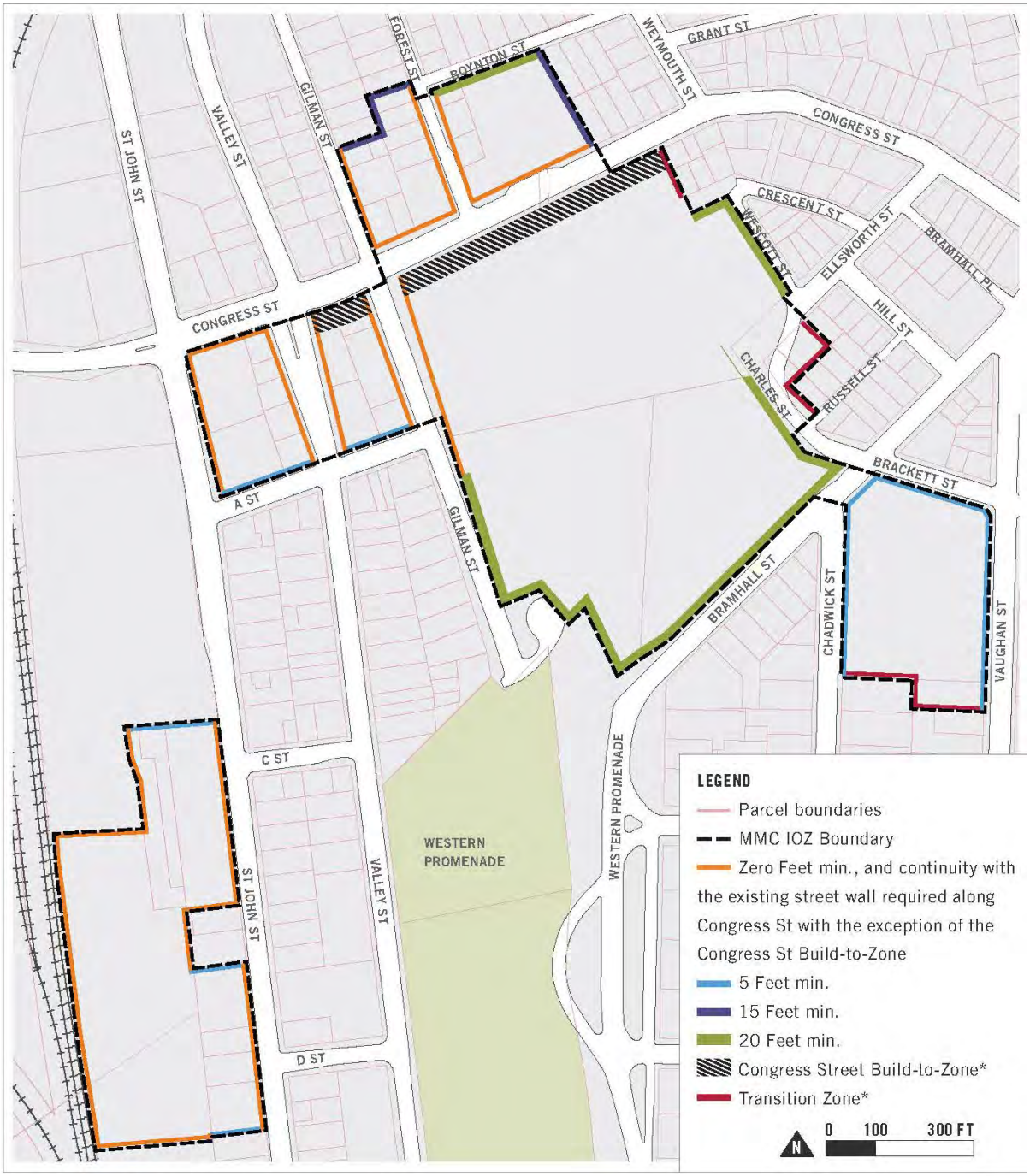

* Refer to Table 8-D Dimensional Requirements

FIGURE 8-E: MINIMUM SETBACKS

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. **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

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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.

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

FIGURE 8-F: ROUX INSTITUTIONAL OVERLAY ZONE BOUNDARY

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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 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. On the pier residential uses are explicitly prohibited and any allowed use on the pier must be a functionally water-dependent use. 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.

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 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.

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.

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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 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*

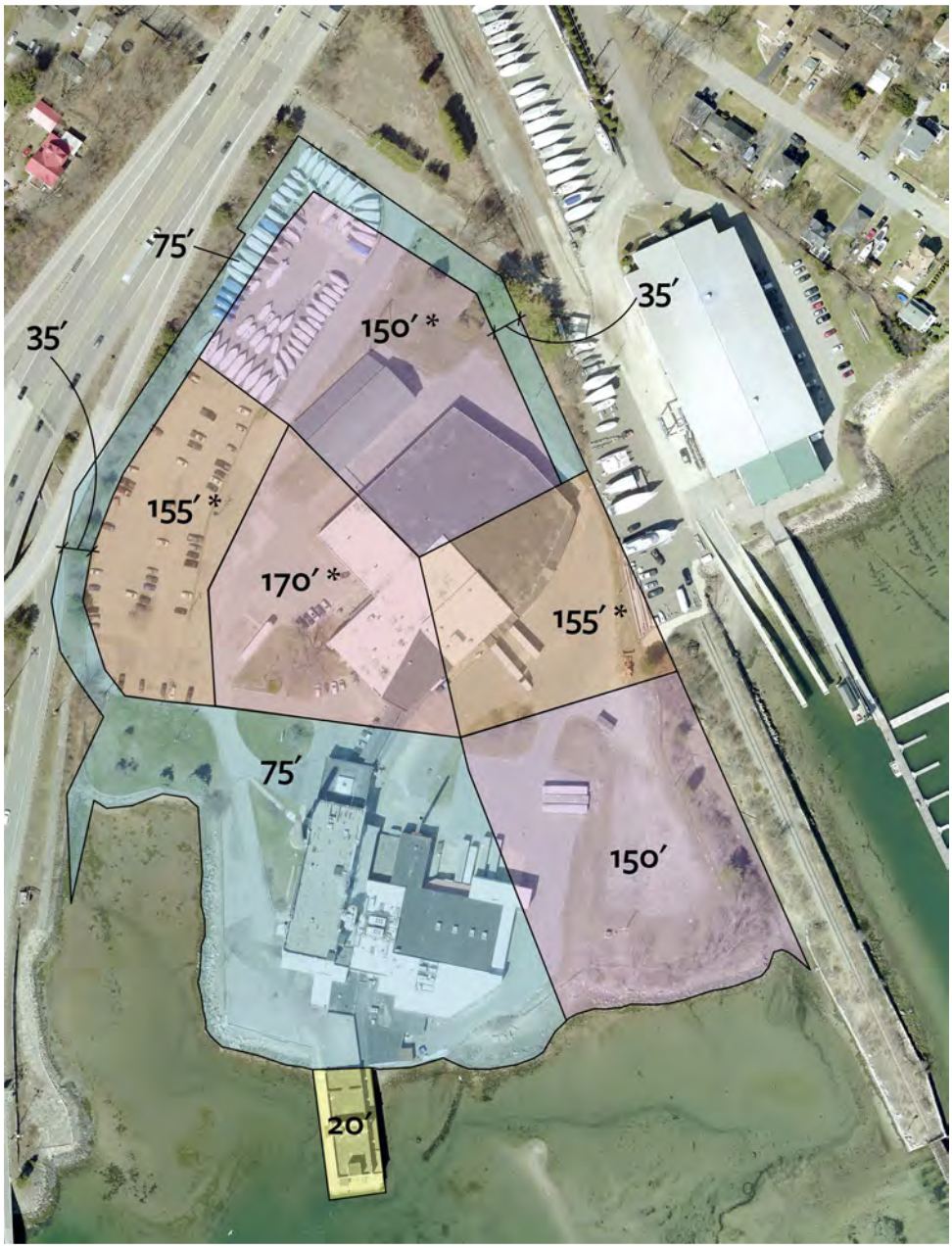
a. The campus is surrounded by existing buffers, with I-295 to the west, state-owned vacant parcels to the north, the rail corridor and marine business to the east, and Casco Bay to the south. In addition to the existing buffers, development shall further ease the transition to and from the campus.

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



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.
4. Functionally water-dependent structures on the pier are limited to 20 feet in height. Light poles on the pier are limited to 35 feet in height. On the pier height is measured from the top of the pier deck to the top of the roof of a functionally water-dependent structure or to the top of a light pole.

FIGURE 8-G: HEIGHT OVERLAY MAP

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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 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,

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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, including a well-distributed mix of trees. 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 compliance with the

bird-friendly building and design requirements set forth in Article VII-A of Chapter 6 of the City of Portland Code of Ordinances, except that bird safe materials must be used for the entire façade of all buildings regardless of building height.

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

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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 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

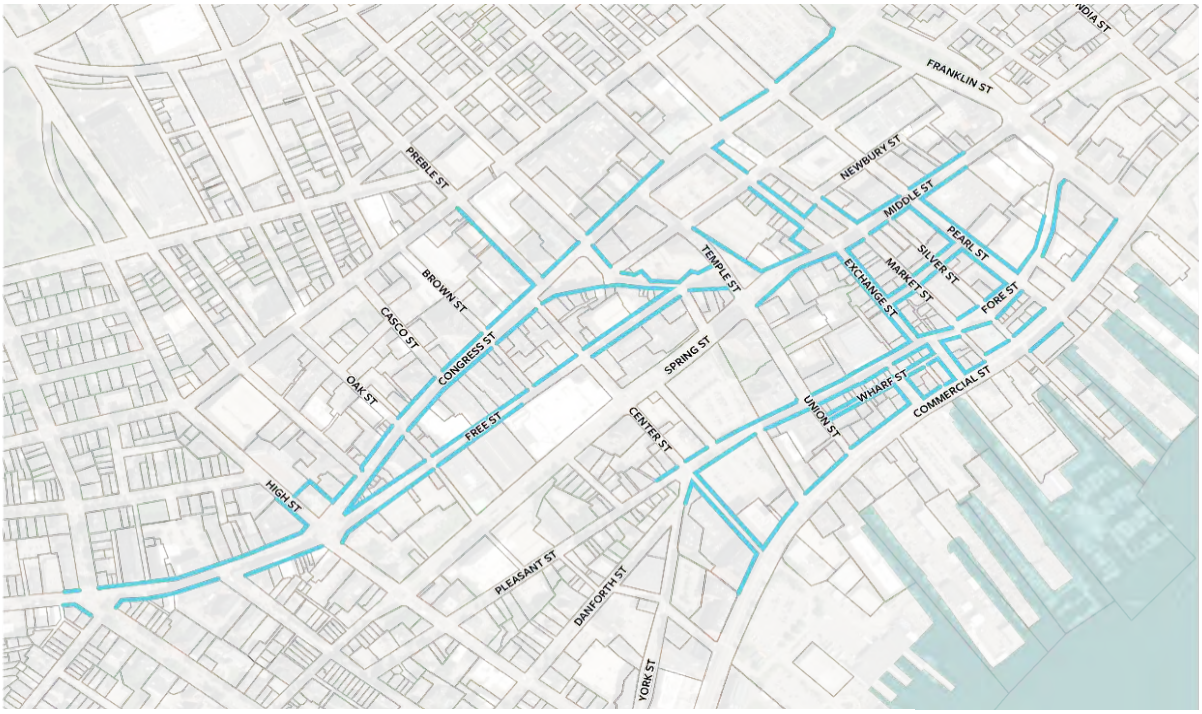

FIGURE 8-H: PEDESTRIAN ACTIVITIES DISTRICT (PAD) OVERLAY

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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.

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

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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.

8.6.6 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

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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.

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

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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.

8.7.10 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

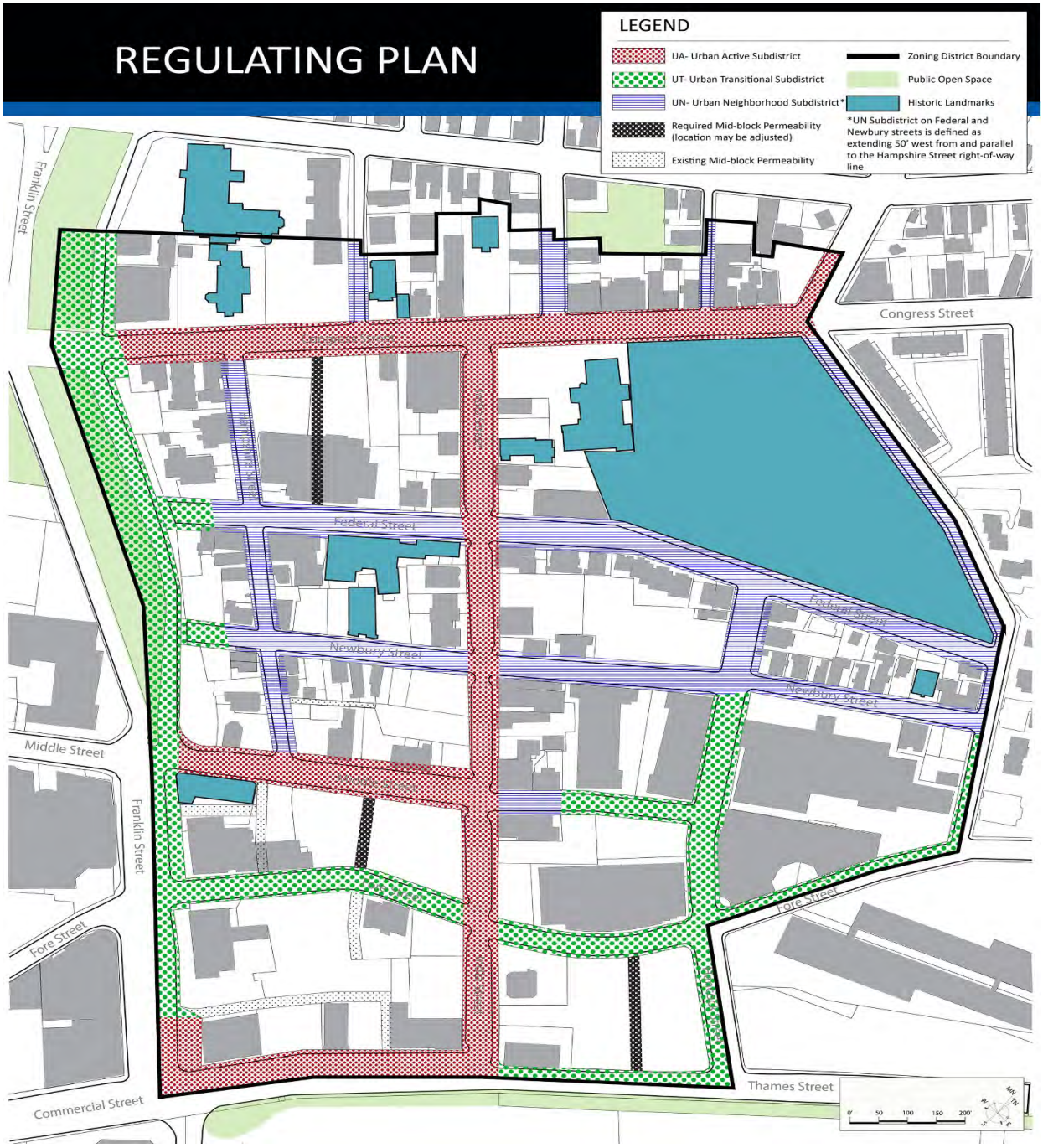

FIGURE 9-A: IS-FBC REGULATING PLAN

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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 landscaping with many buildings within one block and streets tend to be narrow.

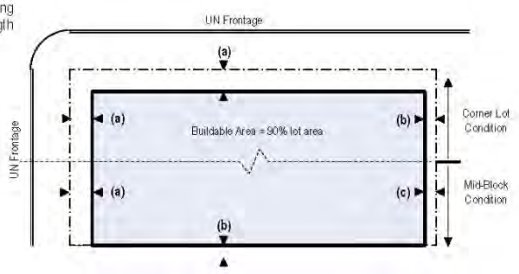
UN

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)

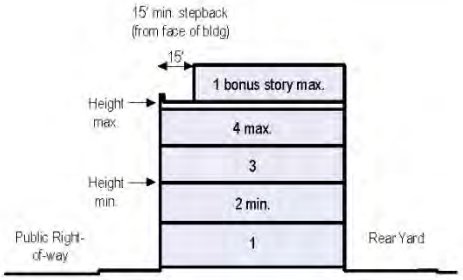
SITING STANDARDS

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.



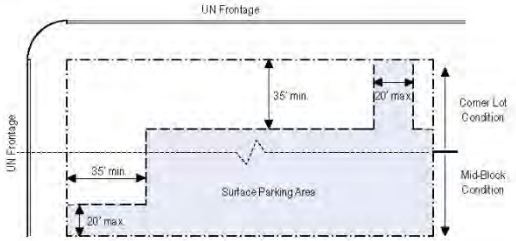
HEIGHT STANDARDS

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.



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 setbacks and stepbacks providing relief from large building masses.

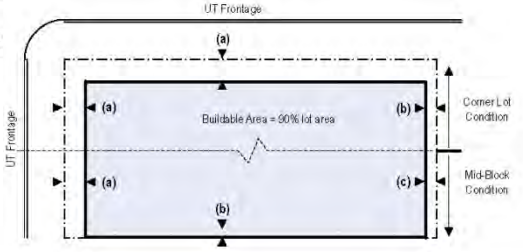
UT

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)

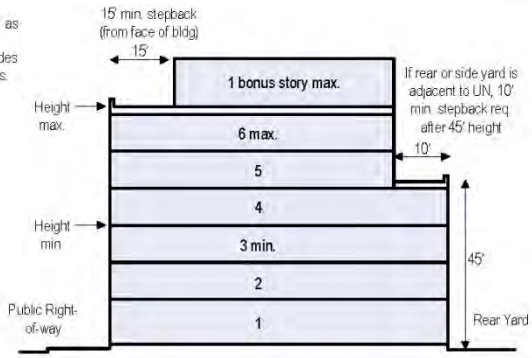
SITING STANDARDS

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.



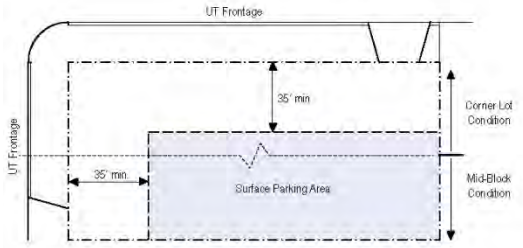
HEIGHT STANDARDS

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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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 streetscape has steady street planting, and buildings set close to the street providing a consistent street wall.

UA

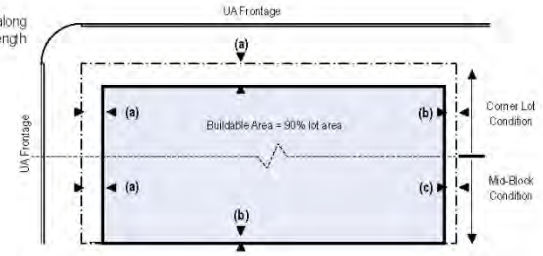
SITING STANDARDS	
Orientation - Principal Frontage	face a UA street
Lot Coverage	90% max
FRONTAGE REQUIREMENTS	
Building Length	50' max.
BLANK FACADE length (max)	15'
Additional Building Length	(see also Table 9-A)
ATTACHED BUILDINGS	unlimited run
Ground Floor Partitions	150' max., up to 3 modules
Massing 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)

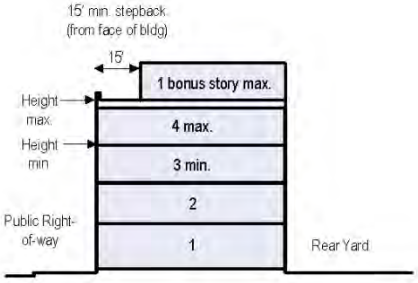
SITING STANDARDS

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.



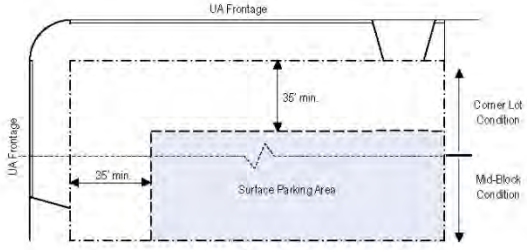
HEIGHT STANDARDS

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.



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 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.

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

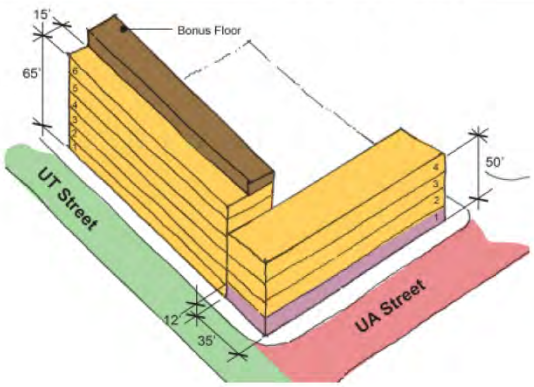
Building Length maximums:	
Principal Frontage	30' max.
Secondary Frontage	50' max.

Notes and Exceptions

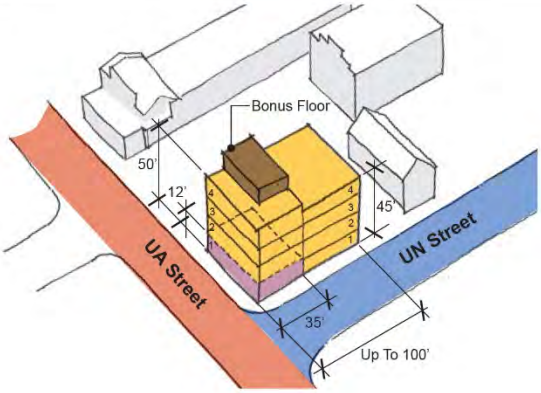
* Does not have to correspond to legal building address

CORNER

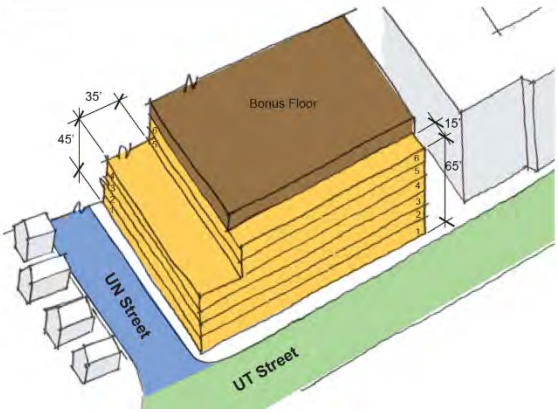
UA INTERSECTS UT
(example only)



UA INTERSECTS UN
(example only)



UT INTERSECTS UN
(example only)



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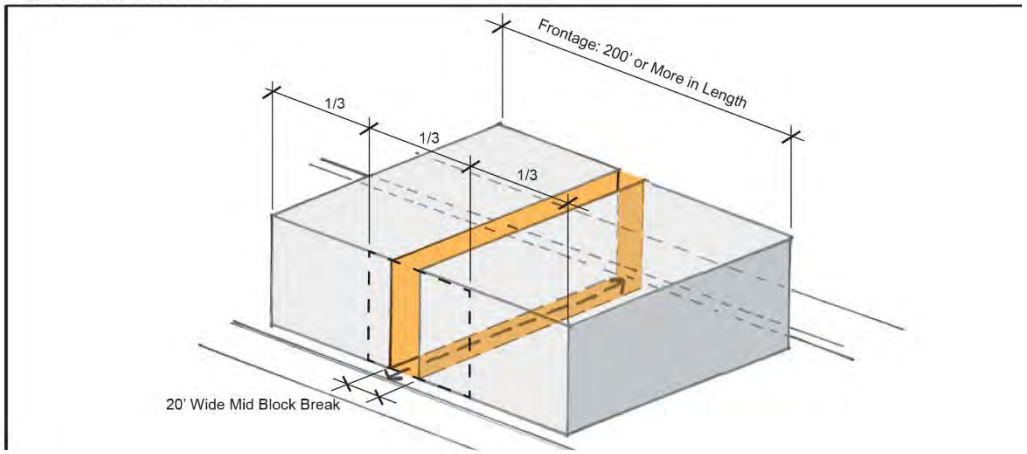
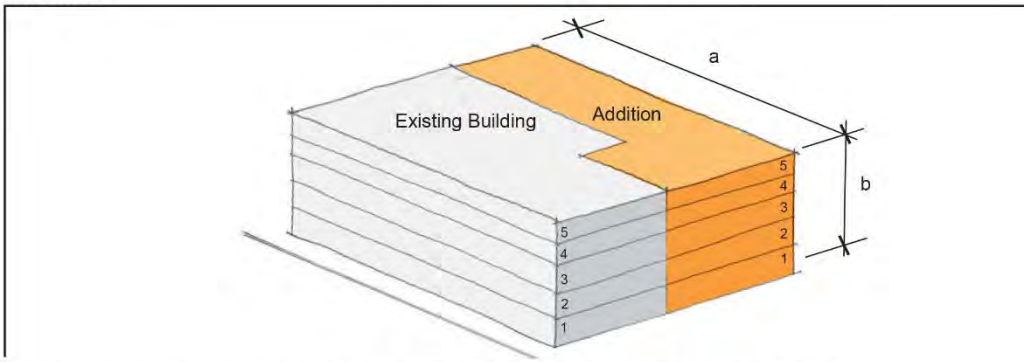
MID-BLOCK PERMEABILITY



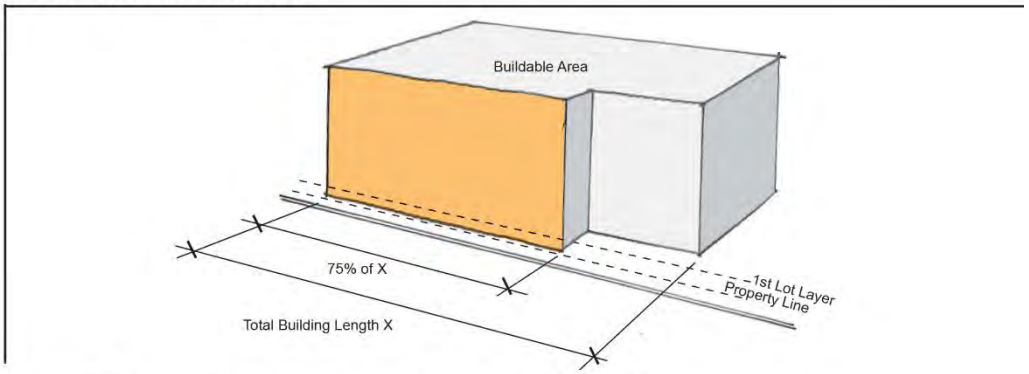
ADDITION



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.

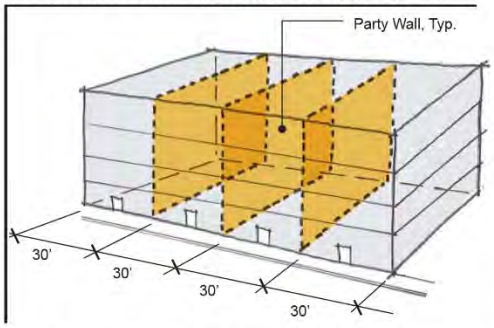
BUILDING LENGTH - 1st LOT LAYER



At least 75% of the total building length must be within the 1st LOT LAYER.

FIGURE 9-B: DIMENSIONAL REQUIREMENTS ILLUSTRATED

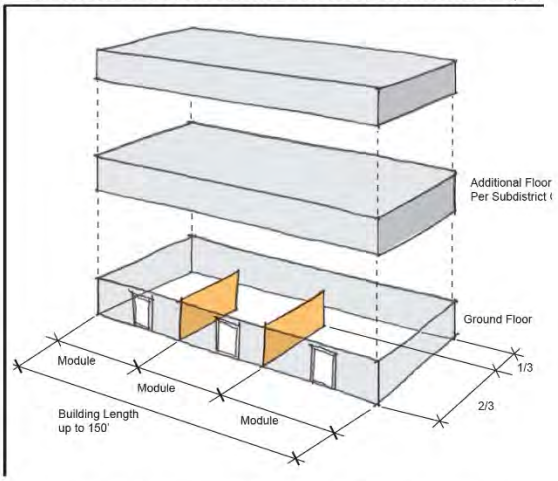
ADDITIONAL BUILDING LENGTH - ATTACHED BUILDINGS



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.

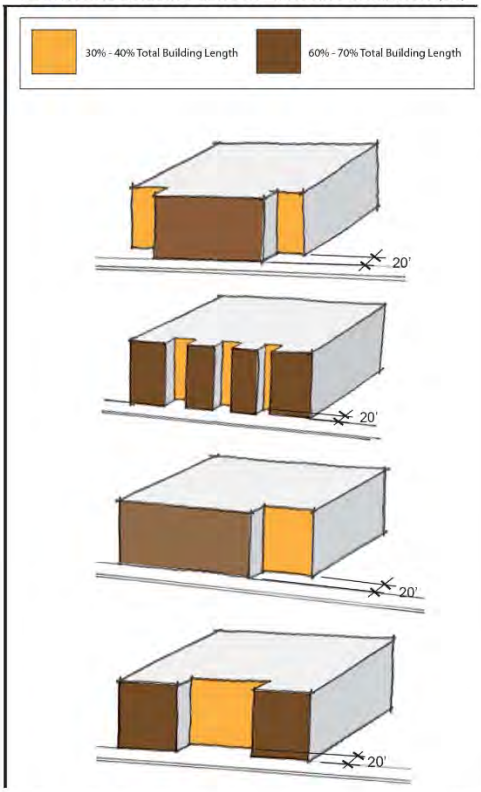
ADDITIONAL BUILDING LENGTH - GROUND FLOOR PARTITIONS (UA)



Additional Building Length is permitted up to 150' with the provision of a least two Ground Floor Partitions

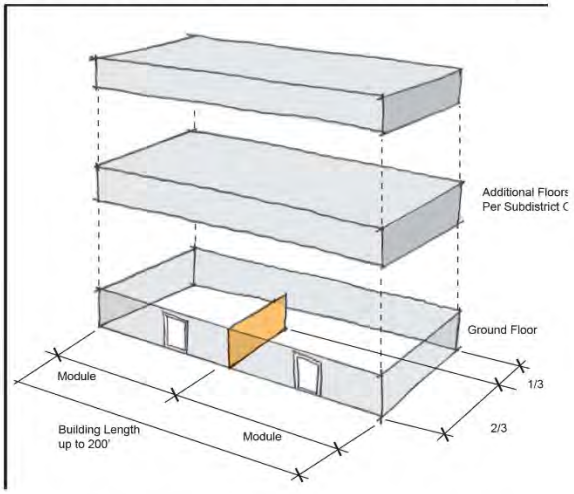
See General Development Standards and BDS for additional requirements.

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.

FIGURE 9-B (CONT.): DIMENSIONAL REQUIREMENTS ILLUSTRATED

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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.

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.

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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 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

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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 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.

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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 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

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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.

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.

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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.

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

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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 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

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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.

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.

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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.

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.

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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.

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.

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.

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.

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

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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 and TOD zones 1,000 – 50,000 SF in 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

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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 17.2.4(C) 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 17.2.4(D) 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, flatbed trucks, box trucks, buses, 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

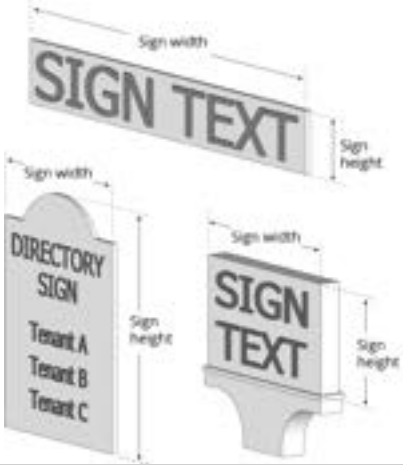
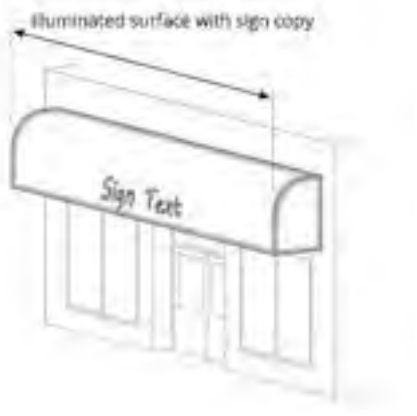
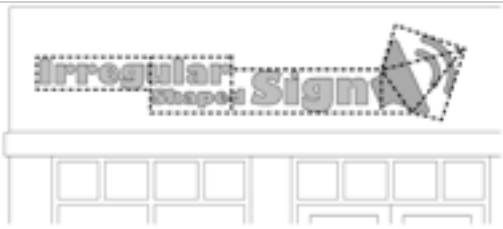
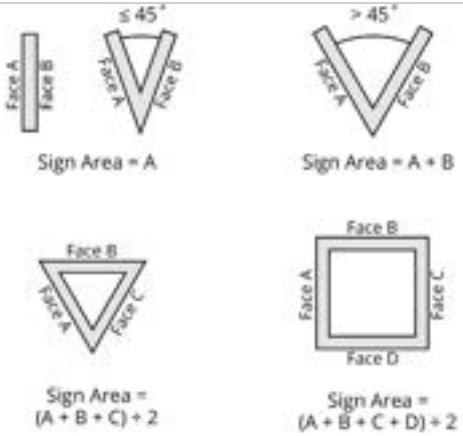
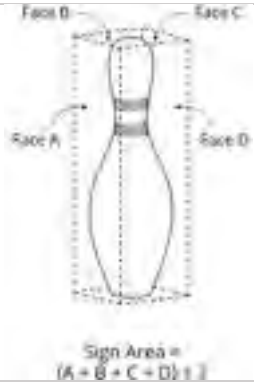
Signs on background panel	Sign copy mounted, affixed, or painted on a background panel or surface distinctively painted, textured, or constructed as a background for the sign copy, is measured as that area contained within the sum of the smallest rectangle(s) that will enclose both the sign copy and 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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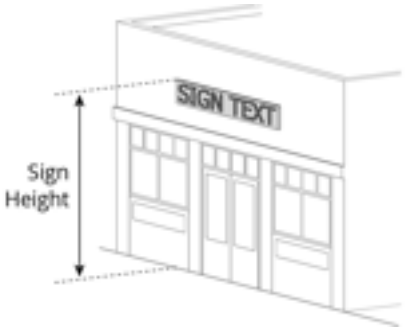
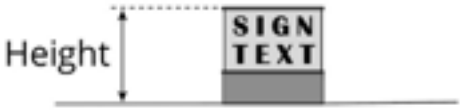
TABLE 19-D: SIGN HEIGHT MEASUREMENT

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.

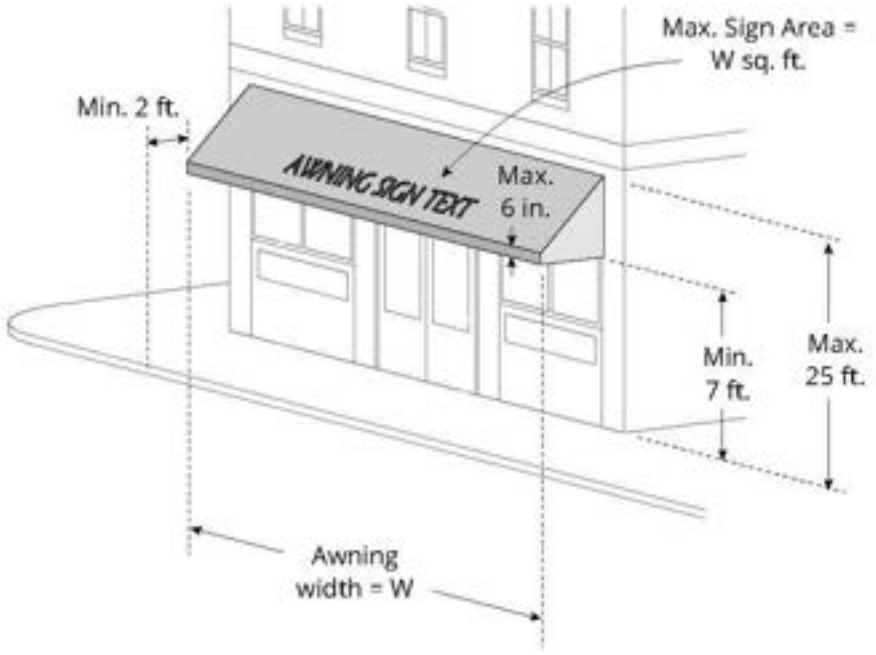

TABLE 19-I: STANDARDS FOR CANOPY SIGNS

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

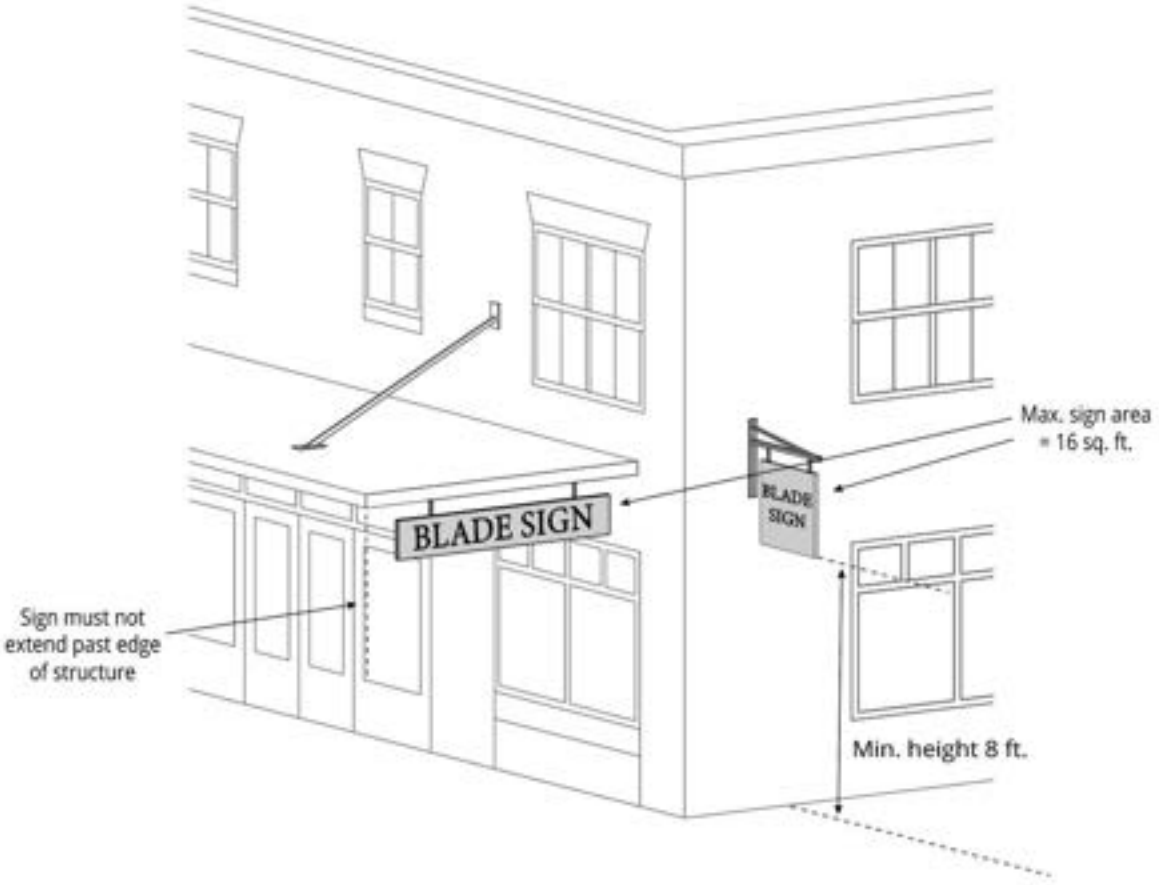

TABLE 19-K: STANDARDS FOR DIRECTIONAL SIGNS (BUILDING-MOUNTED)

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

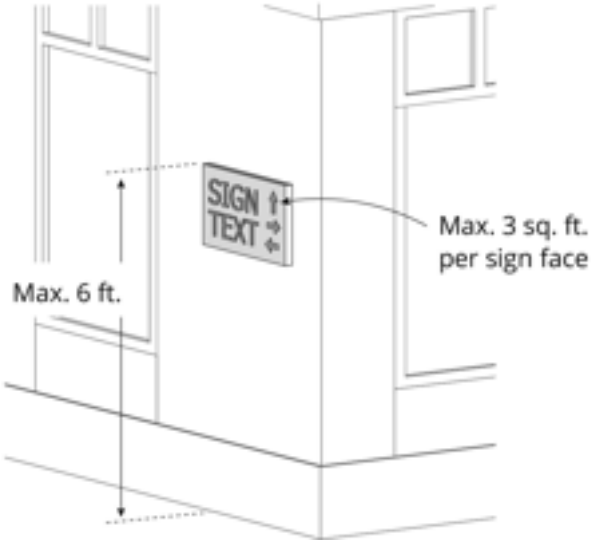

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TABLE 19-L: STANDARDS FOR DIRECTORY SIGNS (BUILDING-MOUNTED)

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

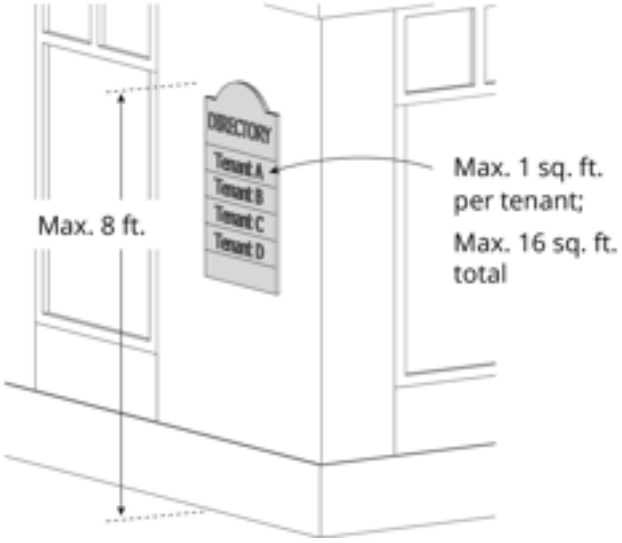

TABLE 19-M: STANDARDS FOR MARQUEE SIGNS

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

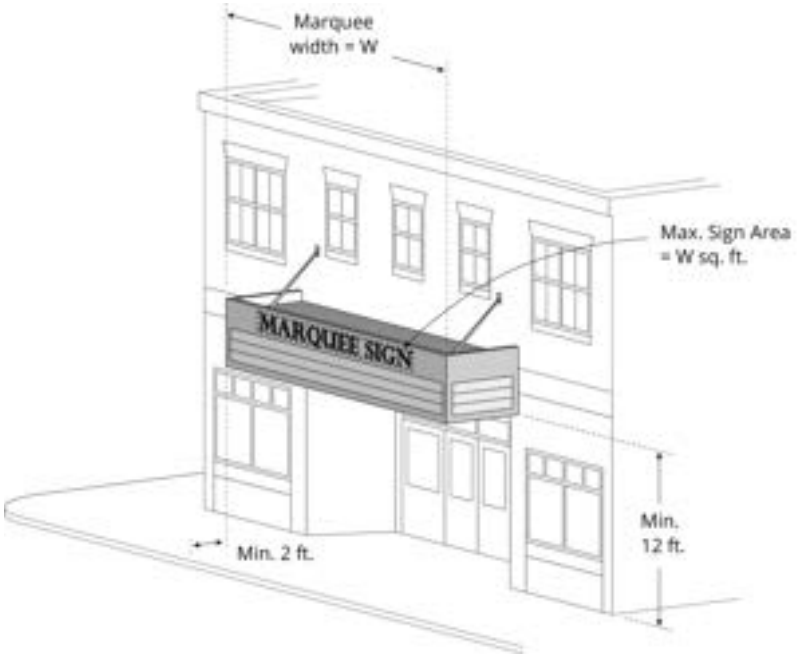

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TABLE 19-N: STANDARDS FOR PROJECTING SIGNS

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.

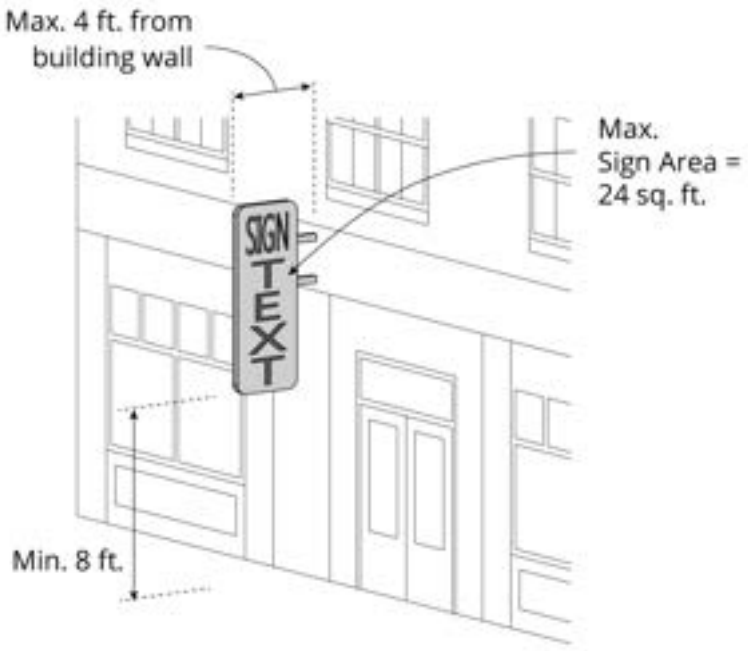

TABLE 19-O: STANDARDS FOR SERVICE ISLAND CANOPY SIGNS

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

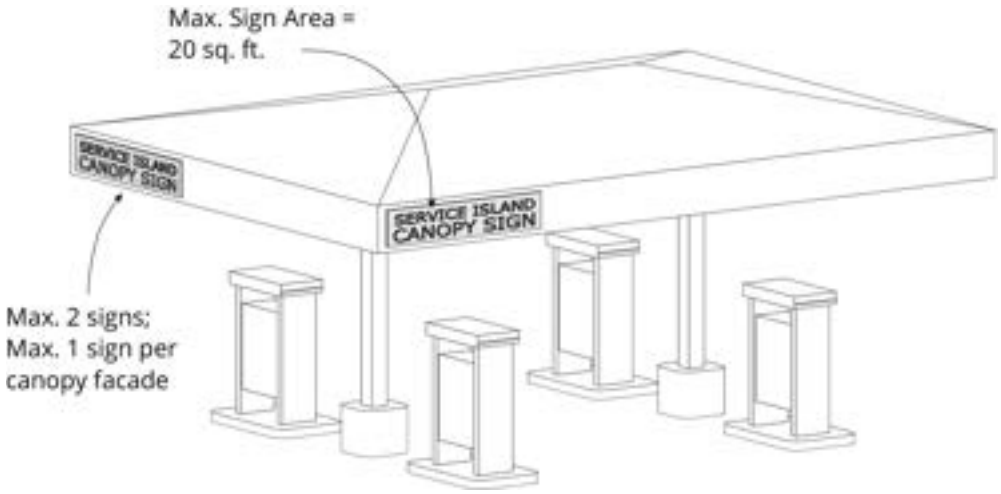

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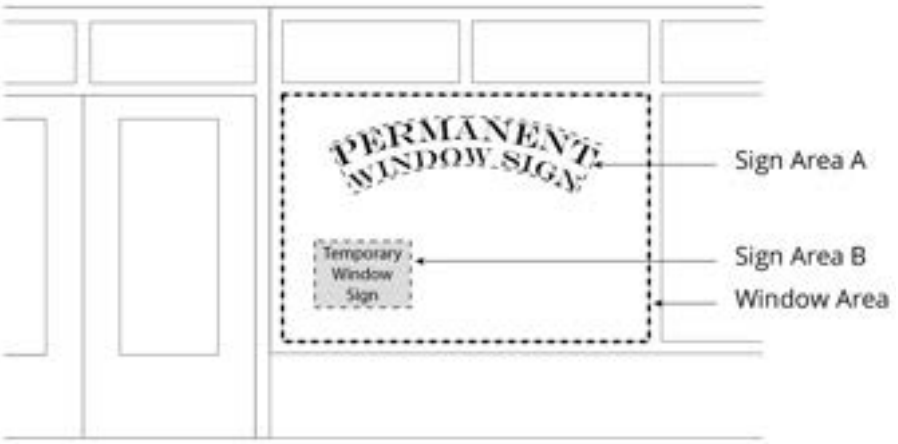
TABLE 19-P: STANDARDS FOR WALL SIGNS

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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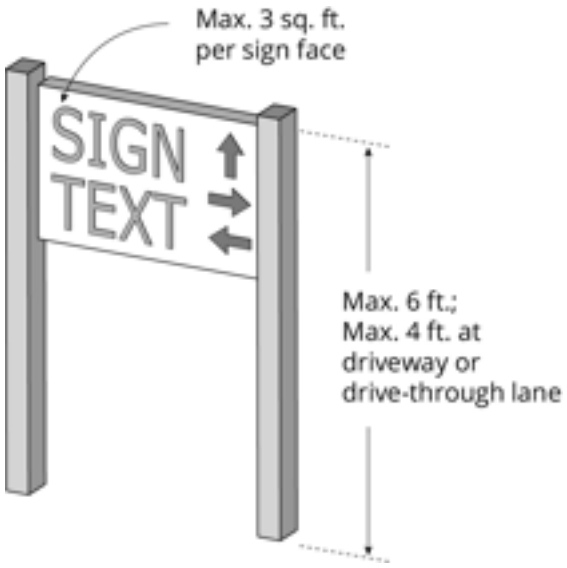
TABLE 19-S: STANDARDS FOR DIRECTIONAL SIGNS (FREESTANDING) [1]

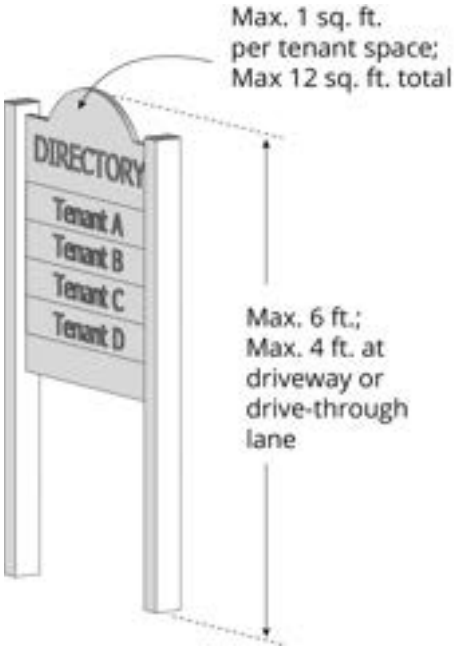
Standard	Requirements
Sign area (max.)	3 SF per sign face (excluded from the total allowed sign area for all freestanding signs)
Height (max.)	6 ft. from nearest grade, except 4 ft. at driveway or drive-through lanes
Number of signs (max.)	1 at each driveway or drive-through lane, not to exceed 3 signs 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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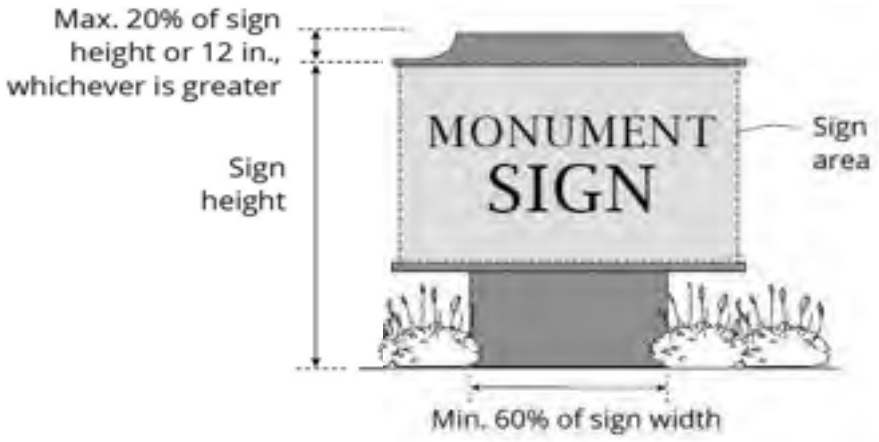
TABLE 19-U: STANDARDS FOR MONUMENT SIGNS[1]

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.					

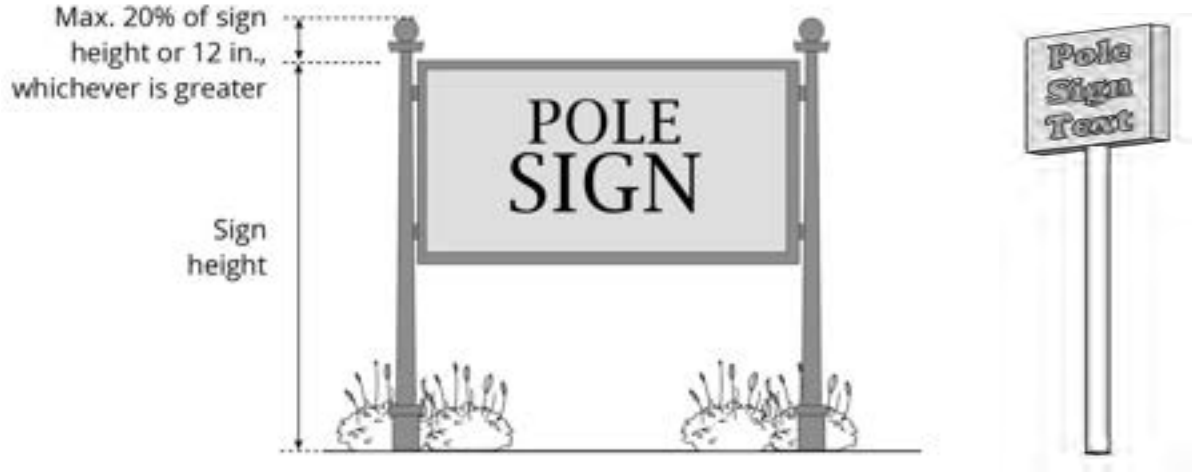


[1] The maximum sign area and sign height standards may be further limited by the standards established in Table 19-R. If no value is included in the table above, then a monument sign is not allowed in that sign district

[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

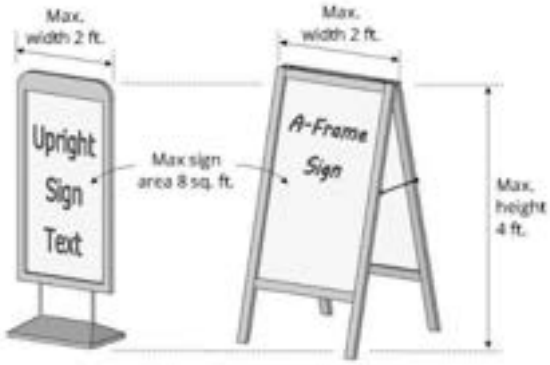
Temporary Sign Type[1]	Standard: Height	Standard: Width (max.)	Standard: Area (max.)	Other Requirements
	Min. 30 in. Max. 4 ft.	2 ft.	8 SF	Prohibited in residential zones except for institutional uses.. Must not be placed in public right-of-way except as permitted by the City. [3] If advertising a business, 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

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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

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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 ~~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

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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.

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.

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:

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.

~~**B.**~~**A.** 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,~~

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~~on substantially sized properties of greater than 20 acres and designed to be compatible with the surrounding built and natural environment.~~

~~**Plant canopy.** As defined by 28-B M.R.S. § 102.~~

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.

~~**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)			●	●	
	Studios for artists and craftspeople				●	
Other	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
	Cultural facilities			●	
	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
	General offices			●	6.4.15
	General services			●	
	Greenhouse/nursery (retail)			◐	6.4.16
	Hotels			◐	6.4.19
	Market gardens	◐	◐	●	6.4.25
	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
	Retail (>25,000 SF)		●	●	●	●	●	●	6.4.15
	Small-scale marijuana caregiver		●	●	●			●	6.4.11
	Theaters and performance halls		●	●	●	●	●	●	
	Veterinary services		●		●			●	
Industrial	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				●			
	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~~		~~●~~	
~~Other~~	~~Parks and open space~~	~~●~~	~~●~~	
~~Other~~	~~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)~~	●	●	●		~~6.4.11~~
	~~Marijuana cultivation facility (2,000-7,000 SF plant canopy)~~		●	●		
	~~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	●				
Other	Off-street parking				●	
	Solar energy system (minor)	●	●	●	●	6.4.16
	Solar energy system (major)		●	●	◐	
	Utility substations	●	●	●		
	Wind energy system (minor)	◐	●	●	●	6.4.18
	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~~

~~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.

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.

~~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.

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.

~~6.4.12~~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.

C. 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 ~~M~~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.

~~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 proposals~~Office parks shall ~~identify~~ consider and be sensitive to the ~~extent to which the developer shall~~need to preserve natural features ~~including~~on site. Natural features include, but are not limited to~~,~~ existing vegetation, ~~flood plains~~floodplains, 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~~G 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. In residential zones, detached ADUs shall be subject to side and rear setbacks for detached accessory structures less than 250 square feet, as established in Article 7.

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 stores 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.~~

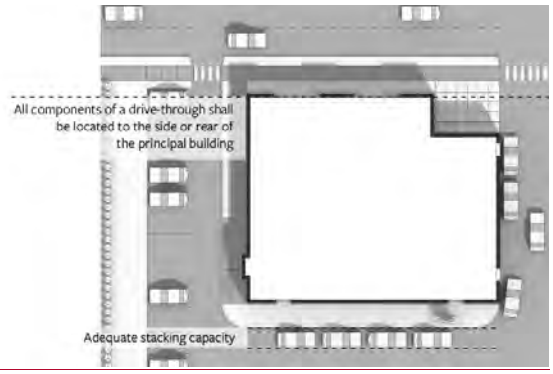

FIGURE 6-A: DRIVE-THROUGH SITING

~~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. ~~3.~~ 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:
   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 ~~nor occur more frequently than three times a calendar year~~, 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.

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 wastewater treatment facilities shall comply with the provisions of Chapter 24.

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

~~6.8.4~~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 technical standards set out in the City of Portland *Technical Manual*.

~~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.~~

~~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.

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.

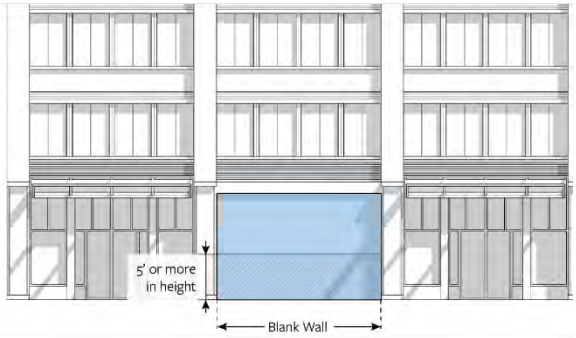

FIGURE 7-A: BLANK WALL AREA

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.

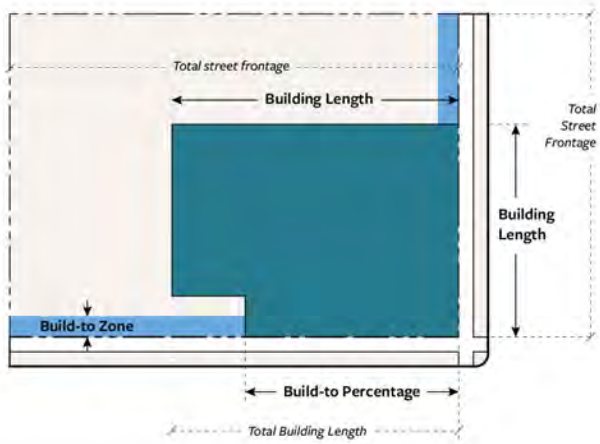

FIGURE 7-B: MINIMUM LENGTH AND BUILD-TO PERCENTAGE

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.

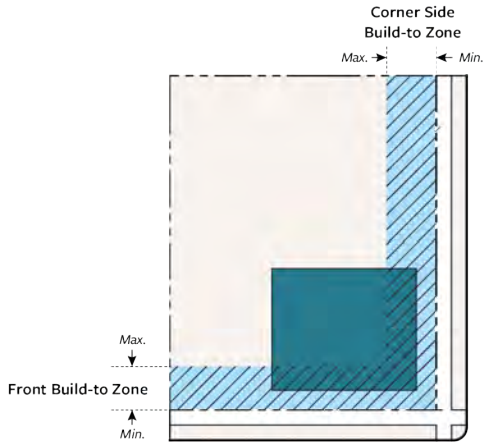

FIGURE 7-C: BUILD-TO ZONE

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, 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 after construction.

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.

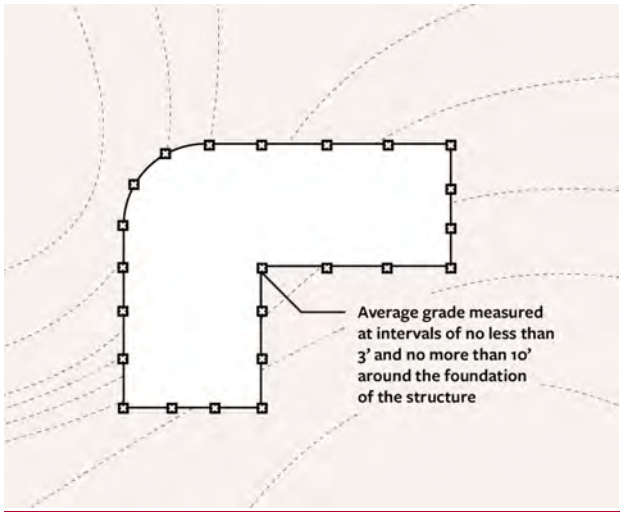

FIGURE 7-D: AVERAGE GRADE

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.~~

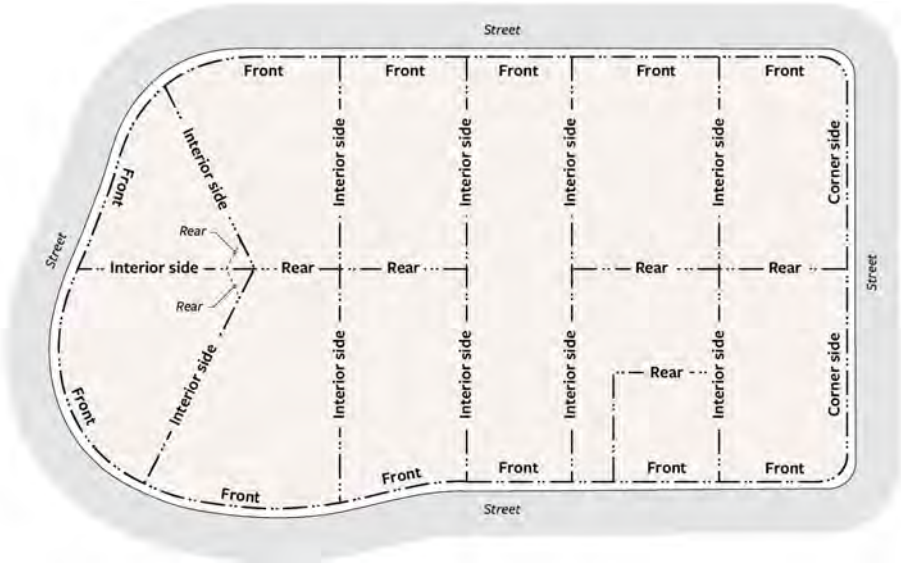

FIGURE 7-F: LOT LINES

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~~

FINAL DRAFT FOR PLANNING BOARD REVIEW

~~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.

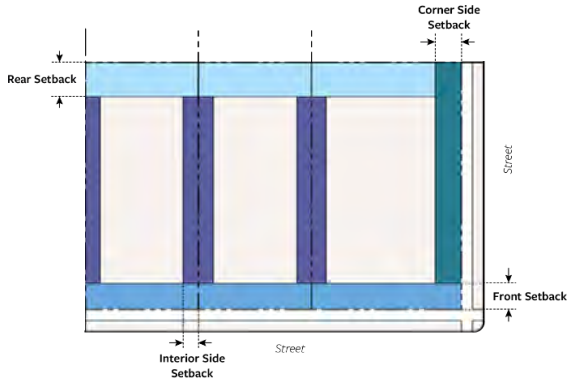

FIGURE 7-G: SETBACKS

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.

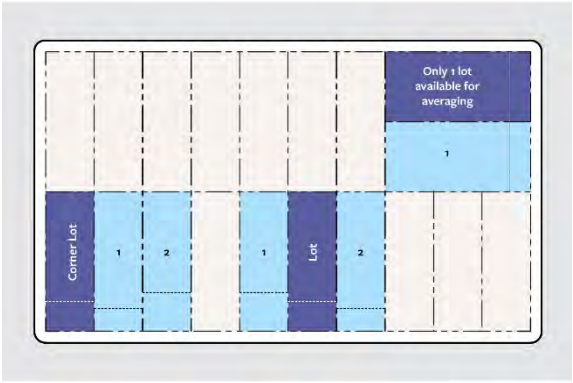

FIGURE 7-H: SETBACK AVERAGING

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.

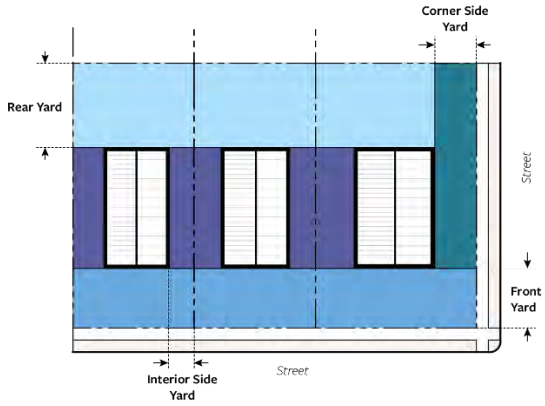

FIGURE 7-I: YARDS

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.
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.	3 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%	20%	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%	--

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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

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	12 ft.
	On side street	
Structure height (max.)	Principal	35 ft., except 45 ft. if more than 1,000 ft. from a shoreland zone.
	Accessory	
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

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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:

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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.

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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

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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:~~

~~30. Such buildings shall be reviewed by the Planning Board as conditional uses under Section 6.5 of this Land Use Code.~~

~~31.~~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

~~32.~~**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.

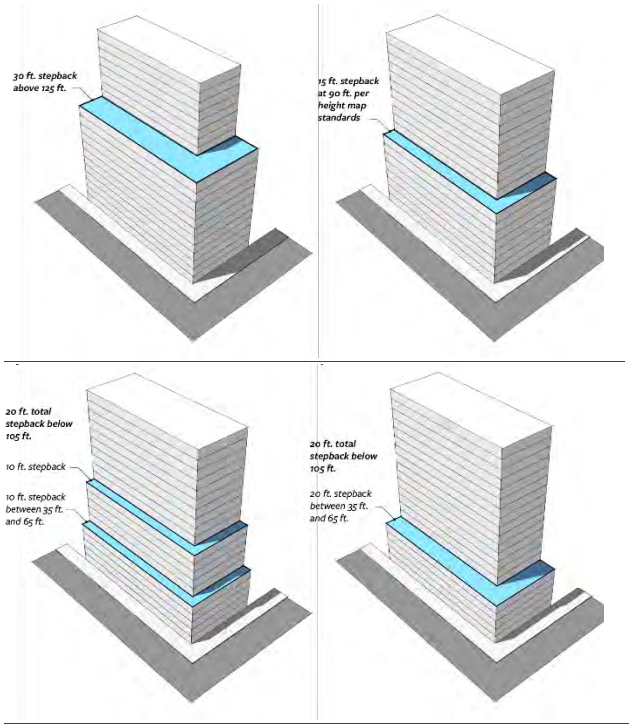

FIGURE 7-J: TOWER STEPBACK

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

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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.

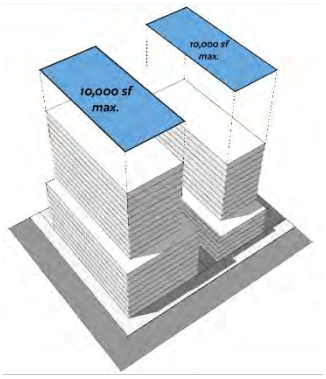

FIGURE 7-K: TOWER FLOOR PLATES

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.

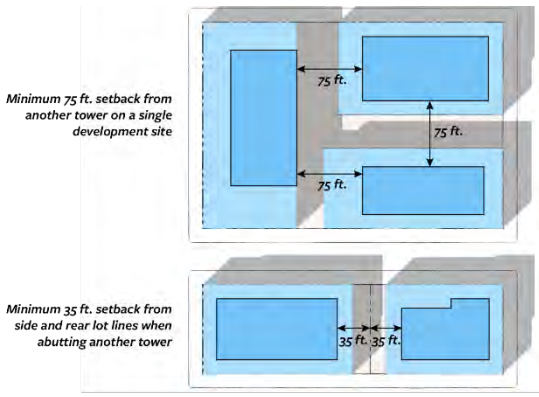

FIGURE 7-L: TOWER SEPARATION

~~iv. The applicant shall demonstrate building design elements and location will reasonably mitigate downdraft effects of the proposed building or buildings.~~

~~33. Such buildings provide publicly accessible and usable open space, meeting the B-7 design standards, of at least 10% of the building lot area.~~

~~34. 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.~~

~~35. 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

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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. I**n 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:~~

~~36. *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.~~

~~37. *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.~~

~~38. *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

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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~~

~~C. 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:~~

~~40. Uses existing as of June 1, 1983.~~

~~41. Expansion on to land abutting the lot on which the principal use is located.~~

~~42.~~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,~~

~~43. 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.

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~~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,

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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 ~~project~~encroach 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~~

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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 onwith two or more street corners, newly constructedfrontages 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 lotwith 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. Additions~~zone requirements shall not apply to additions to buildings existing as of ~~March 9, 2005~~the effective date of this Code that ~~are nonconforming as to the maximum setback need~~do 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.~~

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~~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.

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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*

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'

OS
I 295 South
I 295 North
Marginal Way
B7
ILb
Forest Avenue
Hanover Street
Preble Street
Somerset Street
Kennebec Street
Pearl Street
Lancaster Street
Brattle Street
Parris Street
Alder Street
B2B
Portland Street
Elm Street
Cedar Street
Chestnut Street
Oxford Street
Mechanic Street
Stone Street
Myrtle Street
Chapel Street
B2
Wilmot Street
R6
C32
C38
B3
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.

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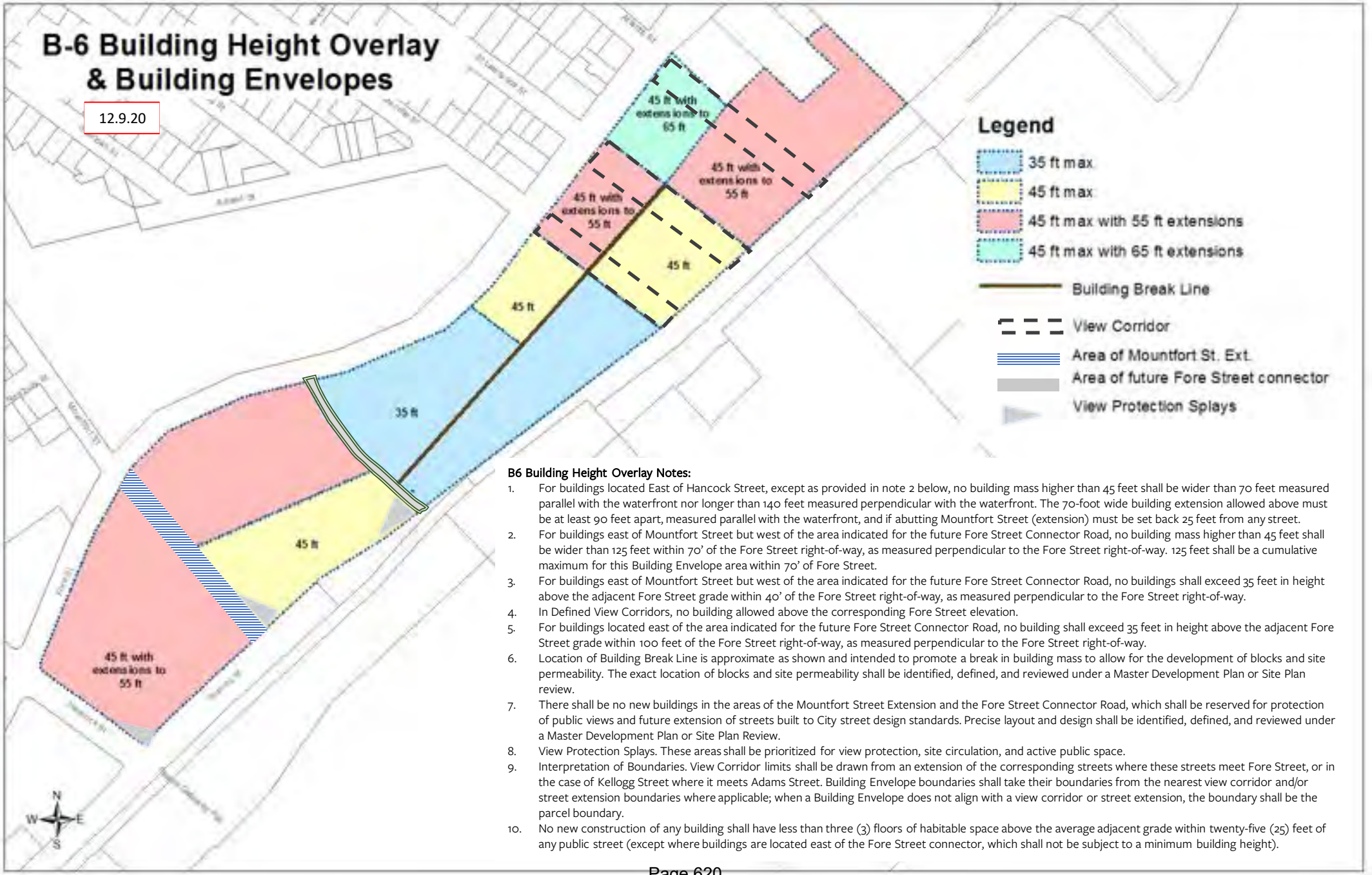
City of portland

B-6 Building Height Overlay & Building Envelopes

12.9.20

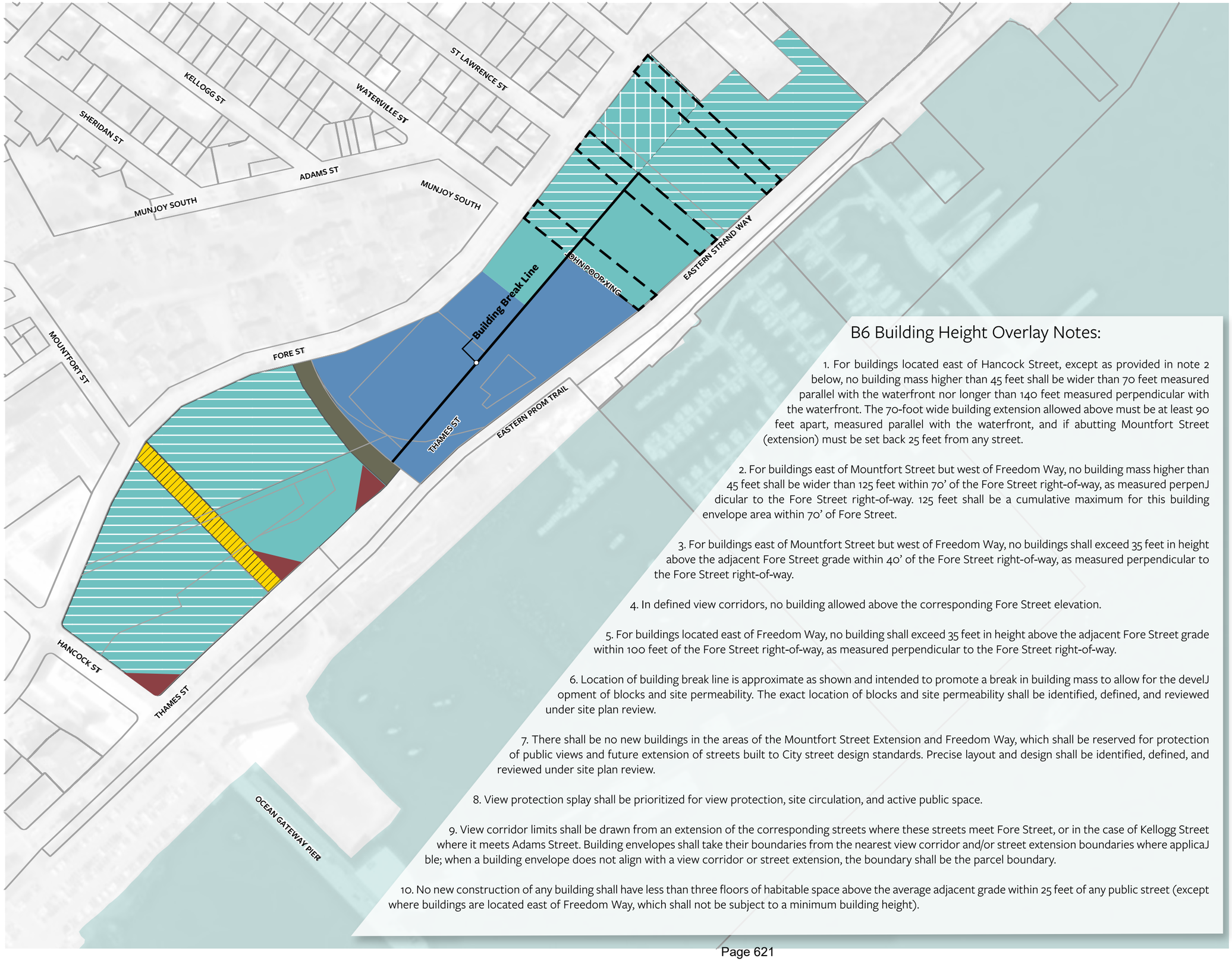


B6 Building Height Overlay Notes:

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

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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.

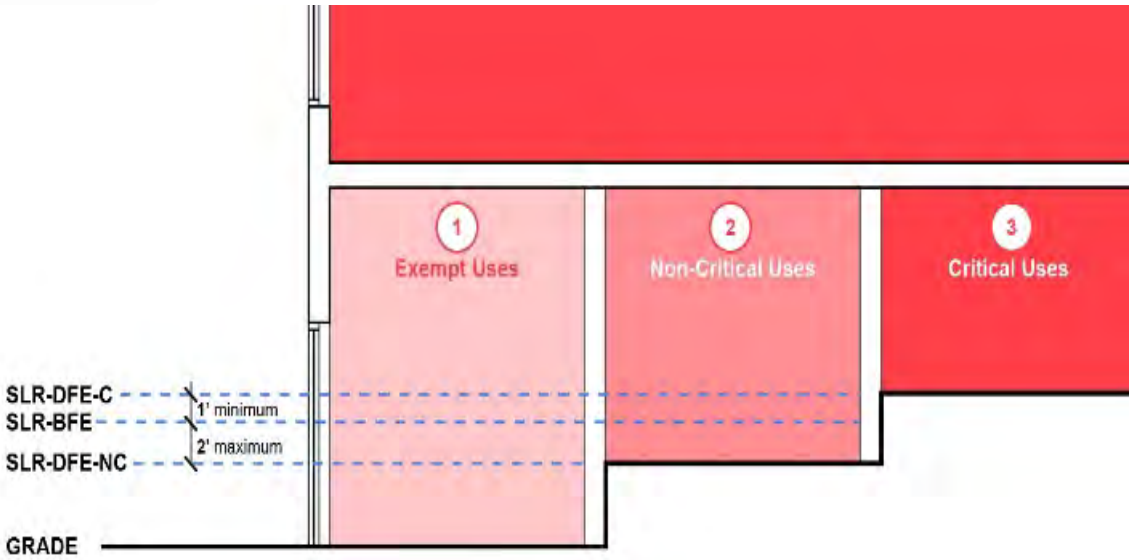

FIGURE 8-A: CFROZ USE CLASSIFICATIONS AND DESIGN FLOOD ELEVATION

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.

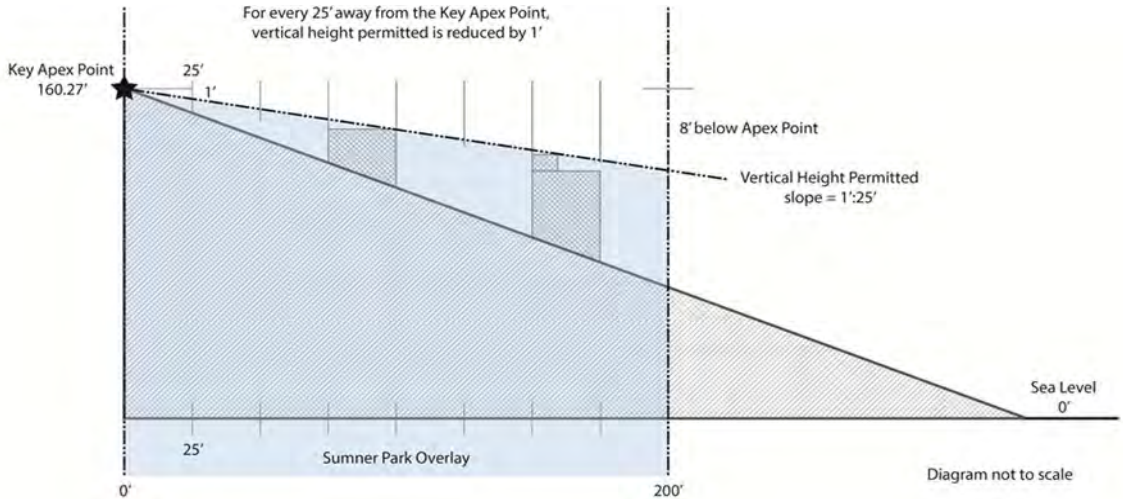

FIGURE 8-B: FORT SUMNER PARK OVERLAY PERMISSIBLE HEIGHT

~~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.

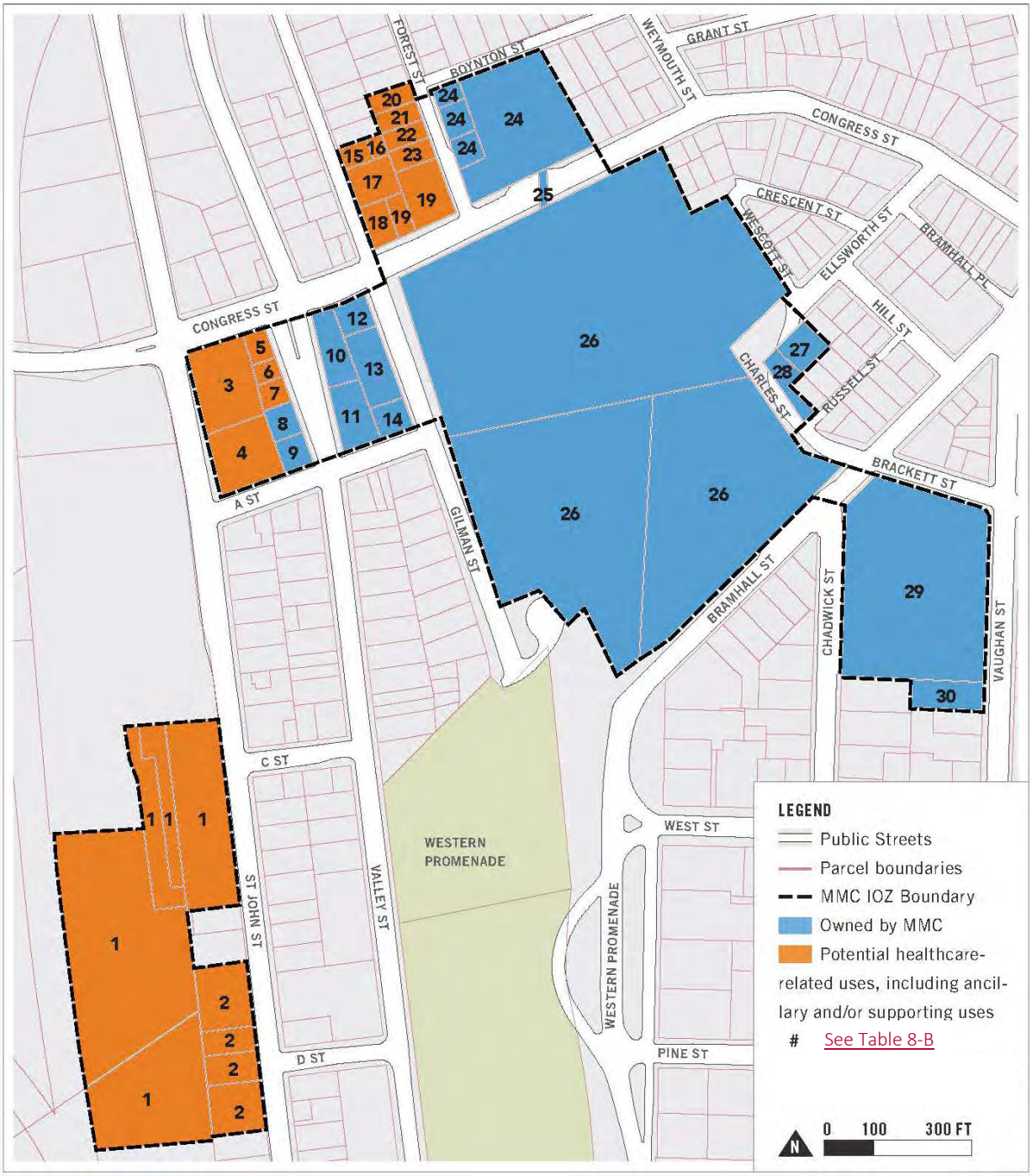
Amendments. A regulatory framework and IOZ boundary as adopted by the City Council shall remain in force unless and until amended. Amendments to a regulatory framework and/or IOZ boundary may be brought forth by the City or eligible institution. Proposed amendments to the IOZ boundary or regulatory framework 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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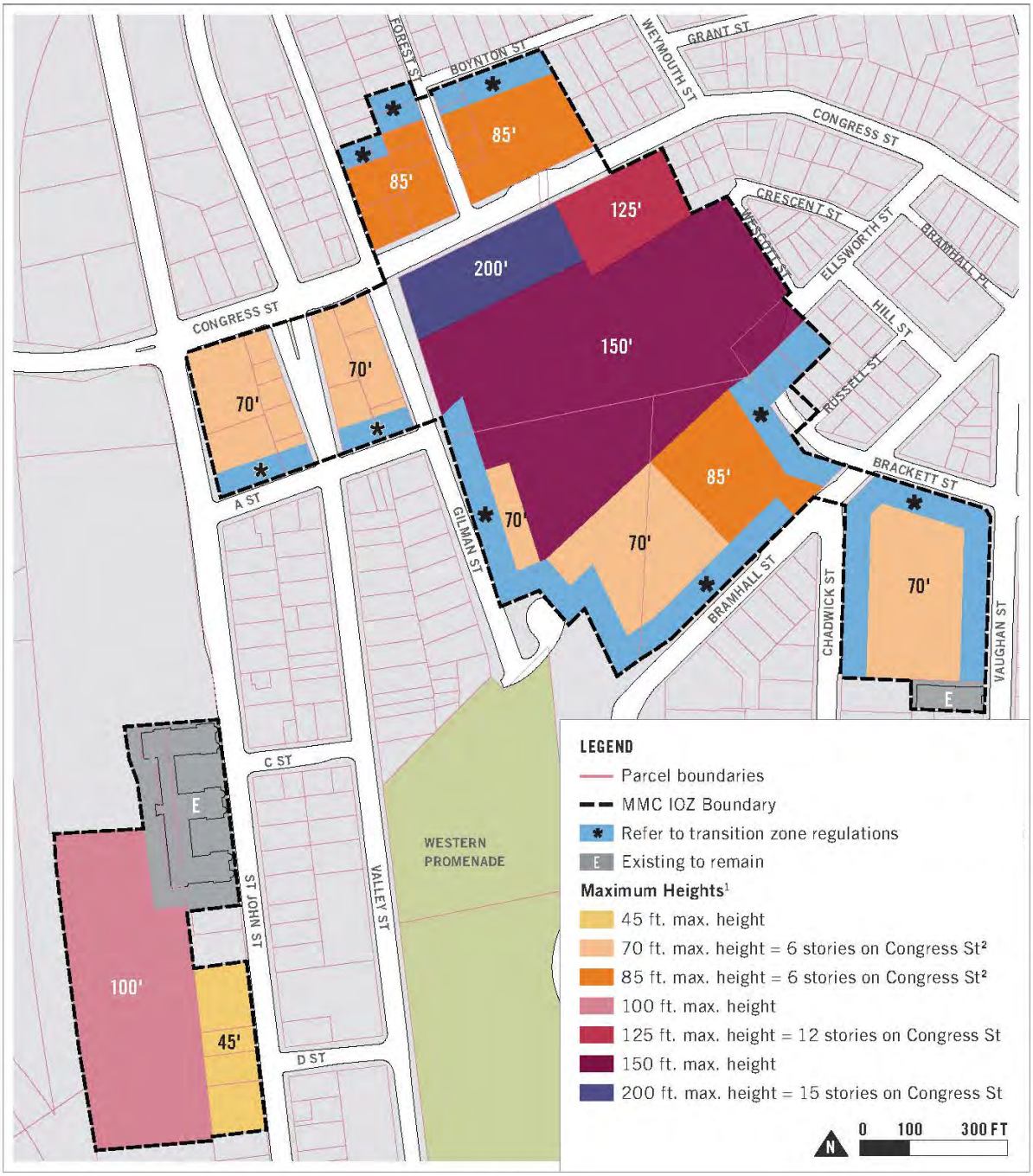
TABLE 8-D: MMC IOZ DIMENSIONAL REQUIREMENTS

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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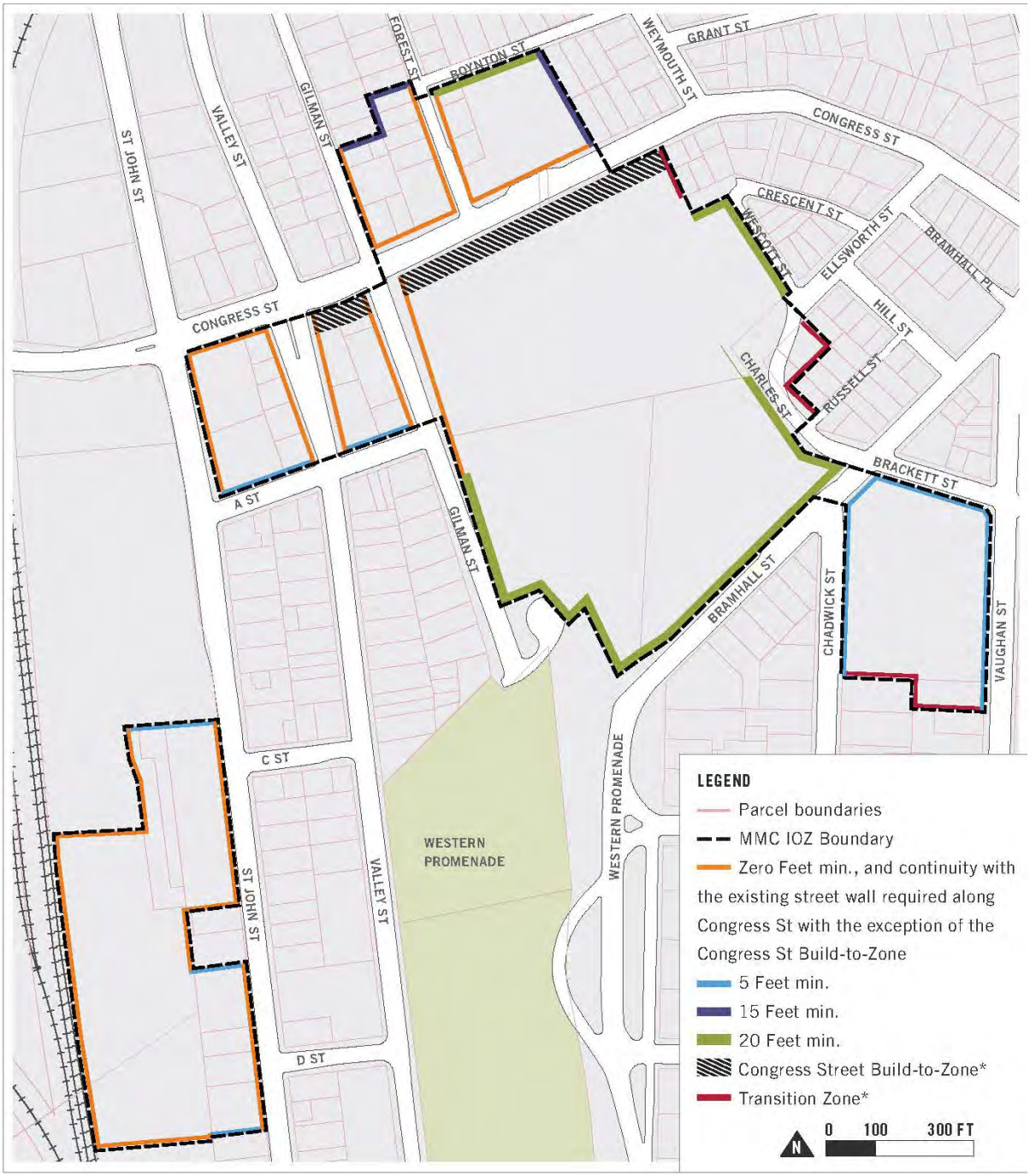

* Refer to Table 8-D Dimensional Requirements

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. On the pier residential uses are explicitly prohibited and any allowed use on the pier must be a functionally water-dependent use. ~~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 ~~c.~~ 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.

~~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.

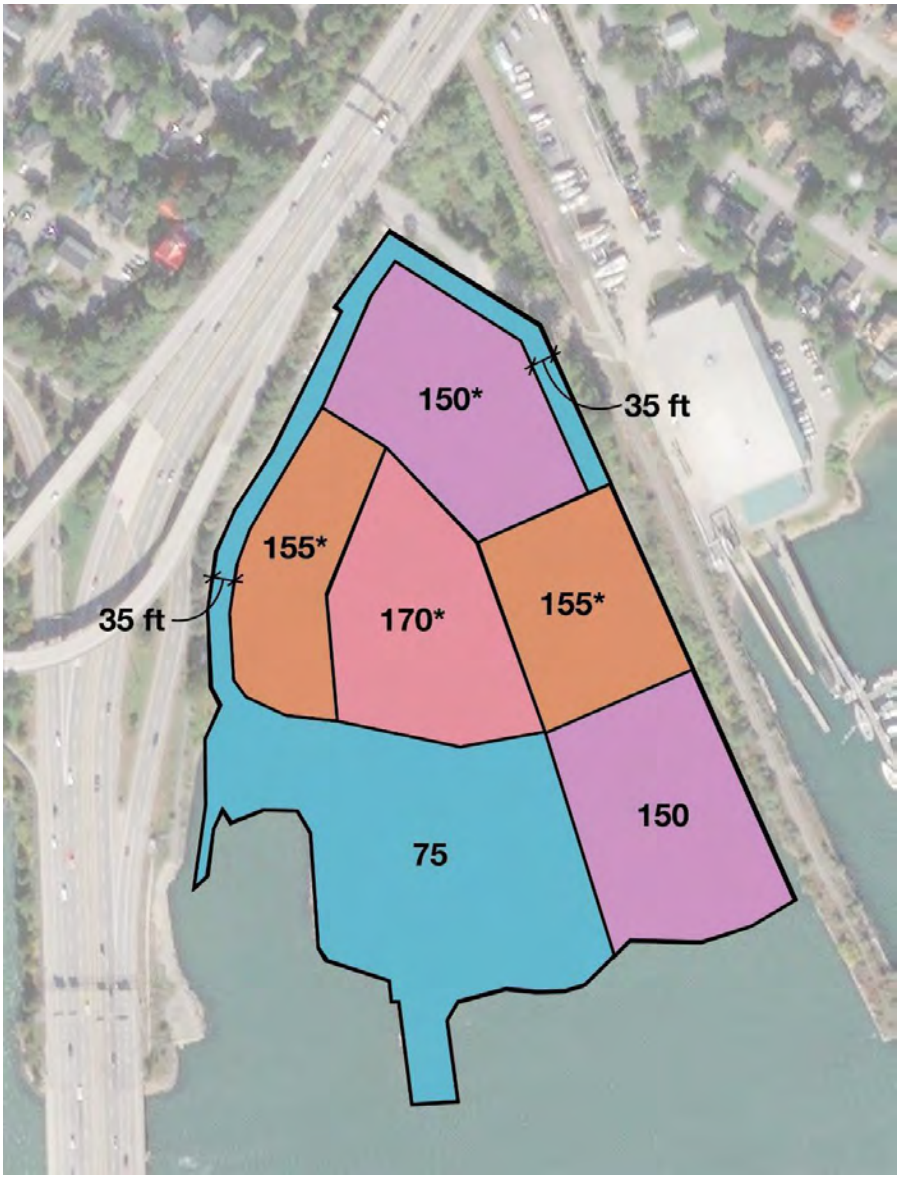
~~4.~~**5.** *Stepback requirements.* At a height not lower than the minimum street wall height or higher than the maximum street wall height, a stepback with a minimum depth of at least 10 feet shall be provided. Required stepbacks shall only apply to a building's street wall.

~~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: HEIGHT OVERLAY MAP~~

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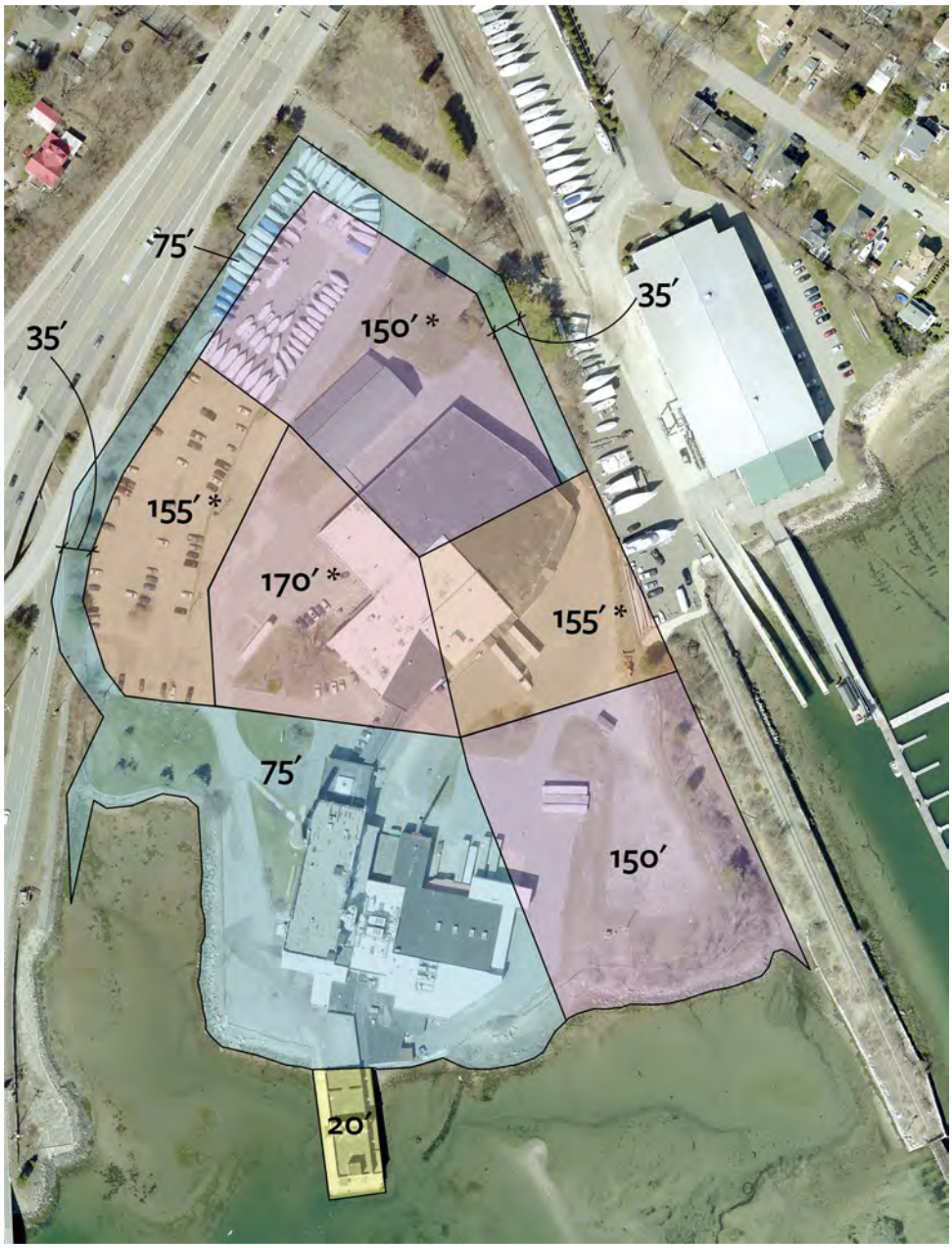

1. *: Above height of 75 feet, no building floorplate shall exceed 35,000 square feet.
2. Above height of 50 feet, no two buildings shall be closer than 40 feet apart.
3. Building heights for buildings that span two or more height zones shall be measured by calculating the highest point (as defined in 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.

Functionally water-dependent structures on the pier are limited to 20 feet in height. Light poles on the pier are limited to 35 feet in height. On the pier height is measured from the top of the pier deck to the top of the roof of a functionally water-dependent structure or to the top of a light pole.

~~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.

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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, including a well-distributed mix of trees. 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~~compliance with the bird-friendly building and design requirements set forth in Article VII-A of Chapter 6 of the City of Portland , except that bird safe materials must be used for the entire façade of all buildings regardless of building height..

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,

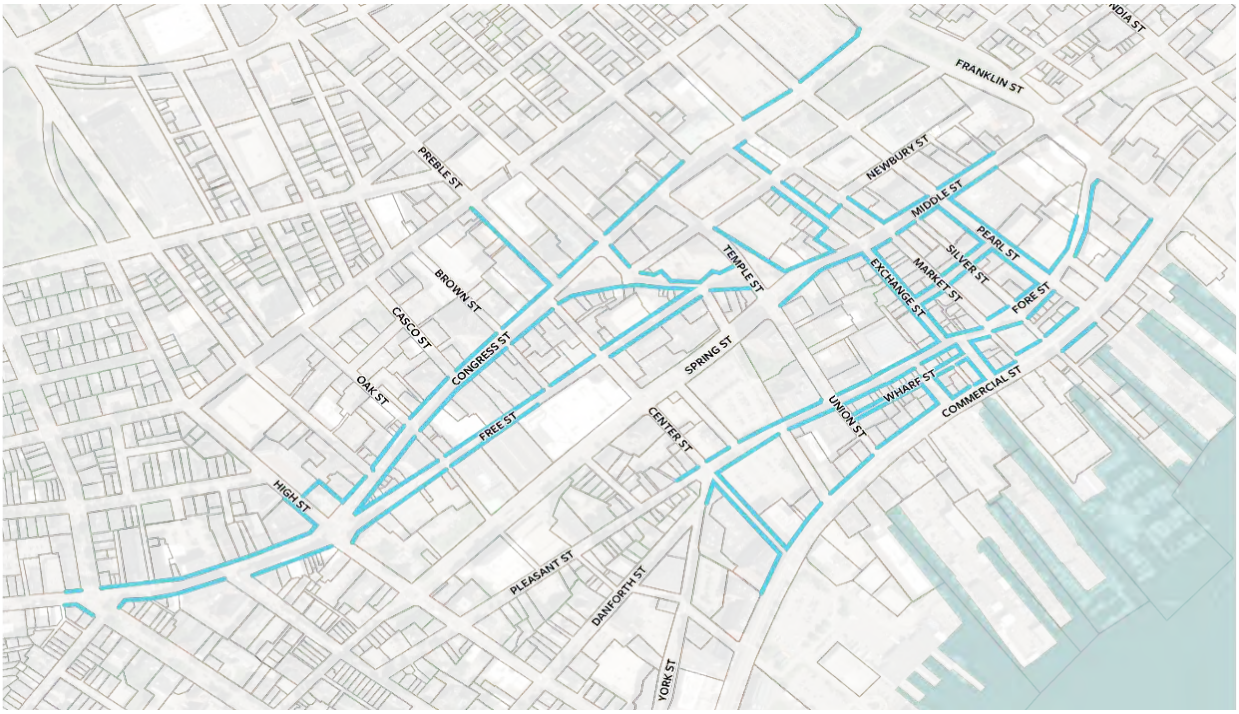

FIGURE 8-H: PEDESTRIAN ACTIVITIES DISTRICT (PAD) OVERLAY

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 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

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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

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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 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

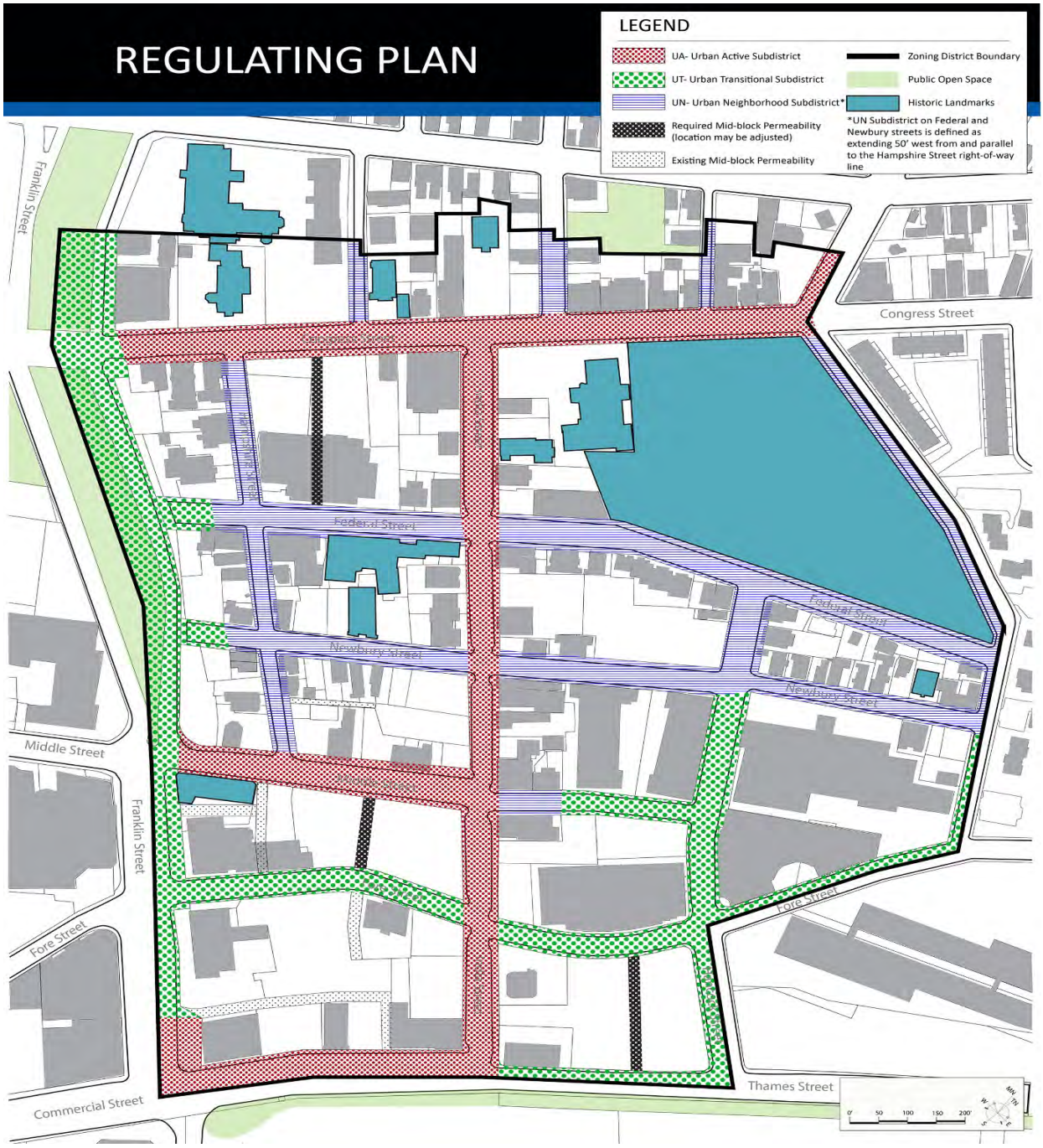

FIGURE 9-A: IS-FBC REGULATING PLAN

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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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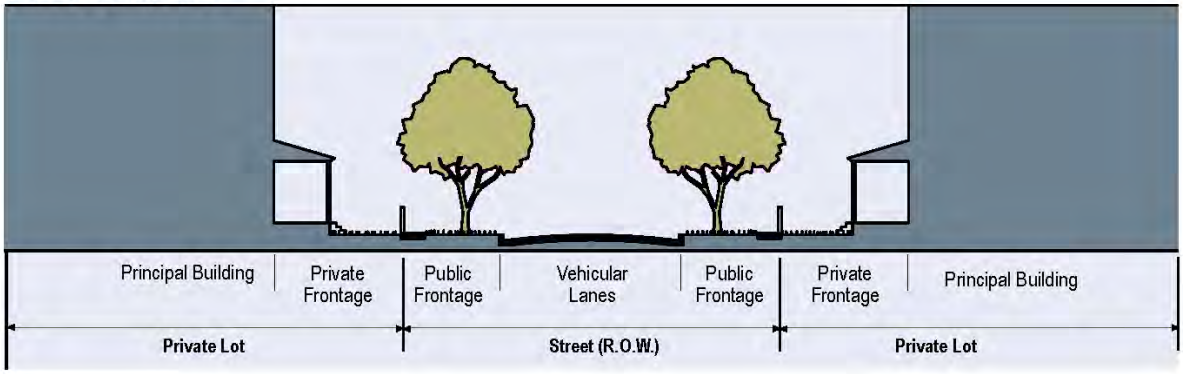
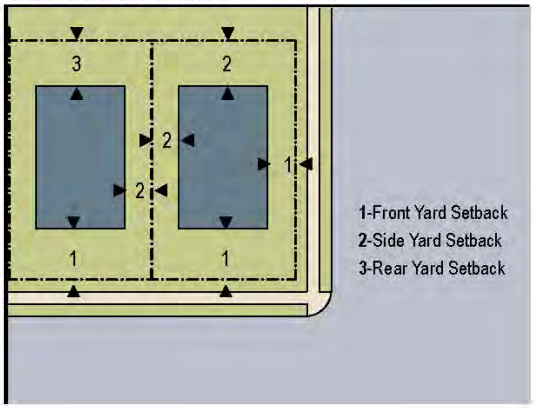
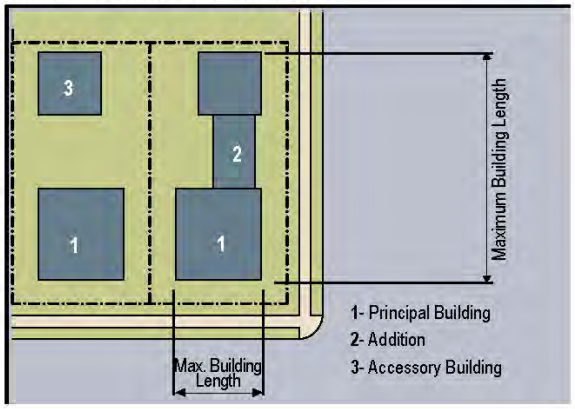
STREETS & FRONTAGES



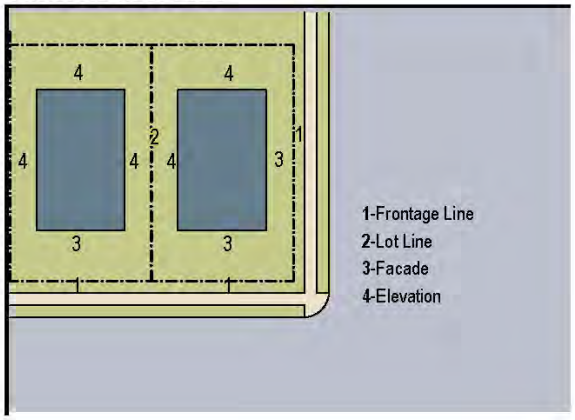
SETBACK DESIGNATIONS



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.

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.

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

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.*)~~

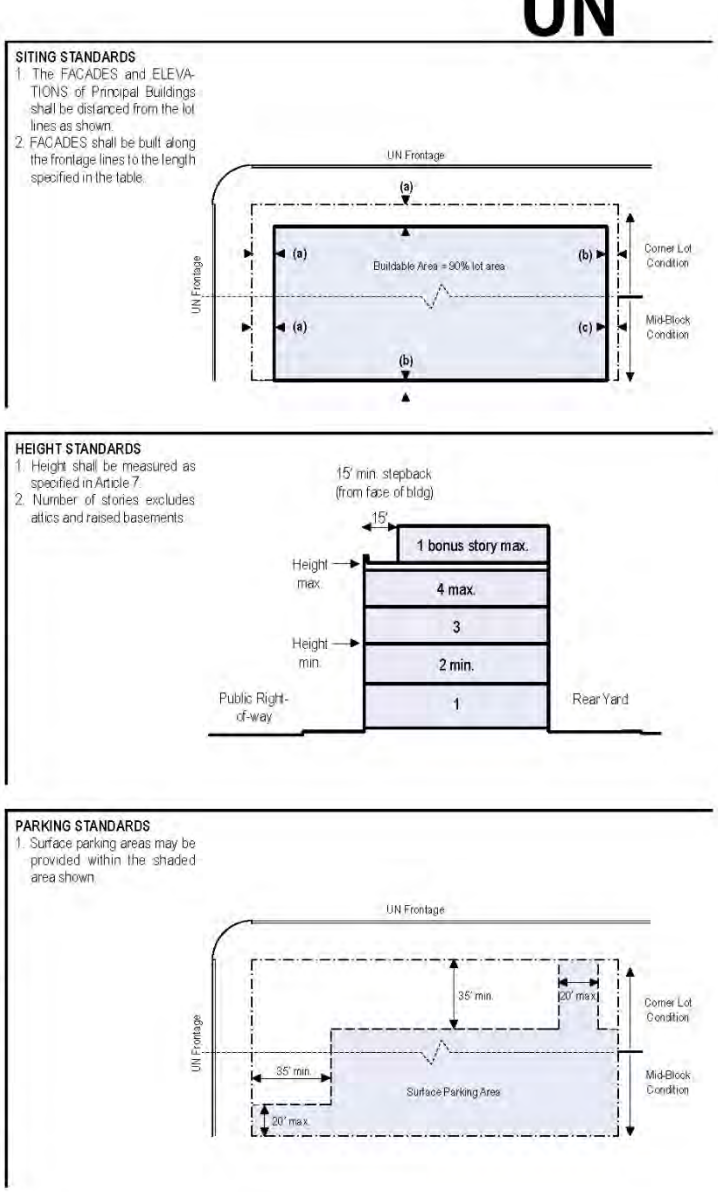
~~3.~~2. In the case of a building addition, non-conforming existing surface parking may remain. In the case of new construction, surface parking must be brought into conformance with IS-FBC standards.

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)	



FINAL DRAFT FOR PLANNING BOARD REVIEW

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.

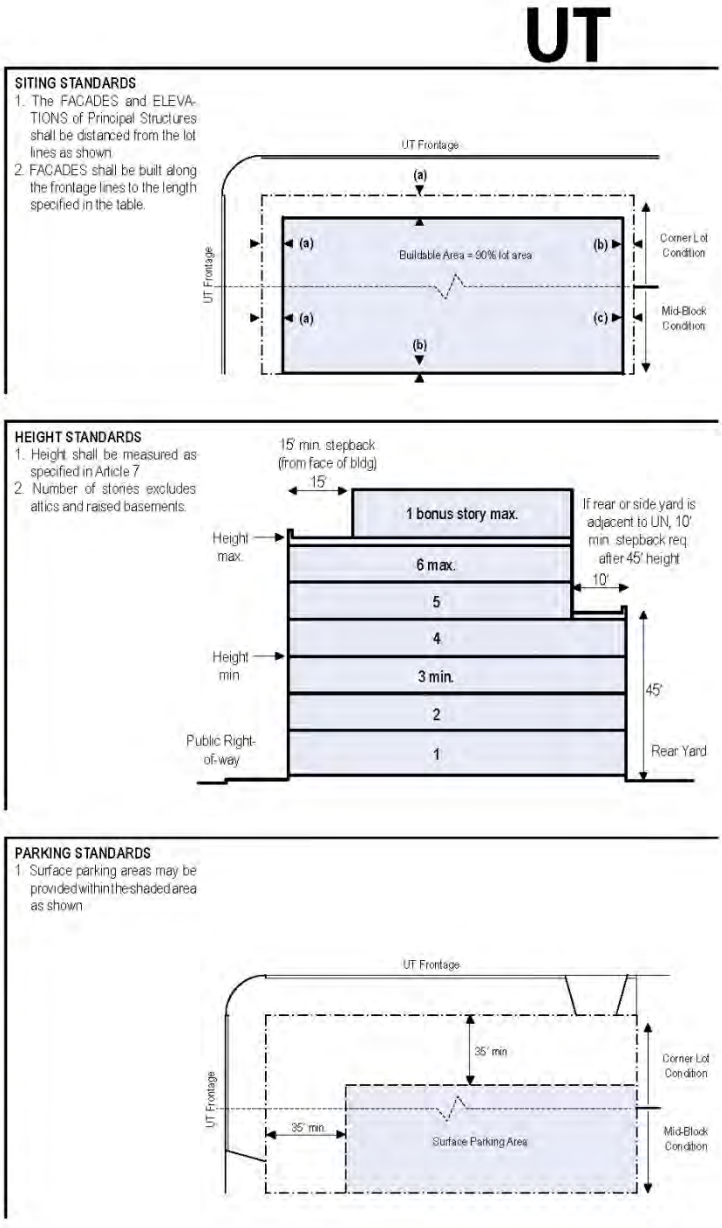
B. Urban Transitional (UT) subdistrict

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)

UA

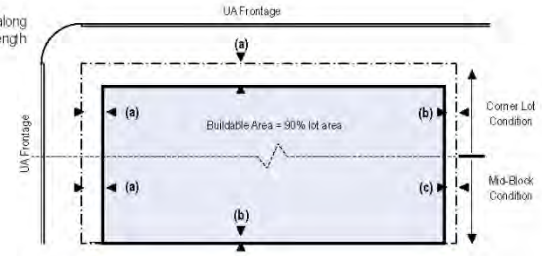
SITING STANDARDS	
Orientation - Principal Frontage	face a UA street
Lot Coverage	90% max
FRONTAGE REQUIREMENTS	
Building Length	50' max.
BLANK FACADE length (max)	15'
Additional Building Length	(see also Table 9-A)
ATTACHED BUILDINGS	unlimited run
Ground Floor Partitions	150' max., up to 3 modules
Massing 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)

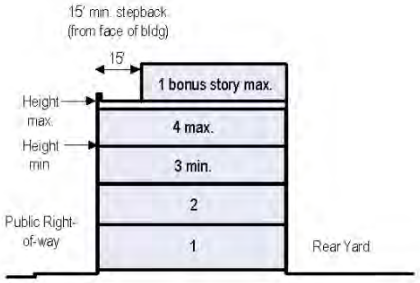
SITING STANDARDS

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



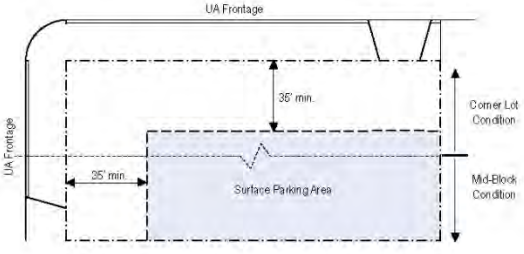
HEIGHT STANDARDS

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



subdistrict

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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)	

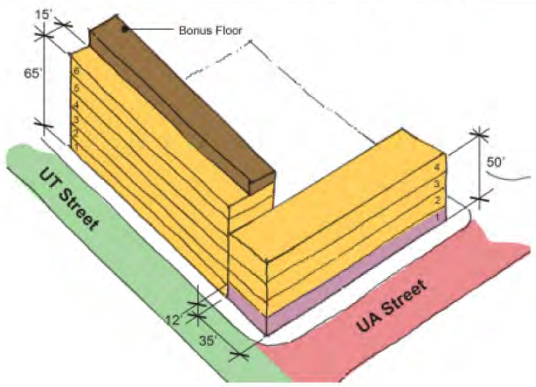
UT INTERSECTS UN	UT INTERSECTS UN	
Dominant Subdistrict (35' deep)	Dominant Subdistrict (35' deep)	UN
Orientation - Principal Frontage	Orientation - Principal Frontage	determined by applicant
• Corner lots shall be treated a streets regardless of build	• Corner lots shall be treated as having street 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.

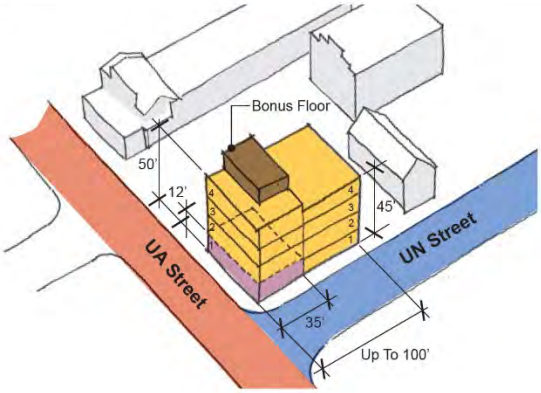
Notes and Exceptions	Notes and Exceptions
* Does not have to correspond to	* Does not have to correspond to legal building address

CORNER

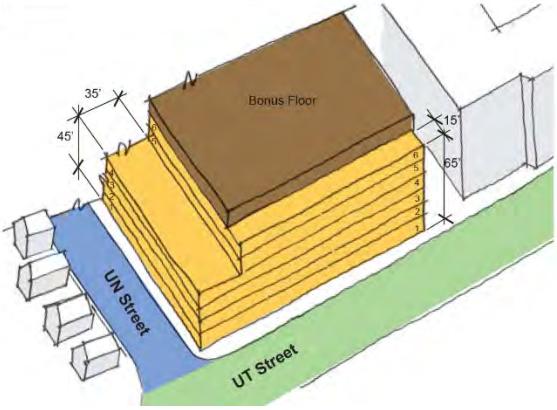
UA INTERSECTS UT
(example only)



UA INTERSECTS UN
(example only)

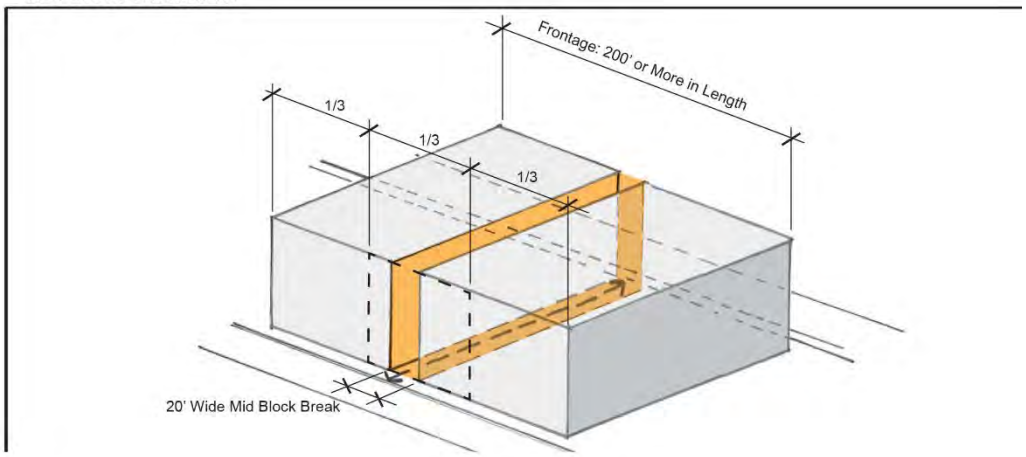


UT INTERSECTS UN
(example only)

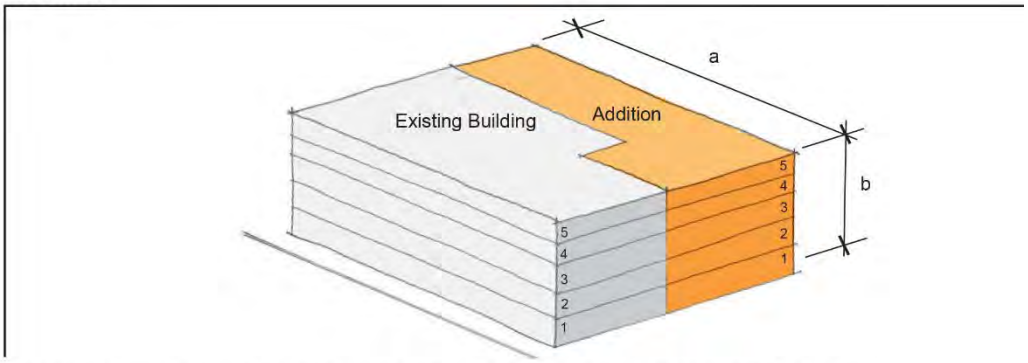


building design standards of the "dominant" subdistrict shall apply 35 feet deep into the lot measured from the dominant lot line along its associated street frontage or public ways including required mid-block permeability. Otherwise, dimensional requirements shall be according to the subdistrict onto which the building façade faces.

MID-BLOCK PERMEABILITY



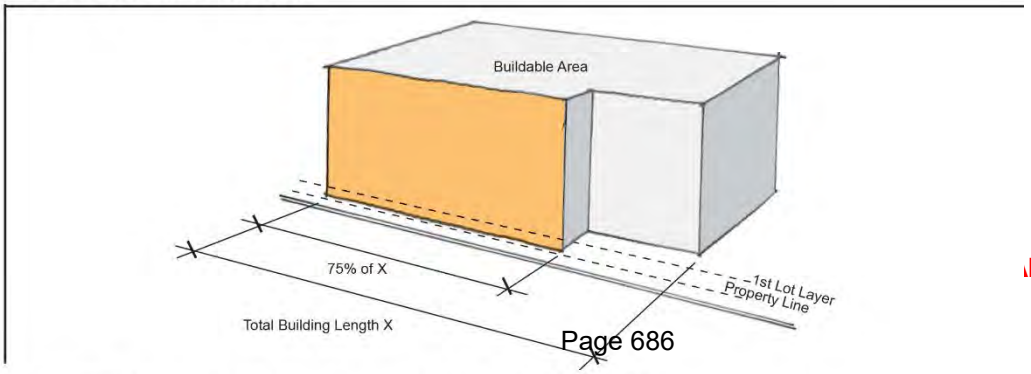
ADDITION



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



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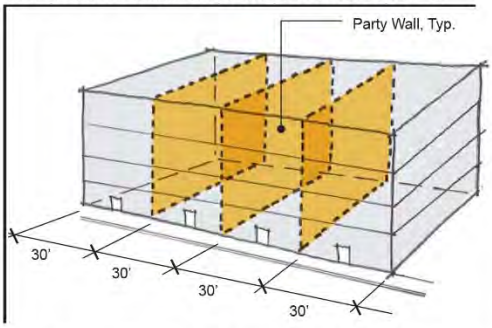
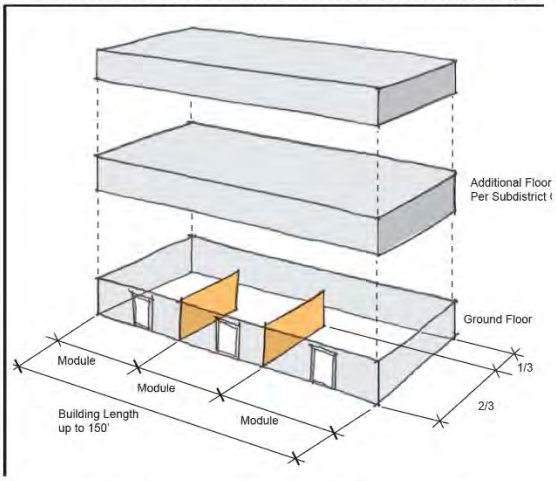
ADDITIONAL BUILDING LENGTH - ATTACHED BUILDINGS



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.

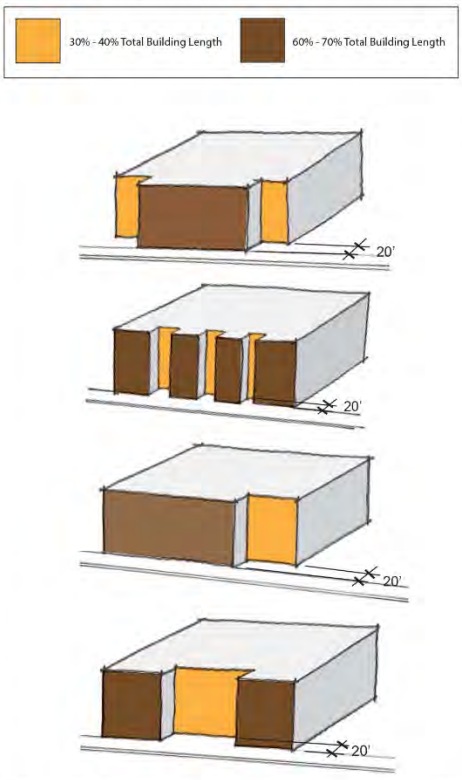
ADDITIONAL BUILDING LENGTH - GROUND FLOOR PARTITIONS (UA)



Additional Building Length is permitted up to 150' with the provision of a least two Ground Floor Partitions

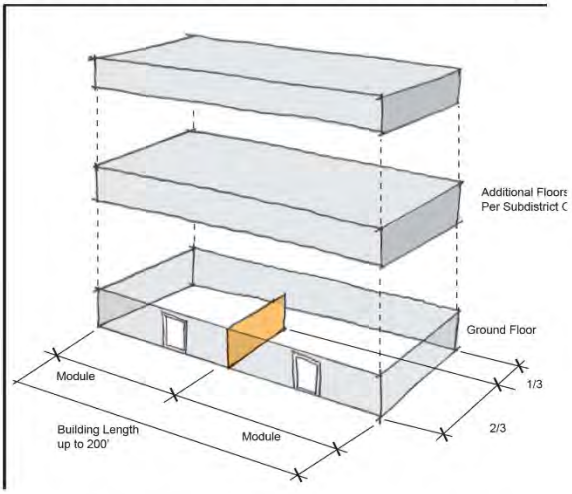
See General Development Standards and BDS for additional requirements.

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.

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.

~~G.~~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.

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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 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~~

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~~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. 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. 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. 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).
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 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.

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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~~ 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.
   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

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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*.

~~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 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

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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~~ 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 permit any fill material to leach into docking areas or navigable waters.

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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 and TOD zones ~~500~~1,000 – 50,000 SF in 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][1] 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, development, or otherwise.~~

~~[4] Addition of one or two units to any residential development shall trigger minor site plan review.~~

~~[5] Includes piers, docks, wharves, bridges, retaining walls, and other structures~~

[6][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 ~~uses~~use on the list:

- ~~A.~~ , with the exception that changes of use to residential shall be considered exempt: (A) Industrial
- ~~B.~~ , (B) Residential
- ~~C.~~ , (C) Institutional
- ~~D.~~ , (D) Commercial/Service
- ~~E.~~ , (E) Water-dependent use and marine use

~~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

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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

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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. ~~I~~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

~~B.~~ 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.

FINAL DRAFT FOR PLANNING BOARD REVIEW

~~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~~ny 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 A~~appropriateness, 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 MAINTENANC~~C~~E

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:~~

~~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.~~

~~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~~

~~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~~17.2.4~~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.~~45~~(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[1]~~	
~~**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~~	

FINAL DRAFT FOR PLANNING BOARD REVIEW

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.

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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, flatbed trucks, box trucks, buses, 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.

~~2019~~ 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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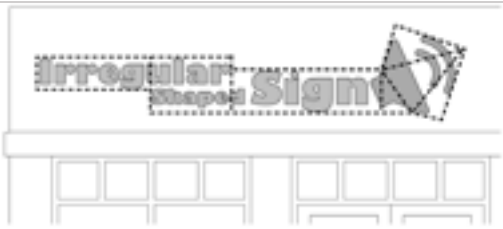
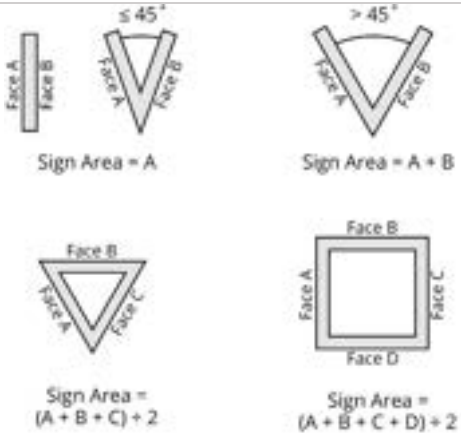
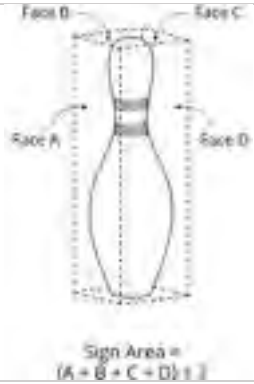
TABLE ~~2019~~-C: SIGN AREA MEASUREMENT

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 ~~20~~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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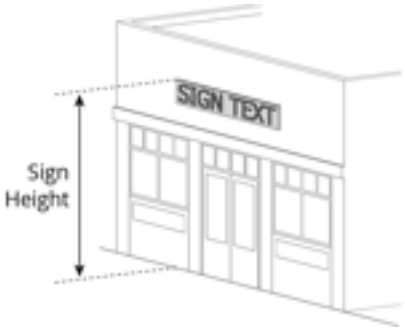
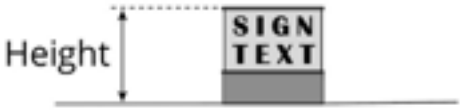
TABLE ~~20~~19-D: SIGN HEIGHT MEASUREMENT

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-~~H~~bH 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.

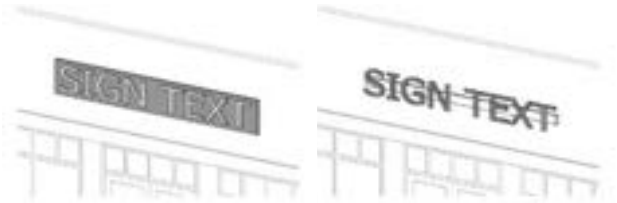

FIGURE 20-B: RACEWAY CABINET EXAMPLES

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

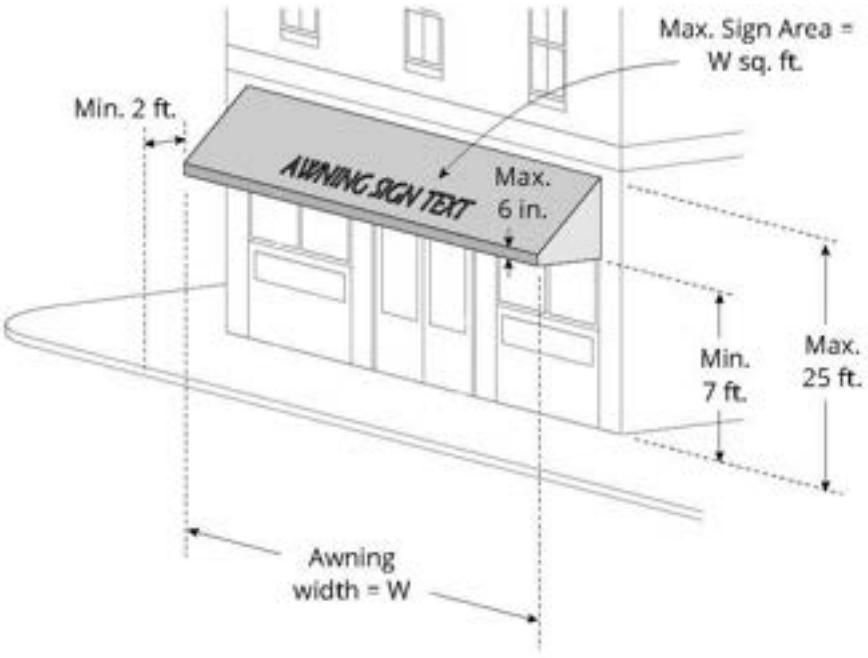

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TABLE ~~2019~~-I: STANDARDS FOR CANOPY SIGNS

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

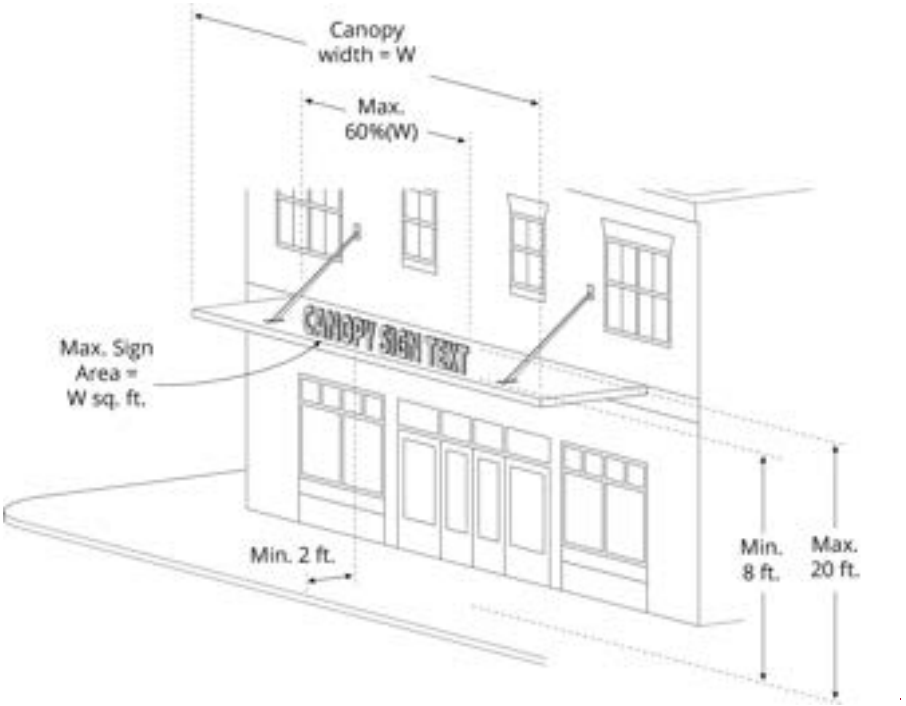

TABLE ~~2019~~-J: STANDARDS FOR BLADE SIGNS

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

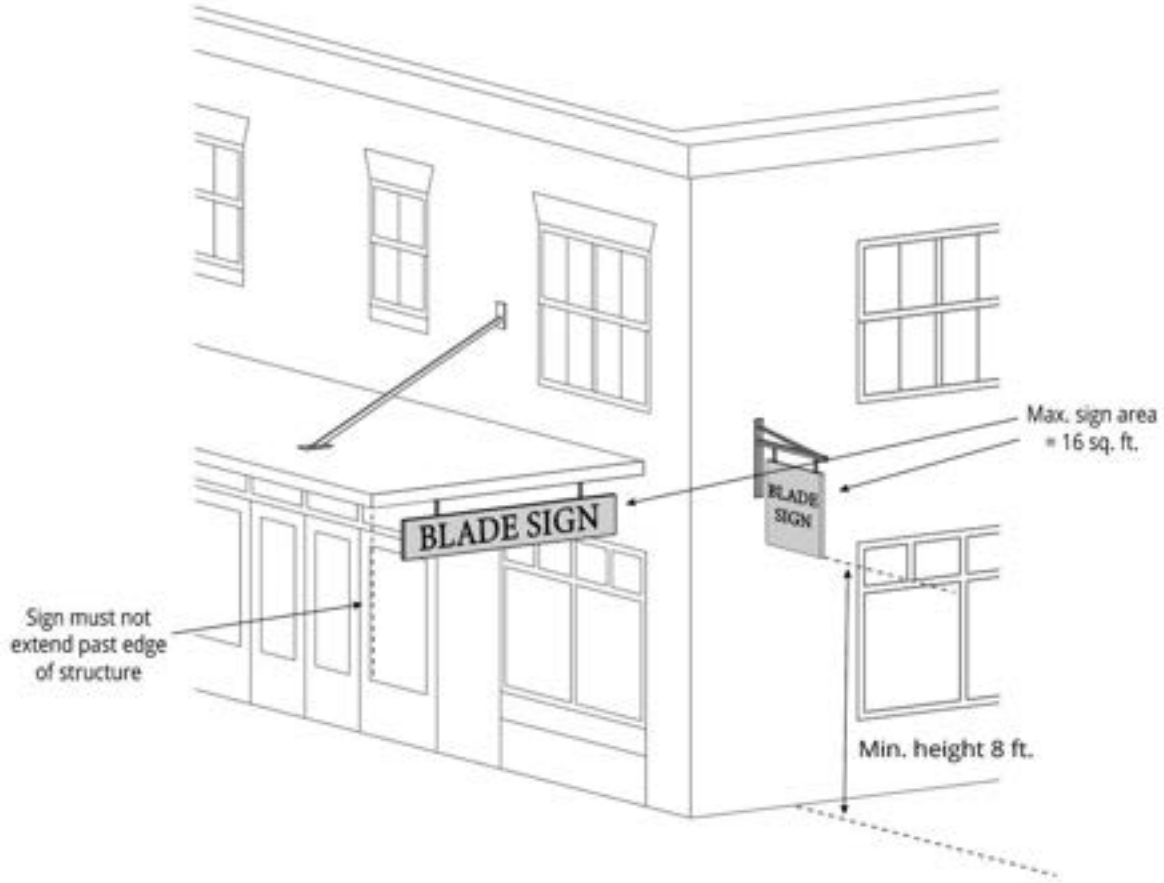

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TABLE ~~20~~19-K: STANDARDS FOR DIRECTIONAL SIGNS (BUILDING-MOUNTED)

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

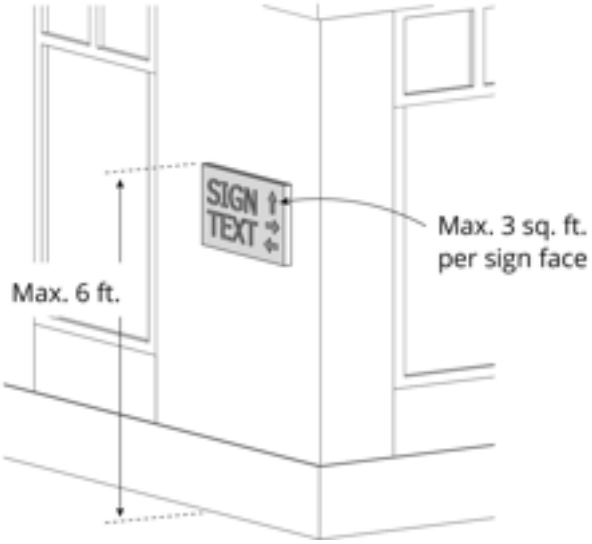

TABLE ~~20~~19-L: STANDARDS FOR DIRECTORY SIGNS (BUILDING-MOUNTED)

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

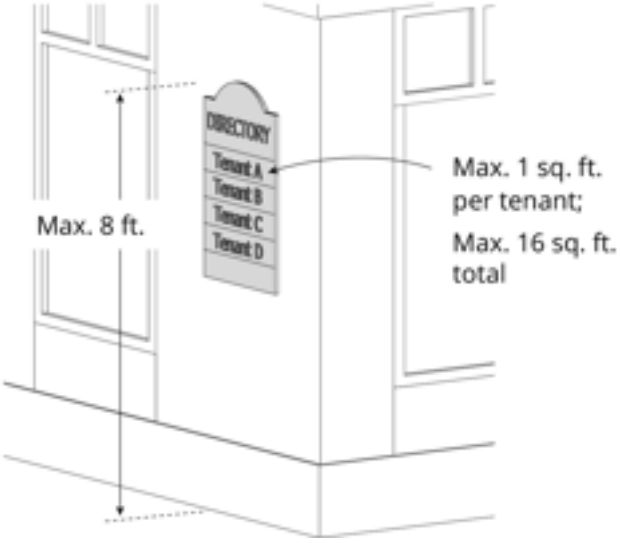

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TABLE ~~20~~19-M: STANDARDS FOR MARQUEE SIGNS

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

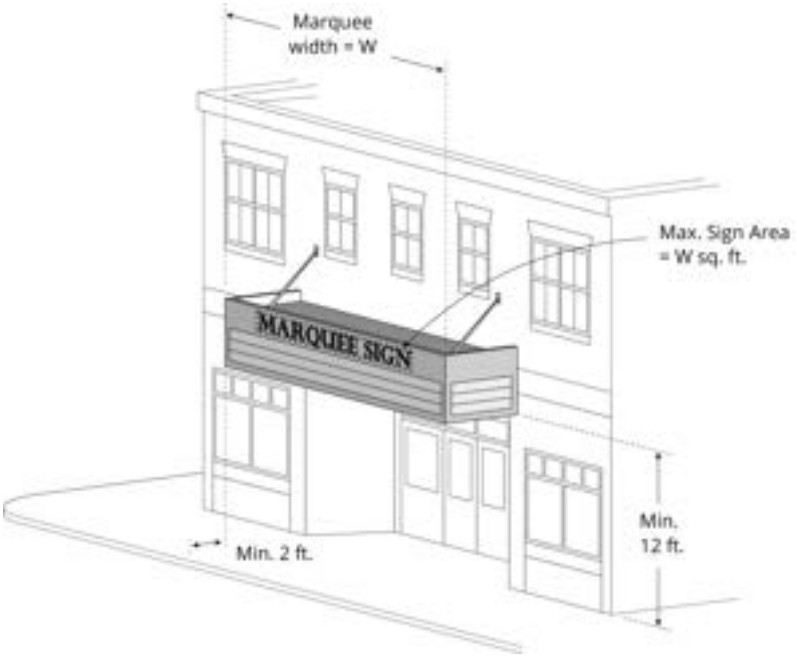

TABLE ~~20~~19-N: STANDARDS FOR PROJECTING SIGNS

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.

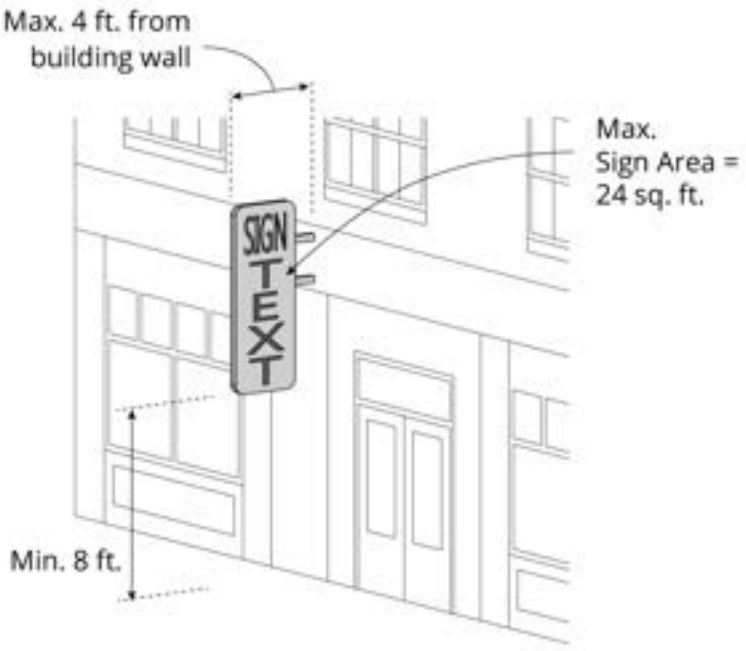

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TABLE ~~20~~19-O: STANDARDS FOR SERVICE ISLAND CANOPY SIGNS

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

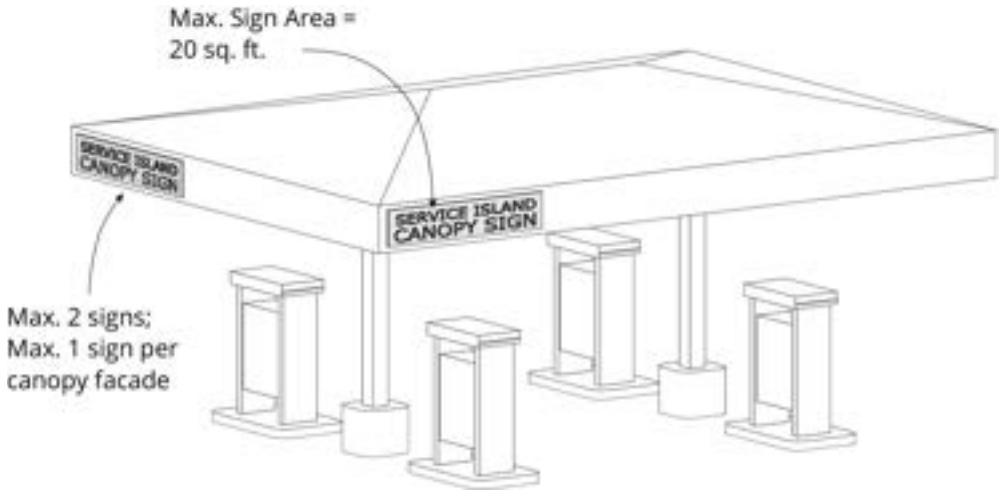

TABLE ~~20~~19-P: STANDARDS FOR WALL SIGNS

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.

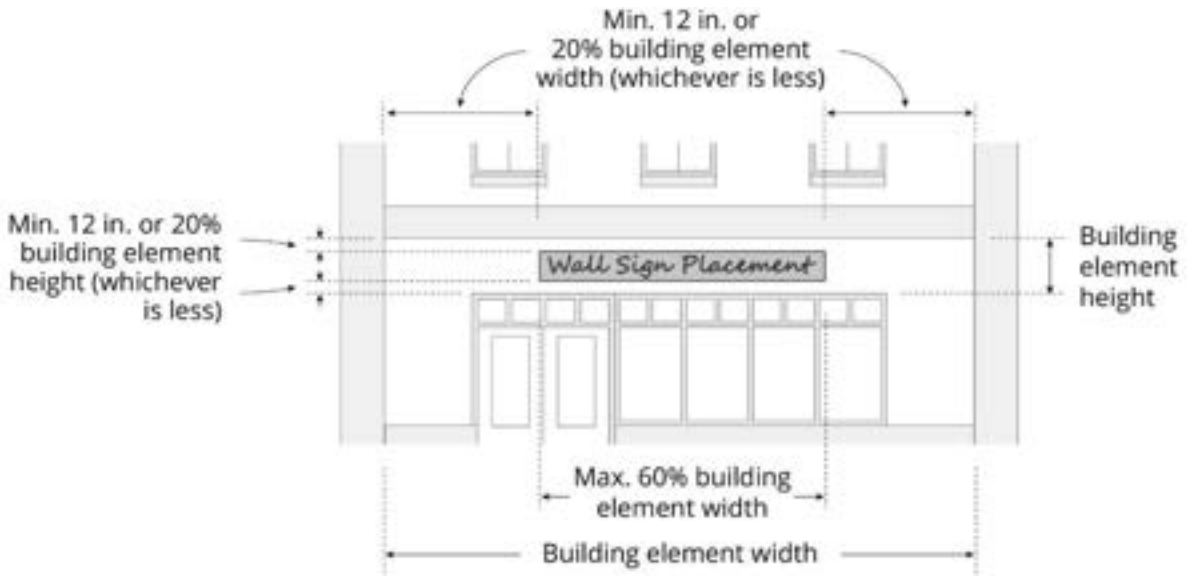

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TABLE ~~20~~19-Q: STANDARDS FOR WINDOW SIGNS

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

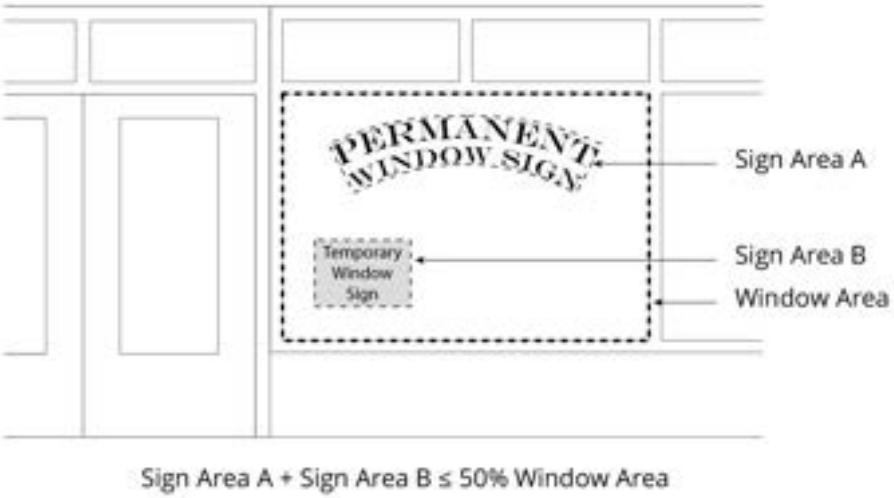

TABLE ~~20~~19-R: DIMENSIONAL STANDARDS FOR FREESTANDING SIGNS BY SIGN DISTRICT

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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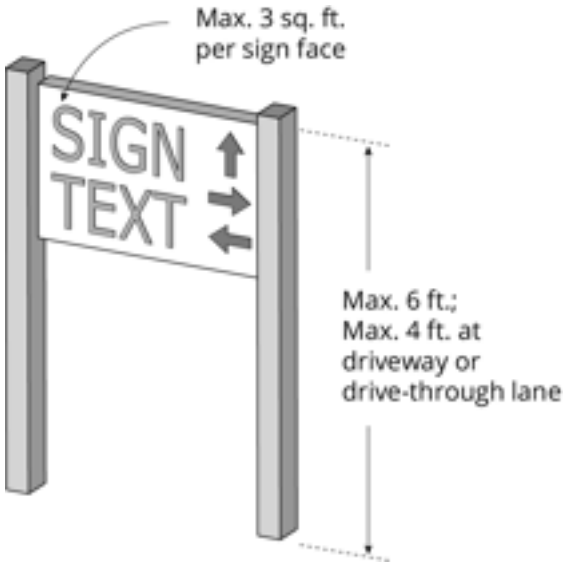
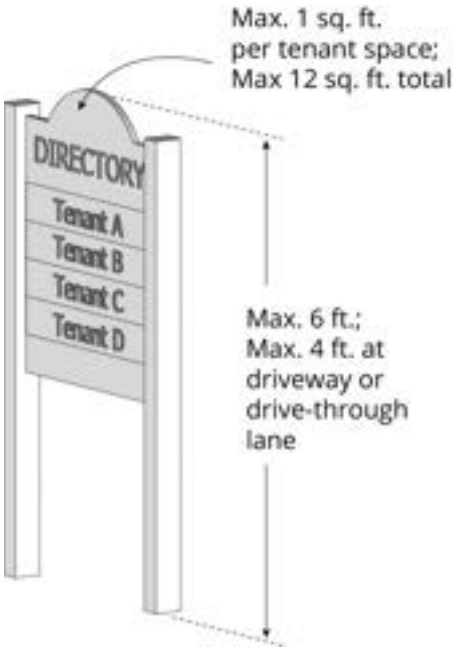


~~Table 20-T: Standards for Directory Signs (Freestanding)~~[1] The maximum sign area and height standards may be further limited by the standards established in Table 19-R.

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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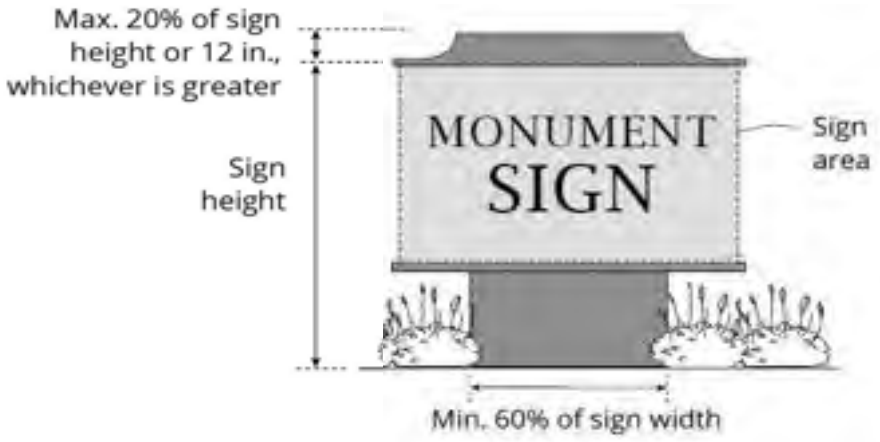
TABLE 19-U: STANDARDS FOR MONUMENT SIGNS[1]

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.					

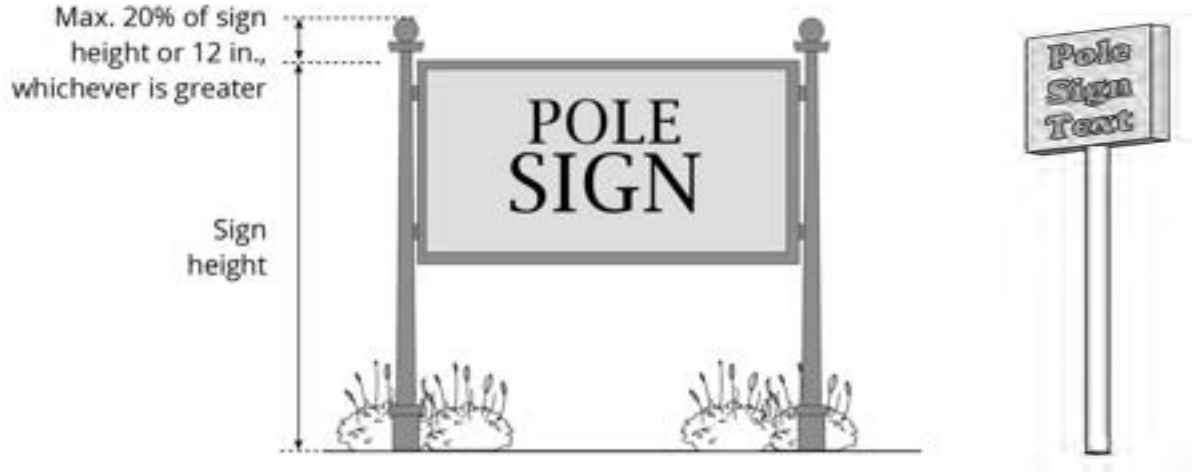


[1] The maximum sign area and sign height standards may be further limited by the standards established in Table ~~20~~19-R. If no value is included in the table ~~below~~above, then a monument sign is not allowed in that sign district

[2] Allowed for institutional uses in residential zones only.

TABLE ~~20~~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	~~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 ~~20~~19-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

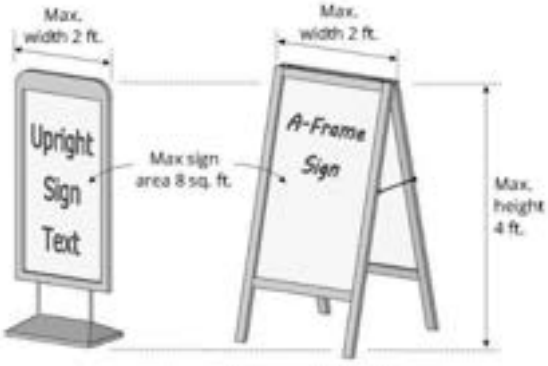
Temporary Sign Type[1]	Standard: Height	Width (max.)	Area (max.)	Other Requirements
	Min. 30 in. Max. 4 ft.	2 ft.	8 SF	Prohibited in residential zones~~.~~ except for institutional uses.. Must not be placed in public right-of-way except as permitted by the City. [3] If advertising a business, only permitted 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

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 Proposed Zoning Map

Planning Board Recommendation 10.08.2024

ReCode Portland