Housing & Economic Development Committee Meeting
Tuesday, February 3, 2026 at 5:30 PM

MEMBERS
Councilor Pious Ali, Chair
Councilor Regina Phillips
Councilor Kate Sykes
Councilor Sarah Michniewicz

To submit written public comment on an agenda item, email edd@portlandmaine.gov. Submissions must be received by 12:00 pm the day before the Housing & Economic Development meeting to guarantee their inclusion in the agenda packet. All submissions must include the commenter's name and legal address. To help ensure your comment is submitted for the correct item, please include the name of the agenda item (see below).

REMOTE ACCESS INFORMATION

The Housing & Economic Development Committee will conduct this meeting remotely via Zoom pursuant to the Remote Meeting Policy adopted by the Portland City Council. Allow your computer to install the free Zoom app to get the best meeting experience. If you are not able to attend live either in person or via Zoom, a recording will be available in the Agenda Center following the meeting.

For public comment via Zoom, you will need to use the "raise your hand" feature. To raise your hand via the telephone, please hit *9. You will be unmuted by the host when it is time for public comment.

Please click Zoom link below to join the meeting:

https://portlandmaine-gov.zoom.us/j/89974536397?pwd=bBk7SQQyUTTmn6KAWqvah6Ko9vkaUR.1
Passcode:677082

Phone one-tap:
+19292056099,,89974536397# US (New York)
+13017158592,,89974536397# US (Washington DC)

Join via audio:
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Webinar ID: 899 7453 6397
International numbers available: https://portlandmaine-gov.zoom.us/u/k1cY8PVBL

1. Review and accept Minutes of previous meeting held on January 20, 2026.

a. See attached draft meeting Minutes.

2. (Public Comment) Review and recommendation of proposed Amendments to Chapter 14 Land Use Code regarding the Buffer Zone for Large Performance Halls with occupancy of 1,000 or more persons - Councilor Pelletier

a. See attached Memorandum from Councilor Pelletier.

b. See attached Planning Department Memorandum and backup.

c. See attached Economic Impact Report from Live Nation April 2025.

d. See attached National Independent Venue Assoc. 2025 Report - The State of Live

e. Public Comment Received

3. (Public Comment) Review and recommendation to the City Council of a proposed Purchase and Sale Agreement with Carassas Holdings, LLC for Lot #1 at Portland Technology Park - Greg Watson

a. See attached Memorandum and backup.

NOTE: Pursuant to 1 M.R.S.A. 405(6)(C) and 5 M.R.S.A. 13119-A, the Committee may go into executive session to discuss real estate negotiations and provide guidance to staff for this item.

b. See attached marketing brochure.

4. (Public Comment) Review and recommendation to the City Council of the FY2027 Housing Program Budget - Mary Davis

a. See attached Memorandum and backup.

5. (Public Comment) Review and recommendation:

a. Recommendation to City Council approval of the 2026 Jill C. Duson Housing Trust Fund Annual Plan; and,

b. Committee approval of the 2026 Affordable Housing Development and Tax Increment Financing application.

See attached single Memorandum and backup for Items 5(a) and 5(b).

Next Meeting Date: February 17, 2026

Minutes

Remote Housing and Economic Development Committee

January 20, 2026

NOTE: This meeting was held via Zoom and can be viewed at this link: http://www.portlandmaine.gov/1695/Economic-Development-Committee These Minutes provide a record of those in attendance, general discussion taking place, and motions made.

A remote meeting of the Housing and Economic Development Committee (HEDC) of the Portland City Council was held on Tuesday, January 20, 2026, at 5:30 p.m. via Zoom. Present from the HEDC were Chair Councilor Pious Ali, and members Councilors Regina Phillips, Sarah Michniewicz, and Kate Sykes. Also present from the City Council was Councilor Wesley Pelletier. City staff present were Housing and Community Development Division Director Mary Davis, Corporation Counsel Michael Goldman, Housing Program Manager Heidi McCarthy, Principal Administrative Officer Lori Paulette, Permitting and Inspections Director Jessica Quattropani, and Housing and Economic Development Department Director Greg Watson.

Update from Michael Goldman, Corporation Counsel, on the status of proposed ordinance changes for large music venue moratorium. There is a draft available for Councilors for the next Committee meeting. If the Committee recommends approval, the language requires approval of the Planning Board prior to Council. The current moratorium expires March 9, 2026. The Committee requested an HEDC meeting February 3rd to take up this item.

Item #1: Review and accept Minutes of previous meeting held on November 18, 2025.

On motion made by Councilor Michniewicz, seconded by Councilor Phillips, the Committee voted 4-0 to accept the Minutes as presented.

Item #2: Communication: Quarter 4 (10/1/2025-12/31/2025) Rent Control

Ms. Quattropani presented the Q4 Rent Control Report. An additional inspector was added mid-September, and there should be an uptick of inspections in Q1 2026. There were 1,548 units inspected in Q4 of 2025, 7,657 for the year, which represents approximately 40% of all units in the city. The Department almost doubled inspections from 2024 to 2025.

Councilor Sykes noticed that more data has been added, which is helpful to see more of what is going on and requests to continue reviewing outcomes of increased inspections.

Councilor Sykes asked about the complaint data. From quarter to quarter, complaints do not roll over, and Councilor Sykes would like to see a running total of founded vs unfounded complaints and percent change over time of various data points such as registered/unregistered units.

Councilor Sykes then asked what an inspection entails, and Ms. Quattropani noted that it depends on the type of complaint. There may be inspections happening for both rent control and housing safety at the same time. Property owners are asked for documents to show history. Tenants are asked for information as well.

Councilor Sykes asked about the process for choosing units to inspect. First the department flags any increase over 10% and works down from there.

Councilor Ali asked about changes in ownership and fees. New owners are responsible for all fees. The ordinance requires the City to hold the current owner responsible. Realtors and prospective buyers may contact the City prior to purchasing buildings.

Councilor Michniewicz congratulates staff on increasing the percentage of inspected properties. Director Quattropani expects that they will surpass 50% next year and probably 60-70%.

Councilor Michniewicz asked what percentage of inspections are due to complaints and what are random. There were 862 complaints, 3,741 audits, 3,012 random inspections. Some units are exempted from some parts of the ordinance. This is rent control only and not housing safety inspections.

Councilor Phillips compared 2024 to 2025 and noticed the 2025 report notes 19,673 registered units and would like to continue receiving that number.

Councilor Phillips asked how many units are not registered. As of 1/20/26, there are 17,414 registered, 946 haven't re-registered and the remaining units are in process. This can be added to the report.

Councilor Pelletier asked if there is a sense of how many units were at one point considered subject to rent control and are no longer subject to it. It would be helpful to have more information or metrics on unfounded complaints and the reasons they were unfounded.

Councilor Sykes appreciates willingness to provide information. It would be helpful to identify properties that have changed exemption status, not for the report but to flag for proactive enforcement. The Department currently looks at exemption data when considering inspections.

Item #3: Discussion Re: Calendar 2026 Committee Work Plan Development

Mr. Watson noted that the packet included the City Council adopted form for its goals (its goals not yet finalized), as well as the form for HEDC goals for the Committee's consideration. The packet also included the staff work plan which is currently based on annual items brought each year that staff knows about at this time. It is intended to be a living document and will adapt as needed throughout the year.

Chair Ali thanked Mr. Watson and invited Committee members to send their goals and policy initiatives to himself and Mr. Watson.

Item #4. Discussion Re: Housing Policy and Goals for the 2026 Jill C. Duson Housing Trust Fund Annual Plan and Affordable Housing and Tax Increment Financing Application

Staff suggests that no changes be made to the current priorities and goals, anticipating that there may be more substantial changes to the 2027 priorities and goals. Several changes were made last year which are outlined in the staff memo. In last year's plan, HOME funds individuals at or below 50% of area median income, Housing Trust Fund up to 100%, AHTIF prioritized for up to 80%, with preference for 50% and under.

Councilor Phillips asks whether the changes from last year are successful. Mary Davis states that we aren't entirely happy with the results because of other changes that we thought we could make this year, but there isn't anything that we feel should be changed at this time.

Councilor Phillips followed up by asking whether we could amend the priorities mid-year. Mary Davis stated that the Housing Trust Fund Annual Plan could be amended at any time; however, we start the process now in hopes that the application can be released at the end of

February or early March to accommodate the QAP for Low Income Housing Tax Credits (LIHTC) and AHTIF process.

Councilor Sykes states that government waste erodes trust and would like to know what the Committee can do to fix this issue at the State level. Do you have guidance about actions we can take? Mary Davis suggests taking a look at the City's TIF Policy, specifically around underwriting for AHTIF. We are passing those costs onto the developers but the costs come back to us as their project costs go up. We could alleviate this by changing our TIF Policy around underwriting.

Councilor Sykes would like to direct staff to identify changes within the TIF Policy that could help streamline our process. Staff is currently having those discussions and would like to have additional conversations with the Committee about this.

Item #5: Communication Re: 2025 Low Income Housing Tax Credit (LIHTC) Award Update

Ms. Davis noted that during the Summer of 2025, the City Council approved the three Affordable Housing Tax Increment Financing (AHTIF) Districts seeking Low Income Housing Tax Credits through Maine Housing. Those projects were Prosperity Place at 1125 Brighton Avenue and two applications from Portland Housing – Phase 2 and 3 of the COMB Block development, i.e., Cumberland Housing and Mayo Housing. Only Cumberland Housing was successful in receiving tax credits.

Staff and Committee discussed the Prosperity Place project with staff noting that the project will continue to move forward and that it is not unusual for projects to go through two funding cycles for LIHTC, as well as look at other funding sources.

On motion then made by Councilor Pelletier, seconded by Councilor Michniewicz, the Committee voted 4-0 to adjourn the meeting at 6:50 p.m.

Respectfully, Heidi McCarthy and Lori Paulette

Mayor and Council Offices
Wesley Pelletier
City Councilor
January 30, 2026

HEDC Agenda Item #2: Review and recommendation of proposed Amendments to Chapter 14 Land Use Code regarding the Buffer Zone for Large Performance Halls with occupancy of 1,000 or more persons.

HEDC Meeting on February 3, 2026

This amendment to the land use code is intended to address widespread constituent concerns regarding the spacing of large entertainment venues in our downtown area. This amendment increases the buffer zone on the peninsula (zones B-3 and WCZ) for large entertainment venues– defined as those with a capacity of over 1000 people – to 750 feet. In doing so, the hope is to mitigate traffic snarls that are bound to arise from thousands of people arriving to and leaving from multiple venues at the same time.

As Portland's density increases, the choices we make today will be felt for generations to come, and I believe that we as leaders must proactively ensure that we are using the power given to us by our constituents to ensure that we are building a city that makes sense.

Sincerely,

Wes Pelletier
City Council
City of Portland, Maine

City of Portland | Planning & Urban Development Department
Kevin D. Kraft, AICP *Director*

Staff Memo To:
Housing & Economic Development Committee
Councilor Pious Ali, Chair

MEETING DATE
February 3, 2026

AGENDA ITEM
Agenda Item 2 – Entertainment Buffer Proposal

PURPOSE
Review a proposed Theater and Performance Hall zoning text amendment, which would establish a 750-foot buffer between theaters and performance halls with a capacity of 1,000 or more, co-sponsored by Councilor Pelletier and Councilor Ali.

COMMITTEE WORK PLAN/CITY COUNCIL GOAL ALIGNMENT
In response to community concerns raised during review of a Major Site Plan application for a proposed 3,300-capacity Portland Music Hall at 244 Cumberland Avenue, the City Council voted 6–3 on August 11, 2025 (Councilors Ali and Phillips, and Mayor Dion opposed) to enact a 180-day moratorium on theaters and performance halls with capacities exceeding 2,000. The moratorium was made retroactive to applications received on or after December 1, 2024 (Order 9-25/26).

The Council's 2025 common goals and committee work plan did not identify or contemplate an evaluation of theaters and performance halls, nor any changes to the existing entertainment buffer requirements.

BACKGROUND/ANALYSIS
On November 18, 2025, the Housing & Economic Development Committee (HEDC) reviewed and discussed a proposed amendment to the Land Use Code introduced by Councilor Pelletier and Councilor Ali. The proposal would eliminate the existing 100-foot buffer for businesses holding an entertainment license and replace it with a 750-foot buffer for large entertainment businesses, defined as venues with seating capacities of 1,000 or more within the B-3 and Waterfront Central zones.

Following that meeting, staff refined the original Land Use Code amendment proposal, co-sponsored by Councilor Pelletier and Councilor Ali (Attachment A), to better align with the structure of the Land Use Code. The refined amendment would revise the existing Theater or Performance Hall use and establish two new use categories:

- **Theater or Performance Hall (Small):** An establishment with a total occupancy of fewer than 1,000 persons devoted to showing motion pictures or hosting dramatic, musical, or live performances.
- **Theater or Performance Hall (Large):** An establishment with a total occupancy of 1,000 or more persons devoted to showing motion pictures or hosting dramatic, musical, or live performances.

The 1,000-person threshold is derived from the Councilors' original proposal. These new use categories would be defined in the Definitions section of Article 3 of the Land Use Code and would continue to be allowed uses in the B-3 and Waterfront Central Zones (WCZ) as outlined in Table 6-C. However, Large Theaters and Performance Halls would be subject to supplemental use standards in Section 6.4.42, which would prohibit such venues from locating within 750 feet of another Large Theater and Performance Hall's primary entrance(s).

Under this approach, the 750-foot buffer would apply only between Large Theaters and Performance Halls. It would not prohibit proximity to or between small theaters and performance halls, or larger venues such as stadiums or arenas, as currently drafted.

This alternative proposal is use-based rather than license-based and would no longer rely on the type of entertainment license issued. As a result, it would not apply to other facilities, such as hotels, that may host events with occupancies of 1,000 or more.

Adoption of Entertainment Sector Benefits for Large Venues
Since the enactment of the moratorium in August 2025, the HEDC reviewed a separate proposal on October 21, 2025, to amend Chapter 4 of the City Code (Amusements) by establishing an Entertainment Sector Benefits Agreement requirement for large venues. On November 18, 2025, the HEDC voted 4–0 to recommend City Council approval of the amendment and on January 5, 2026, the City Council voted 8-0 (Councilor Ali absent) to pass Order 107-25/26, creating a new Large Capacity Entertainment License for venues with capacities of 2,000 or more, and requiring licensees to enter into an Entertainment Sector Benefits Agreement, providing financial or in-kind contributions equal to 1.0%–2.0% of the base ticket price to support Portland's local entertainment ecosystem.

FISCAL IMPACT
There is no financial impact to the City related to drafting the text amendment.

CONCLUSION(S)
Staff evaluated the proposed 750-foot buffer between Large Theaters and Performance Halls in the B-3 and Waterfront Central Zone (WCZ) zones using current and historic policy guidance, regulatory standards, and best practices in land-use policy. Based on this analysis, staff concludes that current conditions and the future vision for downtown do not support implementing a fixed separation buffer between theaters and performance halls.

Policy and Regulatory Background

Portland's adopted comprehensive policy framework, including *Portland's Plan 2030*, *One Climate Future*, the *Downtown Vision Plan*, and the *Portland Peninsula Transit Study*, works in concert with established regulatory tools such as the Land Use Code, Site Plan Ordinance, Traffic Movement Permit (TMP) requirements, and impact fees to manage land use, transportation, site access, and parking impacts. Together, these policies and regulations provide sufficient flexibility and oversight to evaluate individual proposals on a case-by-case basis while supporting the City's long-standing goals and commitment for compact, infill development, multimodal accessibility, and downtown economic vitality.

Over the past several decades, Portland has pursued a coordinated, forward-looking approach to growth, emphasizing sustainable land use and transportation policies that support dense, infill development, particularly downtown. Guided by *Portland's Plan 2030*, the City's comprehensive plan, this vision promotes downtown development, multimodal accessibility, smart growth, and economic vitality. Key goals include:

- Focusing growth in priority areas, such as downtown and transit corridors, supporting arts and culture, and ensuring that infrastructure investments enable employment and housing growth.

- Promoting walkable neighborhoods, reducing vehicle miles traveled, and aligning land use changes with long-range transportation planning.

- Investing in public transit and multimodal systems, implementing Transportation Demand Management (TDM) policies, and encouraging transit-oriented development to reduce emissions and improve access for all users.

- Reinforcing the Center - Portland's downtown remains at the center of the region's arts and cultural, economic, and civic health, and Portland's Plan embraces the principle that downtown should continue to be a predominant locus of activity for the broader region.

Limiting the location of large theaters and performance halls in downtown through a minimum distance buffer could affect the distribution of new venues, potentially placing them in areas with lower transit access and reduced walkability. Similarly, restrictions on new venues or the expansion of existing ones may lead to development in neighboring communities, which could affect local tax revenue, economic activity for nearby businesses, and secondary employment associated with venues while also increasing regional traffic due to limited transit and walkability outside of the city. Downtown Portland, as Maine's most walkable and transit-accessible area, offers the greatest potential for attendees to access venues using alternative modes of transportation, supporting many of the City's and region's goals regarding enhancing multi-modal accessibility.

National Case Studies

National best practices support policy that allows and even encourages arts, entertainment, and sporting venues in downtowns of cities of all sizes to maximize accessibility, encourage utilization of public transit and walkability, economic benefits, and urban vibrancy.

As economies have shifted, particularly with the rise of remote work, downtowns historically centered on office uses have often become less active. In response, many communities are seeking to rebalance their downtowns by promoting a broader mix of uses, including arts and cultural facilities, music and performance venues, theaters, retail, restaurants, and housing, clustered within walkable, transit-accessible neighborhoods. Additionally, theaters, performance halls, and other entertainment venues have generally complemented downtown areas by operating during evenings and weekends, times when schools and offices are closed, contributing to ongoing activity and vibrancy. Portland has historically been ahead of the curve by allowing a diverse mix of commercial, residential, arts, and entertainment uses, including theaters and performance halls of all sizes, as permitted uses in the B-3 Downtown Business zone.

Cleveland, Ohio: Cleveland's downtown is anchored by Playhouse Square, a theater district with a cluster of performance venues including KeyBank State Theatre (~3,200 seats), Connor Palace (~2,700 seats), Ohio Theatre (~1,000 seats), and Hanna Theatre (~550 seats). The area also includes Public Auditorium/Public Hall, which houses multiple halls such as Public Hall (~10,000 seats), Music Hall (~2,800 seats), and the Little Theater (~600 seats). Cleveland's downtown also hosts major sports and entertainment venues as well, including Progressive Field (~35,000 seats, home of the MLB's Cleveland Guardians), Rocket Mortgage FieldHouse (~19,000 seats, home of the NBA's Cleveland Cavaliers), and the Wolstein Center (~15,000 seats). The City's zoning framework allows performance venues as compatible uses within commercial and downtown districts, supporting higher-density mixed-use development. The Entertainment Overlay District further encourages the clustering of large entertainment venues, particularly around Playhouse Square, while managing potential conflicts with nearby residential areas. Its purpose is to designate suitable locations for nighttime and regional-scale entertainment activity..

Providence, Rhode Island: Providence's Downtown District includes a concentration of theaters and venues of varying sizes, including Trinity Repertory Company (two theaters with capacities of approximately 500 and 250 seats), the Providence Performing Arts Center (~3,100 seats), The Strand (~1,980 persons), AS220 (~200 persons, and the Amica Mutual Pavilion, a 12,000-14,000-seat arena that hosts Providence College basketball, Providence Bruins minor league hockey, concerts, and other large events. Since the 1990s, the City has actively promoted downtown as a hub for arts and entertainment through policies such as artist tax incentives within the district and significant public investment in the restoration of historic theaters. In June 2025, Providence leaders introduced state legislation that would allow a $2 surcharge on tickets sold at venues with capacities of 800 seats or more

Boston, Massachusetts: In Boston, mixed-use and downtown cultural districts treat cultural uses, such as theaters, concert halls, auditoriums, museums, and performance spaces as either permitted or incentivized uses. The zoning code includes density bonuses for rehabilitation of theaters. Boston has a high concentration of venues in its Theater District and the Fenway neighborhood near Fenway Park. Fenway Park holds approximately 37,400 fans and hosts 81 regular-season home games for the MLB's Boston Red Sox. Attached to Fenway Park is the 5,007-capacity MGM Music Hall and directly across the street is the approximately 2,000-seat House of Blues. The Theater District itself contains more than 10 venues clustered within a compact urban area, creating a dense cultural hub.

Austin, Texas: Known as the "Live Music Capital of the World," Austin features a wide range of music venues, from small clubs and bars to large theaters and arenas. ACL Live at the Moody Theater, a 2,750-capacity venue, opened in 2011 and includes an attached smaller venue, ACL Live at 3TEN, with a capacity of approximately 350. Both venues are part of a larger mixed-use development on a downtown urban block that includes a hotel and ground-floor retail and is located directly adjacent to Austin City Hall in the downtown. Performance venues and theaters are permitted uses in the Downtown Central Business District. Furthermore, Austin encourages live music by offering a density bonus within the downtown area, where a development includes the performance of live music at least four days a week in an indoor public or private facility of at least 2,500 square feet that is open to the general public and readily equipped with sound, staging, lighting, and safety accoutrements to accommodate professional and semi-professional live music needs on a daily basis.

Summary of Existing 100-Foot Entertainment Buffer
Portland does have an existing 100-foot buffer within the B-3 Downtown business zone. The buffer was established in 2007 when the City created the Downtown Entertainment Overlay Zone (DEOZ) to address public safety issues associated with a concentration of bars in the Old Port. The legislative intent of the dispersal standard was to address issues specifically associated with late-night, alcohol-serving establishments, specifically in areas around and near Wharf Street. In contrast to these types of uses, seated, ticketed venues offer a level of oversight, crowd management, and operational control that is not typically present in smaller establishments or bars, which also close later in the evening.

Allowing theaters and performance halls in the downtown is consistent with the City's Comprehensive Plan and reinforces downtown Portland's role as the region's center for arts, culture, and commerce. Downtown venues enhance accessibility, attract diverse audiences, and stimulate economic activity by increasing foot traffic and supporting surrounding businesses. Under the existing zoning, Portland's downtown venues , including the State Theatre, Merrill Auditorium, Cross Insurance Arena, Blue, Portland House of Music, and Port City Music Hall, the former 550-capacity venue on Congress Street that closed during COVID, demonstrate the success of this model.

There has been little history of complaints or public safety concerns associated with these types of venues, unlike the documented issues linked to bars in the Old Port that prompted the creation of the 100-foot buffer. Furthermore, potential impacts related to site access, circulation, and traffic are comprehensively reviewed and regulated through the City's existing regulations and development review process, which remain sufficient to manage such concerns.

PRIOR COMMITTEE REVIEW

Housing & Economic Development Committee - November 18, 2025.

- The Housing & Economic Development Committee reviewed and discussed a proposed Land Use Code amendment co-sponsored by Councilor Pelletier and Councilor Ali, that would remove the existing 100-foot buffer for businesses with an entertainment license and replace it with a 750-foot buffer for large entertainment businesses, defined as venues with seating capacities of 1,000 or more, within the B-3 and Waterfront Central zones.

NEXT STEPS

This item is presented for discussion and direction. If the Committee supports the option presented, provides guidance on any revisions, and recommends moving the amendment forward, the proposed text amendment would be referred to the Planning Board for review and recommendation. Following the Planning Board's action, the amendment would then advance to the full City Council for consideration and final decision.

PREPARED BY

Kevin Kraft, AICP
Director
Planning & Urban Development

Matt Grooms
Deputy Director
Planning & Urban Development

ATTACHMENTS

Attachment A – Redline Text Amendment
Attachment B - 750' Buffer Theaters & Performance Halls

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Cultural facility. A facility open to the public, providing access to cultural exhibits and activities including but not limited to museums, cultural or historical centers, non-commercial galleries. A cultural facility may include accessory services such as, but not limited to, retail sales of related items.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Flood or flooding.

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

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

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

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

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

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

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

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

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

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

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

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

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

Freshwater wetland. Freshwater swamps, marshes, bogs, and/or similar areas which are both:

- **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

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.

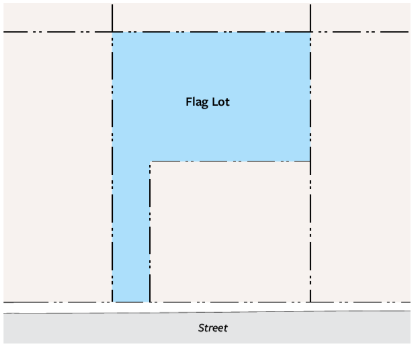


FIGURE 3-A: FLAG LOT

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.

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

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 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.

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 19.6.3(C).)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Theater or performance hall (small). Any establishment with a total occupancy of fewer than 1,000 persons, devoted to showing motion pictures, or for dramatic, musical, or live performances.

Theater or performance hall (large). Any establishment with a total occupancy of 1,000 or more persons, devoted to showing motion pictures, or for dramatic, musical, or live performances.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Vegetation, native. Vegetation indigenous to local forests.

Vegetation, non-native invasive species. Species of vegetation listed by the Maine Department of Agriculture, Conservation, and Forestry as being invasive in Maine ecosystems and not native to Maine ecosystems.

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

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

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

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

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

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

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

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

C. Obligate wetland vegetation.

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

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

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

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

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

Wholesale. Sale for resale, not for direct consumption.

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

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

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

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

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

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

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

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

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.

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 systems (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			●	
	Greenhouses/nurseries (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 systems (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

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
	Two-family dwellings	●	●	●	●	●	●	●	
Residential	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	●	●	●	●	●	●	●	
	Greenhouses/nurseries (retail)		◐	◐		◐			
	Hostels	●			●		●		6.4.18, 6.4.10
	Hotels		●		●	●	●	●	6.4.19
	Intermodal transportation facilities		●	●	●	●	●	●	
	Marijuana retail stores		●		●	●			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 dispensaries		●		●	●			6.4.23
	Restaurants	●	●	●	●	●	●	●	6.4.34, 6.4.10
	Retail	●	●	●	●	●	●	●	6.4.36, 6.4.10
	Small-scale marijuana caregivers		●	●	●	●			6.4.23
	Specialty food service	●	●	●	●	●	●	●	6.4.10
	Theaters and performance halls (small)		●	●	●	●	●	●	
	Theaters and performance halls (large)		●	●	●	●	●	●	6.4.42
	Veterinary services		●	●		●			
Industrial	Animal-related services					●			
	Communication studios		●	●	●	●	●	●	
	Dairies		●	●		●			6.4.11
	Impound lots					●			6.4.20
	Laboratory and research facilities		◐	◐	◐	●	◐	◐	
	Low-impact industrial	●	●	●	●	●	●	●	6.4.22
	Marijuana manufacturing facilities					●			6.4.23
	Marijuana testing facilities					●			
	Printing and publishing				●	●	●	●	6.4.32
	Self-storage facilities					●			6.4.37
	Studios for artists and craftspeople	●	●	●	●	●	●	●	
	Warehousing and distribution facilities					●			6.4.40
Other	Marine uses						●	●	6.4.24
	Off-street parking				●/◐		●	◐	6.4.27
	Parks and open spaces	●	●	●	●	●	●	●	
	Social service centers		◐	◐	◐	◐	◐	◐	
	Solar energy systems (minor)	●	●	●	●	●	●	●	6.4.38
	Solar energy systems (major)					◐			
	Utility substations	●	●	●	●	●	●	●	6.4.39
	Wind energy systems (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 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 (small)	●	●	
	Theaters and performance halls (large)	●	●	6.4.42
	Veterinary services	●	●	
Industrial	Communication studios	●	●	
	Low impact industrial	●	●	6.4.22
	Studios for artists and craftspeople	●	●	
Other	Parks and open spaces	●	●	
	Solar energy systems (minor)	●	●	6.4.38
	Utility substations	●	●	6.4.39

	TOD-1	TOD-2	Use Standards
Wind energy systems (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 systems (minor)	●	6.4.38
	Utility substations		
	Wind energy systems (minor)	◐	6.4.41

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

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 facilities		●	●		6.4.37
	Specialty food service	●	●			
	Veterinary services	●	●	●		
Industrial	Animal-related services	●	●	●		6.4.4
	Auto service stations	●	●	●	●	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	●	●	●		
	Marijuana manufacturing facilities	●	●	●		6.4.23
	Marijuana testing facilities	●	●	●		
	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 systems (minor)	●	●	●	●	6.4.38
	Solar energy systems (major)		●	●	◐	
	Telecommunication towers (ground-mounted)		●	●		
	Utility substations	●	●	●		6.4.39
	Wind energy systems (minor)	◐	●	●	●	6.4.41
	Wind energy systems (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-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 systems (minor)	◐		6.4.38, 6.5.6
Solar energy systems (major)	◐		
Stadiums	◐		6.5.6
Utility substations	●/◐		6.4.39, 6.5.6
Wharves, piers, docks, and landing ramps	●	◐	
Wind energy systems (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.

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. 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.

B. 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.

C. 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.

D. 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.*

E. 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.

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

C. For child care centers 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. The minimum lot area 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.

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 Greenhouses/nurseries (retail)

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 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:

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 dispensaries may not exceed a maximum gross floor area of 2,000 square feet.

D. 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.

E. 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 gardens

Market gardens may be located outdoors or fully enclosed within a permanent building, subject to the following:

A. 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.

B. The keeping of livestock, chickens or other poultry, and apiaries are prohibited.

C. Greenhouses, including high tunnels/hoop-houses, cold-frames, and similar structures, are permitted to extend the growing season.

D. 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.

E. 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.

F. 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.

G. 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.

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 nonresidential 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, 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 facilities

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, 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.

   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.
2. 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 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.

6.4.42 Theaters and Performance Halls (large) in the B-3 and WCZ zones

A. A large theater and performance hall may not be located within 750 feet of another large theater and performance hall, as measured along or across public ways from the main entrance of each. The main entrance is defined as one or more public entrances intended to provide primary access for patrons to areas designed for public use, such as lobbies, vestibules, concourses, seating areas, or similar spaces. This definition does not include secondary entrances used primarily for staff, production, limited public or ADA access, or performers.

B. Any large theater and performance hall located in the B-3 or WCZ zones on or before December 1, 2024 shall not be required to comply with this dispersal requirement. If located within 750 feet of another large theater and performance hall, such business shall be considered a lawfully nonconforming use subject to the standards of Article 4 of this Code.

C. Where two or more large theater and performance halls operate on one site, and where each 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 entity shall be counted as a separate large theater and performance hall for the purposes of this section.

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, 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, regardless of size, 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. **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.
3. In all other zones, drive-throughs shall be prohibited.
4. 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.

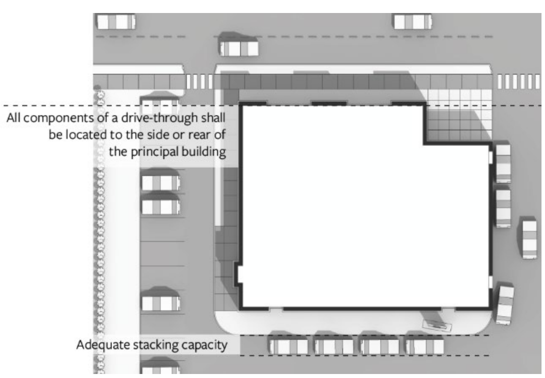


FIGURE 6-A: DRIVE-THROUGH SITING

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.
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 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. Farmstands

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 five feet.

B. Garage/yard sales

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 offices or model units

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 yards

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 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

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

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.

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 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.
   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.

6.8.7 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.

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.

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.	●	●	●	●	●	●	●	●	●	●	●	●

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

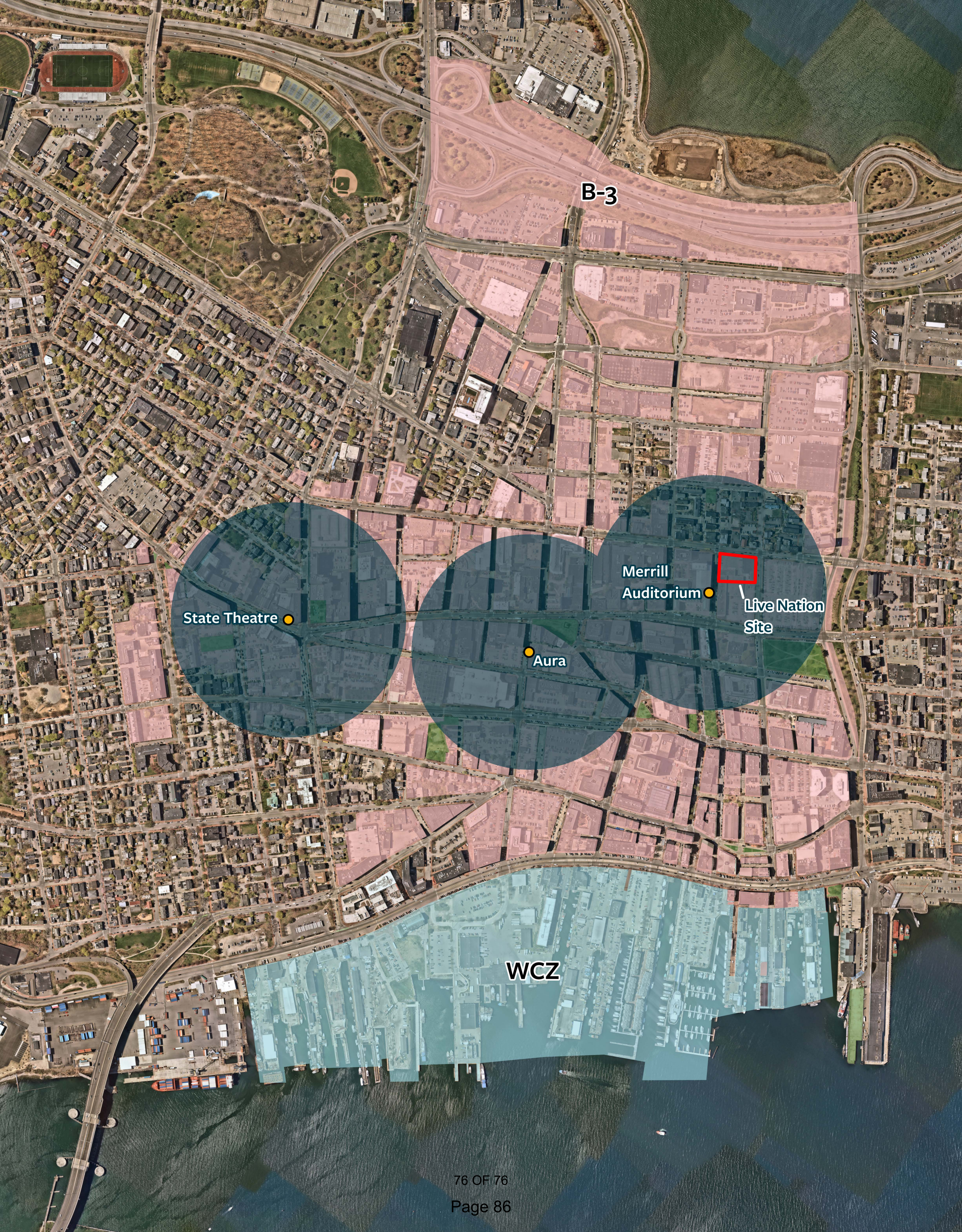
C. In the B-3 and WCZ zones, a business with an entertainment license as required or authorized by Chapter 4, Section 4-51(a) of the City of Portland Code of Ordinance shall be considered an entertainment business for the purposes of this section., and may not be located within 100 feet of another entertainment business, as measured along or across public ways from the main entrance or entrances of each. The main entrance is defined as one or more public entrances intended to provide primary access for patrons to areas designed for public use, such as lobbies, vestibules, concourses, seating areas, or similar spaces. This definition does not include secondary entrances used primarily for staff, production, limited public or ADA access, or performers. This dispersal requirement shall not apply to entertainment businesses that do not allow amplified entertainment.

D. Any entertainment business located in the B-3 or WCZ zones on or before 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.

E. 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.

F. 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.

EXHIBIT B FOLLOWS ON NEXT PAGE


B-3
Merrill
Auditorium
Live Nation
Site
State Theatre
Aura
WCZ

Economic and Fiscal Contributions of Proposed Concert Venue in Portland, ME

Prepared by:

TOURISM ECONOMICS
AN OXFORD ECONOMICS COMPANY

Prepared for:

LIVE NATION

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CONTENTS

1

Research Overview

Introduction

Live Nation is proposing to develop a new 3,300-seat indoor concert venue in Portland, Maine.

Spending by concert and event patrons on-site at the venue and at local, off-site establishments and businesses will generate significant economic and fiscal (tax) impacts throughout the regional economy. This study analyzes the various impacts attributable to the proposed venue.

To quantify the economic impacts, Oxford Economics prepared a comprehensive model to quantify the impacts arising from patron spending on-site at the venue and at off-site establishments throughout the regional economy. Portland, ME is located in Cumberland County, which is part of the Portland-South Portland metropolitan statistical area (MSA).

In order to best capture the impacts of the proposed venue throughout the regional economy, Oxford Economics based the impact modeling on an IMPLAN input-output (I-O) model for the Portland-South Portland MSA.

The results of this study show the scope of the venue's potential future impacts in terms of on-site and off-site spending by non-local venue patrons, as well as total economic impacts, including total business sales, employment, labor income, and fiscal (tax) impacts.

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Key Findings

Portland Concert Venue
Annual Economic Impacts of Visitor Spending

Direct Spending Impacts – Annual Visitor Spending

The proposed venue will attract an estimated 266,000 patrons on an annual basis, including 106,000 local patrons and 160,000 non-local patrons.

In addition to spending money during their visit to the venue (on items such as concessions and merchandise), non-local patrons will also spend money at businesses and establishments in the local economy during their stay in the region, including local restaurants, retailers, and lodging establishments. Oxford Economics estimates that total on-site and off-site spending by non-local venue patrons will amount to $25.5 million, including $7.3 million in spending by non-local daytrip visitors and $18.1 million in spending by non-local overnight visitors.

$7.3M On-Site & Off-Site Spending by Non-Local Daytrip Visitors **+** **$18.1M** On-Site & Off-site Spending by Non-Local Overnight Visitors **=** **$25.5M** Total On-site & Off-site Visitor Spending by Non-Local Venue Patrons

Annual Economic Impacts

The $25.5 million in spending by non-local patrons will generate a total annual economic impact of $44.2 million in the Portland-South Portland MSA. This total annual economic impact of $44.2 million will support approximately 472 FTE jobs and will generate $2.7 million in state and local taxes on an annual basis.

$44.2 MILLION

Total Annual Economic Impact of Spending by Non-Local Patrons

Summary Annual Economic Impacts Attributable to Spending by Non-Local Patrons

$25.5M	$44.2M	472	$2.7M
On-Site & Off-Site Spending by Non-Local Patrons	Total Economic Impact	Total Jobs Supported	Total State & Local Taxes Generated

3

Direct Impacts

Direct Impacts

Spending by Non-Local Patrons

On an annual basis, non-local patrons will spend a total of $25.5 million in the local economy during their stay in the region

Annual Patron Spending

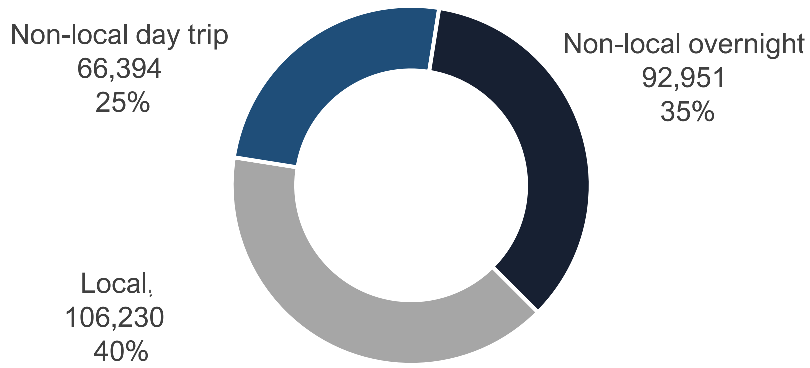
The proposed venue will have a capacity of 3,300 seats. Based on data provided by Live Nation, the proposed venue will sell 265,574 tickets each year after achieving stabilized operations in the venue's third year of operations. Oxford Economics estimates that the 265,574 total tickets sold will include 106,230 tickets (40%) sold to local patrons and 159,344 (60%) tickets sold to non-local patrons. The 159,344 tickets sold to non-local patrons will include 66,394 tickets sold to non-local day trip patrons and 92,951 tickets sold to non-local overnight patrons.

In addition to spending money on merchandise and concessions during their visit to the venue, non-local patrons will also spend money at businesses and establishments in the local economy during their stay in the region, including local restaurants, retailers, and recreation/entertainment venues. Oxford Economics estimates that total on-site and off-site spending by venue patrons will amount to $25.5 million in the venue's third year of operations, including $7.3 million in spending by non-local daytrip visitors and $18.1 million in spending by non-local overnight visitors.

The analysis excludes spending by local patrons at restaurants and other local businesses since these patrons would spend money in the regional economy even if they don't attend an event at the proposed venue.

Share of Venue Patrons, by Origin

(Number of patrons and % share)



Total Visitor Spending by Non-Local Venue Patrons

($ millions)

Description	Amount
Total non-local patron spending	**$25.5**
Spending by non-local daytrip patrons	$7.3
Spending by non-local overnight patrons	$18.1

Direct Impacts

Spending by Non-Local Patrons

On an annual basis, non-local patrons will spend a total of $25.5 million in the local economy during their stay in the region

The $25.5 million in total spending by non-local venue patrons will be spread across a number of industries. As shown in the accompanying figure, Oxford Economics estimates that non-local venue patrons will spend $7.6 million on recreation and entertainment (including ticket purchases), $6.4 million on lodging, $5.5 million on food and beverage, $3.9 million on retail, and $2.2 million on transportation (including gasoline purchases).

Total Spending by Non-Local Venue Patrons
($ millions)

$25.5 Million Total Spending by Non-Local Patrons

Source: Oxford Economics
Notes: Entertainment spending includes ticket purchases. Food & Beverage spending includes general concession purchases at events. Retail spending includes merchandise purchases at events. Transportation spending includes spending on gasoline.

4

Summary Economic Impacts

Economic Impacts

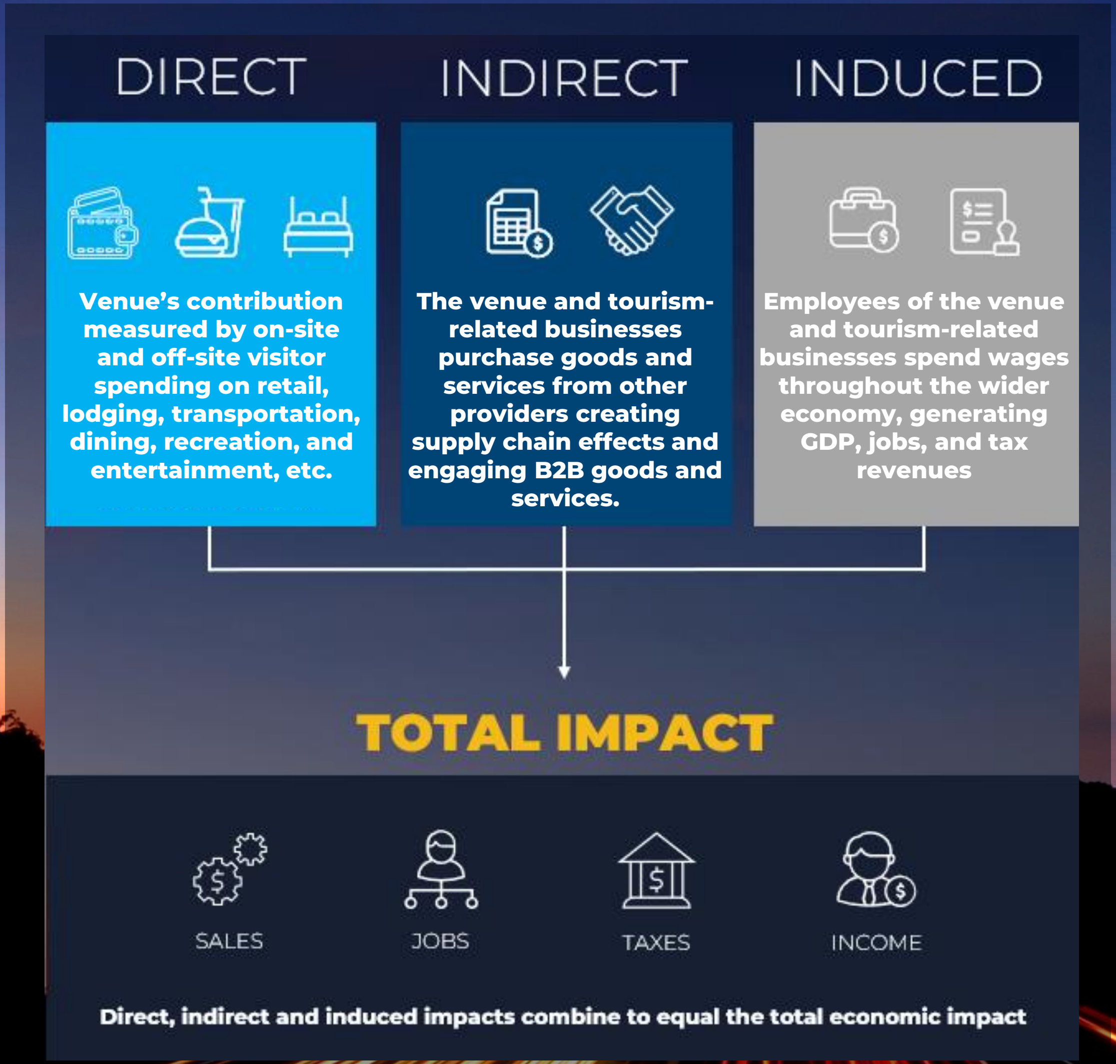
The economic impacts of the venue's <u>direct</u> impacts (including annual impacts of spending by non-local patrons) were estimated using a regional Input-Output (I-O) model based on a customized IMPLAN (www.implan.com) model for the regional economy of the Portland-South Portland Metropolitan Statistical Area. IMPLAN is recognized as an industry standard in local-level I-O models. An I-O model represents a profile of an economy by measuring the relationships among industries and consumers to track the flow of industry revenue to wages, profits, capital, taxes and suppliers. The supply chain is traced as dollars flow through the economy, representing <u>indirect</u> impacts. The model also calculates the <u>induced</u> impacts of spending. Induced impacts represent benefits to the economy as incomes earned as a result of direct spending are spent in the local economy, generating additional sales, jobs, taxes, and income.

The modeling process begins with aligning the direct expenditure measurements with the related sectors in the model (e.g. hotels, restaurants, retail, and recreation). The model is then run to trace the flow of these expenditures through the economy. In this process, the inter-relationships between consumers and industries generate each level of impact.

IMPLAN calculates three levels of impact – direct, indirect, and induced – for a broad set of indicators. These include the following:

- Business sales (also called gross output)
- Labor income (including wages and benefits)
- Federal taxes
- State and local taxes

Economic Impact Framework



Summary Economic Impacts

Spending by Non-Local Patrons

Spending by non-local venue patrons will generate a total economic impact of $44.2 million on an annual basis

The $25.5 million in spending by non-local venue patrons will generate $18.7 million in indirect and induced business sales, resulting in a total economic impact of $44.2 million on an annual basis. This total economic impact will include $17.0 million in total labor income, supporting 472 FTE jobs per year.

The total economic impact of $44.2 million will generate $2.7 million in state and local taxes on an annual basis.

Summary Annual Economic & Fiscal (Tax) Impacts Attributable to Spending by Non-Local Venue Patrons

($ millions and number of FTE jobs)

	Economic Impacts
Total business sales	**$44.2**
Direct patron spending	$25.5
Indirect & induced impacts	$18.7
Total labor income	**$17.0**
Direct labor income	$12.1
Indirect & induced labor income	$5.0
Total employment impact	**472**
Direct jobs	341
Indirect & induced jobs	130
Total state and local taxes	**$2.7**

Source: Tourism Economics

Note: Totals may not sum due to rounding

6

Detailed Economic Impacts

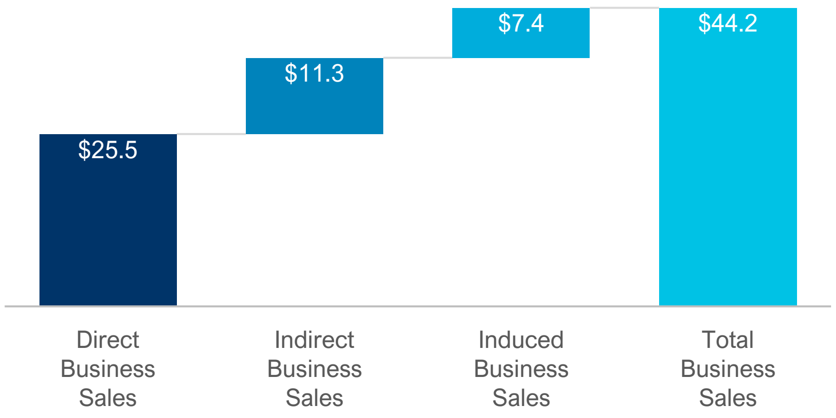
Business Sales by Industry

Patron Spending - Business Sales Impacts

Spending by non-local venue patrons will generate a total annual economic impact of $44.2 million throughout the Portland-South Portland MSA

The $25.5 million in annual spending by non-local venue patrons will generate $11.3 million in indirect business sales and $7.4 million in induced business sales, resulting in a total annual economic impact of $44.2 million throughout the Portland-South Portland MSA.

Summary Economic Impacts Attributable to Patron Spending
(Portland-South Portland MSA, $ millions)



Annual Business Sales Impacts by Industry
(Portland-South Portland MSA, $ millions)

	Direct Business Sales	Indirect Business Sales	Induced Business Sales	Total Business Sales
Total, all industries	**$25.5**	**$11.3**	**$7.4**	**$44.2**
By industry				
Recreation and Entertainment	$7.6	$1.7	$0.1	$9.4
Food & Beverage	$5.4	$0.4	$0.6	$6.5
Lodging	$6.4	$0.0	$0.0	$6.4
Finance, Insurance and Real Estate	$0.0	$3.3	$2.3	$5.7
Retail Trade	$3.9	$0.1	$0.6	$4.6
Business Services	$0.0	$2.9	$0.7	$3.6
Education and Health Care	$0.0	$0.4	$1.4	$1.8
Gasoline Stations	$1.5	$0.0	$0.1	$1.6
Other Transport	$0.6	$0.4	$0.1	$1.2
Communications	$0.0	$0.7	$0.3	$1.0
Construction and Utilities	$0.0	$0.5	$0.2	$0.7
Wholesale Trade	$0.0	$0.3	$0.4	$0.7
Personal Services	$0.0	$0.2	$0.3	$0.6
Government	$0.0	$0.2	$0.1	$0.3
Manufacturing	$0.0	$0.1	$0.1	$0.2
Agriculture, Fishing, Mining	$0.0	$0.0	$0.0	$0.0
Air Transport	$0.0	$0.0	$0.0	$0.0

Source: Tourism Economics
Note: Totals may not sum due to rounding

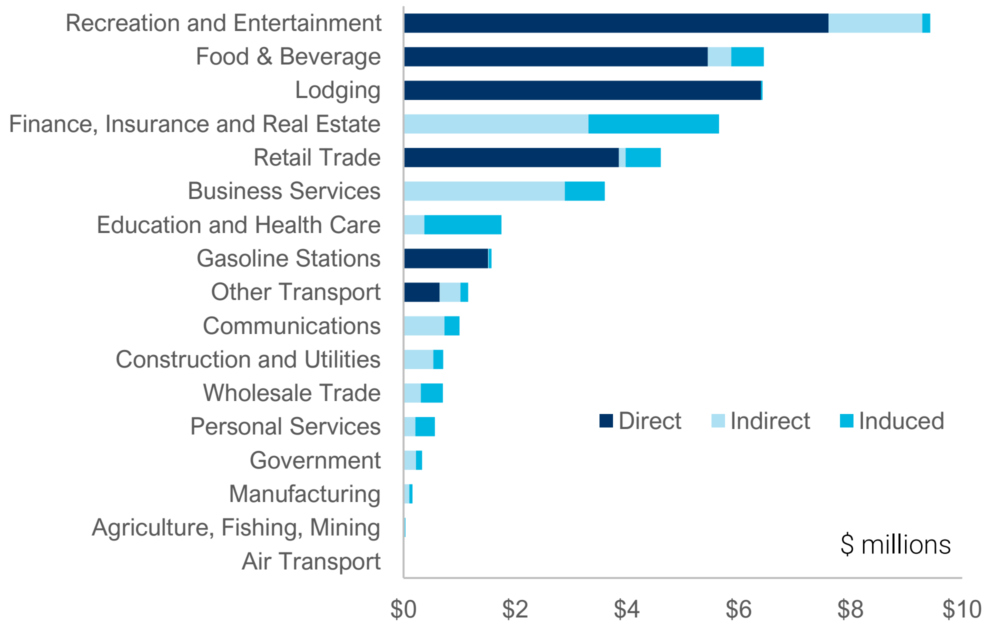
Business Sales by Industry

Patron Spending - Business Sales Impacts

Spending by non-local venue patrons will generate a total annual economic impact of $44.2 million throughout the Portland-South Portland MSA

The recreation and entertainment industry will be the most-impacted industry with approximately $9.4 million in total output in the Portland-South Portland MSA. Food & beverage and lodging will follow with $6.5 million and $6.4 million in total business sales, respectively.

Annual Business Sales Impacts by Industry
(Portland-South Portland MSA, $ millions)



Source: Tourism Economics

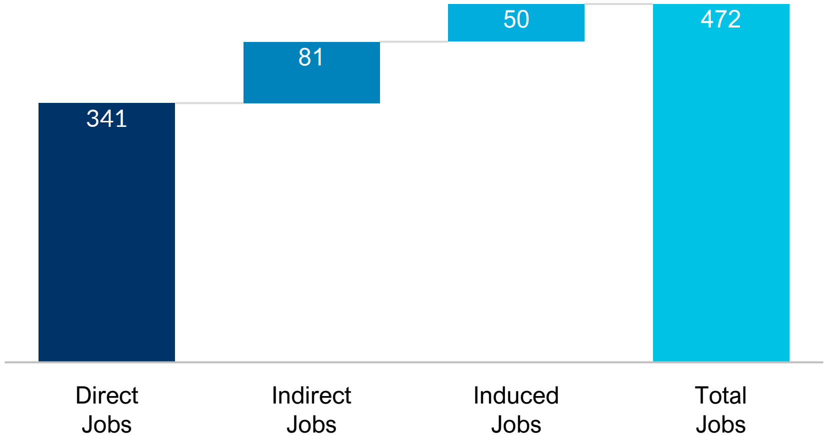
Employment by Industry

Patron Spending - Employment Impacts

Spending by non-local venue patrons will generate a total employment impact of 472 FTE jobs throughout the Portland-South Portland MSA

The total economic impact attributable to patron spending will support 472 FTE jobs on an annual basis throughout the Portland-South Portland MSA, including approximately 341 direct jobs (including jobs on-site at the proposed venue), 81 indirect jobs, and 50 induced jobs.

Summary Employment Impacts Attributable to Patron Spending
(Portland-South Portland MSA, number of FTE jobs)



Annual Employment Impacts by Industry
(Portland-South Portland MSA, number of FTE jobs)

	Direct Employment	Indirect Employment	Induced Employment	Total Employment
Total, all industries	**341**	**81**	**50**	**472**
By industry				
Recreation and Entertainment	226	16	2	244
Food & Beverage	40	5	6	51
Lodging	39	0	0	39
Retail Trade	22	1	6	29
Business Services	0	21	5	27
Finance, Insurance and Real Estate	0	16	6	22
Other Transport	13	6	2	21
Education and Health Care	0	4	14	19
Personal Services	0	2	4	7
Communications	0	2	1	3
Government	0	2	0	3
Wholesale Trade	0	1	1	2
Gasoline Stations	2	0	0	2
Construction and Utilities	0	1	1	2
Agriculture, Fishing, Mining	0	0	0	1
Manufacturing	0	0	0	1
Air Transport	0	0	0	0

Source: Tourism Economics
Note: Totals may not sum due to rounding.

Employment by Industry

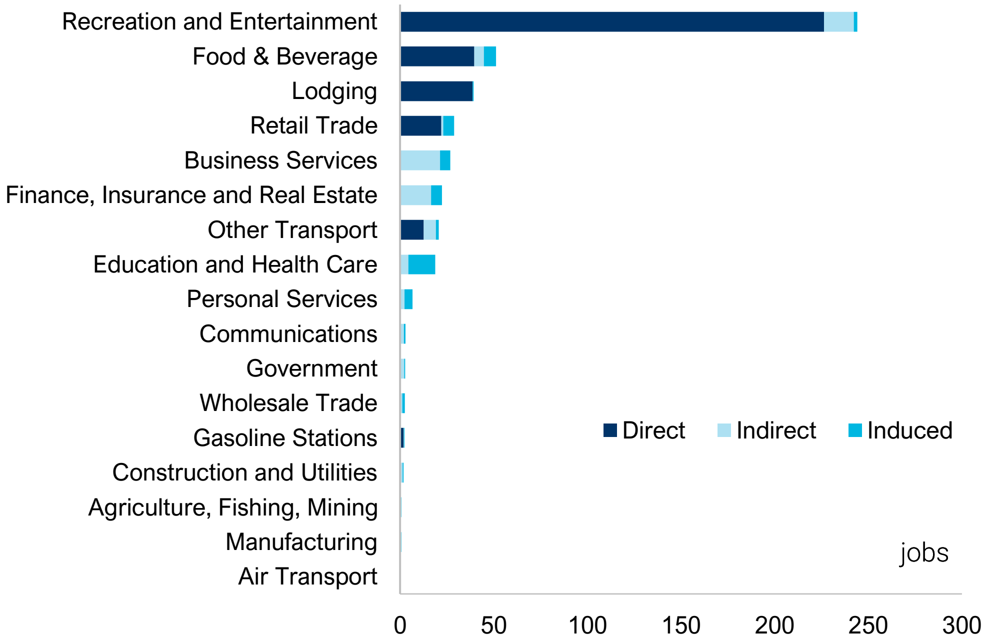
Patron Spending - Employment Impacts

Spending by non-local venue patrons will generate a total employment impact of 472 FTE jobs throughout the Portland-South Portland MSA

The recreation and entertainment industry will rank first with 244 total FTE jobs. The food and beverage and lodging industries will follow with 51 FTE jobs and 39 FTE jobs, respectively.

Annual Employment Impacts by Industry

(Portland-South Portland MSA, number of FTE jobs)



Source: Tourism Economics

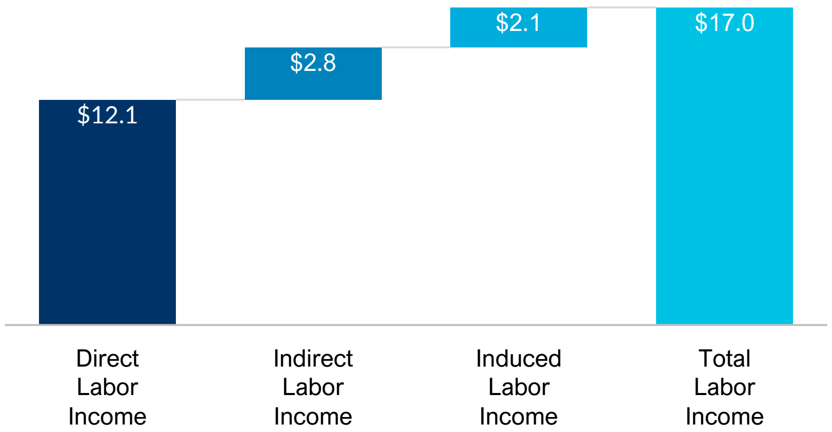
Labor Income by Industry

Patron Spending - Labor Income Impacts

Spending by non-local venue patrons will generate a total annual labor income impact of $17.0 million throughout the Portland-South Portland MSA

Spending by non-local venue patrons will support $12.1 million in direct labor income, $2.8 million in indirect labor income, and $2.1 million in induced labor income, resulting in $17.0 million in total labor income throughout the Portland-South Portland MSA on an annual basis.

Summary Labor Income Impacts Attributable to Patron Spending
(Portland-South Portland MSA, $ millions)



Annual Labor Income Impacts by Industry
(Portland-South Portland MSA, $ millions)

	Direct Labor Income	Indirect Labor Income	Induced Labor Income	Total Labor Income
Total, all industries	**$12.1**	**$2.8**	**$2.1**	**$17.0**
By industry				
Recreation and Entertainment	$7.7	$0.1	$0.0	$7.9
Food & Beverage	$1.6	$0.1	$0.2	$2.0
Lodging	$1.7	$0.0	$0.0	$1.8
Business Services	$0.0	$1.2	$0.3	$1.5
Education and Health Care	$0.0	$0.2	$0.7	$0.9
Retail Trade	$0.7	$0.0	$0.2	$0.9
Finance, Insurance and Real Estate	$0.0	$0.4	$0.3	$0.7
Other Transport	$0.2	$0.1	$0.1	$0.4
Personal Services	$0.0	$0.1	$0.1	$0.2
Government	$0.0	$0.1	$0.0	$0.2
Wholesale Trade	$0.0	$0.1	$0.1	$0.2
Communications	$0.0	$0.1	$0.0	$0.2
Gasoline Stations	$0.1	$0.0	$0.0	$0.1
Construction and Utilities	$0.0	$0.1	$0.0	$0.1
Manufacturing	$0.0	$0.0	$0.0	$0.0
Agriculture, Fishing, Mining	$0.0	$0.0	$0.0	$0.0
Air Transport	$0.0	$0.0	$0.0	$0.0

Source: Tourism Economics
Note: Totals may not sum due to rounding

Labor Income by Industry

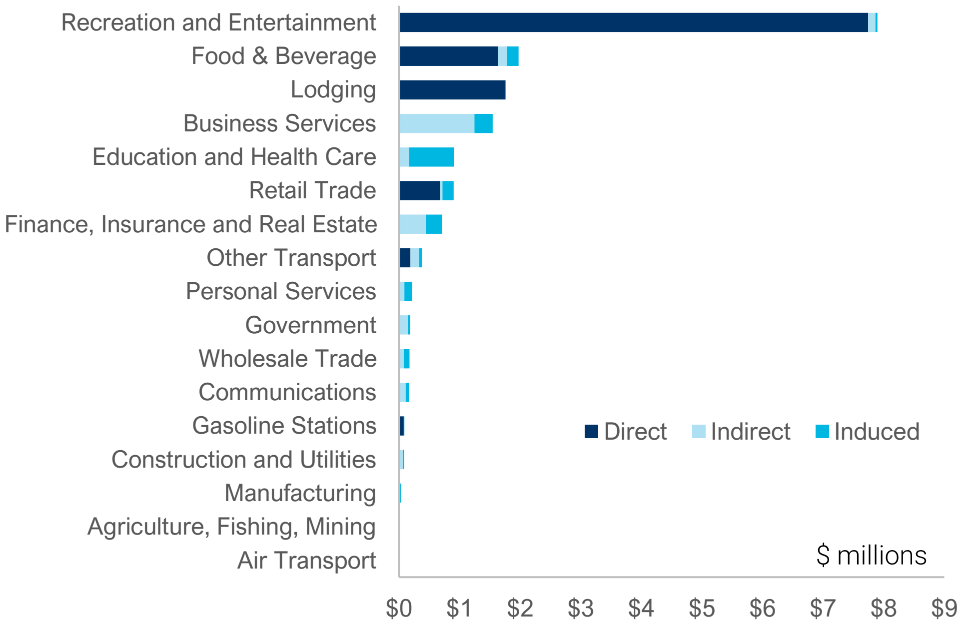
Patron Spending - Labor Income Impacts

Spending by non-local venue patrons will generate a total annual labor income impact of $17.0 million throughout the Portland-South Portland MSA

The recreation and entertainment industry will be the most impacted industry in the Portland-South Portland MSA with approximately $7.9 million in total labor income. The food & beverage industry will follow with $2.0 million in total labor income, including $1.6 million in direct labor income, $0.1 million in induced labor income, and $0.2 million in induced labor income.

Annual Labor Income Impacts by Industry

(Portland-South Portland MSA, $ millions)



Source: Tourism Economics

7

Fiscal (Tax) Impacts

Tax Generation

Patron Spending – Annual Tax Impacts

The total economic impact of $44.2 million attributable to spending by non-local patrons will generate approximately $6.8 million in total tax revenues on an annual basis, including $2.7 million in state and local taxes.

Spending by non-local venue patrons will generate a total fiscal (tax) impact of $6.8 million on an annual basis.

Total federal taxes will amount to $4.1 million, including $2.7 million in personal income taxes, $0.3 million in corporate taxes, $0.1 million in indirect business taxes, and $1.1 million in social insurance taxes.

Total state and local taxes will amount to $2.7 million, including $0.9 million in sales taxes, $0.6 million in personal income taxes, $0.1 million in corporate taxes, $0.1 million in excise taxes and fees, and $1.0 million in property taxes each year.

Annual Fiscal (Tax) Impacts Attributable to Patron Spending

(Federal and state and local taxes, $ millions)

	Direct Taxes	Indirect & Induced Taxes	Total Taxes
Total Taxes	**$4.51**	**$2.33**	**$6.84**
Federal	**$2.78**	**$1.37**	**$4.14**
Personal income	$2.16	$0.50	$2.66
Corporate	$0.18	$0.15	$0.33
Indirect business	$0.05	$0.03	$0.08
Social insurance	$0.39	$0.68	$1.07
State and Local	**$1.74**	**$0.96**	**$2.69**
Sales	$0.56	$0.32	$0.88
Personal income	$0.46	$0.11	$0.57
Corporate	$0.07	$0.06	$0.13
Excise and fees	$0.08	$0.05	$0.13
Property	$0.56	$0.42	$0.98

Source: Tourism Economics

About the Research Team

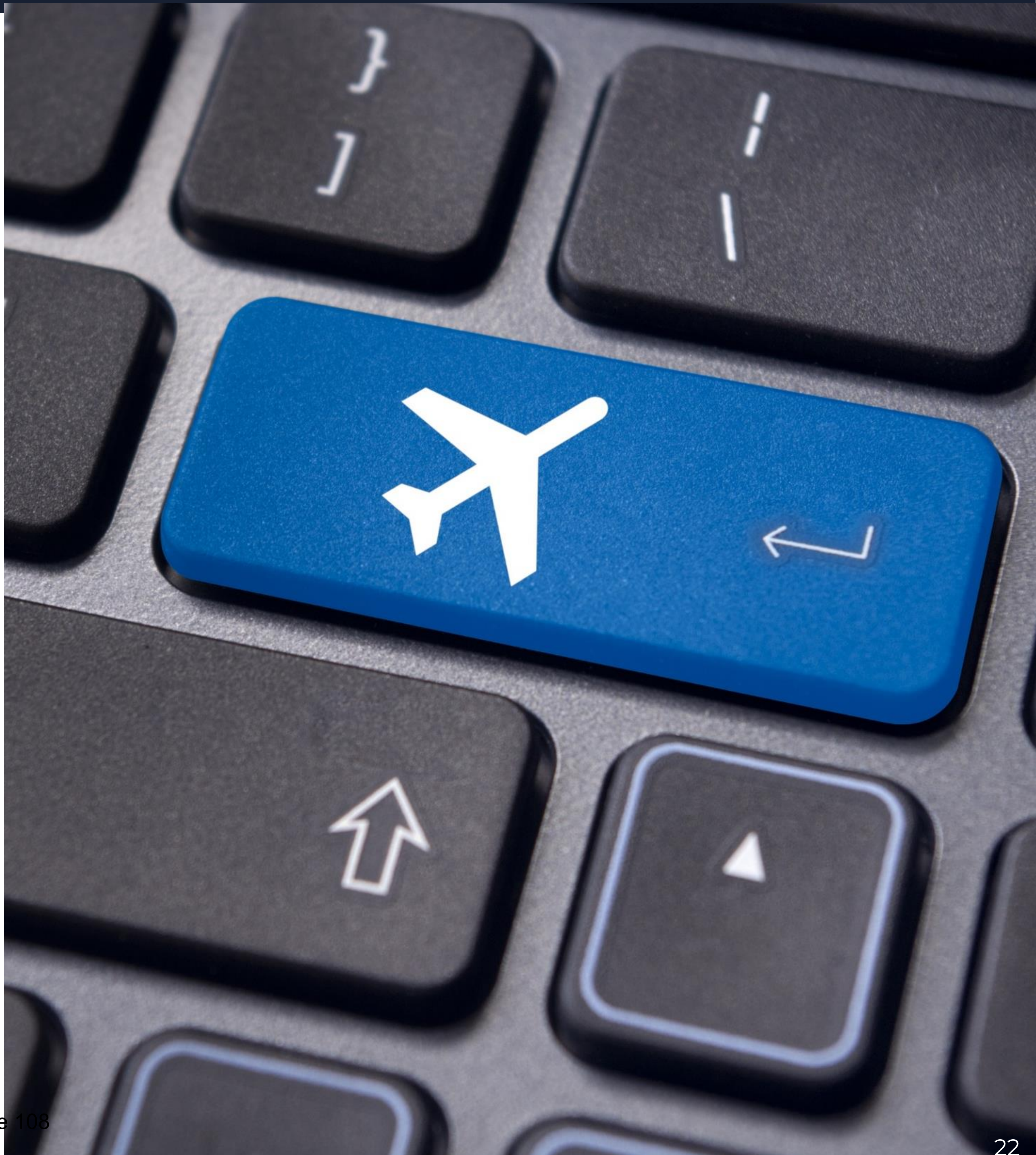
TOURISM ECONOMICS
AN OXFORD ECONOMICS COMPANY

Oxford Economics was founded in 1981 as a commercial venture with Oxford University's business college to provide economic forecasting and modelling to UK companies and financial institutions expanding abroad. Since then, we have become one of the world's foremost independent global advisory firms, providing reports, forecasts and analytical tools on 200 countries, 100 industrial sectors and over 3,000 cities. Our best-of-class global economic and industry models and analytical tools give us an unparalleled ability to forecast external market trends and assess their economic, social and business impact.

Oxford Economics is an adviser to corporate, financial and government decision-makers and thought leaders. Our worldwide client base comprises over 2,000 international organizations, including leading multinational companies and financial institutions; key government bodies and trade associations; and top universities, consultancies, and think tanks.

This study was conducted by the Tourism Economics group within Oxford Economics. Tourism Economics combines an understanding of traveler dynamics with rigorous economics in order to answer the most important questions facing destinations, investors, and strategic planners. By combining quantitative methods with industry knowledge, Tourism Economics designs custom market strategies, destination recovery plans, forecasting models, policy analysis, and economic impact studies.

Oxford Economics employs 400 full-time staff, including 250 professional economists and analysts. Headquartered in Oxford, England, with regional centers in London, New York, and Singapore, Oxford Economics has offices across the globe in Belfast, Chicago, Dubai, Miami, Milan, Paris, Philadelphia, San Francisco, and Washington DC.



MAINE

THE FIRST ECONOMIC RESEARCH STUDY OF THE INDEPENDENT LIVE SECTOR

THE STATE OF LIVE

WHAT IS

INDEPENDENT LIVE?

Independent live entertainment stages are independently owned and operated, meaning they are not controlled by a multinational corporation or a publicly traded company, and their primary mission is to present live performances to the public. This includes venues, promoters, festivals and more.

OVERVIEW IN

MAINE

Maine's independent live entertainment industry drives $273.2 million in state GDP, $550.3 million in economic output, and $24.7 million in tax revenue, supporting 4,057 jobs and $178.3 million in wages. With $47.2 million in off-site tourism spending, the sector is both a cultural anchor and a major economic force.

ECONOMIC IMPACT

$550.3 MILLION
TOTAL ECONOMIC OUTPUT

$273.2 MILLION
CONTRIBUTION TO STATE GDP

2024 TAXES PAID
STATE AND LOCAL
$24.7 MILLION

1,817
TOTAL EMPLOYEES

818,350
FANS SERVED

$178.3 MILLION
WAGES AND BENEFITS PAID

4,057
JOBS SUPPORTED

PROFITABILITY

44%
OF STAGES WERE PROFITABLE

In Maine, despite the sector's clear economic impact, **only 44%** of independent stages identified themselves as profitable in 2024, underscoring the urgent need for solutions to ensure their survival and sustainability.

THE STATE OF LIVE

MAINE

THE FIRST ECONOMIC RESEARCH STUDY
OF THE INDEPENDENT LIVE SECTOR

TOURISM BREAKDOWN

$47.2 MILLION
OFF-SITE TOURISM SPENDING

In 2024 alone, fans attending independent shows generated $47.2 million in off-site spending — filling hotel rooms, crowding local restaurants, supporting shops, and tipping drivers.

- **$41.4 MILLION** SPENT ON LODGING
- **$3 MILLION** SPENT AT RESTAURANTS AND BARS
- **$1.5 MILLION** SPENT ON SHOPPING
- **$844,889** SPENT ON GAS, PARKING AND TRANSPORT
- **$315,435** SPENT ON OTHER ENTERTAINMENT AND REC

IMPACT TABLE

Impact Type	Employment	Labor Income	Value Added	Output	Local/County Tax Revenue	State Tax Revenue	Federal Tax Revenue
Direct Effect	1,817	$62.70	$76.10	$198.30	$1.40	$3.30	$11.50
Indirect Effect	1,602	$77.90	$124.00	$235.30	$4.50	$6.80	$17.00
Induced Effect	638	$37.70	$73.20	$116.70	$3.80	$4.80	$9.30
Total Effect	4,057	$178.30	$273.20	$550.30	$9.80	$14.90	$37.70
Multiplier	2.23	2.85	3.59	2.77			

This table shows the full economic ripple effect of Maine's independent live entertainment sector, including the jobs, income, business activity, and tax revenues (in millions of dollars) generated directly by venues and festivals, through their in-state suppliers, and from the additional local spending of workers in those jobs. For the full methodology, see the national report at **stateoflive.org**

NATIONAL OVERVIEW INDUSTRY OPERATIONS SNAPSHOT

41% OF STAGES HAVE SHOWS AT LEAST 4 NIGHTS PER WEEK

94% OF STAGES SELL TICKETS OR CHARGE A COVER TO SHOWS

91% OF VENUES OPERATE YEAR-ROUND

THE AVERAGE VENUE HAS SHOWS **143** DAYS A YEAR

ACROSS ALL STAGES, THE TOP OPERATIONAL CHALLENGES RANKED BY FREQUENCY INCLUDE

1. MARKETING & BRINGING IN AN AUDIENCE
2. ARTIST COSTS RISING DRIVING HIGHER ARTIST FEES
3. STAFFING COSTS
4. INFLATION
5. MONOPOLIES
6. RISING INSURANCE COSTS
7. SCALPERS & PREDATORY RESALE PLATFORMS
8. COST OF RENT AND MORTGAGE
9. UNCAPPED, UNLIMITED PERFORMING RIGHTS ORGANIZATION FEES
10. DECREASING ALCOHOL SALES

My name is Joe Dasco, I am with Reger Dasco Properties with offices at 383 Commercial Street in Portland. We have been developing in Portland for approximately 15 years and in that time have invested over $150 million dollars in downtown Portland. Our investments also include contributions over $1 million dollars paid into the housing fund; we also support the Merril auditorium, The Milestone Clinic and other good causes. My point is, we love this city and we know a little about economic development. However, the city is at a turning point, look around, have you walked down Congress Street lately? Do you like what you are seeing? Established iconic businesses are shuttering their doors, the area is becoming a complete dead zone. Our firm owns the property at 385 Congress Street, the proposed location for the Portland Music Hall. This property has been an eyesore ever since it was closed by the Portland Press Herald many years ago. Hence, the reason I am writing you.

I am writing to express my concerns over the proposed zoning change to increase the distance of the venue entrances from 100 feet to 750 feet. This change does not meet any of the stated goals of the moratorium; nor will it help with the false pretense of alleviating traffic as stated by its sponsor Wesley Pelletier. The increase of 100 to 750 feet is the equivalent of 2-3 city blocks. If there was a real concern about traffic (which the City's own engineer has not cited any regarding performance halls) this small increase in distance is would have no effect what's so ever. However, if we can get real here, we all know the unspoken goal is specifically targeting the applicant to kill the Portland Music Hall. Let's be blunt, you are willing to weaponize the zoning bylaws because you don't like the applicant of the Portland Music Hall. This is discrimination at the highest level. Before 385 Congress, LLC entered into an agreement to sell the property to the applicant, we did our due diligence, which included attending an event at the Live Nation venue in Boston at Fenway Park, which is similar in size to the Proposed Portland Music Hall. That venue is right across the street from the iconic House of Blues, a smaller venue that continues to thrive. Those venues don't compete with each other, they complement each other. I came away with the conclusion that the Portland Music Hall is a great fit for this property, for which there is also a hotel planned and approximately 150 units of additional much needed housing. Yes, there will also be parking for over 300 vehicles. However, I will be honest with you, developers like us are struggling now to make projects work. With the high interest rates, sky rocketing cost of materials and Portland's inclusionary zoning (which was changed 5 years ago to be the most stringent in the country) we find ourselves for the first time without any projects under construction in Portland.

The Portland Music Hall is exactly what Portland needs right now. The project meets all of the current zoning requirements, the applicant is second to none as it relates to their professionalism and they have been more than patient and cooperative in proactively working with the city to address their concerns. Now is the time. The Portland Music Hall will bring in over 100 events annually. That means more overnight guests, more shoppers on the streets, more seats filled in struggling restaurants and more exposure for Portland to out of town guests. The applicant has already agreed to provide a % of their ticket sales to the city, even prior to the recent action taken by the City Council, they have not asked for any waivers or variances and have spent hundreds of thousands of dollars only to have the rules changed in the middle of the game. Think about it. Would you be willing to make an investment in a city knowing that the rules can be changed retroactively?

Lori Paulette <ljn@portlandmaine.gov>

public comment re: ESBA + large venue ordinances

Annie Leahy <annieleahy@mainemechanics.org>
To: edd@portlandmaine.gov, council@portlandmaine.gov

Tue, Nov 18, 2025 at 3:59 PM

17 November, 2025

Dear Councilor Ali and Members of the Housing & Economic Development Committee,

Thank you for the time and care you've dedicated to understanding the impacts of large entertainment venues and for your efforts to support Portland's cultural sector. I also want to recognize Councilors Sarah Michniewicz and Ben Grant for their work on the proposed Trust Fund and Fee for Large-Capacity Venue Licenses.

I am writing to share specific feedback on the ESBA, but also to express a broader concern about how this commitee and the City Council is approaching large-scale cultural issues in ways that feel fragmented, reactive, and insufficient for the challenges before us.

In its current form, the Entertainment Sector Benefit Agreement lacks the strength, transparency, and defined governance needed to meaningfully offset the impact any proposed large scale venue would have on Portland's independent arts ecosystem. The financial contributions are too small to be effective, the funding categories are vague, and there is no clear oversight or meaningful role for the arts community in how those funds would be used.

Layered on top of this is the new proposal to replace the 100-foot separation requirement with a 750-foot buffer for large entertainment venues. While this change may address certain impacts on paper, it represents yet another example of Portland responding to cultural and economic pressures piecemeal. From the PMA expansion to the recent moratorium to the Live Nation proposal, the city keeps adjusting fees, distances, and definitions without establishing a coherent cultural strategy. These are attempts to manage symptoms, not solutions to the underlying issues.

What are we really doing here if every cultural challenge results in another isolated ordinance?

Portland cannot continue legislating cultural policy reactively. What the city truly needs is cultural infrastructure: a Cultural Affairs Department, liaison, or dedicated office capable of stewarding a long-term vision, coordinating across departments, ensuring transparency, and giving the arts community a meaningful voice in decisions that shape its future. Without this, we will continue to miss the opportunity for real, lasting cultural stability and possibility.

I urge the committee to broaden the conversation beyond incremental fixes and to establish a cultural framework that truly supports and protects Portland's creative community, acknowledging the real fatigue across the arts district around how these issues are handled, while also harnessing the strong, shared desire to contribute, collaborate, and help guide meaningful improvements for the city's cultural future.

Thank you for your commitment and service.

Annie Leahy

Annie Leahy
Executive Director
she/her/hers

Mechanics' Hall
519 Congress Street
Portland, ME 04101
o.207.810.7083, Ext. 100
m. 917.544.9499
mainemechanics.org

City of Portland | Housing and Econ. Development Dept.
Gregory P. Watson, AICP, Director

To: Housing and Economic Development Committee
Councilor Pious Ali, Chair

MEETING DATE
February 3, 2026

AGENDA ITEM
Portland Technology Park

PURPOSE
Review and Possible Vote to recommend City Council approval of Purchase and Sale Agreement with Carassas Holdings, LLC, for Unit 1 at Portland Technology Park

COMMITTEE WORK PLAN/CITY COUNCIL GOAL ALIGNMENT
This item supports the City Council common goal to strengthen economic vitality and support local businesses.

BACKGROUND/ANALYSIS
Based on guidance from the Committee at its October 21, 2025 meeting, staff have moved forward with negotiating the terms of selling condo Unit 1 of the Portland Technology Park.

- The Portland Technology Park is a 26-acre parcel located near the Maine Turnpike, just off Rand Road. With funding from the United States Economic Development Administration, infrastructure and utilities were installed in 2013.

- In 2016, the City created a seven-site land condominium, and sold Unit 4 to Patron's Oxford Insurance Company. The remaining six sites are undeveloped.

- The City received a letter of intent from a prospective purchaser in July, 2025, and sought guidance from the Committee at the October 21, 2025 meeting.

- Based on that guidance, staff are requesting Committee review and possible vote to recommend City Council approval of the Purchase and Sale Agreement.

- The prospective purchaser intends to develop the site into a flexible incubator space featuring finished office space, private bathrooms, and drive-in doors.

FISCAL IMPACT
The revenue from this sale will be $200,000.

CONCLUSION
Staff recommend approval of the attached Draft Purchase and Sale Agreement. The sale of this condo unit will yield direct revenue benefits to the City, and will also create much-needed light industrial spaces for Portland businesses, contributing to the economic vitality of the City.

PRIOR COMMITTEE REVIEW

Housing and Economic Development Committee - October 21, 2025

PREPARED BY

Greg Watson
Director
Housing and Economic Development Department

ATTACHMENTS

Attachment A -Draft Purchase and Sale Agreement

PURCHASE AND SALE AGREEMENT

THIS PURCHASE AND SALE AGREEMENT made this **______** day of **____________**, 2026 (the "Effective Date") is by and between the **CITY OF PORTLAND,** a body politic and corporate with a mailing address of 389 Congress Street, Portland, Maine 04101 (hereinafter referred to as "Seller" or "City"), and **CARASSAS HOLDINGS LLC and/or assigns**, a Maine Limited Liability Company, with a mailing address of 39 Immersion Driver, Scarborough, Maine 04074 (hereinafter referred to as "Buyer").

WITNESSETH

WHEREAS, Seller owns an approximately 3.47 acre parcel of land located at the Portland Technology Park, City of Portland, County of Cumberland, State of Maine, being known as Unit 1, LCE For Unit 1 on that certain Condominium Plat of Portland Technology Park Condominium, Rand Road, Portland, Maine dated March 9, 2016, prepared by SGC Engineering, LLC for the City of Portland – Declarant and recorded in the Cumberland Registry of Deeds on March 10, 2016, in Plan Book 216, Page 62 (the "Condominium Plat," a copy of which is attached hereto as Exhibit A and made a part hereof), and that certain Second Amended Subdivision Plat of Portland Technology Park Condominium dated March 8, 2016, prepared by SGC Engineering, LLC for the City of Portland approved by the City of Portland Planning Board on December 8, 2015 and recorded in the Cumberland County Registry of Deeds on March 10, 2016 in Plan Book 216, Page 63 (the "Subdivision Plat," a copy of which is attached hereto as Exhibit B and made a part hereof), and being further described as Unit 6 and Unit 7 of the condominium known as the Portland Technology Park Condominium, of which the Seller is the declarant as described in that certain Declaration of Condominium for the Portland Technology Park Condominium recorded in the Cumberland County Registry of Deeds on March 10, 2016, Book 32969, pages 97 as amended by a Certificate of Amendment To The Bylaws Of The Portland Technology Park Condominium Association dated December 14, 2018, recorded in the Cumberland County Registry of Deeds Book 35373, Page 323 (collectively, the "Declaration of Condominium"), together with all improvements, fixtures and rights appurtenant thereto, all as more particularly shown and depicted on Exhibit A (the "Property"). Title reference is made to a deed from Simon A. Snyder et alia to the City of Portland dated December 7, 1999 and recorded in the Cumberland County Registry of Deeds, Book 15211, Page 31; and

WHEREAS, Seller intends to sell the Property, and Buyer desires to acquire the Property and to construct on the Property a 20,000 square foot commercial building to use as a multi-tenanted warehouse/light industrial building ("Buyer's Development").

NOW, THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties, intending to be legally bound, hereby agree as follows:

1. SALE.

Seller agrees to sell the Property, and Buyer agrees to purchase the Property in accordance with the provisions hereof. It is hereby agreed and acknowledged that the actual description of the Property shall be determined based on the title and related due diligence work to be completed by Buyer pursuant to this Agreement and that such description shall be subject to Buyer's and Seller's final review and approval before including the same in the Deed (as that term is defined below) to be delivered by Seller to Buyer as set forth and described below.

2. CONSIDERATION.

The consideration for the property shall be Two Hundred Thousand Dollars ($200,000.00) ("Purchase Price"), payable as follows:

(a) A deposit of Ten Thousand Dollars ($10,000.00) to be paid by Buyer within two (2) business days of the Effective Date and held in escrow by Buyer's agent, Nate Stevens of The Boulos Company (the "Escrow Agent"), until closing and applied to the Purchase Price (or, if applicable, until returned to Buyer pursuant to this Agreement) (the "Deposit"); and

(b) The Purchase Price, less the Deposit and any Extension Payments (defined below) to be paid by Buyer to Seller at closing by wire transfer, subject to the adjustments provided for in this Agreement.

3. TITLE AND DUE DILIGENCE.

a. Due Diligence Period. Buyer will have from the Effective Date until 4:00 PM on the day that is one hundred twenty (120) days after the Effective Date (the "Due Diligence Period") to complete any surveys, environmental review, inspections, and title examinations, and to obtain any site plan approvals, and any other permits and regulatory approvals required for the construction of Buyer's Development. Upon satisfactory completion of Due Diligence Period, buyer shall pay Ten Thousand Dollars ($10,000) as additional Earnest Money Deposit.

b. Provided that Buyer is conducting its due diligence in good faith, Buyer shall have the right to one (1) thirty (30) day extension of the Due Diligence Period.

c. Permitting Period. Buyer will have from the satisfactory completion of the Due Diligence Period, one hundred twenty (120) days to obtain all discretionary and administrative permits and approvals (the "Required Permits") for their intended development on the site.

d. Buyer may extend the Permitting Period for one additional sixty (60) day period by written notice to Seller given prior to the expiration of the Permitting Period. If Buyer extends the Permitting Period, Buyer will pay Ten Thousand Dollars ($10,000) as additional Earnest Money Deposit (the "Extension

Deposit") in escrow within two (2) business days of the expiration of the Permitting Period.

e. Deed. Seller shall convey the Property to Buyer at the closing in fee simple by municipal quitclaim deed with good and insurable title, subject to: (a) easements, privileges, restrictions, conditions, development rights, special declarant rights, and agreements created by or referred to in the Declaration of Condominium, as well as the matters shown or disclosed on the Condominium Plat and the Subdivision Plat, as may be amended; (b) provisions of (i) the Maine Condominium Act, and all amendments thereto; and (ii) the Declaration of Condominium, the bylaws and the plats and plans for The Portland Technology Park Condominium Association and all amendments or modification thereto; (iii) building, zoning and land use ordinances; (c) all restrictions required because the roadway serving the Portland Technology Park Condominium (including the Property), which roadway will continue to be owned by the Seller, was improved, in part, with funding from the United States Economic Development Administration (EDA), United States Department of Commerce, a copy of which restrictions is attached hereto as Exhibit C; and (d) such taxes and assessments, including common expenses allocable to the Property, if any, as are due and payable on the date of delivery of the Deed. At the closing, Seller shall execute and deliver to Buyer, against payment of the balance of the purchase price, a Municipal Quitclaim Deed without Covenant (the "Deed"). Further, Buyer acknowledges that the deed shall contain a restriction stating that in the event that the Property or any portion thereof shall be exempt from real and personal property taxes, by transfer, conversion, or otherwise, then the then-owner of the exempt portion shall make annual payments to the City in lieu of taxes in the amount equal to the amount of property taxes that would have been assessed on the exempt portion of the real and personal property situated on the Property had such property remained taxable.

f. Title and Survey Objections. Buyer will have until the end of the Due Diligence Period to deliver to City any written objections to title, environmental, or survey matters (other than the permitted exceptions identified herein) that materially affect insurability or use. Objections not made prior to the end of the Due Diligence Period will be deemed waived; provided, however, that objections pertaining to matters of record first appearing after the end of the Due Diligence Period may be made at any time prior to the closing.

g. Option to Cure. In the event of a title or survey objection, City will have the option, but not the obligation, to cure the objection and will notify Buyer of its election within ten (10) business days after receipt of the objection. In the event that the City elects to cure the objection, it will have sixty (60) days from the date of the notice of election, or such other reasonable time as the parties may agree, to cure the objection. In the event that the City does not elect to cure the objection, or, having elected to cure the objection fails to timely do so to Buyer's reasonable satisfaction, Buyer will have the option to (1) terminate this Agreement and obtain a refund of the Deposit (after which neither party will have any further obligation or liability to the other under this Agreement), (2) waive the objection and close, or (3) undertake the cure of such objection at its own expense (in which case it shall have 60 days to do so).

4. INSPECTIONS

a. During the Due Diligence Period, Buyer and its employees, consultants, contractors and agents shall have the right, at Buyer's expense, to enter on the Property at reasonable times in order to (i) inspect the same, (ii) conduct engineering studies, percolation tests, geotechnical exams, environmental assessments, and other such studies, tests, exams, and assessments, and (iii) do such other things as Buyer determines, it is sole discretion, to be required to determine the suitability of the Property for Buyer's intended use (collectively, the "Inspections"). The City acknowledges that such Inspections may include the digging of test pits, which the City hereby approves.

b. Buyer agrees to defend, indemnify and hold harmless the City against any mechanics liens that may arise from the activities of Buyer and its employees, consultants, contractors and agents on the Property.

c. Buyer shall exercise the access and inspection rights granted hereunder at its sole risk and expense, and Buyer hereby releases the City from, and agrees to indemnify, defend, and hold harmless the City against, any and all losses, costs, claims, expenses and liabilities (including without limitation reasonable attorney fees and costs) (collectively, "Damages") suffered by the City on account of any injury to person or damage to property arising out of the exercise by Buyer of its rights hereunder, except to the extent that such Damages result from the act or omission of the City.

d. Buyer shall cause any contractors, consultants or any other party conducting the Inspections to procure automobile insurance, if applicable, and commercial general liability insurance coverage in amounts of not less than Four Hundred Thousand Dollars ($400,000.00) per occurrence for bodily injury, death and property damage, listing the City as an additional insured thereon, and also Workers' Compensation Insurance coverage to the extent required by law; the forms of all such insurance to be subject to City's Corporation Counsel's reasonable satisfaction.

e. In the event that Buyer does not purchase the Property, Buyer agrees to either return the Property as nearly as possible to its original condition after conducting the Inspections; provided, however, the City hereby acknowledges and agrees Buyer shall have no obligation to clean-up, remove or take any other action with respect to any disturbance of any pre-existing environmental contamination on the Property caused by such inspections, studies, tests, exams, and assessments, and that Buyer shall have no obligation to clean-up, remove or take any other action with respect to any pre-existing environmental contamination disturbed thereby.

f. The parties hereto acknowledge and agree that it is a condition to Buyer's obligations under this Agreement that the results of the Inspections be acceptable to Buyer in its sole discretion. If the results of such due diligence are not acceptable to Buyer in its sole discretion, and if Buyer exercises its right to terminate this Agreement, Buyer will be entitled to a refund of the Deposit, and neither party shall have any further obligations or liabilities under this Agreement except as expressly set forth in this Agreement.

5. REAL ESTATE TAXES, PRORATIONS AND TRANSFER TAX.

Buyer shall be liable for all real estate taxes beginning, as of the closing date and continuing thereafter. Because the Property is currently owned by the City of Portland, which is exempt from real estate taxes, no taxes will be assessed for the fiscal year during which the closing occurs and no taxes will be prorated at the closing, provided, however, that any assessments and utilities for the Property shall be prorated as of the closing. The Maine real estate transfer tax shall be paid by Buyer in accordance with 36 M.R.S.A. § 4641-A. Seller is exempt from paying the transfer tax pursuant to 36 M.R.S.A. § 4641-C. The recording fee for the deed of conveyance and any expenses relating to Buyer's financing or closing shall be paid for by Buyer.

6. RISK OF LOSS.

The risk of loss or damage to the Property by fire or otherwise, until transfer of title hereunder, is assumed by the Seller. The Property is to be delivered in substantially the same condition as of the date of this Agreement unless otherwise stated. In the event Seller is not able to deliver the Property as stated, Buyer may terminate this Agreement and receive a refund of the Deposit.

7. PROPERTY SOLD "AS IS, WHERE IS."

Buyer acknowledges that Buyer has had an opportunity to inspect the Property, and to hire professionals to do so, and that the Property will be sold "as is, where is" and "with all faults." City, and its agents, make no representations or warranties with respect to the accuracy of any statement as to boundaries or acreage, or as to any other matters contained in any description of the Property, or as to the fitness of the Property for a particular purpose, or as to development rights, merchantability, habitability, or as to any other matter, including without limitation, land use, zoning and subdivision issues or the environmental, mechanical, or structural condition of the Property. Acceptance by Buyer of the Deed at closing and payment of the purchase price shall be deemed to be full performance and discharge by the City of every agreement and obligation contained herein.

8. CLOSING.

Time is of the essence in the performance of this agreement. The closing shall be held at the offices of Buyer's counsel at a time agreeable to the parties on or before the day that is within thirty (30) days after the end of the Permitting Period (the "Closing Date"). At the Closing:

a. the City shall execute, acknowledge and deliver to Buyer a municipal quitclaim deed without covenant conveying to Buyer good and insurable title to the Property, free and clear of all encumbrances except as otherwise set forth herein.

b. Buyer shall deliver the Purchase Price to the City.

c. Each party shall deliver to the other such other documents, certificates and the like as may be required herein or as may be necessary to carry out the obligations under this Agreement.

d. Buyer shall deliver evidence, reasonably satisfactory to City's Corporation Counsel, that the entity receiving title to the Property is in good standing under Maine law, and that the individuals acting at Closing and executing documents on behalf of Buyer are authorized to do so.

9. **DEFAULT AND REMEDIES**.

a. In the event of Buyer's default under any of the terms, covenants or conditions of this Agreement, Seller shall have the right to retain the Deposit, any Extension Payments, and any interest accrued thereon as aforesaid as liquidated damages for the breach and not as a penalty therefor. The Buyer and Seller acknowledge and agree that (i) it is not feasible to determine accurately the measure of damages that will be caused to Seller by the Buyer's breach because the uniqueness of the Property at its location preclude the utility of comparable figures to determine the extent of damages and (ii) that the amount stated as liquidated damages is agreed to reasonably forecast the amount necessary to compensate Seller for its loss in the light of the circumstances stated in clause (i) and the attendant uncertainties in marketing the Property to another purchaser.

b. In the event that Seller fails to close hereunder for a reason other than the default of Buyer, Buyer may, as its sole remedy therefor, and subject to the terms of this paragraph, either (i) enforce specific performance of this Agreement against Seller, or (ii) terminate this Agreement and receive the Deposit and the Extension Payments, plus any interest earned or accrued thereon.

10. SELLER'S RIGHT TO REPURCHSE

If Buyer does not commence construction of Buyer's Development within 18 months after the Closing Date, Seller shall have the right, but not the obligation, to repurchase the Property at the Purchase Price. Upon Seller's exercise of its right to repurchase the Property, Buyer shall convey the Property to Seller free and clear of all mortgages, liens, and other encumbrances, except as set forth in the Condominium Plat, the Condominium Declaration, and the Subdivision Plat. This right to repurchase shall be assignable by the City. The provisions of this Section 11 will survive closing and will be included in greater detail in the City's deed to Buyer or in a Declaration of Covenants, Conditions and Restrictions executed before or at the time of Closing, which shall be recorded in the Cumberland County Registry of Deeds.

11. <u>BINDING EFFECT.</u>

This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, administrators, successors and assigns.

12. <u>ENTIRE AGREEMENT.</u>

This Agreement represents the entire and complete Agreement and understanding between the parties and supersedes any prior agreement or understanding, written or oral, between the parties with respect to the acquisition or exchange of the Property hereunder. This Agreement cannot be amended except by written instrument executed by Seller and Buyer.

13. <u>HEADINGS AND CAPTIONS.</u>

The headings and captions appearing herein are for the convenience of reference only and shall not in any way affect the substantive provisions hereof.

14. <u>GOVERNING LAW.</u>

This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of Maine. The parties consent to the exclusive jurisdiction of the Superior Court for the County of Cumberland in the State of Maine, for all actions, proceedings, and litigation arising from or relating directly or indirectly to this Agreement or any of the obligations hereunder, and any dispute not otherwise resolved as provided herein shall be litigated solely in said Court.

15. <u>NOTICE.</u>

Any notice required or permitted under this Agreement shall be deemed sufficient if mailed with first class postage affixed or delivered in person to:

FOR THE SELLER:	City of Portland <u>Attention:</u> City Manager 389 Congress Street Portland, ME 04101
FOR THE BUYER:	Carassas Holdings, LLC 39 Immersion Drive Scarborough, ME 04074

Either party may change their address for purposes of this paragraph by giving the other party notice of the new address in the manner described herein.

16. <u>SIGNATURES; MULTIPLE COUNTERPARTS.</u>

This Agreement may be executed in any number of counterparts and by different parties in separate counterparts. Each counterpart when so executed shall be deemed to be an original and all of which together shall constitute one and the same agreement. A signature in a faxed, pdf or other reproduced or electronic document shall be considered the equivalent of an original signature.

17. BROKERS.

Seller and Buyer each represents and warrants that neither has dealt with a real estate broker in connection with this transaction, other than that Seller has been represented by Nate Stevens of The Boulos Company, and that Buyer has been represented by Jon Rizzo of The Boulos Company. Nate Stevens' commission will be paid by Seller pursuant to the terms of a separate agreement between Seller and The Boulos Company, and Jon Rizzo's commission will be paid by Nate Stevens. Buyer agrees to indemnify and hold harmless Seller from any claims made by any broker should Buyer's representation in this paragraph be false. Subject to and limited by the defenses, immunities and limitations of damages available to the Maine Tort Claims Act, Seller agrees to indemnify and hold harmless Buyer from any claims made by any broker should Seller's representation in this paragraph be false. The foregoing indemnities shall include all legal fees and costs incurred in defense against any such claim, and shall survive closing.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals on the day and year first above written.

CITY OF PORTLAND

___________________ By:_____________________________
WITNESS
Danielle P. West
Its City Manager

CARASSAS HOLDINGS LLC

________________________________ By:_____________________________
WITNESS
Name: ___________________
Its: ________________________

Exhibit A
[See Attached Condominium Plat]

Exhibit B

[See Attached Subdivision Plat]

Exhibit C

COMPLIANCE WITH EDA RESTRICTIVE COVENANTS

The Seller and Buyer acknowledge that the Property was improved, in part, with funding from the United States Economic Development Administration (EDA), United States Department of Commerce, EDA Project Number 01-01-08630 and is subject to the terms and conditions of the EDA financial assistance award. Consequently, all recipients or owners and/or their successors and assigns, agree as follows:

Real Property or tangible Personal Property improved with EDA Investment Assistance must be used in a manner that is consistent with the authorized general and specific purposes of the Award, in this case, commercial purposes and EDA policies concerning adequate consideration and environmental compliance; and any applicable provisions of 13 CFR §314. It may not be used in violation of the nondiscrimination requirements set forth in 13 C.F.R. §302.20 or for inherently religious activities prohibited by applicable federal law.

Buyer agrees to provide Seller and/or EDA with any document, evidence or report required to assure compliance with federal and state law, including, but not limited to, applicable federal and state environmental laws.

The use of the Property, (improved with EDA assistance), for any purpose other than the authorized purpose of the EDA grant, which in this case is commercial uses, is prohibited. This covenant shall remain in effect for a period of twenty (20) years.

THE BOULOS COMPANY

FOR LEASE

INCUBE - 50 DYNAMIC DRIVE

INNOVATION DISTRICT AT THE DOWNS, SCARBOROUGH

PROPERTY **DETAILS**

OWNER	MRW Development, LLC
AVAILABLE SPACES	Unit 2: 1,500± SF Unit 3: 2,000± SF Unit 4: 1,500± SF Can be combined for 5,000± SF
DATE AVAILABLE	October 1, 2024
CEILING HEIGHT	20' - 24'
DOCKS/DOORS	One (1) 10'x16' drive-in door per unit
OFFICE SF	125± SF to 140± SF
ZONING	Crossroads Planned Development (CPD)
ELECTRICAL	200 AMP service per unit
ACREAGE	1.13± acres
BUILDING SIZE	18,000± SF
CONSTRUCTION	Butler Building
PARKING	Three (3) spaces per unit
WATER MAIN	6" fire 2" domestic
SEWER	6" Main
OFFICE AREA HVAC	Mini split heating/cooling
WAREHOUSE AREA HVAC	Gas fired unit heater
ROOF	Standing seam metal
LIGHTING	LED office & warehouse
SPRINKLER	Fully sprinkled wet/dry system
LEASE RATE	$15.00/SF NNN
ESTIMATED NNN EXPENSES	$4.42/SF NNN

PROPERTY **HIGHLIGHTS**

- Three (3) industrial units for lease.
- One finished office and bathroom per unit.
- Access to fiber optics and high-speed broadband.
- Excellent location within Innovation District at The Downs (within one mile of Exit 42 on I-95).
- Area businesses include AV Technik, IDEXX Laboratories, Mainely Tubs, Pride Storage Solutions, Throttle Car Club, Costco, Crown Lift Trucks, and many more!

THE BOULOS COMPANY

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City of Portland | Housing and Economic Development Department
Housing and Community Development Division
Mary P. Davis, Division Director

To: Councilor Ali, Chair
Members of the Housing and Economic Development Committee

MEETING DATE: February 3, 2026

AGENDA ITEM
Review and recommendation to the City Council of the 2026-2027 Housing Program Budget.

PURPOSE
The Housing and Economic Development Committee recommends the Housing Program Budget to the City Council for final approval.

COMMITTEE WORK PLAN/CITY COUNCIL GOAL ALIGNMENT
Council Goal 2: Housing Affordability
"Implement solutions to the housing crisis, including building more working-class housing…"

BACKGROUND/ANALYSIS
HOME Program: The Home Investments Partnerships Program (HOME) was established by Congress in 1992. Since 1992, the City of Portland and the Cumberland County HOME Consortium have received over $27.7 million dollars in HOME funding. In 2009 the City became the lead entity in the Cumberland County HOME Consortium (CCHC). The Consortium is a partnership of the communities in Cumberland County that administers HOME Program funds in Cumberland County. The creation of the consortium expanded the financial resources for affordable housing activities in the region. The City retains independent operation of its HOME program. Because the City serves as the "Lead Entity" and City staff administers the County portion of the funding, all administrative funds are retained by the City. The County's Municipal Oversight Committee controls the allocation of the County's portion of the HOME funds.

When the Consortium was formed in 2009, it included a "hold harmless" clause to ensure that the City, as an existing HOME grantee, would continue to receive funding equal to its allocation prior to the formation of the consortium. The "hold harmless" formula was based on a comparison ratio to the HOME funding for the Lewiston/Auburn (L/A) Consortium. The formula identified Portland's "hold harmless" amount at 118% of the HOME allocation for the L/A Consortium. The Cumberland County HOME Agreement did allow for adjustments to be made if the current level of funding to the L/A HOME Consortium varied from historic levels. Over the years the L/A allocation has decreased which has resulted in the Portland "hold harmless" amount to decrease. As a result, by agreement with the other members of the CCHC, the annual allocation is divided with 57% of the allocation, after the administrative set-aside, to the City and 43% of the allocation to the County.

As a point of reference, if the City were a stand-alone grantee, the estimated HOME allocation for Portland (using a HUD HOME Allocation estimated calculation) would be approximately $528,440. Of that amount 10% would be set aside for administrative costs ($52,844) leaving $475,596 for program funding. Under the current consortium agreement, the city receives the administrative set-aside ($80,065) along with approximately $410,736 in program funds. These amounts are based on the HUD allocation only and do not include any program income. Participation in the HOME consortium benefits Portland as well as the county as a whole.

HUD has not announced the allocation amount for FY 2026-2027. Since we do not have the final allocation amounts, we are estimating the HUD HOME allocation at the same level as the 2025-2026 year ($800,654). $309,853 is reserved for County projects. The budget proposal was developed after a historical review of HOME funding allocations, previous year's budget allocations, program expenditures and program income (loan repayments) received. Currently, the City's HOME Program is divided into three funding categories:

1. Administration
2. Tenant Based Rental Assistance (TBRA)
3. Affordable Housing Development [including the required Community Housing Development Organization (CHDO) set-aside mandated by HUD]

HOME Program Budget	FY 2025-2026 Budgeted (entitlement + program income)	**FY 2026-2027 Budget proposal (entitlement)**
Administration	$87,959	$80,065
Tenant Based Rental Assistance	$136,392	$136,392
Affordable Housing Development includes CHDO requirement	$274,344	$274,344

LEAD SAFE HOUSING (Program Income): Lead Safe Housing Program Income is generated through repayment of loans given under prior Lead Safe Housing Grants. These funds can only be used for lead safe housing eligible activities. The City recently received a Lead Hazard Reduction Grant of $2,619,960 (over 48 months 2/1/2025-2/1/2029) in funding for lead paint remediation and $748,000 in funding to assist with code and life safety improvements.

Lead Safe Housing Program Income	FY 2025-2026 Budgeted	**FY 2026-2027 Budget Proposal**
	$22,744	$1,125

JILL C. DUSON HOUSING TRUST FUND: Revenue for the Jill C. Duson Housing Trust Fund is primarily generated from fees triggered by the City's Housing Preservation and Replacement Ordinance, fee-in-lieu contributions from the Inclusionary Zoning Ordinance and Hotel Inclusionary Zoning fee. Including the current balance of the Housing Trust Fund in the Housing Program Budget gives budget authority for the use of the funds. The amount budgeted is the maximum that might be expended in FY27. Staff continues to recommend maintaining a minimum balance in the Housing Trust. The current balance in the Housing Trust Fund is $2,489,361, while the effective budget would be $1,989,361 ($2,489,361 less $500,000.)

Jill C. Duson Housing Trust Fund (HTF) Budget	FY 2025-2026 Budgeted	**FY 2026-2027 Budget Proposal**
	$863,559	$2,489,361

FISCAL IMPACT
The annual housing program budget does not include general fund revenue. The sources included in the annual housing program budget include estimated Federal HOME Investment Partnership Program funding, current funding available in the Jill C. Duson Housing Trust Fund and Lead Safe Housing program income.

CONCLUSIONS
The proposed Housing Program Budget is being brought forward now to facilitate the release of the City's Affordable Housing Development and TIF Application and its incorporation into the HUD Annual Action Plan.

We anticipate the budget will be adjusted once HUD announces the final fiscal year allocations for the HOME Program. This is dependent on the Federal FY26 THUD appropriation bill, which, at the time of drafting, had passed the U.S. House as part of a larger spending package. That bill recommends level funding for both the Community Development Block Grant (CDBG) Program and the HOME Program. However, the spending package is currently stalled in the Senate, which could potentially lead to another federal government shut-down.

This budget will be forwarded to the full City Council for two Public Hearings, scheduled for March/April, as part of the overall HCD budget and the HUD Annual Action Plan. While the final budget and Annual Action Plan are typically due to HUD 45 days before the start of the fiscal year (May 15 for the FY beginning July 1, 2026), HUD will only accept the submission after the federal budget is approved and the official funding award amounts have been released.

Staff is requesting an approval and recommendation to the City Council of the FY 26/27 Housing Program Budget as outlined above and summarized in the attached spreadsheet. If the HUD allocation amount is different from the estimate used in this budget, program budgets will be adjusted accordingly.

RECOMMENDATION

Motion to recommend to the City Council approval of the FY2026-2027 Housing Program Budget as presented by staff.

PRIOR COMMITTEE REVIEW in 2026 – N/A

PREPARED BY
Mary Davis
Division Director, Housing and Community Development Division

ATTACHMENTS - Attachment A: FY 2026-2027 Proposed Housing Program Budget

2026-2027 HOUSING PROGRAM BUDGET

DRAFT 01.23.2026

Total HUD HOME Entitlement Allocation	800,654	Recommended by HEDC (X-X) xx.xx.2026
Portland Program Portion	410,736	Approved by Council xx.xx.2026
Portland Admin Portion	80,065	**HUD Allocation Date: xx.xx.2026**
County Program Portion	309,853	

REVENUES- Housing Programs	***HOME***	***LEAD Safe Housing Program Income***	***Housing Trust Fund***	***TOTAL BUDGET***
2026-27 HOME Consortium Admin (10% of allocation)	80,065			*80,065*
2026-27 HOME Consortium Programming	410,736			*410,736*
2025 Calendar Year HOME Program Income*	59,623			*59,623*
2025 Calendar Year HOME Program Income Recaptured Funds*	76,140			*76,140*
2025 Calendar Year HOME Program Income and Recapture Deduction for County*	-135,763			*-135,763*
2025-26 Housing Trust Fund			2,489,361	*2,489,361*
2025 Lead Safe Housing Program Income		1,125		*1,125*
REVENUE TOTALS (Portland)	490,801	1,125	2,489,361	***2,981,287***

*For FY27 budget PI & Recapture based on actuals from Jan -Dec 2025

2026-27 HOUSING Budget by Activity (Portland)	***HOME***	*Housing*	*Housing Trust Fund*	***TOTAL BUDGET***
Administration 243027QQ01 (does not includes 10% of PI)	80,065			*80,065*
Tenant-Based Rental Assistance 443026QT01	136,392			*136,392*
Affordable Housing Development 243027QA00	205,888		2,489,361	*2,695,249*
CHDO 243027QA00	68,456			*68,456*
Lead Safe Housing 243019PLL1 (PLL036)	0	1,125		*1,125*
EXPENDITURE TOTALS (Portland)	490,801	1,125	2,489,361	***2,981,287***

2026-27 HOME Consortium COUNTY - approved by MOC on xx.xx.2026

County HOME Program budget provided for reference only; adjusted for final HUD Allocation xx.xx.2026

Allocation of County funds is done by the County's Municipal Oversight Committee

REVENUES- Housing Programs	***HOME***
2026-27 HOME Consortium Non-Portland Programming	309,853
2025 HOME County Program Income and Recapture	135,763
Unexpended Prior Year Balance	0
	445,616

2026-27 HOUSING Budget by Activity	***HOME***
Affordable Housing Development 243027QC00	393,974
CHDO 243027QC00	51,642
	445,616

City of Portland | Housing and Economic Development Department
Housing and Community Development Division
Mary P. Davis, Division Director

To: Councilor Ali, Chair
Members of the Housing and Economic Development Committee

MEETING DATE: February 3, 2026

AGENDA ITEM

Review and Recommendation: a. City Council Approval of the 2026 Jill C. Duson Housing Trust Fund Annual Plan; and b. Committee Approval of the 2026 Affordable Housing Development and Tax Increment Financing Application

PURPOSE

Staff is seeking (1) a recommendation from the Housing and Economic Development Committee (HEDC) to forward the 2026 Jill C. Duson Housing Trust Fund (JCD HTF) Annual Plan to the City Council for approval, and (2) Committee approval of the 2026 Affordable Housing Development and Tax Increment Financing Application (AHDTIF).

COMMITTEE WORK PLAN/CITY COUNCIL GOAL ALIGNMENT

Increase, and modify the overall supply of housing city-wide to meet the needs, preferences and financial capabilities of all Portland residents.

BACKGROUND/ANALYSIS

As discussed during the January 20, 2026 meeting of the HEDC, City Staff is not recommending any changes to the JCD HTF Annual Plan and the AHDTIF Application for 2026.

Amendments made to the application in 2025 will be included in the 2026 application. The 2025 amendments are noted below:

- Applicants must have Planning Board approval before applying.
- Projects requesting HOME and/or Housing Trust funding must have a Notice of Award from MaineHousing before applying.
- A process for addressing applications deemed incomplete
- A requirement to reimburse the City for all legal and financial underwriting fees associated with Housing Trust funding and Affordable Housing TIF requests.

2025 Funding priorities will be carried over in the 2026 JCD HTF Annual Plan and the AHDTIF Application. The priorities include:

- Priority use of HOME Program funds for developments that provide rental housing units to households earning at or below 50% of the area median income ($64,900 for a four-person household).

- Priority use of Housing Trust Funds for public/private partnerships that create workforce housing units affordable to households earning up to 100% of the area median income ($129,800 for a four-person household) with preference for households earning 80% of the area median income ($103,850 for a four-person household) and below.
- Shovel ready projects with mixed income targeting and a mix of bedroom sizes, including family-size units of 3+, strongly encouraged.
- Priority use of Affordable Housing Tax Increment Financing (AHTIF) for projects receiving assistance through the Low-Income Housing Tax Credit Program (LIHTC) or projects that create housing units affordable to households earning up to 80% of the area median income with preference for households earning 50% of the area median income or below.

FISCAL IMPACT – N/A

CONCLUSIONS

Staff requests two items: a recommendation to the City Council to approve the 2026 Jill C. Duson Housing Trust Fund Annual Plan, and HEDC approval of the 2026 Affordable Housing Development and Tax Increment Financing Application.

If the HEDC votes to recommend to the City Council the 2026 Jill C. Duson Housing Trust Fund Annual Plan, it will be submitted for inclusion on the February 23rd City Council Agenda.

The 2026 Affordable Housing Development and Tax Increment Financing (AHDTIF) Application is expected to be released to the public by February 27, 2026, pending approval by the Housing and Economic Development Committee (HEDC). Because both the HEDC and City Council review and approve all funding requests received through the AHDTIF Application, City Council approval is not required before the application is made available to the public.

PRIOR COMMITTEE REVIEW: January 20, 2026

PREPARED BY
Mary Davis, Division Director
Heidi McCarthy, Housing Program Manager
Housing and Community Development Division

ATTACHMENTS
2026 Jill C. Duson Housing Trust Fund Annual Plan
2026 Affordable Housing Development and Tax Increment Financing Application

JILL C. DUSON HOUSING TRUST FUND
2026 ANNUAL PLAN

The Jill C. Duson Housing Trust Fund (also referred to as Housing Trust Fund or HTF) is established by Chapter 14, Section 17.3.1 of the City's Land Use Code Section 17.3.4 states that "each fiscal year the City Council shall adopt a housing trust fund annual plan" and that 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."

The Annual Plan establishes the priorities in which the current balance of the Housing Trust Fund would be allocated and should be in conformity with the 2026 City Council Common Goals.

2026 ANNUAL PLAN

City Ordinance requires that the Jill C. Duson Housing Trust Fund Annual Plan include a description of funding priorities, the amount of funds budgeted, and a description of how funds will be distributed among very-low, low, and moderate-income households.

Funding Budget

The funding budget is based on the balance in the Housing Trust Fund as of December 10, 2025. It has been the City Council's practice to maintain a minimum balance of $500,000 in order to have resources to act quickly when there is an emergency, such as a need to cure a potential mortgage default that could result in loss of an affordable unit. This right to cure will be included in the affordable housing covenants that are recorded in the Cumberland County Registry of Deeds for each affordable unit.

The funding available from the Jill C. Duson Housing Trust Fund is **$1,989,361.45 ($2,489,361.45 less $500,000 minimum balance)**. **See Attachment 2.**

Funding Priorities

Housing Trust Fund resources should focus on opportunities where other funding sources do not work or are not effective, such as projects designed to create housing affordable to households earning at or below 80% to 120% of the area median income (i.e. $103,850 to $155,750 for a four person household), or projects designed to create housing affordable to households earning up to 50% of the area median income (i.e. $64,900 for a four person household).

Priority use of Housing Trust Funds would be to support creating workforce housing units affordable to households earning at or below 100% of the area median income.

Funding Distribution

Housing Trust Funds will be distributed through a competitive application process. The *Affordable Housing Development and Tax Increment Financing Application* will be issued, at a minimum, on an annual basis to notify potential applicants that the application is available. Applications will be reviewed by an evaluation team of City of Portland staff who will evaluate and score each application utilizing the scoring factors outlined in Attachment #1 as well as the 2026 City Council Common Goal requirement to use an equity analysis in order to recommend the most qualified applicant based on the information submitted.

Recommendations will be forwarded to the City Council's Housing and Economic Development Committee for review. Housing and Economic Development Committee recommendations will be forwarded to the City Council for final review and approval.

Goals for Distribution

The goal for the distribution of these funds is for the "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." (Chapter 14 Section 17.3.1.B of the Land Use Code)[1]. Development should be consistent with the Annual City Council Common Goals, the City's Comprehensive Plan, and the HUD Five-Year Consolidated Plan. The City of Portland seeks development projects that create contextually appropriate housing density in and proximate to neighborhood centers, concentrations of services, and transit nodes and corridors as a means of supporting complete neighborhoods. Resolution of any zoning issues is required before City Council approval of the applicants funding request. Developments should incorporate quality, sustainable design.

Eligible Projects

Projects receiving Housing Trust Funds must create housing units that promote economic diversity within the development and within the neighborhood in which the development is located. New construction, conversion of non-residential property to housing and rehabilitation of existing units that creates or maintains affordable units is eligible

In this Plan, adaptive reuse is defined as creating housing in an existing building that was originally built or designed for a use other than housing.

Housing Trust Fund resources are also intended to promote the retention of affordable housing. Housing Trust Fund resources should also be made available, if necessary, to exercise the City's right of first refusal in connection with potential foreclosure issues with affordable homeownership units. The City shall have a right of first refusal if an affordable unit is forced to sell due to increased fees or has become delinquent in its payments and is in risk of foreclosure or any other legal threats

[1] Chapter 14 Section 3. Defines "very low income household" as a household having an income not exceeding 50% of the area median income; a "low-income household" is defined as a household having an income not exceeding 80% of the area median income; a "moderate-income household" is defined as a household having an income not exceeding 120% of the area median income.

to the Unit's affordability restrictions. The City shall also have the option of using Housing Trust Funds to support affordable units facing large special assessments that may pose a risk to the owner household's ability to maintain their unit's affordability. The City of Portland shall have the right of first refusal to purchase any affordable unit that is in jeopardy of losing its affordability restrictions due to foreclosure, delinquency of condominium fee payments, or any other cause outside of the agreed upon term of restriction. The City's Right of First Refusal is not intended to infringe upon the ability of a mortgage lender to recapture any money owed by the affordable unit owner. The intent is to ensure affordability of the unit for eligible households.

Financing Parameters

Housing Trust Funds should be a resource of last resort and should be focused on opportunities where other funding sources do not work or are not effective. Applicants requesting financial assistance from the Housing Trust Fund must provide documented efforts made to obtain other private, federal, state or local resources for the project.

Form of Awards

A variety of funding mechanisms will be utilized including no-interest loans, below-market loans, forgivable loans, and grants. Type of funding will be determined after review of a number of factors including amount necessary to make the project feasible, the project type, income targeting, number of affordable units, and duration of the affordability period.

Maximum Award Amount

Awards will be determined on a per affordable unit basis. The average City investment per unit, excluding TIF financing, is approximately $10,000. The City contribution per unit typically would not exceed $18,000. This amount may be adjusted at the discretion of the City Council, only for unusual circumstances where a larger amount is the only way a project that meets other City goals can move forward. In those cases, the higher cost per unit must be tied into the goals outlined in the City's Comprehensive Plan and/or City Council Common Goals.

Affordability Restrictions

Affordability restrictions are required. In the case of rental or cooperative units, the units must remain affordable for the life of the housing unit, which is presumed to be a minimum of thirty (30) years but may be longer to comply with the current policy on long-term affordability. In the case of ownership housing, the units must remain affordable for the longest feasible time while maintaining an equitable balance between the interests of the owner and the interest of the City of Portland. These restrictions must be secured by a declaration of covenants and restrictions recorded in the Cumberland County Registry of Deeds

Affordable Housing Agreement

In the case of ownership housing, the owner of each affordable unit will be required to sign and record in the Cumberland County Registry of Deeds an Affordable Housing Agreement (AHA) with the City and to include the affordability restrictions as a covenant to the project's deed. The Affordable Housing Agreement shall be referenced directly in the property's deed unless prohibited by federal, state, or local law. In order to guarantee affordability in homeownership units, this recorded covenant would limit increases in sales price according to the calculation defined by the City as defined in the implementation regulations. It would limit the incomes of subsequent buyers to the same income limits initially applied. It would also provide a right of first refusal and other purchase rights to the City or its designee (e.g. another eligible household, or a nonprofit corporation).

Sales must be made through an arms-length arrangement. No employee, agent, stockholder, officer, director, servant, or family member of the Owner or its Management Company, or its employees, agents, or servants thereof, related either by blood, marriage, or operation of law may qualify for a unit financed with Housing Trust Funds or receive any benefit related in any way to the administration or compliance with the conditions contained therein.

Affordability

Affordable means that the percentage of income a household is charged in rent and other housing expenses, or must pay in monthly mortgage payments (including utilities, condominium/HOA fees, mortgage 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.

Right of First Refusal

The City of Portland shall have the right of first refusal to purchase any affordable unit that is in jeopardy of losing its affordability restrictions due to foreclosure, delinquency of condominium fee payments, or any other cause outside of the agreed upon term of restriction. The City's Right of First Refusal is not intended to infringe upon the ability of a mortgage lender to recapture any money owed by the affordable unit's owner. The intent is to ensure affordability of the unit for eligible households.

Implementing Regulations

Regulations to further specify the details of the parameters outlined in this Annual Plan, maybe developed, including, but not limited to:

1. Specific methodology for income verification; and
2. Underwriting criteria.

Attachments

1) Point System for Evaluating and Scoring Applications
2) Sources and Uses: Jill C. Duson Housing Trust Fund

Attachment 1
Point System for Evaluating and Scoring Applications

Policy Objectives: Total 45 Points
Proposed use of funds to achieve the City of Portland's goals and address demonstrated need. 20 points
Maximum points will be awarded for those applications that:

1. Market Demand - 6 points
    a. 6 points - high demand, meets the City's income targeting and rental housing priority, and preferences noted above
    b. 1 point - moderate demand, sufficiently meets the City's income targeting priority
    c. 0 points - does not demonstrate sufficient market demand, does not meet the City's income targeting priority
2. Economic diversity - 6 points
    a. 6 points - creates housing options which promote economic diversity within the development **and** in the neighborhood in which the development is located, while meeting the income preferences noted above
    b. 5 points – creates housing options which promote economic diversity within the neighborhood in which the development is located, while meeting the income preferences noted above
    c. 4 points – creates housing options which promote economic diversity within the development (a mixed-income development), while meeting the income preferences noted above
    d. 0 points does not promote economic diversity
3. CHDO - 2 points
    a. 2 points - developer and owner are both controlled by CHDO
    b. 1 points - either developer or owner are controlled by CHDO
    c. 0 points neither developer nor owner are controlled by CHDO
4. City Subsidy - 6 points
    a. 6 points - investment from City is <$10,000/unit
    b. 5 points - investment from City is > or = $10,000 and <$12,000/unit
    c. 4 points - investment from City is > or = $12,000 and <$14,000/unit
    d. 3 points - investment from City is > or = $14,000 and <$16,000/unit
    e. 2 points - investment from City is > or = $16,000 and <$18,000/unit
    f. 0 points - investment from City is > or = $18,000/unit

Impact on surrounding neighborhood, including design compatibility and environmental issues. 25 points
Maximum points will be awarded for those applications where:

1. Site Selection - 7 points
    a. 7 points – fully appropriate for use, project supports Comprehensive Plan goal for development along transit nodes and corridors
    b. 5 point – appropriate, some concerns
    c. 0 points – significant concerns, project does not support Comprehensive Plan goal for development along transit nodes and corridors

2. Exterior Design - 6 points
    a. 6 points - the design is fully consistent with neighborhood design characteristics
    b. 3 points - the design is an adequate fit with the neighborhood design
    c. 0 points - the design is a significant outlier
3. Amenities and unit design - 7 points
    a. 7 points -amenities & unit design are well thought out and appropriate for residents
    b. 5 points - amenities & unit design are adequate
    c. 0 points -amenities and unit design raise significant concerns that resident needs will not be adequately addressed
4. Environmental - 5 points
    a. 5 points – Phase I identifies no environmental issues
    b. 3 points - Phase I identifies an environmental issue, but a Phase II shows a feasible economically viable resolution which is included in the budgets
    c. 0 points - there are significant unresolved environmental issues, or no Phase I has been received

Underwriting Criteria: Total 65 Points
Financial feasibility, including cost, development budget operating pro forma and the provision of secured and leverage funds. 20 points

Maximum points will be awarded for those applications that:

1. Development budget & sources and uses - 10 points
    a. 10 points - EVERY development budget line item for which there is a City of Portland guideline complies with that guideline AND all other line items are reasonable and customary
    b. 8 points - ONE budget line item falls outside City guidelines or outside the standard of "reasonable & customary"
    c. 6 points - TWO budget line items item falls outside City guidelines or outside the standard of "reasonable & customary"
    d. 0 points - more than two budget items fail to meet City guidelines or fall outside "reasonable and customary"
2. Operating pro forma – 10 points
    a. 10 points - EVERY operating pro forma line item for which there is a City of Portland guideline complies with that guideline AND all other line items are reasonable and customary
    b. 8 points - ONE budget line item falls outside City guidelines or outside the standard of "reasonable & customary"
    c. 6 points - TWO budget line items item falls outside City guidelines or outside the standard of "reasonable & customary"
    d. 0 points - more than two budget items fail to meet City guidelines or fall outside "reasonable and customary"

Applicant's ability to complete and operate project, including development team experience, capacity, property management track record, project readiness and timeframe for completion. 45 points

Maximum points will be awarded for those applications that:

1. Readiness to proceed - 10 points
    a. 10 points – project meets the shovel ready definition noted in the Funding Priorities section above
    b. 7 points - at least one letter of commitment or interest is included and ALL projected sources are projected at terms and conditions consistent with the City's prior experience with the funder
    c. 5 points - ALL projected sources of funding include letters of commitment, letters of interest, or, if no letter is included, are projected at terms and conditions consistent with the City's prior experience with this funder
    d. 0 points - one or more sources are projected on terms that are not consistent with the City's prior experience with the funder and are not documented by letter(s) from funder(s)
2. Construction Time Line – 5 points
    a. 5 points – There is a strong likelihood the project could proceed into construction within the first six months of the year following funding appropriation based on the timeline, narrative, and supporting documents
    b. 2 points -There is a small likelihood the project could proceed into construction within the first six months of the year following funding appropriation based on the timeline, narrative, and supporting documents
    c. 0 points -it is unlikely the project could proceed into construction within the first six months of the year following funding appropriation based on the timeline, narrative, and supporting documents
3. Track record of development team - 10 points
    a. 10 points - every development team member has a successful track record with this type of project and at this scale
    b. 7 points - all but one development team members have a successful track record with this type of project and at this scale; one development team member has relevant experience but at a smaller scale or not of this project type
    c. 3 points - two development team members, while having relevant experience, are new to this type of project or this scale of development
    d. 0 points - the development team does not meet the criteria above
4. Current Capacity of development team - 10 points
    a. 10 points - development team members have exceptional depth of human and financial resources to complete this project
    b. 8 points - development team members have the human and financial resources to complete this project
    c. 3 points - development team has a staffing gap in a significant role and a plan to address that gap, OR there are some concerns about the financial resources of the team to move the development forward
    d. 0 points - the development team does not meet the criteria described above
5. Sound Property Management - 10 points
    a. 10 points – property manager agent demonstrates a successful track record in projects of similar size, scale, type and complexity to the proposed project. Properties under the agent's management are violation free, have not been issued

an IRS form 8823 within the last three years, and have scored above average or better in physical inspection scores

b. 5 points -property manager agent demonstrates a successful but limited track record in projects of similar size, scale, type and complexity to the proposed project. Properties under the agent's management are violation free, have not been issued an IRS form 8823 within the last three years, and have scored satisfactory in physical inspection scores

c. 0 points – the property manager agent has either on-going violations, or has been issued an IRS form 8823 in the last three years, or has scored below average or lower

Attachment 2

updated 12/10/2025

YEAR	DEPOSITS INTO HOUSING TRUST FUND	AMOUNT	YEAR	EXPENDITURES	AMOUNT
2002/03	Maine Medical Center HRO	$ 315,580.00	2011	Avesta Oak Street Lofts	$ (380,585)
2002	Sportsman's Grill HRO	$ 40,000.00	2014	Housing First Pre-Development RFP	$ (75,000)
2009	Berlin City Auto HRO	$ 116,000.00	2015	65 Hanover & 52 Alder Sts Feasibility Study	$ (9,250)
2010	Stop n Shop HRO 2010	$ 289,250.00	2017	65 Munjoy Street	$ (175,000)
2012	Rockbridge/Eastland Park HRO	$ 42,500.00	2019	60 Parris Downpmt Assistance	$ (24,000)
2012	Riverwalk/Ocean Gateway HRO	$ 250,000.00	2019	977 Brighton Avenue	$ (300,000)
2012	118 Congress LLC Easement	$ 3,500.00	2020	Affordable Rental Housing Incentive	$ (1,000)
2017	91 & 97 Belfort Street (sale of TAP)	$ 86,423.99	2021	18 Luther Street	$ (36,000)
2017	116 Upper A Street (sale of TAP)	$ 78,526.74	2022	200 Valley Street	$ (442,386)
2017	443 Congress Street IZ	$ 280,000.00	2022	37 Front Street	$ (499,500)
2018	62 India Street IZ	$ 276,500.00	2023	155 Danforth	$ (135,000)
2018	Short Term Rental Fee transfer	$ 33,138.80	2023	37 Front Street	$ (55,500)
2018	0 Thames Street (WEX) sale	$ 1,000,000.00	2023	83 Middle Street	$ (136,734)
2019	20 Thames Street IZ	$ 270,000.00	2023	63 Front Street	$ (333,000)
2019	20 Thames Street for balcony overhang	$ 7,500.00	2023	200 Valley Street	$ (49,154)
2019	17 Sumac Street (proceeds of sale of TAP)	$ 79,617.86	2024	155 Danforth Street	$ (15,000)
2019	Short Term Rental Fee transfer	$ 176,118.00	2024	45 Dougherty	$ (1,175,885)
2019	Short Term Rental Penalty Fee	$ 15,200.00	2024	46 Dougherty	$ (24,115)
2020	Short Term Rental Penalty Fee	$ 7,700.00	2024	63 Front Street	$ (37,000)
2019	56 Hampshire Easement Fee	$ 12,123.00	2023	Riverton Park (not yet spent)	$ (910,103)
2019	121 Middle Street HOTEL IZ (3rd fl)	$ 41,866.00	2023	Dougherty Condos (not yet spent)	$ (1,500,000)
2020	99 Capisic Street (sale of TAP)	$ 163,168.93	2024	202 Woodford (not yet spent)	$ (492,000)
2020	Short Term Rental Fee transfer	$ 122,964.50	2024	186 Woodford (not yet spent)	$ (155,511)
2020	22 Bramhall Street (MMC overhang)	$ 3,799.00	2024	70 East Oxford (COMB Block)(not yet spent)	$ (650,000)
2020	50 Monument Square IZ	$ 222,789.00	2024	YFO 337 Cumberland Ave (not yet spent)	$ (1,080,000)
2020	121 Middle St: HOTEL (2nd fl)	$ 30,448.00	2025	Lambert Woods North	$ (360,000)
2020	Order 89 20/21	$ 500,000.00	2025	Lambert Woods South	$ (2,200,000)
2021	40 Free Street	$ 10,609.00			
2021	56 Hampshire (Verdante) IZ	$ 198,928.00			
2021	1 Center St. HOTEL	$ 513,810.00			
2021	Short Term Rental Fee transfer	$ 109,681.26			
2021	Newell Street sale of TAP	900.00			
2021	10 Hammond Street (IZ)	$ 169,744.00			
2021	22 Hope Ave. (IZ) *	$ 150,000.00			
2022	5 India Street (IZ)	$ 261,086.40			
2022	18 Luther Street (repaymen of loan)	$ 36,000.00			
2022	Short Term Rental Fee transfer	$ 79,459.60			
2022	City Manager Appropriation	$ 250,000.00			
2022	Newell Street sale of TAP	$ 8,100.00			
2022	Stroudwater (partial IZ fee)	$ 16,233.90			
2022	75 Chestnut Street IZ	$ 587,444.00			
2023	Short Term Rental Fee transfer	$ 129,378.47			
2023	218 Washington Ave IZ	$ 461,250.00			
2024	178 Middle Street: HOTEL IZ	$ 86,602.00			
2024	754 Congress Street: HOTEL *	$ 182,688.00			
2024	387 Commercial St IZ	$ 707,130.00			
2024	Short Term Rental Fee Transfer	$ 112,522.68			
2024	54 York HOTEL IZ	$ 65,562.00			
2024	126 North Street	$ 21,757			
2024	General Fund Allocation	$ 4,880,126			
2025	Donation (7-9-2025)	$ 2,131			
2025	Short Term Rental Fee Transfer	$ 113,292			
2025	215 Commercial HOTEL IZ	$ 70,380			
	Previous INTEREST EARNED	$ 51,555.81			
	A. ACTUAL DEPOSITS	$ 13,741,084.45		B EXPENDITURES & COMMITTED EXPENDITURES	$ (11,251,723)

12/10/2025	Available Balance	$ 2,489,361.45

Overview

Case Id:
Name:
Address:

Overview

City of Portland Affordable Housing Development and Tax Increment Financing Application

Housing & Economic Development Department
Heidi McCarthy
389 Congress St
Portland, ME 04101
207-756-8089
hmccarthy@portlandmaine.gov

INTRODUCTION

The City of Portland recognizes affordable housing is a necessity to preserve human dignity, provide shelter and safety, ensure quality of life, and promote self-determination and economic growth. The development of affordable housing is also identified as a priority in the City of Portland's 2022-2026 HUD 5-year Consolidated Plan, City Council Common Goals, and the Comprehensive Plan. To accomplish this priority, the City of Portland is soliciting proposals for financial assistance that facilitate the development of affordable housing in the City of Portland.

The goal for the distribution of HOME Investment Partnerships Program and Housing Trust funds, or the designation of an Affordable Housing TIF district, is to increase, preserve, and modify the overall supply of housing citywide to meet the needs, preferences and financial capabilities of Portland residents. Development should be consistent with the Annual City Council Goals, the City's Comprehensive Plan and the HUD Five-Year Consolidated Plan. The City of Portland seeks development projects that create contextually appropriate housing density in and proximate to neighborhood centers, concentrations of services, and transit nodes and corridors as a means of supporting complete neighborhoods.

Applications will be reviewed by an evaluation team of City of Portland staff who will evaluate and score each application utilizing the scoring factors outlined in the Scoring Section as well as the 2026 City Council Common Goal requirement to use a lens that prioritizes racial, social, and justice equity in order to recommend the most qualified application based on the information submitted.

Submission Process Overview

The City of Portland's Division of Housing and Community Development uses an application process to ensure public funds are utilized for maximum public benefit to accomplish specific objectives and provide fair access to all applicants. Applications are considered on a rolling basis. Applications utilizing HOME and/or Housing Trust Funds will be accepted until all budgeted funds are allocated. Applicants should contact the City of Portland to confirm the availability of funds prior to submitting an application.

Planning Board approval is required before the *Affordable Housing Development and Tax Increment Financing Application* may be submitted. Applicants are *highly encouraged*to file the required Major Site Plan and Subdivision applications with the Planning Department as soon as possible, in order to provide sufficient time for the local land use approval process to occur. Please contact Matthew Grooms, Deputy Director Planning & Urban Development Department, at mgrooms@portlandmaine.gov for additional specifics on the land use approval process.

Projects requesting credit and funding awards from Maine Housing must receive a Notice of Award prior to submitting the *Affordable Housing and Tax Increment Financing Application* requesting HOME and Housing Trust funds from the City of Portland.

Projects requesting an Affordable Housing TIF may be submitted prior to or without the Notice of Award from MaineHousing.

Applications must be submitted electronically through Neighborly's Participant Portal at: https://portal.neighborlysoftware.com/PORTLANDME/Participant

Eligible Applicants

- Applicants must be for-profit or public and community non-profit entities
- The City of Portland strongly encourages BIPOC and women developers to apply for the resources made available through this application. Staff from the City's Housing and Community Development Division are available to provide assistance throughout the application process. Information regarding the City's Housing Development programs and resources is **Available Here.**
- Certified Community Housing Development Organizations (CHDO's) or organizations eligible for CHDO certification are strongly encouraged to apply. More information about CHDO is **Available Here**

Availability of Funding

- The City of Portland is making available a combination of FY 2026-2027 HUD Home Investment Partnership Program (HOME) funds (which includes a mandatory set-aside for CHDO organizations or organizations eligible for CHDO certification) and local funds from the Jill C. Duson Housing Trust Fund (HTF) for Affordable Housing Development. City staff will determine which funding source is best for each project and then make funding recommendations to the City Council for final approval.
- The City of Portland reserves the right to partially fund application requests or deny any application that does not meet the application criteria. Material changes to the application after approval of the award of funds may result in the cancellation of award and recapture of awarded funds. Cancellation shall be at the sole discretion of the City of Portland.
- **IMPORTANT NOTE: Resources available through this application cannot be used to develop off-site Inclusionary Zoning required units.**
- Estimated Total Funding Available: To Be Determined (HOME + HTF)

General Guidelines

- Developments shall provide decent, safe, and sanitary dwellings such as single-family homes, apartments, condominiums, or other living accommodations for households whose income does not exceed 120% of the median income for the area as defined by the U.S. Department of Housing and Urban Development (HUD). Affordable housing does not include facilities such as shelters, nursing homes, convalescent homes, hospitals, residential treatment facilities, correctional facilities, student dormitories, or unattached mobile homes, regardless of income level. Projects must show that the development meets an identified community housing need, the City's participation is financially necessary in order for the project to proceed, and the applicant has the financial capacity to support their project.

- Priority use of HOME Program funds will be given to developments that provide rental housing units to households earning at or below 50% of the area median income ($64,900 for a four-person household).
- Priority use of Housing Trust Funds will be to support public/private partnerships that create workforce housing unit affordable to households earning up to 100% of the area median income ($129,800 for a four-person household) with preference for households earning 80% of the area median income ($103,850 for a four-person household) and below. Shovel ready projects with mixed income targeting and a mix of bedroom sizes, including family-size units of 3+, are strongly encouraged.
- Priority use of Affordable Housing Tax Increment Financing (AHTIF) will be for projects receiving assistance through the Low Income Housing Tax Credit Program (LIHTC) or projects that create housing units affordable to households earning up to 80% of the area median income with preference for households earning 50% of the area median income or below. A minimum of $500,000 in new taxable investment property value for affordable housing development is needed to qualify for an Affordable Housing TIF.
- Projects must create housing units which promote economic diversity within the development and within the neighborhood in which the development is located. New construction, conversion of non-residential property to housing, and rehabilitation of existing rental units that create accessible units or maintain affordable units are eligible.
- Projects must meet the affordability targets referenced in the General Guidelines Section along with all applicable income and rent restrictions of the City's funding source (HOME, HTF or AHTIF Programs).
- Projects must ensure that the affordable units within a mixed income development will be equal in square footage and comparable to the market rate units.
- Housing First developments are encouraged.
- Single Room Occupancy (SRO) and other supportive housing projects specifically for special needs populations are eligible under this application.
- HOME and HTF resources cannot be used to finance a developer's minimum obligations under the city's Inclusionary Zoning ordinance.
- The term shovel ready is defined as a project that has received all other funding approval from federal, state, local or private sources and demonstrates the ability to move to construction loan closing by June 2027.
- For purposes of this application and the use of Housing Trust Funding or the AHTIF, affordable means that the percentage of income a household is charged in rent and other housing expenses including utilities and mandatory fee, or must pay in monthly mortgage payments (including real estate taxes, mortgage insurance, condominium/HOA fees, insurance and utilities), does not exceed 30% of a household's gross income, or other amount established in city regulations that does not vary significantly from this amount. See Exhibit #2 **Available Here**.
- Projects seeking funding through these City resources must also apply for Inflation Reduction Act (IRA) Green/Clean energy related funding, even if those funds become available after submission of the application to the City.

Affordable Housing Tax Increment Financing (AHTIF) Guidelines

- **Applicants submitting applications deemed incomplete will be informed of the status of their application along with the missing components. Applicants requesting an Affordable Housing TIF and applying for 9% LIHTC from MaineHousing will be provided a deadline for resubmission; applicants provided the opportunity to redress their submission and are still deemed incomplete will not be included in the schedule of priority funding requests for the 9% LIHTC program.**
- Projects must comply with the City of Portland's Tax Increment Financing Policy.
- A financial underwriting analysis will be conducted by a third party on all projects requesting Credit Enhancement Agreement participation. **Applicants for CEA assistance will be responsible for reimbursing the City for all project third party legal and financial underwriting costs.**
- The approval process to establish an Affordable Housing Tax Increment Financing (AHTIF) District involves three steps. First, the City Council's Housing and Economic Development Committee provides a recommendation to the City Council regarding the establishment of an Affordable Housing TIF district. If the City Council approves the recommendation, the City submits an application to the Maine State Housing Authority. MaineHousing reviews the application from the City to ensure compliance with MRS Title 30-A, §5245-5250-G.
- Projects approved for a site-specific tax increment financing district utilizing a Credit Enhancement Agreement must ensure that any firms employed in the construction phase of an Affordable Housing TIF-assisted project compensate all employees the current wage rates and fringe benefits as required under applicable state prevailing wage law under 26 M.R.S.A. §1306, or Portland City Ordinance Ch. 33, §33-1 to 33-12, whichever is greater. State prevailing wage rates may exceed Davis-Bacon wage rates. Projects that are required to meet the local TIF policy wage rate requirements and federal Davis-Bacon wage requirements for the City of Portland must use the higher wage rate based on job classification. The City of Portland does not monitor Davis-Bacon wage rates when not required by City funding.
- AHTIF projects receiving funding through this application must set aside 10% of the units in the project for individuals or families residing in a Portland shelter. The City's Health and Human Services Department would be responsible for providing referrals, providing or coordinating supportive services and financial resources to assist with monthly rent payments. A Supportive Housing Agreement between the City and the Developer would document the services and expectations. At the time of loan closing or prior to disbursement of the City's funding, the requirements would be secured by a Declaration of Covenants which will be recorded in the Cumberland County Registry of Deeds
- Tax increment financing cannot be used to finance a developer's minimum obligation under the City's Ensuring Workforce Housing ordinance. However, tax increment financing can be used to provide affordability that exceeds Inclusionary Zoning requirements.

<u>HOME and Jill C. Duson Housing Trust Fund Guidelines</u>

- Projects that have previously received HOME funds are not eligible for additional HOME assistance.
- HOME funds will be awarded to projects creating rental units.
- **HOME *eligible* projects (i.e. all HOME funded projects and eligible Housing Trust funded projects) receiving funding through this application must set aside 10% of the units in the project for individuals or families residing in a Portland shelter.** The City's Health and Human Services Department would be responsible for providing referrals, providing or coordinating supportive services and financial resources to assist with monthly rent payments. A Supportive Housing Agreement between the City and the Developer would document the services and expectations. At the time of loan closing or prior to disbursement of the City's funding, the requirements would be secured by a Declaration of Covenants which will be recorded in the Cumberland County Registry of Deeds.

- The developer may not request disbursement of funds until the funds are needed for the payment of specified and actual costs. The amount of each request must be limited to the amount needed for the payment of actual costs. The City will disburse up to 90% of the loan proceeds during construction at 50% of completion. The remaining 10% will be disbursed upon receipt of an architect's certificate of substantial completion of the project. Any modification to the disbursement schedule must be agreed to by the City in writing prior to closing.
- Projects receiving assistance through this application are encouraged to participate in the Public Housing Authority Family Self Sufficiency Program.
- Projects receiving funding through this application must include a written occupancy policy that prohibits smoking in the units and the interior common areas of the project in addition to including a non-smoking clause in the lease for every household and making educational materials on tobacco treatment programs available to residents through the residence service coordinator, occupancy specialist, or property manager, such as the phone number for the statewide Maine Tobacco HelpLine.

Federal Requirements

Applicants are expected to be familiar with the guidelines/regulations that govern the HOME program. The following requirements apply for any project that is awarded HOME or other federal funding.
Environmental Review Requirements

Projects receiving HOME funding are subject to environmental review, clearance, and release of funds by the U.S. Department of Housing and Urban Development. Once an application has been submitted to the City of Portland, the applicant cannot take any "choice limiting actions" prior to receiving notification from the City that the environmental review process, including historic preservation review and clearance, has been completed and a release of funds has been received from the U.S. Department of Housing and Urban Development. *A Phase I ESA along with a lead and asbestos testing report is required before HUD Environmental Review Requirements can be completed.*

Choice limiting actions include, *but are not limited to*, (1) actions having an adverse impact – e.g. demolition, dredging, filling, excavation, including soliciting bids for these activities; (2) actions limiting the choice of reasonable alternatives – e.g. execution of a legally binding agreement; signing a purchase and sale agreement; signing an option agreement that does not allow the purchaser to elect to terminate the option agreement if the property is not desirable; entering into real property acquisition (including making bids on auctioned properties); leasing, rehabilitation, demolition, environmental remediation, related site improvements, relocating buildings or structures, conversion of land or buildings/structures (including soliciting bids to undertake these activities).

An environmental review must be completed on every HOME project and the review must result in environmental clearance before the City can commit HOME funds to the project. The review will be completed by the City post application acceptance. Documentation of environmental clearance must be provided to the City for any projects that have already received environmental clearance.

- Federal Labor Standards and Other Wage Rate Requirements

As may be applicable, projects receiving HOME or AHTIF funding must ensure that they and all contractors and subcontractors meet requirements for federal or state prevailing wage rates specified under the Davis-Bacon Act and the City's TIF policy, respectively. The Davis-Bacon and Related Acts require all laborers and mechanics employed by contractors or subcontractors in the performance of construction work over $2,000, financed in whole or in part with assistance received under HUD programs, shall be paid the prevailing wage as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a-5). Projects that include 12 or more HOME-assisted units must meet the requirements of the Davis-Bacon and Related Acts. Any project approved for a site-specific tax increment financing district (AHTIF) utilizing a credit enhancement agreement must ensure that any firms employed in the construction phase of a TIF-assisted project compensate all employees the current wage rates and fringe benefits as required under applicable state prevailing wage law under 26 M.R.S. §1306, or Portland City Ordinance Ch. 33 §33-1 to 33-12, whichever is greater. State prevailing wage rates may exceed Davis-Bacon wage rates.

- Section 3

All HOME projects must comply with Section 3 regulations at 24 CFR Part 75. Contractors and subcontractors performing work on Section 3 covered projects must provide, to the greatest extent feasible, contracting and other economic opportunities to low- and very low-income persons, especially recipients of government assistance for housing, and to the businesses that provide economic opportunities to low- and very low-income persons. Projects that utilize over $200,000 in HUD federal funding from any source or combination of sources, including MaineHousing, must report on Section 3 accomplishments.

- Minority and Women Owned Business (MBEWBE) Participation

All HOME projects must complete, track, and report on outreach and contracts given to women- and minority-owned businesses to ensure their inclusion, to the maximum extent possible, in the procurement of property and services. Applicants are encouraged to utilize firms certified as a Minority Business Enterprise or Women's Business Enterprise as part of the development team. The development team members include the developer, architect, attorney, general contractor, and management agent. Forms will be provided to the developer for tracking.

- Lead-Based Paint

All HOME funded residential rehabilitation, adaptive re-use and construction activities must comply with 24 CFR Part 35 and Section 401(b) of the Lead-Based Paint Poisoning Prevention Act.

- Access to the Internet

All new construction and substantial rehabilitation projects of multifamily rental housing will be required to provide the installation of broadband internet access to its residents to help narrow the digital divide for households in need.

- Fair Housing and Equal Opportunity

[Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000d et seq.) (HUD implementation regulations 24 CFR Part 1); The Fair Housing Act (42 U.S.C. 3601-3620)(24 CFR Part 100-115(; Equal Opportunity in Housing (Executive Order 11063, as amended by Executive Order 12259)(24 CFR Part 107); Age Discrimination Act of 1975, as amended (42 U.S.C. 6101)(24 CFR Part 146).]

The Fair Housing Act prohibits discrimination in all housing-related transactions based on race, color, national origin, religion, sex, disability, age or familial status. It also includes minimum accessibility design requirements for all new construction and rehabilitation projects and requires that reasonable accommodations be made in rules, policies, practices, services and reasonable structural modifications. Section 504 of the Rehabilitation Act of 1973 prohibits discrimination based on disability and requires that everyone have equal opportunity to obtain housing built with federal funds.

- Affirmative Marketing

Developers must have tenant selection policies and criteria to ensure that tenants are selected for occupancy at the property in a fair and equitable manner. Tenant selection policies must be based on objective criteria that expressly prohibit bias. Tenant selection procedures should be clear and easily understood by prospective tenants. An affirmative marketing plan is required to ensure that the property serves a diverse cross-section of the population of the market area, must consist of actions to provide information and otherwise attract eligible persons in the housing market area that might not otherwise apply without special outreach, and ensure that the housing is available to qualified applicants without regard to race, color, national origin, religion, sex, disability, or familial status.

- Violence Against Women Act

Developers must comply with the Violence Against Women Act (VAWA) requirements in 24 CFR §92.359 and 24 CFR Part 5, subpart L. The Violence Against Women Act was reauthorized in 2022 with increased protections for victims of domestic violence, dating violence, sexual assault, and stalking. HUD is currently formulating guidance on compliance with the reauthorization. Projects receiving funding during this program year will be required to follow this guidance, regardless of whether it is released after award.

- Relocation and Displacement

Developers must comply with all applicable federal requirements, including the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, for any persons or businesses displaced at any point during the project.

- Equal Employment Opportunity

All projects shall comply fully with the Nondiscrimination and Equal Opportunity Provisions of the Workforce Investment Act of 1998, as amended (WIA, 29 CFR part 37); the Nontraditional Employment for Women Act of 1991; title VI of the Civil Rights Act of 1964, as amended; section 504 of the Rehabilitation Act of 1973, as amended; the Age Discrimination Act of 1975, as amended; title IX of the Education Amendments of 1972, as amended; and with all applicable requirements imposed by or pursuant to regulations implementing those laws, including but not limited to 29 CFR part 37.

- Build America Buy America (BABA) Requirements

Developers must comply with the requirements of the Build America, Buy America (BABA) Act, 41 USC 8301 note, and all applicable rules and notices, as may be amended, if applicable to the infrastructure project. Pursuant to HUD's Notice, "Public Interest Phased Implementation Waiver for FY 2022 and 2023 of Build America, Buy America Provisions as Applied to Recipients of HUD Federal Financial Assistance" (88 FR 17001), any funds obligated by HUD on or after the applicable listed effective dates, are subject to BABA requirements, unless excepted by a waiver.

On November 15, 2021, the Build America, Buy America Act (the Act) was enacted as part of the Infrastructure Investment and Jobs Act (IIJA). Pub. L. 117-58. The Act establishes a domestic content procurement preference, the BAP, for Federal programs that permit Federal financial assistance to be used for infrastructure projects. In Section 70912, the Act further defines a project to include "the construction, alteration, maintenance, or repair of infrastructure in the United States" and includes within the definition of infrastructure those items traditionally included along with buildings and real property. Starting May 14, 2022, new awards of Federal financial assistance from a program for infrastructure, and any of those funds obligated by the grantee, are covered under the Build America, Buy America (BABA) provisions of the Act, 41 U.S.C. 8301 note.

US Department of Housing and Urban Development (HUD) has implemented a department wide public interest de minimis, Small Grants, and Minor Components waiver to the BAP requirement as applied to iron, steel, manufactured products, and construction materials of the Act for recipients of Federal Financial Assistance, with the threshold for the waiver being set at $250,000.00 for total project development cost.

Site Information and Criteria

- Site Control: Land or buildings proposed as part of a project under this application, must have site control at the time the application is submitted, in the form of title, purchase and sale agreement, option, long-term lease for a minimum of 90 years, or other acceptable method. At a minimum, site control must extend through December 31, 2025.
- Local Approvals: Local land use approval is not required prior to submission of the application, however approval is required before the City Council will approve the funding request or AHTIF request. The applicant must submit an analysis of the project in relation to local land use regulations and site feasibility; the analysis must include the completion of the Site Information and Criteria Table available as **Exhibit #3**.
- Applications must not require a contract or conditional zone. Resolution of any zoning issues is required before City Council approval of the applicants funding request or Affordable Housing TIF request.

Underwriting Guidelines

Applicant Capacity

All applicants must demonstrate capacity to develop, own and manage the proposed project. All applications must provide evidence of a development team with the capacity to successfully complete the project including:

- Key staff members assigned to the project with the abilities and experience to successfully complete the project within the proposed time frame.
- An architect, general contractor, and professionals on the team with the experience and capacity to complete the project.
- A management team with qualified personnel and the capacity and experience to operate, manage, and maintain the affordable rental property of size and mix of the proposed project. Applicants should demonstrate that properties under the property management team's responsibility are violation free, have not been issued an IRS form 8823 within the last three years and have scored above average or better in physical inspection scores.
- Qualified staff with the capacity to perform ongoing property ownership requirements such as budgeting, tax accounting, and oversight of management and maintenance.
- A portfolio of current affordable housing projects that are financially sound and meeting their established goals.
- Support Services: Applications containing rental units targeted to special needs populations must include commitments for support services to be provided to the residents and have in place a policy to make accessible units available when needed if units are occupied by someone that does not need the accessible features.

Financial Feasibility

- Financial applications must be developed in accordance with the underwriting guidelines of the primary funding source, including adequate cash flow and debt coverage ratio, and conform to the City of Portland's underwriting criteria.
- All projects will be reviewed for the proposed use of funds compared to other resources. Applicants must describe the proposed mortgage and security position for the City of Portland's funding. The average City investment per unit, excluding Affordable Housing TIF financing, is approximately $10,000. The City contribution per unit will typically not exceed $18,000. This amount may be adjusted at the discretion of the City Council, only for unusual circumstances where a larger amount is the only way a project that meets other City goals is needed. In those cases, the higher cost per unit ratio must be tied to the goals outlined in the City's Comprehensive Plan.

Financing Terms

- The City reserves the right to partially fund application requests or deny any application that does not meet the application criteria, and adjust the terms of funding on a case-by-case basis based on changes in conventional lending and other financing sources.
- The City's funding is generally in the form of soft "gap" financing. To allow for future investment in affordable and workforce housing, the City seeks to achieve a reasonable return of capital and where possible a return on investment based on the financing features of each funding request. The City allows flexibility for creativity by development teams by establishing funding terms based on the financial structure of each development project.
- A key tool used to perform the financial analysis is the Debt Coverage Ratio (DCR). The City will underwrite to a 1.15 DCR in year 1 for capital subsidy and AHTIF.

Term of Affordability

- Rental housing projects funded with HOME and/or Housing Trust Funds must have a minimum affordability period of at least 30 years and in some cases may be 90 years. The affordability term is to be secured by a declaration of covenants and restrictions recorded in the Cumberland County Registry of Deeds.
- AHTIF projects must have an affordability period that matches the term of the district and is secured by a declaration of covenants and restrictions recorded in the Cumberland County Registry of Deeds.

Capital Subsidy

Capital subsidy repayment is a priority for the City. Amortizing repayment of capital subsidy is expected. During the underwriting process, capital subsidy repayment terms will be determined based on projected cashflow available in year 1 and year 6 of projected operations. Based on a financial analysis of the development project, funding in the form of loans may range from:

- 30-year amortizing loans with interest rates of up to 5%
- Up to a 5-year deferral prior to start of amortizing payments
- Non-amortizing, deferred loans at 0%. Projects serving substantially underserved households may receive grants or deferred loans based on the demonstrated needs of the project.

Time Frame

- The applicant must list projected dates for the following: 90% document completion; commitment of non-City funds; closing; construction start-up; substantial completion, final completion and occupancy. Timeframes must be realistic and achievable.
- All funded projects must be able to start construction within 12 months of notice of award.

Market Demand

- Applicants must show that the development meets an identified community housing need and provide an analysis and discussion of market demand justifying the need for the proposed project.

Market Study

- An independent market analysis is required to be conducted as part of the due diligence investigation. This third party report will define the geographic market area from which tenants are likely to come, quantify the pool of eligible tenants, evaluate effective demand, capture rate, and absorption period, taking into account a review of developments planned for the market area and the projected time periods for these activities. The market study shall be dated no earlier than 180 days of submission of the initial application.
- If an independent market analysis in not provided, then the application should include the following information; commuting patterns with distance to amenities; walking/transit/bike score; comparison of the pro forma rent to the average rent at affordable comparables; waitlist at affordable comparables; and occupancy percentage at affordable comparables.

Site Evaluation

- The site should be accessible to schools, shopping, health, recreation and social facilities and employment opportunities. These criteria will be evaluated independently for each development based on the nature and proposed occupancy of the development, such as family, elderly or handicapped housing.
- Availability of transportation to residents of the development.
- Compatibility of the proposed development within the neighborhood or community including the age of housing, neighborhood diversity, and incidence of crime.

Parking

- In order to be considered for less than a 1:1 unit/parking ratio, the Developer must, as part of the pre-application phase, document a plan that meets the local municipality's requirements or, if none are available, the following:
  a. Documents the demand for on-site or off-site parking consistent with projects of similar size, location, and population.
  b. Provide distance to bus line, grocery stores, walking score.
  c. Documents the availability and costs of transportation alternatives that service the project site.
  d. Describes alternatives to car parking that will be provided on-site such as parking for motorcycles and/or scooters and/or storage for bicycles.
  e. Describes any proposed tenant incentive programs that will reduce car parking needs.
  f. Describes tenant education efforts that will be implemented that will reduce car parking needs.
  g. Provides for timely and ongoing monitoring of the plan and describes how adjustments to the plan will be implemented.

Utilities

- Developer must provide utility comparisons and commentary.

Design Compatibility

Projects must be designed to contribute to the character of the neighborhood and adhere to the following general guidelines.

- MUST comply with all applicable City Codes and Ordinances, including but not limited to the City's Green Building Code (Chapter 6, Article VII, Sec. 6-165)and the Affordable Housing Section of the City's Land Use Ordinance (Chapter 14 Article 17.2)). Please note that the Green Building Code may be more restrictive than the requirements in Maine Housing's Quality Standards and Procedure Manual. Applicants must provide evidence reasonably satisfactory to the City of Portland demonstrating that the project was designed, constructed and rehabilitated in accordance with the Green Building Code.
- Should establish a building form, scale, massing and rhythm appropriate for the surrounding neighborhood.
- Should provide a quality design that, where possible, reinforces the public realm of open space, sidewalks and streets through appropriately scaled entries that orient to the street instead of interior blocks or parking lots, and incorporate porches, fenestration, landscaping, and architectural details.
- MUST meet the accessibility requirements of the Fair Housing Act and Section 504 of the Rehabilitation Act of 1973, and the Maine Human Rights Act for multi-family housing. Provide for universal accessibility to the extent possible.
- Should provide visual and acoustical privacy between units while maximizing natural light and ventilation within units.

Monitoring
Projects receiving HOME funding may be charged an annual fee to cover the actual costs of federally required HOME monitoring, per 24 CFR 92.214(b)(1)(i).

Affordable Housing Tax Increment Financing (AHTIF)
AHTIFs will be sized to meet the projected needs of the project. Reducing project reliance on AHTIF subsidy over the term of the AHTIF subsidy is a priority for the City.

- During the underwriting process, the City will evaluate the level of the AHTIF at year 11 and 21 of projected operations. The percentage of the AHTIF will be adjusted downward if projections show a DCR above 1.20 in those years.
- For projects serving substantially underserved households (i.e. households with income below 30% AMI and unhoused people), in the unusual event that a year 1 DCR of 1.15 results in a negative DCR in the 30-year operating projections, a TIF may be sized to up to 1.20 in year 1 to maintain positive DCR through the 30-year period.
- During the term of the Affordable Housing District and the Development Program, tax increment revenues from the Affordable Housing District claimed by the City as captured assessed value may be used to pay authorized project costs.
- Tax increment revenues will be paid by the City to the Project owner pursuant to a Credit Enhancement Agreement to be entered into by and between the City and the Project owner.

Other Submission Requirements

Applications must include a balanced budget at 2% inflators for income and 3% inflators for expenses.

Applications must include a third party cost estimate by the General Contractor or estimator.

Applications must include all developer financial documents necessary to; demonstrate the financial ability to develop and complete the project; and viability of operating the project.

Applications in which there is a development partner or fee developer must include all legal agreements with that entity.

Applications must either submit an audit, or management statements and tax returns for the past three years.

Applications must either include the range of unit sizes and average size by bedroom count, or provide the square footage of units by bedroom size for each unit configuration.

POINT SYSTEM FOR EVALUATING AND SCORING APPLICATIONS (MAX 115)

<u>Policy Objectives: Total 42Points</u>

Proposed use of funds to achieve the City of Portland's goals and address demonstrated need. 18points

Maximum points will be awarded for those applications that:

- Market Demand – 4 points
  - 4 points – high demand, meets the City's income targeting priority and preferences noted in application.
  - 1 point – moderate demand, sufficiently meets the City's income targeting priority
  - 0 points – does not demonstrate sufficient market demand, does not meet the City's income targeting priority
- Economic diversity – 6 points
  - 6 points – creates housing options which promote economic diversity within the development and within in the neighborhood in which the development is located, while meeting the income preferences noted above
  - 5 points – creates housing options which promote economic diversity within the neighborhood in which the development is located, while meeting the income preferences noted above
  - 4 points – creates housing options which promote economic diversity within the development (a mixed-income development), while meeting the income preferences noted above
  - 0 points does not promote economic diversity
- CHDO – 2 points
  - 2 points – developer and owner are both controlled by CHDO
  - 1 points – either developer or owner is controlled by CHDO
  - 0 points neither developer nor owner is controlled by CHDO
- City Subsidy – 6 points
  - 6 points – investment from City is <$10,000/unit
  - 5 points – investment from City is > or = $10,000 and <$12,000/unit
  - 4 points – investment from City is > or = $12,000 and <$14,000/unit
  - 3 points – investment from City is > or = $14,000 and <$16,000/unit
  - 2 points – investment from City is > or = $16,000 and <$18,000/unit
  - 0 points – investment from City is > or = $18,000/unit

Impact on surrounding neighborhood, including design compatibility and environmental issues. 24 points

Maximum points will be awarded for those applications where:

- Site Selection – 7 points
  - 7 points – fully appropriate for use, project supports Comprehensive Plan goal for development along transit notes and corridors
  - 5 point – appropriate, some concerns
  - 0 points – significant concerns, project does not support Comprehensive Plan goal for development along transit nodes and corridors
- Exterior Design – 5 points
  - 5 points – the design is fully consistent with neighborhood design characteristics
  - 3 points – the design is an adequate fit with the neighborhood design
  - 0 points – the design is a significant outlier
- Amenities and unit design – 7 points
  - 7 points -amenities & unit design are well thought out and appropriate for residents
  - 5 points – amenities & unit design are adequate
  - 0 points -amenities and unit design raise significant concerns that resident needs will not be adequately addressed
- Environmental – 5 points
  - 5 points – Phase I identifies no environmental issues
  - 3 points – Phase I identifies an environmental issue, but a Phase II shows a feasible, economically viable resolution which is included in the budgets
  - 0 points – there are significant unresolved environmental issues, or no Phase I has been received

<u>Underwriting Criteria: Total 65 Points</u>

Financial feasibility, including cost, development budget operating pro forma and the provision of secured and leverage funds. 20 points

Maximum points will be awarded for those applications that:

- Development budget & sources and uses – 10 points
  - 10 points – EVERY development budget line item for which there is a City of Portland guideline complies with that guideline AND all other line items are "reasonable and customary"
  - 8 points – ONE budget line item falls outside City guidelines or outside the standard of "reasonable & customary"
  - 6 points – TWO budget line items item falls outside City guidelines or outside the standard of "reasonable & customary"
  - 0 points – more than two budget items fail to meet City guidelines or fall outside "reasonable and customary"
- Operating pro forma – 10 points
  - 10 points – EVERY operating pro forma line item for which there is a City of Portland guideline complies with that guideline AND all other line items are reasonable and customary
  - 8 points – ONE budget line item falls outside City guidelines or outside the standard of "reasonable & customary"
  - 6 points – TWO budget line items item falls outside City guidelines or outside the standard of "reasonable & customary"
  - 0 points – more than two budget items fail to meet City guidelines or fall outside "reasonable and customary"

Applicant's ability to complete and operate project, including development team experience, capacity, property management track record, project readiness and timeframe for completion. 45 points

Maximum points will be awarded for those applications that:

- Readiness to proceed – 10 points
  - 10 points – project meets the shovel ready definition noted in the Funding Priorities section in the application
  - 7 points – ALL projected sources of funding include letters of commitment, letters of interest, or, if no letter is included, are projected at terms and conditions consistent with the City's prior experience with this funder
  - 5 points – at least one letter of commitment or interest is included and ALL projected sources are projected at terms and conditions consistent with the City's prior experience with the funder
  - 0 points – one or more sources are projected on terms that are not consistent with the City's prior experience with the funder and are not documented by letter(s) from funder(s)
- Construction Time Line – 5 points
  - 5 points – There is a strong likelihood the project could proceed into construction within the first six months of the year following funding appropriation based on the timeline, narrative, and supporting documents
  - 2 points – There is a small likelihood the project could proceed into construction within the first six months of the year following funding appropriation based on the timeline, narrative, and supporting documents
  - 0 points – It is unlikely the project could proceed into construction within the first six months of the year following funding appropriation based on the timeline, narrative, and supporting documents
- Track record of development team – 10 points
  - 10 points – every development team member has a successful track record with this type of project and at this scale
  - 7 points – all but one development team members have a successful track record with this type of project and at this scale; one development team member has relevant experience but at a smaller scale or not of this project type
  - 3 points – two development team members, while having relevant experience, are new to this type of project or this scale of development
  - 0 points – the development team does not meet the criteria above
- Current Capacity of development team – 10 points
  - 10 points – development team members have exceptional depth of human and financial resources to complete this project
  - 8 points – development team members have the human and financial resources to complete this project
  - 3 points – development team has a staffing gap in a significant role and a plan to address that gap, OR there are some concerns about the financial resources of the team to move the development forward
  - 0 points – the development team does not meet the criteria described above
- Sound Property Management – 10 points
  - 10 points – property manager agent demonstrates a successful track record in projects of similar size, scale, type and complexity to the proposed project. Properties under the agent's management are violation free, have not been issued an IRS form 8823 within the last three years, and have scored above average or better in physical inspection scores
  - 5 points – property manager agent demonstrates a successful but limited track record in projects of similar size, scale, type and complexity to the proposed project. Properties under the agent's management are violation free, have not been issued an IRS form 8823 within the last three years, and have scored satisfactory in physical inspection scores;

- 0 points – the property manager agent has either on-going violations, or has been issued an IRS form 8823 in the last three years, or has scored below average or lower