

A Reference of  
Housing and Community Development Division  
Policies, Programs, and Other Documents



May 2016



## **Introduction**

This document has been compiled as a resource index of housing related reports, policy tools, funding programs, and other documents. It is the hope that the document will prove a useful reference for City of Portland staff, elected officials, and the general public with regard to various policies and projects.

The document is divided into chapters detailing a project, program, recent policy change, general topic, etc. These chapters are grouped into broader themes for ease of reference.

Each chapter shows a general timeline, highlighting major dates of public hearings, submission, adoption, amendment, etc. Each chapter then contains a brief summary of the topic at hand, followed by a number of supporting documents, including reports, memoranda, excerpts from the Portland City Code of Ordinances, etc. A particular report or memorandum is included on the basis of it being current, thorough, and, whenever possible, an appropriate reflection of current policy or standard operating procedure. City Code excerpts represent the current legal standards relevant to the topic, naturally being subject to amendment from time to time.

Though the supporting documentation is unaltered, certain pages or sections may have been excluded for the sake of brevity and relevance. For this reason, references within each individual document to attachments and other addenda may not be accurate. Page numbers, section headers, and the like, may similarly be misplaced. The reader can be assured that anything excluded is irrelevant or duplicate, and at any rate is on file with the Housing and Community Development Division or the City of Portland.

Additional information, when necessary, can always be requested from the Housing and Community Development Division or the City of Portland. The information in this document is intended for reference only and it is recommended that authoritative sources be consulted when appropriate.

The document is intended to be a living document, subject to occasional additions, deletions, and amendments. New programs, new reports, or major changes in policy should be reflected, and outdated information should be deleted, or at least noted as such, as appropriate. It is the hope that this document will bring clarity and tangibility to the work of the Housing and Community Development Division.





## **List of Topics**

### Financial Resources and Programs

- Affordable Housing Revolving Loan Fund
- Affordable Housing Tax Credit Financing
- HOME Funds
- Housing Development Investment Policy
- Housing Trust Fund
- Lead Safe Program
- Residential Rehabilitation Program
- Tenant Based Rental Assistance

### Land Use and Zoning Policies

- Accessory Dwelling Units
- B-1 and B-2 Zoning Text Amendments
- B-7 Zone Parking Text Amendments
- Downtown Height Overlay Map Amendment
- Housing Preservation and Replacement
- Inclusionary Zoning, Density Bonuses, and Reduced Fees
- India Street Form-Based Code
- Peninsula Fee-in-Lieu of Parking Provision and the Sustainable Transportation Fund
- R-6 Zoning Text Amendments

### Reports and Plans

- Housing: Sustaining Portland's Future
- HUD Comprehensive Housing Market Analysis
- Portland 2030 Workforce Housing Demand
- Transforming Forest Avenue

### Miscellaneous Topics

- Age-Friendly Community
- Housing First
- Short-term Rentals



## **Affordable Housing Revolving Loan Fund**

### **Timeline**

10.16.2013 Submitted to Housing and Community Development Committee

### **Summary**

Upon approval from MaineHousing, the City of Portland established a new Revolving Loan and Investment Fund to be utilized for the development of affordable permanent rental and homeownership housing throughout the City of Portland. As a U.S. Department of Housing and Urban Development Entitlement Jurisdiction, the City of Portland administers housing programs, including rehabilitation programs, first time homebuyer assistance programs and new construction development programs. Using this experience, the City of Portland developed program guidelines that ensure compliance with the Affordable Housing TIF Program.

The fund is used solely for the development of affordable permanent housing. Types of permanent housing to be developed will be single family homes, condominiums and apartments or other rental housing units intended to be occupied by a household on a continuing basis. Shelters, nursing homes, convalescent homes, hospitals, residential treatment facilities, correctional facilities or student dormitories will not be allowed. Affordable permanent housing developed with this fund or fund proceeds will be affordable to households earning no more than 120 percent of the area median income.

### **In this chapter**

- **409 Cumberland Avenue AHTIF Update**, Housing and Community Development Committee memo, 10.16.2013



Mary Davis

Division Director, Housing &amp; Community Development Division

**TO:** Councilor Mavodones, Chair  
Members of the Housing and Community Development Committee

**FROM:** Mary Davis, Director  
Housing & Community Development Division

**DATE:** October 16, 2013

**SUBJECT:** 409 Cumberland Avenue AHTIF Update

In response to direction given to staff at the October 9 HCDC meeting, I spoke with staff from Maine Housing and have received preliminary approval on the following language for the revolving loan fund.

Upon approval from MaineHousing, the City of Portland will establish a new Revolving Loan and Investment Fund to be utilized for the development of affordable permanent rental and homeownership housing throughout the City of Portland. As a U.S. Department of Housing and Urban Development Entitlement Jurisdiction, the City of Portland administers housing programs, including rehabilitation programs, first time homebuyer assistance programs and new construction development programs. Using this experience, the City of Portland will develop program guidelines that ensure compliance with the Affordable Housing TIF Program. Allowable uses are described below:

Revolving Loans. Loans will be provided to developers interested in creating affordable permanent housing in the City of Portland. Loans will be made for both new construction of affordable permanent housing and the rehabilitation of existing housing as long as the rehabilitation results in the creation of affordable permanent housing. All loans made from this fund will be repaid to the City of Portland and all loan repayments will be deposited into the fund and used for additional loans for the development of affordable permanent housing.

Investment/Real Estate Acquisition. Loans will be used for the purchase of property in the City of Portland. Property will be purchased by the City of Portland for the development of affordable permanent housing by the City or by a developer to which the City sells or leases the property. All proceeds of sales of any property purchased or rental revenues from leases into which the City of Portland enters will be placed in the fund and used for additional purchases of property for the development of affordable permanent housing.

Portland, Maine



Yes. Life's good here.

Mary Davis

Division Director, Housing & Community Development Division

The fund will be used solely for the development of affordable permanent housing. Types of permanent housing to be developed will be single family homes, condominiums and apartments or other rental housing units intended to be occupied by a household on a continuing basis. Shelters, nursing homes, convalescent homes, hospitals, residential treatment facilities, correctional facilities or student dormitories will not be allowed. Affordable permanent housing developed with this fund or fund proceeds will be affordable to households earning no more than 120 percent of the area median income.



## **Affordable Housing Tax Credit Financing**

### **Timeline**

05.07.2015 Submitted to Housing and Community Development Committee  
02.04.2013 TIF policy approved by City Council

### **Summary**

This is a tool used by municipalities in Maine to assist in the development of affordable housing projects, governed by the Maine State Housing Authority. Affordable housing is defined as a “decent, safe and sanitary dwelling, apartment or other living accommodation for a household 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.

Designated districts can be site specific or area-wide and must increase the amount of affordable housing or improve the health, welfare, or safety of residents. Districts have to be primarily residential with at least 25% of the property within a district that is (1) suitable for residential use; (2) a blighted area; or (3) in need of rehabilitation or redevelopment. For a TIF to be considered a minimum of 33% of the dwelling units within the project or district must be affordable.

A TIF works by capturing tax growth above the existing tax revenue from a project or district. These funds are then targeted to support a specific project or district.

### **In this chapter**

- **Affordable Housing Tax Increment Financing**, Housing and Community Development Committee memo, 05.07.2015
- **Maine Revised Statutes, Title 30-A, Subch. 3, Secs. 5245 - 5250-G**, Municipal Affordable Housing Development Districts
- **Portland TIF Policy**, 02.04.2013



Mary Davis

Division Director, Housing &amp; Community Development Division

**TO:** Councilor Donoghue, Chair  
Members of the Housing and Community Development Committee

**FROM:** Mary Davis, Division Director  
Housing and Community Development Division

**DATE:** May 7, 2015

**SUBJECT:** Affordable Housing Tax Increment Financing Program

Affordable Housing Tax Increment Financing (AHTIF)

This is a tool used by municipalities in Maine to assist in the development of affordable housing projects. The legislation can be found at M.R.S.A. Title 30-A Chapter 206 §5245 through §5250-G. The Maine State Housing Authority is the governing authority.

Under the statute, affordable housing is defined as a “decent, safe and sanitary dwelling, apartment or other living accommodation for a household whose income does not exceed 120% of the median income for the area”. Income limits are defined by the U.S. Department of Housing and Urban Development.

FY 2015 Income Limit Category	Persons in Family							
	1	2	3	4	5	6	7	8
120% Income Limits	64,932	74,208	83,484	92,760	100,181	107,602	115,022	122,443

Designated districts can be site specific or area-wide and must increase the amount of affordable housing or improve the health, welfare or safety of residents. Districts have to be primarily residential with at least 25% of the property within a district that is (1) suitable for residential use; (2) a blighted area; or (3) in need of rehabilitation or redevelopment. Thirty-three percent (33%) of the dwelling units within the district must be affordable.

Allowable Project Costs within the District:

1. Capital costs - acquisition of land, construction of public infrastructure, demolition, remodeling, repair of existing buildings, site prep, finishing work licensing,



Mary Davis

Division Director, Housing &amp; Community Development Division

permitting fees, planning, architectural, engineering, testing, legal and accounting expenses.

2. Financing costs - closing costs, administrative costs (municipal staff time to implement the development program), relocation costs, organization costs to establish the development program such as environmental studies and public notification, costs of recreational facilities, costs of child care (financing, construction, staffing, training, certification related to child care located in the district), case management and supportive services, and operating costs such as property management, utilities, repairs, maintenance, insurance real estate taxes, funding project capital reserve account;

Costs of improvements outside of the district have to be directly related to or made necessary by the improvements in the district. These can include:

1. Costs of construction, expansion or alteration of facilities not located with the district but required due to activities within the district – sewage treatment plants, water treatment plants, storm or sanitary sewer lines, water lines, electrical lines, improvements to fire stations, amenities on streets.
2. Public safety improvements made necessary by the district.
3. Costs of funding to mitigate any adverse impact of the district upon the municipality (public school K-12 costs and public facilities and improvements).
4. Costs to establish a permanent housing development revolving loan funds or investment fund.

TIF revenue used for this purpose must be used for the development of affordable permanent housing (shelters, nursing homes, dormitories, residential treatment facilities, correctional facilities, etc. are not considered eligible types of permanent housing) anywhere within the City of Portland. The housing developed must be affordable to households earning no more than 120% AMI. Loans made through this fund must be repaid to the City and used for additional loans for the development of affordable permanent housing. The City has established, through the Avesta 409 Cumberland Avenue AHTIF and the Pearl Place Phase I AHTIF, an Affordable Housing Revolving Loan and Investment Fund. This fund is separate from the City's Housing Trust Fund. Based on the revenue designated by the district programs mentioned above, the fund will eventually receive approximately \$50,000-\$60,000 annually.



Mary Davis

Division Director, Housing &amp; Community Development Division

### Funding Mechanisms

There are various mechanisms that can be used to fund approved project costs. The City can issue bonds or notes to finance project costs, provide a credit enhancement agreement to the developer to pay approved costs or reserve revenue to pay for public improvements, public facilities or other approved costs without issuing debt.

### Area-Wide Affordable Housing TIF

I have included an excerpt from the written guidance I received from the Maine State Housing Authority on the topic of an area-wide affordable housing TIF.

*“Creating a District around an existing residential area for the purpose of funding a revolving loan fund or investment fund still requires that there be some development of affordable housing within the District, whether new construction or rehab of existing housing. As noted above, the TIF statute defines a District as “a specified area within the corporate limits of a municipality that has been designated . . . to be developed” under a Development Program.*

*There would be little point in creating a District for which there was no plan to build new housing or improve existing housing in the District. There are only two ways to increase total taxable (i.e., assessed) value of property in a District and thereby get tax increment revenues for use as allowed by the statute - it happens either through increased development (new construction or rehab) or as a result of inflation. Since only tax increment revenues from a District are available for the revolving loan fund or investment fund (assuming that that a town wants the benefit of full sheltering of the increased assessed value of the District), without any new construction of affordable housing or rehab of existing housing in the District, the town would be relying only on inflation for value accretion. In addition, at any point when assessed value is less than or equal to original assessed value, there would be no tax increment revenues for the revolving loan fund or investment fund. Since there needs to be a plan, with a time schedule, for the use of funds in a revolving loan fund or investment fund so that we can be sure that statutory objectives are met, we have not permitted a town to create a District for the sole purpose of capturing tax increment revenues that would result only from inflationary adjustments to property values with no development of new housing or rehab of existing housing in the District.”*

Based on this guidance, the City would not be allowed to designate an area-wide affordable housing district, similar to the Downtown Transit Oriented TIF recently



Mary Davis

Division Director, Housing &amp; Community Development Division

approved by the City Council, which was not tied specifically to affordable housing development.

This is not to say that a designated AHTIF district must be site specific, such as the ones previously approved in the City of Portland (Pearl Place, 409 Cumberland Avenue and 134 Washington Avenue). As an example, if a proposed affordable housing development requires the extension of a city street for access to the site, the district could be designed to include the area necessary for the street extension. Revenue generated by the AHTIF could be used to cover the cost of the extension of the street to the development site.

#### Other Clarifying Information

1. Revenue generated by an AHTIF cannot be used to subsidize rents.
2. If a revolving loan or investment fund has been designated as an approved use of AHTIF revenue, those funds must be kept separate from local housing trust funds.

#### Existing Affordable Housing TIF

Avesta Pearl Place Phase I – Oxford and Pearl Streets

Duration: 30 year term (FY08 through FY37)

Credit Enhancement Agreement that returns a maximum of \$22,000 annually to the developer and used to cover debt service. The council approved an amendment that allows additional revenue to be returned to the City in an Affordable Housing Revolving Loan and Investment Fund and a portion to the school system to offset impacts from the development.

Avesta 409 Cumberland Avenue – Forest and Cumberland Avenue

Duration: 22 year term

Credit Enhancement Agreement that returns 50% of the annual revenue to the Developer for project operating costs; remaining 50% is reserved to the City in an Affordable Housing Revolving Loan and Investment Fund.

Avesta 134 Washington Avenue

Duration: 20 years

Credit Enhancement Agreement that returns 50% of the annual revenue to the Developer for project operating costs.



Mary Davis

Division Director, Housing &amp; Community Development Division

### Low Income Housing Tax Credit Program

The Low Income Housing Tax Credit Qualified Application Plan (QAP) is the application process by which Maine State Housing Authority allocates low income housing tax credits. The QAP requires that a minimum of 50% of the annual incremental property tax revenue be returned to the developer to pay operating costs for a minimum of 15 years. The scoring matrix provides 3 points for an application which benefits from a reduction in operating costs from tax increment financing. In a process that is highly competitive, these points can be the deciding factor for a project to receive low income housing tax credits.

### Portland Oregon TIF Program

As mentioned in the report The Housing Challenge Portland, Oregon utilizes TIF revenue to finance affordable housing development. The TIF revenue is generated through designated Urban Renewal Districts throughout the city. Thirty percent (30%) of the revenue generated in Urban Renewal Districts is set-aside in an affordable housing fund and is used to "...ensure predictable and adequate funding and prioritization of housing..." for households earning at or below 100% of the area median income.

The Urban Renewal Districts are areas that are "...physically deteriorated, suffering economic stagnation, unsafe or poorly planned." The City uses the TIF revenue generated in these districts to finance capital improvements such as parks, streetscape improvements or community centers. In Oregon, the urban renewal program is authorized by the state.

The Portland, Oregon TIF program is not an affordable housing TIF program like the one in Maine. It is a general TIF with revenue set-aside to finance affordable housing development.

### Conclusions:

While the Affordable Housing TIF program is a valuable resource available to the City to assist with the creation of affordable housing, it is not the sole answer to accomplishing Portland's housing goals. Used in combination with other tools, it can continue to be an effective part of our housing strategy.

### Attachments

Explanation and History of Affordable Housing TIF Set-Aside in Portland, OR

Subchapter 3: MUNICIPAL AFFORDABLE HOUSING  
DEVELOPMENT DISTRICTS HEADING: PL 2003, C. 426, §1 (NEW)

## §5245. FINDINGS AND DECLARATION OF NECESSITY

**1. Legislative finding.** The Legislature finds that there is a need for the development of affordable, livable housing and the containment of the costs of unplanned growth in Maine municipalities.

[ 2003, c. 426, §1 (NEW) .]

**2. Authorization.** For the reasons set out in subsection 1, a municipality may develop a program to provide impetus for affordable housing development within a district of the municipality, as provided in the comprehensive plan adopted by the legislative body of the municipality.

[ 2003, c. 426, §1 (NEW) .]

**3. Declaration of public purpose.** It is declared that the actions required to assist the implementation of affordable housing development programs are a public purpose and that the execution and financing of these programs are a public purpose.

[ 2003, c. 426, §1 (NEW) .]

### SECTION HISTORY

2003, c. 426, §1 (NEW) .

## §5246. DEFINITIONS

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings. [2003, c. 426, §1 (NEW) .]

**1. Affordable housing.** "Affordable housing" means a decent, safe and sanitary dwelling, apartment or other living accommodation for a household whose income does not exceed 120% of the median income for the area as defined by the United States Department of Housing and Urban Development under the United States Housing Act of 1937, Public Law 412, 50 Stat. 888, Section 8, as amended.

[ 2003, c. 426, §1 (NEW) .]

**2. Affordable housing development district.** "Affordable housing development district" or "district" means a specified area within the corporate limits of a municipality that has been designated as provided under sections 5247 and 5250 to be developed under an affordable housing development program and financed under section 5250-A.

[ 2003, c. 426, §1 (NEW) .]

**3. Affordable housing development program.** "Affordable housing development program" or "program" means a statement of means and objectives designed to encourage the development and maintenance of affordable housing within an affordable housing development district.

[ 2003, c. 426, §1 (NEW) .]

**4. Amenities.** "Amenities" means items of street furniture, signs and landscaping, including, but not limited to, plantings, benches, trash receptacles, street signs, sidewalks and pedestrian malls.

[ 2003, c. 426, §1 (NEW) .]

**5. Authority.** "Authority" means the Maine State Housing Authority.

[ 2003, c. 426, §1 (NEW) .]

**6. Captured assessed value.** "Captured assessed value" means the amount, as a percentage or stated sum, of increased assessed value that is utilized from year to year to finance the project costs contained within the affordable housing development program.

[ 2003, c. 426, §1 (NEW) .]

**7. Current assessed value.** "Current assessed value" means the assessed value of the district certified by the municipal assessor as of April 1st of each year that the affordable housing development district remains in effect.

[ 2003, c. 426, §1 (NEW) .]

**8. Director.** "Director" means the Director of the Maine State Housing Authority.

[ 2003, c. 426, §1 (NEW) .]

**9. Financial plan.** "Financial plan" means a statement of the project costs and sources of revenue required to accomplish the affordable housing development program.

[ 2003, c. 426, §1 (NEW) .]

**10. Increased assessed value.** "Increased assessed value" means the valuation amount by which the current assessed value of an affordable housing development district exceeds the original assessed value of the district. If the current assessed value is equal to or less than the original, there is no increased assessed value.

[ 2003, c. 426, §1 (NEW) .]

**11. Maintenance and operation.** "Maintenance and operation" means all activities necessary to maintain affordable housing after development and all activities necessary to operate the affordable housing, including, but not limited to, informational, promotional, safety and surveillance activities.

[ 2003, c. 426, §1 (NEW) .]

**12. Original assessed value.** "Original assessed value" means the assessed value of an affordable housing development district as of March 31st of the tax year preceding the year in which it was designated, and, for affordable housing development districts designated on or after April 1, 2014, "original assessed value" means the taxable assessed value of an affordable housing development district as of March 31st of the tax year preceding the year in which it was designated by the municipality or plantation.

[ 2013, c. 312, §1 (AMD) .]

**13. Project costs.** "Project costs" means any expenditures or monetary obligations incurred or expected to be incurred that are authorized by section 5249, subsection 1 and included in an affordable housing development program.

[ 2003, c. 426, §1 (NEW) .]

**14. Tax increment.** "Tax increment" means real property taxes assessed by a municipality, in excess of any state, county or special district tax, upon the increased assessed value of property in the affordable housing development district.

[ 2003, c. 426, §1 (NEW) .]

**15. Tax shifts.** "Tax shifts" means the effect on a municipality's state revenue sharing, education subsidies and county tax obligations that results from the designation of an affordable housing development district and the capture of increased assessed value.

[ 2003, c. 426, §1 (NEW) .]

**16. Tax year.** "Tax year" means the period of time beginning on April 1st and ending on the succeeding March 31st.

[ 2003, c. 426, §1 (NEW) .]

#### SECTION HISTORY

2003, c. 426, §1 (NEW). 2013, c. 312, §1 (AMD).

## §5247. AFFORDABLE HOUSING DEVELOPMENT DISTRICTS

**1. Creation.** A municipal legislative body may designate an affordable housing development district within the boundaries of the municipality in accordance with the requirements of this subchapter. If the municipality has a charter, the designation of an affordable housing development district may not be in conflict with the provisions of the municipal charter.

[ 2003, c. 426, §1 (NEW) .]

**2. Considerations for approval.** Before designating an affordable housing development district within the boundaries of a municipality, or before establishing an affordable housing development program for a designated affordable housing development district, the legislative body of a municipality must consider whether the proposed district or program will contribute to the expansion of affordable housing opportunities within the municipality or to the betterment of the health, welfare or safety of the inhabitants of the municipality. Interested parties must be given a reasonable opportunity to present testimony concerning the proposed district or program at the hearing provided for in section 5250, subsection 1. If an interested party claims at the public hearing that the proposed district or program will result in a substantial detriment to that party's existing property interests in the municipality and produces substantial evidence to that effect, the legislative body shall consider that evidence. When considering that evidence, the legislative body also shall consider whether any adverse economic effect of the proposed district or program on that interested party's existing property interests in the municipality is outweighed by the contribution made by the district or program to the availability of affordable housing within the municipality or to the betterment of the health, welfare or safety of the inhabitants of the municipality.

[ 2003, c. 426, §1 (NEW) .]

**3. Conditions for approval.** Designation of an affordable housing development district is subject to the following conditions.

A. At least 25%, by area, of the real property within an affordable housing development district must:

- (1) Be suitable for residential use;
- (2) Be a blighted area; or
- (3) Be in need of rehabilitation or redevelopment. [2003, c. 426, §1 (NEW) .]

B. The affordable housing development district is subject to the area cap established in section 5223, subsection 3, paragraph B. [2003, c. 426, §1 (NEW) .]

C. The original assessed value of a proposed affordable housing development district plus the original assessed value of all existing affordable housing development districts within the municipality may not exceed 5% of the total value of taxable property within the municipality as of April 1st preceding the date of the director's approval of the designation of the proposed affordable housing development district. [2003, c. 426, §1 (NEW) .]

D. [2013, c. 312, §2 (RP) .]

E. The affordable housing development program must show that the development meets an identified community housing need. The affordable housing development program must provide a mechanism to ensure the ongoing affordability for a period of at least 10 years for single-family, owner-occupied units and 30 years for rental units. [2003, c. 426, §1 (NEW) .]

F. [2013, c. 312, §2 (RP) .]

G. The district must be primarily a residential development on which at least 33% of the dwelling units are affordable housing and that may be designed to be compact and walkable and to include internal open space, other common open space and one or more small-scale nonresidential uses of service to the residents of the development. [2003, c. 426, §1 (NEW) .]

[ 2013, c. 312, §2 (AMD) .]

**4. Powers of municipality.** Within an affordable housing development district and consistent with an affordable housing development program, a municipality may acquire, construct, reconstruct, improve, preserve, alter, extend, operate or maintain property or promote development intended to meet the objectives of the affordable housing development program. Pursuant to the affordable housing development program, the municipality may acquire property, land or easements through negotiation or by using eminent domain powers in the manner authorized for community development programs under section 5204. The municipality's legislative body may adopt ordinances regulating traffic in and access to any facilities constructed within the affordable housing development district. The municipality may install public improvements.

[ 2003, c. 426, §1 (NEW) .]

#### SECTION HISTORY

2003, c. 426, §1 (NEW). 2013, c. 312, §2 (AMD) .

## §5248. AFFORDABLE HOUSING DEVELOPMENT PROGRAMS

**1. Adoption.** The legislative body of a municipality shall adopt an affordable housing development program for each affordable housing development district. The affordable housing development program must be adopted at the same time as the district as part of the district adoption proceedings or, if at a different time, in the same manner as adoption of the district, with the same notice and hearing requirements of section 5250. Before adopting an affordable housing development program, the municipal legislative body shall consider the factors and evidence specified in section 5247.

[ 2003, c. 426, §1 (NEW) .]

**2. Requirements.** The affordable housing development program must include:

A. A financial plan in accordance with subsection 3; [2003, c. 426, §1 (NEW) .]

B. A description of facilities, improvements or programs to be financed in whole or in part by the affordable housing development program; [2003, c. 426, §1 (NEW) .]

C. Plans for the relocation of persons displaced by the development activities; [2003, c. 426, §1 (NEW) .]

D. The environmental controls to be applied; [2003, c. 426, §1 (NEW) .]

E. The proposed operation of the affordable housing development district after the planned improvements are completed; [2003, c. 426, §1 (NEW) .]

F. An assurance that the program complies with section 4349-A; [2003, c. 426, §1 (NEW) .]

G. The duration of the program, which may start during any tax year specified in the approval of the affordable housing development program by a municipal legislative body, except that the program may not exceed 30 years after the tax year in which the designation of the district is approved by the director as provided in section 5250, subsection 3; and [2013, c. 312, §3 (AMD) .]

H. All documentation submitted to or prepared by the municipality under section 5247, subsection 2. [2003, c. 426, §1 (NEW) .]

[ 2013, c. 312, §3 (AMD) .]

**3. Financial plan for affordable housing development district.** The financial plan for an affordable housing development district must include:

A. Cost estimates for the affordable housing development program; [2003, c. 426, §1 (NEW) .]

B. The amount of public indebtedness to be incurred; [2003, c. 426, §1 (NEW) .]

C. Sources of anticipated revenues; [2003, c. 426, §1 (NEW) .]

D. A description of the terms and conditions of any agreements, contracts or other obligations related to the affordable housing development program; and [2003, c. 426, §1 (NEW) .]

E. For each year of the affordable housing development program:

(1) Estimates of increased assessed values of the district;

(2) The portion of the increased assessed values to be applied to the affordable housing development program as captured assessed values and resulting tax increments in each year of the program; and

(3) A calculation of the tax shifts resulting from designation of the affordable housing development district. [2003, c. 426, §1 (NEW) .]

[ 2003, c. 426, §1 (NEW) .]

**4. Limitation.** For affordable housing development districts, a municipality may expend the tax increments received for any affordable housing development program only in accordance with the financial plan.

[ 2003, c. 426, §1 (NEW) .]

#### SECTION HISTORY

2003, c. 426, §1 (NEW). 2013, c. 312, §3 (AMD) .

## §5249. PROJECT COSTS

**1. Authorized project costs.** The director shall review proposed project costs to ensure compliance with this subsection. Authorized project costs are:

A. Costs of improvements made within the affordable housing development district, including, but not limited to:

- (1) Capital costs, including, but not limited to:
  - (a) The acquisition of land or construction of public infrastructure improvements for affordable housing development;
  - (b) The demolition, alteration, remodeling, repair or reconstruction of existing buildings, structures and fixtures;
  - (c) Site preparation and finishing work; and
  - (d) All fees and expenses that are eligible to be included in the capital cost of such improvements, including, but not limited to, licensing and permitting expenses and planning, engineering, architectural, testing, legal and accounting expenses;
- (2) Financing costs, including, but not limited to, closing costs, issuance costs and interest paid to holders of evidences of indebtedness issued to pay for project costs and any premium paid over the principal amount of that indebtedness because of the redemption of the obligations before maturity;
- (3) Real property assembly costs;
- (4) Professional service costs, including, but not limited to, licensing, architectural, planning, engineering and legal expenses;
- (5) Administrative costs, including, but not limited to, reasonable charges for the time spent by municipal employees in connection with the implementation of an affordable housing development program;
- (6) Relocation costs, including, but not limited to, relocation payments made following condemnation;
- (7) Organizational costs relating to the establishment of the affordable housing district, including, but not limited to, the costs of conducting environmental impact and other studies and the costs of informing the public about the creation of affordable housing development districts and the implementation of project plans;
- (8) Costs of facilities used predominantly for recreational purposes, including, but not limited to, recreation centers, athletic fields and swimming pools;
- (9) Costs for child care, including finance costs and construction, staffing, training, certification and accreditation costs related to child care located in the affordable housing development district;
- (10) Costs of case management and support services; and
- (11) Operating costs, including but not limited to property management and administration, utilities, routine repairs and maintenance, insurance, real estate taxes and funding of a projects capital reserve account; and [2013, c. 312, §4 (AMD) .]

B. Costs of improvements that are made outside the affordable housing development district but are directly related to or are made necessary by the establishment or operation of the district, including, but not limited to:

- (1) That portion of the costs reasonably related to the construction, alteration or expansion of any facilities not located within the district that are required due to improvements or activities within the district, including, but not limited to, sewage treatment plants, water treatment plants or other environmental protection devices; storm or sanitary sewer lines; water lines; electrical lines; improvements to fire stations; and amenities on streets;
- (2) Costs of public safety improvements made necessary by the establishment of the district;
- (3) Costs of funding to mitigate any adverse impact of the district upon the municipality and its constituents. This funding may be used for funding public kindergarten to grade 12 costs and public facilities and improvements; and

(4) Costs to establish permanent housing development revolving loan funds or investment funds.  
[2003, c. 426, §1 (NEW) .]

[ 2013, c. 312, §4 (AMD) .]

**2. Limitation.** Tax increments received from any affordable housing development program may not be used to circumvent other tax laws.

[ 2003, c. 426, §1 (NEW) .]

#### SECTION HISTORY

2003, c. 426, §1 (NEW) . 2013, c. 312, §4 (AMD) .

## §5250. PROCEDURE

**1. Notice and hearing.** Before designating an affordable housing development district or adopting an affordable housing development program, the municipal legislative body or the municipal legislative body's designee must hold at least one public hearing on the proposed district. Notice of the hearing must be published at least 10 days before the hearing in a newspaper of general circulation within the municipality.

[ 2003, c. 426, §1 (NEW) .]

**2. Review by director.** Before final designation of an affordable housing development district, the director shall review the proposal for the district to ensure that the proposal complies with statutory requirements.

[ 2003, c. 426, §1 (NEW) .]

**3. Effective date.** A designation of an affordable housing development district is effective upon approval by the director.

[ 2003, c. 426, §1 (NEW) .]

**4. Administration of district.** The legislative body of a municipality may create a department, designate an existing department, office, agency, municipal housing or redevelopment authority or enter into a contractual arrangement with a private entity to administer activities authorized under this subchapter.

[ 2003, c. 426, §1 (NEW) .]

**5. Amendments.** A municipality may amend a designated affordable housing development district or an adopted affordable housing development program only after meeting the requirements of this section for designation of an affordable housing development district or adoption of an affordable housing development program. A municipality may not amend the designation of an affordable housing development district if the amendment would result in the district's being out of compliance with any of the conditions in section 5247, subsection 3.

[ 2003, c. 426, §1 (NEW) .]

#### SECTION HISTORY

2003, c. 426, §1 (NEW) .

## §5250-A. AFFORDABLE HOUSING TAX INCREMENT FINANCING

**1. Designation of captured assessed value.** A municipality may retain all or part of the tax increment revenues generated from the increased assessed value of an affordable housing development district for the purpose of financing the affordable housing development program. The amount of tax increment revenues to be retained is determined by designating the captured assessed value. When an affordable housing development program for an affordable housing development district is adopted, the municipal legislative body shall adopt a statement of the percentage of increased assessed value to be retained as captured assessed value in accordance with the affordable housing development program. The statement of percentage may establish a specific percentage or percentages or may describe a method or formula for determination of the percentage. The municipal assessor shall certify the amount of the captured assessed value to the municipality each year.

[ 2003, c. 426, §1 (NEW) .]

**2. Certification of assessed value.** Upon or after the formation of an affordable housing development district, the assessor of the municipality in which the district is located shall certify the original assessed value of the taxable property within the boundaries of the affordable housing development district. Each year after the designation of an affordable housing development district, the municipal assessor shall certify the amount by which the assessed value has increased or decreased from the original value.

Nothing in this subsection allows or sanctions unequal apportionment or assessment of the taxes to be paid on real property in the State. An owner of real property within the affordable housing development district pays real property taxes apportioned equally with property taxes paid elsewhere in the municipality.

[ 2003, c. 426, §1 (NEW) .]

**3. Affordable housing development program fund; affordable housing tax increment revenues.** If a municipality has designated captured assessed value under subsection 1, the municipality shall:

A. Establish an affordable housing development program fund that consists of the following:

(1) A project cost account that is pledged to and charged with the payment of project costs that are outlined in the financial plan and are paid in a manner other than as described in subparagraph (2); and

(2) In instances of municipal indebtedness, a development sinking fund account that is pledged to and charged with the payment of the interest and principal as the interest and principal fall due and the necessary charges of paying interest and principal on any notes, bonds or other evidences of indebtedness that were issued to fund or refund the cost of the affordable housing development program fund; [2003, c. 426, §1 (NEW) .]

B. Annually set aside all affordable housing tax increment revenues on captured assessed values and deposit all such revenues to the appropriate affordable housing development program fund account established under paragraph A in the following order of priority:

(1) To the affordable housing development sinking fund account, an amount sufficient, together with estimated future revenues to be deposited to the account and earnings on the amount, to satisfy all annual debt service on bonds and notes issued under section 5250-D and the financial plan; and

(2) To the affordable housing project cost account, an amount sufficient, together with estimated future revenues to be deposited to the account and earnings on the amount, to satisfy all annual affordable housing project costs to be paid from the account; [2003, c. 426, §1 (NEW) .]

C. Make transfers between affordable housing development program fund accounts established under paragraph A as required, provided that the transfers do not result in a balance in the affordable housing development sinking fund account that is insufficient to cover the annual obligations of that account; and [2003, c. 426, §1 (NEW) .]

D. Annually return to the municipal general fund any tax increment revenues remaining in the affordable housing development sinking fund account established under paragraph A in excess of those estimated to be required to satisfy the obligations of the development sinking fund account after taking into account any transfers made under paragraph C. The municipality, at any time during the term of the district, by vote of the municipal officers, may return to the municipal general fund any tax increment revenues remaining in the project cost account established under paragraph A in excess of those estimated to be required to satisfy the obligations of the development project cost account after taking into account any transfer made under paragraph C. In either case, the corresponding amount of local valuation may not be included as part of the captured assessed value as specified by the municipality. [2003, c. 426, §1 (NEW) .]

[ 2003, c. 426, §1 (NEW) .]

#### SECTION HISTORY

2003, c. 426, §1 (NEW) .

### **§5250-B. RULES**

The director may adopt rules necessary to carry out the duties imposed by this subchapter and to ensure municipal compliance with this subchapter following designation of an affordable housing development district. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. [2003, c. 426, §1 (NEW) .]

#### SECTION HISTORY

2003, c. 426, §1 (NEW) .

### **§5250-C. GRANTS**

A municipality may receive grants or gifts for any of the purposes of this subchapter. The tax increment revenues within an affordable housing development district may be used as the local match for certain grant programs. [2003, c. 426, §1 (NEW) .]

#### SECTION HISTORY

2003, c. 426, §1 (NEW) .

### **§5250-D. BOND FINANCING**

The legislative body of a municipality may authorize, issue and sell bonds, including but not limited to general obligation or revenue bonds or notes, that mature within 30 years from the date of issue to finance all project costs needed to carry out the affordable housing development program within the affordable housing development district. The municipal officers authorized to issue the bonds or notes may borrow money in anticipation of the sale of the bonds for a period of up to 3 years by issuing temporary notes and notes in renewal of the bonds. All revenues derived under section 5250-A received by the municipality are pledged for the payment of the activities described in the affordable housing development program and used to reduce or cancel the taxes that may otherwise be required to be expended for that purpose. The notes, bonds or other forms of financing may not be included when computing the municipality's net debt. Nothing in this section restricts the ability of the municipality to raise revenue for the payment of project costs in any manner otherwise authorized by law. [2013, c. 312, §5 (AMD) .]

#### SECTION HISTORY

2003, c. 426, §1 (NEW) . 2013, c. 312, §5 (AMD) .

**§5250-E. ADMINISTRATION**

**1. Reports.** The legislative body of a municipality must report annually to the director regarding the status of an affordable housing development district. The report must:

A. Certify that the public purpose of the affordable housing district, as outlined in this subchapter, is being met; [2003, c. 426, §1 (NEW) .]

B. Account for any sales of property within the district; and [2003, c. 426, §1 (NEW) .]

C. Certify that rental units within the affordable housing development district have remained affordable. [2003, c. 426, §1 (NEW) .]

[ 2003, c. 426, §1 (NEW) .]

**2. Recovery of public funds.** The authority shall develop by rule provisions for recovery of public revenue if conditions for approval of an affordable housing development district are not maintained for the duration of the district. Rules adopted by the authority pursuant to this subsection must be submitted to the Legislature in accordance with Title 5, chapter 375, subchapter 2-A.

[ 2003, c. 426, §1 (NEW) .]

## SECTION HISTORY

2003, c. 426, §1 (NEW) .

**§5250-F. ADVISORY BOARD**

The legislative body of a municipality may create an advisory board, a majority of whose members must be owners or occupants of real property located in or adjacent to the affordable housing development district they serve. The advisory board shall advise the legislative body on the planning and implementation of the affordable housing development program, the construction of the district and the maintenance and operation of the district after the program has been completed. [2003, c. 426, §1 (NEW) .]

## SECTION HISTORY

2003, c. 426, §1 (NEW) .

**§5250-G. UNORGANIZED TERRITORY**

For the purposes of this subchapter, a county may act as a municipality for the unorganized territory within the county and may designate affordable housing development districts within the unorganized territory. When a county acts under this section, the county commissioners act as the municipality and as the municipal legislative body, the State Tax Assessor acts as the municipal assessor and the unorganized territory fund receives the funds designated for the municipal general fund. [2003, c. 426, §1 (NEW) .]

## SECTION HISTORY

2003, c. 426, §1 (NEW) .

Subchapter 3: PINE TREE DEVELOPMENT ZONES HEADING:  
PL 2003, C. 451, PT. NNN, §2 (NEW); C. 688, PT. D, §1 (RP)

**§5245. FINDINGS AND DECLARATION OF NECESSITY**

*(REPEALED)*

## SECTION HISTORY

2003, c. 451, §NNN2 (NEW) . 2003, c. 688, §D1 (RP) .

# **PORTLAND TIF POLICY**

**February 4, 2013**

## **INTRODUCTION**

Tax Increment Financing (TIF) is an economic development program authorized under state law to support municipal projects. The TIF program allows municipalities to provide financial assistance to local economic development projects and programs – from infrastructure, municipal economic development programs and staff, to business expansions - by using new property taxes that result from new commercial or residential investment associated with the corresponding increase in property value.

Portland TIF Policy supports investment in municipal economic development programs, infrastructure investment (which is generally through the establishment of area wide or neighborhood TIF districts) and individual project site specific TIF districts to support either infrastructure or individual private project financing needs.

The City is committed to invest in infrastructure located within the public rights-of-way that encourage economic development. Use of TIF investment to invest in infrastructure recognizes the savings which occurs through the TIF Program tax sheltering benefits.

“Infrastructure” is defined, but not limited to: traffic upgrades, public parking facilities, roadway improvements, lighting, sidewalks, water and sewer utilities, storm water management improvements and placing above ground overhead electric and telecommunications lines underground.

## **STATE TIF LIMITATION**

There are acreage and value caps limitations for municipalities to establish TIF along with term limits. Term limits include bonds which may be issued for a maximum of 20 years (anticipation notes for three years). TIF districts may be designated for a maximum of 30 years.

## **PURPOSE**

The primary purposes of the TIF Policy include:

1. To support Portland Economic Development and Housing Plans and Policies;
2. To stimulate expansion of the City’s commercial and industrial tax base;
3. To stimulate new affordable and market rate housing investment;
4. To retain and create quality employment;
5. To support Portland’s Capital Improvement Plan; and,
6. To establish standards upon which the City Council will authorize TIF.

## **GENERAL PRINCIPLES**

The three primary general principles for the City Council to establish TIF districts include:

### **A. Investment**

***Minimum Real Property Investment.*** A minimum of \$1 million in new taxable investment property value for commercial and industrial development and \$500,000 for affordable housing development is needed to qualify for a TIF. This is the minimum amount which makes practical sense to consider use of the TIF program due to the amount of new municipal property tax revenue generated from new private investment.

### **B. Jobs Associated with Commercial and Industrial Development**

Applicants for TIF participation will be required to provide a plan outlining the number and quality of jobs retained or created associated with each TIF district. While there is not a specific formula for the numbers of jobs associated with the amount of TIF financial assistance, the number and quality of the jobs will be taken into consideration for each TIF district. It is recognized that housing projects do not create many permanent jobs.

### **C. Maximize Tax Sheltering Benefits**

A municipality's total equalized assessed value is used to calculate General Purpose Aid to Education (subsidy), State Revenue Sharing (subsidy) and County taxes (expense). When a municipality's equalized assessed value increases, State Aid for Education decreases, municipal revenue sharing decreases, and the municipality pays a greater portion of County taxes. TIF allows municipalities to "shelter" new value resulting from private investment from the calculation of its State subsidies (education and revenue sharing) and County taxes. In other words, specific municipal shelter benefits, for the term of the TIF, include:

- 1) No reduction in State aid for education,
- 2) No reduction in municipal revenue sharing and
- 3) No increase in County taxes.

Annually, the Council Committee with jurisdiction over housing and community development and City Council will evaluate available TIF district capacity related to State acreage and value limitations to determine whether existing TIF districts need amending and/or new TIF district establishment. Scheduled public infrastructure investments included in the City's Capital Improvement Plan will inform decisions about adjustments to existing TIF districts or establishment of new TIF districts.

## **APPROACH, POLICY, and TERM REQUIREMENTS**

Must meet or exceed the below requirements.

### **A. Approach**

There are three approaches to consider establishing TIF districts. They include:

- 1) ***Municipal Economic Development Programs funded directly through a pay-as-you-go approach.***

Examples of municipal economic development programs include paying for economic development staff, annual funding to Creative Portland for city marketing/branding, and other TIF law allowable activities.

- 2) ***Area wide TIF districts financed by City Bond/Debt Issuance***

Issuance of municipal general obligation bonds or limited obligation bonds is a mechanism that may be used to fund a TIF district program. Allowable uses are spelled out in state TIF law. Generally, municipalities will issue debt to cover the cost of infrastructure investment.

- 3) ***Individual Site Specific TIF districts utilizing Credit Enhancement Agreements (CEAs)***

A CEA is a contract between a municipality and developer to assist an individual development project by using a percentage or all of the tax revenue generated by the investment to pay certain authorized project costs which could include site specific infrastructure or private individual project financing needs. Allowable project costs are spelled out in state TIF law.

### **B. Policy for the Three Approaches**

1. **Policy for Municipal Economic Development Programs.**

Requires annual review and City Council financial appropriations.

2. **Policy for Area wide TIF District Locations (for City Bond/Debt Issuance)**

- a) Area wide TIF will be established for infrastructure investment which has applications beyond one individual project.
- b) City TIF emphasis will be placed upon the following general "Priority Revitalization Areas" to support commercial development, housing development, redevelopment, or to support buildings in need to redevelopment, address blight or historic preservation:

- Affordable housing projects off peninsula;
- India Street Neighborhood;
- Franklin Street Corridor from I-295 to Commercial Street;
- Riverside Street commercial and industrial zoned areas;
- Forest Avenue corridor from I-295 to Woodfords Corner;
- Washington Avenue corridor from Congress Street to I-295;
- Re-examine the boundary of Bayside TIF District;
- Examine establishing a Downtown TIF district in place of the Arts TIF District;
- Portland Technology Park ;
- Areas in which future significant wastewater and/or stormwater infrastructure investments are planned;
- West Commercial Street vacant property;
- Libbytown;
- St. Johns Street Valley;
- Other areas based upon scheduled public infrastructure investment included in the City's Capital Improvement Plan.

The above list of general priority revitalization areas serve as guides to establish specific boundaries for TIF districts at time of district establishment.

- c) Market Rate Housing. Market rate rental housing projects must be located in priority revitalization areas to stimulate housing investment for the purpose of attracting 24/7 pedestrian activity. Pursuant to State Law, TIF for condominium projects are not allowed.
- d) Affordable Housing. Affordable Housing TIF (AHTIF) may be designated on an area wide or site specific basis.

The relevant City Council Committee will complete an annual assessment of housing needs and priorities. This assessment will include a determination regarding designation of an area wide AHTIF. Site specific AHTIF requests submitted by developers will be considered on a case-by-case basis. Area wide or site specific AHTIF designations must address an identified community need.

State law requires that at least 25% of the district area must be suitable for residential use, development must be primarily residential, and at least 1/3 of the units must be for households at or below 120% of area median income which allows for individual mixed income projects or area wide affordable housing TIF districts.

Allowable uses of AHTIF revenues are defined by State law.

- e) City preference is to invest in area wide public infrastructure TIF districts versus establishing individual private site specific TIF districts.
- f) Area wide TIF districts also should seek to maximize the benefit of downtown and transit oriented development (TOD) districts which are exempt from State TIF law for acreage and value limitations.
- g) Terms for area wide TIF districts will be considered for up to 100% of new tax revenue and upwards of thirty (30) years, the maximum allowed by State law, due to the long-term need to invest in neighborhood infrastructure.

**NOTE 1:** As of this Amended TIF Policy date, there are three existing area wide TIF Districts, i.e., Bayside, Arts, and Waterfront TIF Districts.

**NOTE 2:** As of this Amended TIF Policy date, there also exists one Transit Oriented Development (TOD) District, namely the Thompson Point TOD TIF District to support new or expanded transit services and improved transit connections between the Portland Transportation Center, Jetport and Downtown.

### **3. Policy for Individual Site Specific TIF Districts Utilizing Credit Enhancement Agreements (CEAs)**

- a) CEAs for individual site specific TIF districts will be considered for investment in infrastructure or project financing need and cannot be applied to any agreed upon public infrastructure improvements associated with a City Council approved conditional rezone agreement. Additional provisions related to CEAs include:

- i) City Green Building Code

Compliance with the City's Green Building Code is required when TIF assistance is provided to individual private project CEAs.

- ii) Affordable Housing

Affordable Housing TIF (AHTIF) may be designated on an area wide or site specific basis. Developments are encouraged to promote economic diversity.

The City Council Committee will complete an annual assessment of housing needs and priorities. This assessment will include a determination regarding designation of an area wide AHTIF. Site specific AHTIF requests submitted by developers will be considered on a case-by-case basis. Area wide or site specific AHTIF designations must address an identified community need.

State law requires that at least 25% of the district area must be suitable for residential use, development must be primarily residential, and at least 1/3 of the units must be for households at or below 120% of area median income which allows for individual mixed income projects or area wide AHTIF districts.

Allowable uses of AHTIF revenues are defined by State law.

b) Applicants for CEA participation must demonstrate and pay the following:

i) Financial Necessity.

The applicant must demonstrate the City's participation is financially necessary in order for the project to proceed.

ii) Financial Capacity.

The applicant must demonstrate financial capacity to support their project.

iii) Fees

-- A financial underwriting analysis will be conducted by a third party on all projects requesting CEA participation. Applicants for CEA assistance will be responsible for reimbursing the City for all project third party legal and financial underwriting costs.

### **C. Terms for CEA Projects**

1) Maximum Percentages.

A maximum average percentage of 65% for the entire term associated with individual project CEA's.

2) Maximum Number of Years.

Up to twenty (20) years to match individual private sector commercial financing terms. The term of a TIF may start upon agreed trigger event, such as an increased assessed value. This would be included in a CEA on that negotiated triggering event.

3) Use of Maine Services for CEA Projects Encouraged.

**TIF APPLICATION AND ADMINISTRATION PROCESS**

**A. Application Information and Contact.**

The Economic Development Department handles all TIF inquires and processes requests for TIF. An applicant must submit a letter to the Economic Development Department outlining the proposed project, including TIF project financial information, along with a plan outlining the number of jobs associated with the proposed project.

**B. Approval Process.**

There is a two step approval process which includes obtaining a recommendation from the City Council Committee and City Council approval. Two meetings (or readings) by the City Council are needed. The City Council vote on the TIF occurs at the second meeting.

**C. Annual Report to City Council.**

The Economic Development Department shall provide annual reports to the City Council Committee and City Council regarding TIF district activity.



## HOME Funds

### Timeline

08.14.2012 Submitted to Housing and Community Development Committee

### Summary

From January 2003 through December 2011, 1,678 net new housing units have been created. These include efficient units, student housing, elderly housing, single family homes, and multifamily projects.

The 2010 U.S. Census shows that Portland's population of 66,194 has increased by 3% in the last ten years. Portland has a homeowner vacancy rate of 1.5% and a rental vacancy rate of 5.6%. Approximately 43% of Portland residents own their home and 57% are renters. Home sale prices have increased by 43% and rental rates have increased by 20% in the last ten years.

The City has invested over \$7.1 million in the production of new rental housing. This investment has helped to create 672 units of new housing of which 576 are affordable to households below 60% area median income.

The source of these funds has primarily been the HOME Program. The HOME Program allows for the acquisition, rehabilitation or construction of affordable homeownership or rental housing. The program targets homeownership households with incomes at or below 80% of AMI or rental housing for household incomes at or below 60% of AMI.

### In this chapter

- **HOME Investment Policy**, Housing and Community Development Committee memo, 08.14.2012
- **HOME Program Analysis and Tenant Based Rental Assistance**, Housing and Community Development Committee memo, 03.07.2013
- **The HOME Program: Overview**, fact sheet, U.S. Dept. of Housing and Urban Development



# PORTLAND MAINE

*Strengthening a Remarkable City, Building a Community for Life* • [www.portlandmaine.gov](http://www.portlandmaine.gov)

**Planning & Urban Development Department**  
Jeff Levine, AICP, Director

**Housing & Neighborhood Services Division**  
Mary P. Davis, Director

## MEMORANDUM

**TO:** Councilor Mavodones, Chair  
Members of the Housing and Community Development Committee

**FROM:** Mary Davis, Director, Housing & Neighborhood Services Division

**CC:** Jeff Levine, Director, Planning and Urban Development Department

**DATE:** August 14, 2012

**SUBJECT:** HOME Investment Policy

In the 2002 report *Housing: Sustaining Portland's Future* states:

*“Portland, as Maine’s largest City, will strive to provide a sufficient supply of quality housing commensurate with a manageable level of growth to sustain the City as a healthy urban center in which to live and work, and its position as a growing regional economic and service center.*

*Housing in the City will be varied and affordable to accommodate Portland’s socially and economically diverse population.”*

From January 2003 through December 2011, 1678 net new housing units have been created. These include efficient units, student housing, elderly housing, single family homes and multifamily projects.

The 2010 U.S. Census shows that Portland’s population (66,194) has increased by 3% in the last ten years. Currently, Portland residents account for 24% of the total county population. Portland has a home owner vacancy rate of 1.5% and a rental vacancy rate of 5.6%. Approximately 43% of Portland residents own their home and 57% are renters, Home sale prices have increased by 43% and rental rates have increased by 20% in in the last ten years

The City has invested over \$7.1 million in the production of new rental housing. This investment has helped to create 672 units of new housing of which 576 are affordable to households below 60% area median income.

The source of these funds has primarily been the HOME Program. The HOME Program allows for the acquisition, rehabilitation or construction of affordable home ownership or rental housing. The program targets home ownership households with incomes at or below 80% of AMI or rental housing for household incomes at or below 60% of AMI.

The Housing Trust Fund (also known as the Housing Replacement Fund) is an additional funding resource. Under City Ordinance Section 14-483, the purpose of the City’s housing preservation and replacement ordinance is:

- To promote and facilitate an adequate supply of housing, particularly affordable housing for all economic groups;
- To limit the net loss of housing units in the City;
- To preserve housing in zones where housing is permitted in the City for all residents in order to promote health, safety and welfare of its citizens.

Replacement units created under this ordinance must be located in the City, not previously been on the market, be within a development not previously approved and be comparable in size to the unit(s) being replaced.

The Housing Replacement Fund has a current balance of \$681,800. \$1,062,385 has been paid into the fund. \$380,585 was provided to assist with the development of the Oak Street Lofts creating 37 units of affordable housing (below 60% ami).

Available Housing Funds				
<u>HOME Program</u>				
<u>CHDO</u>		<u>Affordable Housing Development</u>	<u>Housing Trust Fund *</u>	<u>Total Available</u>
2011-2012	2012-2013	2012-2013		
\$50,017	\$73,918	\$1,096,489	\$681,800	\$1,902,224
HOME Total Available	\$1,220,424			
* Name established by City ordinance Sec. 14-489; has been referred to as Housing Replacement Fund in the past.				

The City has other tools and incentives it can use to facilitate development of new housing.

### Tax Acquired and City Controlled Property

The City Council established the Tax Acquired Property Committee (TAPC) to implement the City's Property Disposition Guidelines and Procedures. TAPC has two major goals:

To find the highest and best use for tax acquired property for the benefit of the City, its neighborhoods and its citizens.

To establish a clear and fair policy for the disposition of the tax acquired property.

The goals for this program include elimination of neighborhood blight, assist with neighborhood preservation and revitalization efforts, improve housing stock and place properties back on the tax rolls. These types of property could be used in conjunction with HOME or Housing Trust Funds to stimulate housing development.

### Tax Increment Financing

Affordable Housing Tax Increment Finance (AHTIF). This is a tool used by municipalities in Maine to assist in the development of affordable housing projects. The AHTIF revenue can be used to help make the housing affordable and to pay for related infrastructure and facilities (including local schools). Community benefits include avoiding decreases in state revenue sharing and increases in county taxes that might occur as a result of increased property values. MaineHousing administers this program.

Currently, Avesta Pearl Place (Phase I) is the only AHTIF in the City of Portland. AHTIF district revenue can be used to pay for housing related costs both within and outside of the district.

Eligible project costs within the district include capital costs, financing costs, project operating costs, professional service costs, administrative and start-up expenses, costs of recreational and child care facilities.

Eligible project costs outside of the district include costs "related to or made necessary by creation or operation of the district" including infrastructure and public safety improvements; costs to mitigate adverse impacts on the community (including costs to local schools) and costs to establish permanent housing development revolving loan or investment funds.

### **Process for Allocation of HOME funds**

In late 1999/early 2000, the City began its commitment to the development of affordable rental housing with an RFP for in-fill housing in the Bayside area. In January 2002, staff recommended a switch to a process that included advertising funds available with proposal guidelines. Proposals were to be accepted on an open schedule. In January 2003 staff made additional recommendations to the Housing Committee on the allocation of funds for housing development. Meeting minutes suggest support for the proposed process but the committee wanted to review the proposal further.

The current process for allocation of development funds follows the process outlined in the January 2003 memo noted above. The division utilizes an open application time period. City funds are typically gap financing and a relatively small portion of the overall project financing. I would recommend an annual RFP process that coordinates with the funding cycles, requirements and criteria of financing resources such as MaineHousing's QAP for LIHTC projects. On an annual basis, the City should establish program criteria and priorities for awarding funds (type of housing, income targets, location etc).

### **Recommendations**

- a. Adopt an annual RFP process for the allocation of HOME funds designated for housing development. The RFP process should be conducted so that developers can meet the deadlines of the Low Income Housing Tax Credits QAP through MaineHousing.
- b. Periodic review of development priorities - type of housing, location, etc. The review would include an analysis of tax acquired or City-owned property that may be included as a development resource. If a specific location or area focus is chosen, a determination would be made as to the possible use of an Affordable Housing TIF district.
- c. Emphasis should be given to mixed income developments (both homeownership and rental housing) which include both affordable and market rate units.
- d. Encourage the use of the Housing Replacement Fund for development of very low-income housing (below 50% AMI).
- e. Seek out partnerships to discuss the possibility of a housing market study to determine housing needs on a local, county-wide and regional basis.



# PORTLAND MAINE

*Strengthening a Remarkable City, Building a Community for Life • www.portlandmaine.gov*

**Planning & Urban Development Department**  
Jeff Levine, AICP, Director

**Housing & Community Development Division**  
Mary P. Davis, Director

**MEMORANDUM**  
**Agenda Item 2**

**TO:** Councilor Mavodones, Chair  
Members of the Housing and Community Development Committee

**FROM:** Mary Davis, Housing & Community Development Division Director

**DATE:** March 7, 2013

**SUBJECT: HOME Program Analysis and Tenant Based Rental Assistance**

At the committee’s February 27 meeting, information was requested regarding the use of HOME Program funds for Tenant Based Rental Assistance. In addition, a request was made to evaluate the housing rehabilitation program and the first-time homebuyer program.

**HOME Program**

The HOME Program has four allowable uses:

1. Housing Rehabilitation
2. Home Ownership
3. Rental Housing
4. Tenant Based Rental Assistance

Traditionally, the City of Portland has administered HOME program funds in three programs. Housing rehabilitation includes single family and multi-family projects. Home ownership is administered under the HomePort Program. New construction includes new rental housing development and the set-aside for Community Housing Development Organization (CHDO).

An analysis of program income from FY 2005 through FY 2013 (year-to-date) shows:

<b>Loan Repayments</b>		<b>\$1,639,924</b>
Principal	\$747,056	
Interest	\$83,460	
Grant/Deferred Loan Repayments	\$809,408	

<b>HomePort Repayments</b>		<b>\$762,659</b>
Principal	\$510,828	
Recapture	\$251,831	
(see attached spreadsheet for a more detailed analysis)		

Loan repayments are primarily from rehabilitation program loans. Both programs generate a significant amount of program income. Program income is reallocated on an annual basis in the Housing Program Budget.

From FY 2005 through FY 2012, 111 single family homes and 17 units of multi-family housing were rehabilitated, 38 first time homebuyers were assisted and 356 rental units were constructed in the City of Portland. The attached map shows the distribution of housing rehabilitation loans and home ownership program loans throughout the city during the period from 2007-2013. New construction developments are not included in this map.

Housing rehabilitation projects include heating system replacements, energy efficiency repairs, roof replacement, plumbing/electrical upgrades and other health and safety improvements.

The HomePort Program has been less successful in recent years as home values have increased. However it still fills an important need. Over the last five years 48% of the program participants have been female, single parent households and 13% have been minority households.

Program promotional plans include a recent mailing to the Libbytown neighborhood and a promotional flyer sent to Public Safety employees. Future plans include outreach to school department employees and several large employers in the City (Mercy Hospital and Maine Medical Center).

Both programs serve a need within the community. I would recommend continued support for these programs. However, the home ownership program has funds remaining from the FY 2012-2013 allocation and should not need additional new funding in the FY 2013-2014 budget.

**HOME Consortium**

The agreement between the members of the HOME Consortium ensures that the City of Portland continues to receive funding equal to its allocation prior to the creation of the Consortium. In addition, the City receives a 10% funding “bump” each year. The consortium agreement is renewed every three years with the approval and consent of the governing body of each member community.

Funding “housing first” units outside of the City of Portland can be done under several different options. One option could include a one-time agreement to change the funding distribution so that the county receives a larger portion of the annual allocation in a specific year. A second option would be for the County Municipal Oversight Community to budget its portion of the annual allocation entirely for housing development. A third option would allow the county to “borrow” funding from the City and repay the “loan” with future allocations.

## **Tenant-Based Rental Assistance**

Tenant Based Rental Assistance (TBRA) is a subsidy that assists individual households with housing costs such as rent or security deposits. The subsidy moves with the tenant. The level of subsidy would vary depending on the income of the household assisted or the type of assistance provided.

### Eligible Activities

Rental Assistance – similar to the Section 8 Voucher Program

Security Deposit Assistance – may be provided as a grant or a loan

Utility deposit assistance can be provided in conjunction with rental assistance or security deposit assistance

### Ineligible Activities

Cannot provide assistance to owner occupied households

Cannot provide assistance for temporary or overnight shelter

Cannot provide duplicate rental assistance (Section 8 recipient cannot also receive assistance under TBRA)

### Eligible Households

90% of TBRA recipients must be households that earn at or below 60% AMI

Assistance may not exceed two years

### Eligible Units

May be publicly or privately-owned

Rents must be reasonable

HOME-funded units are OK

Must meet Section 8 HQS standards

Assistance can be used to rent units in other jurisdictions

TBRA programs can be used to support a variety of different local goals or initiatives. The HOME Program rules are flexible to allow the community to structure a program that meets the needs of the community. A community can choose to make assistance available to recipients who participate in self-sufficiency programs or target assistance to a certain population such as homeless persons or persons with disabilities.

MaineHousing administers a TBRA program entitled Stability Through Engagement Program (STEP). The STEP program is a short-term rental assistance program that provides up to 12 months of assistance and requires the tenant to pay 30% of their monthly adjusted gross income (or a minimum of \$50). The program is designed to help recipients achieve housing stability.

The target population of the program is homeless persons; to be eligible the tenant must be staying in a homeless shelter and be referred by a shelter case worker. The program can also provide a security deposit or utility deposit, if necessary. To calculate a budget the state program uses HUD's FMR rent standard for a 2-bedroom unit, currently at \$1,008. If a household received a 12 month benefit plus a security deposit, the total tenant benefit would be

\$13,104. With a budget of \$130,000 the City could assist approximately 9-10 people. The \$1,008 is used as a budget estimate. The assistance per household can vary based on the design of the program (security deposit only, security deposit & rental voucher; recipient contributing 30% of the adjusted gross income, etc.) Staff from the City's Social Service office suggested using an average of \$750/per month assistance. If a household received a 12 month benefit plus a security deposit, the total tenant benefit would be \$9,750. With a budget of \$130,000 the City could assist 13 households.

If the committee recommends funding a TBRA program, Housing and Community Development staff will work with Health and Human Services staff to draft program guidelines and protocols that best fit the needs of the community. The guidelines and protocols will be brought back to Housing and Community Development Committee for approval.

### OVERVIEW

*The HOME Program, administered by the U.S. Department of Housing and Urban Development, has funded over a half million units of affordable housing throughout the nation. HOME funds are distributed on a formula basis to state and local governments who choose how to invest the funds to best meet local housing needs. HOME funds must be used to assist low- and very low-income households. This assistance can be provided in a number of different ways, and through a range of housing activities, including rehabilitation, new construction, and direct assistance to tenants and homebuyers.*

#### HOME Provides Flexibility to Meet a Range of Local Needs

For the past decade, HOME participating jurisdictions (PJs) throughout the nation have enjoyed the flexibility and additional resource provided by the HOME Program to address a wide range of local housing needs. For instance, in recent years HOME funds have been invested in:

- Sustainable, solar-based, straw bale construction of affordable housing in Sunland Park, New Mexico. Long-term affordability of these units is achieved through a community land trust model.
- Slum clearance and construction of new homes for first-time, low-income homebuyers in Fremont, California. Without assistance, these households would be unable to become homeowners here, where market rate housing prices far exceed low-income residents' ability to pay.
- Acquisition and rehabilitation of housing for developmentally disabled and persons with chronic mental illness so that they are able to live as independently as possible in Anne Arundel County, Maryland.

#### HOME Generates Housing Opportunities for Low-Income Americans

HUD provides HOME funds to state and local governments who are responsible for designing and administering affordable housing programs that address local affordable housing needs. All HOME funds must be invested in housing that is occupied by low-income persons. PJs are free to decide how to best meet the housing needs of their low-income residents, within some regulatory parameters.

PJs decide:

- Type of housing activity that best meets community needs.** PJs can use HOME funds for new construction, rehabilitation, direct rental assistance to tenants (including security deposit and utility deposit assistance), and direct assistance to homebuyers.
- Tenure type of housing assistance.** PJs can assist existing homeowners, new homebuyers, or tenants.
- The location of housing to be assisted with HOME funds.** PJs can target development funds to specific neighborhoods, or can use HOME assistance jurisdiction-wide.

#### HOME Increases a Community's Supply of Affordable Housing

Rental and for-sale housing that is assisted with HOME funds must remain affordable for some period of time, from five to twenty years, at a minimum. To assure affordability, a PJ can either retain the specific HOME-assisted unit as affordable, or "recapture" HOME funds and reinvest them in additional affordable housing activities. These affordability requirements ensure that the supply of affordable housing is sustained, and increases, in the PJ's community.

#### HOME Fosters Partnerships

In addition to the goal of increasing the supply of affordable housing for low-income families, the HOME Program is designed to foster partnerships among state and local governments, nonprofit housing providers, and the private sector. In particular, the HOME Program mandates the involvement of community housing development organizations (CHDOs), a special nonprofit organization that is involved in affordable housing development and represents low-income residents. Through a CHDO set-aside requirement, residents are guaranteed a voice in decisions about the design and implementation of affordable housing in their neighborhoods.

### HOME Encourages Accountability

HUD supports PJs who want to use HOME funds wisely, and holds all PJs accountable for their program performance. HUD does this by providing information resources, generating performance data, and monitoring PJ performance, as follows:

- ❑ **Information resources.** HUD provides technical assistance, issues guidance, distributes written “how-to” publications, and provides training (live and online) so that PJs have the information they need to make resource allocation and program design decisions that best meet local housing needs.
- ❑ **Performance data.** HUD prepares “SNAPSHOTS” of HOME PJ program performance. SNAPSHOT reports provide data to illustrate how well a PJ is meeting policy goals and regulatory requirements, as compared to peer PJs. PJ managers can use this information to identify program strengths and weaknesses, and improve program performance. This information is made available to the public on HUD’s website.
- ❑ **Monitoring.** With HOME funds, PJs accept the responsibility to ensure compliance with all HOME and other applicable Federal requirements. PJs must maintain adequate documentation to verify its compliance. In addition, PJs are responsible for oversight of their housing partners, and are required to monitor their state recipients and subrecipients. HUD monitors PJs on a periodic basis.

### Learn More About the HOME Program

To obtain more information on the HOME Program, visit the HOME Program website at <http://www.hud.gov/offices/cpd/affordablehousing/programs/home>, or contact the Community Planning and Development (CPD) Office of U.S. Department of Housing and Urban Development. To locate the field office nearest you go to <http://www.hud.gov/directory/ascdir3.cfm>.



## **Housing Development Investment Policy**

### **Timeline**

- 11.05.2012 Submitted to City Council  
10.04.2012 Submitted to Housing and Community Development Committee

### **Summary**

According to the City Council's goals and objectives for 2012, Portland's future development should enhance and balance the city's needs for adequate and affordable housing, a diversified tax base by promoting commercial and industrial development and being the home for a large array of educational, recreational, cultural and artistic institutions.

Objectives include promoting housing production by removing regulatory barriers, providing or expanding financing programs, and investigating the use of City owned land for housing purposes.

As a result staff developed the attached Housing Investment Policy under the guidance of the Housing and Community Development Committee.

### **In this chapter**

- **Housing Development Investment Policy**, Housing and Community Development Committee memo, 10.04.2012

Memorandum  
Planning and Urban Development Department  
Housing & Neighborhood Services Division

---



To: Mayor Brennan and Members of the City Council

From: Mary P. Davis, Division Director, Housing & Neighborhood Services

Sponsor: Councilor Nicholas Mavodones, Chair,  
Housing & Community Development Committee

Cc: Mark H. Rees, City Manager  
Jeff Levine, AICP, Director, Planning and Urban Development Department

Date: November 5, 2012

Subject: Item for City Council Agenda

---

1. Council meeting at which action is requested: November 19, 2012
2. Can action be taken at a later date? Yes

## I. SUMMARY OF ISSUE

Portland City Council Goals and Objectives for 2012 included:

*Goal A: Development*

*Portland's future development should enhance and balance the city's needs for adequate and affordable housing, a diversified tax base by promoting commercial and industrial development and being the home for a large array of educational, recreational, cultural and artistic institutions.*

*Objectives*

*A1. Promote housing production by removing regulatory barriers, providing or expanding financing programs and investigating the use of City owned land for housing purposes.*

As a result staff developed the attached Housing Investment Policy under the guidance of the Housing and Community Development Committee.

## II. REASON FOR SUBMISSION

At their October 10, 2012 meeting, members of the Housing & Community Development Committee voted to recommend the policy and forward to the City Council for final approval.

### III. INTENDED RESULT

Establishment of a housing development investment policy that requires an annual review of city resources and policy objectives to support the development of all types of housing in the City of Portland.

### IV. FINANCIAL IMPACT

n/a

### V. STAFF ANALYSIS AND RECOMMENDATION

Staff recommends the approval and implementation of this policy.



# PORTLAND MAINE

*Strengthening a Remarkable City, Building a Community for Life • [www.portlandmaine.gov](http://www.portlandmaine.gov)*

**Planning & Urban Development Department**  
Jeff Levine, AICP, Director

**Housing & Neighborhood Services Division**  
Mary P. Davis, Director

## MEMORANDUM

**TO:** Councilor Mavodones, Chair  
Members of the Housing and Community Development Committee

**FROM:** Mary Davis, Director, Housing & Neighborhood Services Division

**CC:** Jeff Levine, Director, Planning and Urban Development Department

**DATE:** October 4, 2012

**SUBJECT: Housing Development Investment Policy**

At the August 22 meeting of the Housing and Community Development Committee (HCDC), a proposed housing investment policy was reviewed. Based on the discussion at that meeting, the proposed Housing Development Investment Policy is presented for your approval.

Currently, the Housing and Neighborhood Services Division utilizes a revolving application process, which generally means developers approach the City to provide gap financing for projects in development. Staff is recommending an annual RFP process that coordinates with the funding cycles, requirements and criteria of financing resources such as MaineHousing's QAP for LIHTC projects. On an annual basis, the City should establish program criteria and priorities for awarding funds (type of housing, income targets, location etc).

### **Recommendations**

1. An annual RFP process will be adopted for the allocation of funds (including HOME, CDBG, Housing Replacement/Housing Trust Funds) designated for housing development. The RFP process will be conducted so that developers can meet the deadlines of the Low Income Housing Tax Credits QAP through MaineHousing. The RFP will be made available in March and remain open throughout the year until all available funds have been committed.

If after 60 days, the City has not received any responses to the RFP, staff will have the discretion to accept applications that do not meet the development criteria of the RFP. Applications that do not meet the criteria set forth in the RFP will be vetted through the HCDC for preliminary approval to proceed.

2. The HCDC will complete an annual review of program priorities which will include the type and location of housing. The review will include an analysis of tax acquired or City-owned property that may be included as a development resource. If a specific location or area focus is chosen, a determination would be made as to the possible use of an Affordable Housing TIF district. Staff will provide research and information to assist the HCDC in determining the priorities. Part of that research may include a possible housing market study to determine housing needs on a local and regional basis.
3. Mixed income developments (both homeownership and rental housing) which include both affordable and market rate units will be encouraged.
4. Encourage the use of the Housing Replacement Fund (also referred to as the Housing Trust Fund in the City's Ordinance) (HRF/HTF) for development of very low-income housing (below 50% AMI).
5. HOME funds will be used prior to the use of HRF/HTF funds. HOME program regulations require that HOME funds be committed and expended within a certain time frame. In order to meet those deadlines and avoid recapture of the funds by U.S. Department of Housing and Urban Development, HOME funds, when available, will be committed first.



## **Housing Trust Fund**

### **Timeline**

03.06.2015 Submitted to Housing and Community Development Committee

### **Summary**

The Portland City Code requires that the Housing Trust Fund Annual Plan include a description of the programs to be funded and a budget for each program, and identify how the funds will be distributed. As of March 6, 2015, the balance of the Housing Trust Fund was \$643,551.

The Housing Trust Fund is a valuable tool that can assist the City in meeting the goal of providing increased availability in all segments of the housing market. The Housing Trust Fund is a much more flexible financial resource than other sources of funding available to the City. The purpose of the fund is the “promotion, retention and creation of an adequate supply of housing, particularly affordable housing, for all economic groups and to limit the net loss of housing units in the City,” and “to serve as a vehicle for addressing very low, low, and median income housing needs”. Revenue is generated by the Housing Preservation and Replacement ordinance and the Inclusionary Zoning ordinance..

For fiscal year 2015-2016, Housing Trust Fund resources will be focused on opportunities where other funding sources do not work or are not effective. Housing Trust Fund investment will be focused on projects designed to create workforce housing targeted to households earning 100% of the area median income and rental housing projects targeted to very-low income households (at or below 50% of the area median income).

### **In this chapter**

- **2015-2016 Housing Trust Fund Annual Plan**, Housing and Community Development Committee memo, 03.06.2015
- **Portland City Code**, Ch. 14 Div. 31, Housing Trust Fund



Mary Davis

Division Director, Housing &amp; Community Development Division

**TO:** Councilor Donoghue, Chair  
Members of the Housing and Community Development Committee

**FROM:** Mary Davis, Division Director  
Housing and Community Development Division

**DATE:** March 6, 2015

**SUBJECT:** 2015-2016 Housing Trust Fund Annual Plan

### **I. SUMMARY OF ISSUE**

Review and recommendation to the City Council of the 2015-2016 Housing Trust Fund Annual Plan.

### **II. REASON FOR SUBMISSION**

The Housing Trust fund is established by Section 14-489 of the City's Code of Ordinances. Section 14-489 (e) states that "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."

### **III. INTENDED RESULT**

The Annual Plan will establish the priorities in which the current balance of the Housing Trust Fund will be allocated.

### **IV. COMMITTEE GOAL/COUNCIL GOAL ADDRESSED**

Promote Housing Availability – Provide increased availability in all segments of the housing market while insuring that there is a suitable balance of housing opportunities among those sectors.

### **V. FINANCIAL IMPACT**

This budget is based on the current balance in the Housing Trust Fund. These funds were generated primarily through fees generated by the Housing Replacement Ordinance. As of March 6, 2015, the balance of the Housing Trust Fund is \$643,551.

### **V. STAFF ANALYSIS AND RECOMMENDATION**

City Ordinance requires that the Housing Trust Fund Annual Plan include a description of the programs to be funded, a budget for each program and identify how the funds will be distributed among very-low (at or below 50% of the area median income), low (at or below 80% of the area median income) and moderate income (at or below 120% of the area median income) households.



Mary Davis

Division Director, Housing &amp; Community Development Division

The Housing Trust Fund is a valuable tool that can assist the City in meeting the goal of providing increased availability in all segments of the housing market. While the City has other resources such as the HUD HOME and CDBG Programs, those funds are limited in amount and scope. The proposed Housing Program budget for FY 2015-2016 includes \$391,514 in HOME funding for affordable housing development, \$180,000 for housing rehabilitation and \$225,586 in CDBG housing program income for housing rehabilitation. The HOME program restricts rental housing assistance to households at or below 60% of the area median income and home ownership assistance to households at or below 80% of the area median income. The CDBG program is restricted to households at or below 80% of the area median income. City Ordinance allows the Housing Trust Fund to assist households at or below 120% of area median income.

The purpose of the Housing Trust Fund is the "...promotion, retention and creation of an adequate supply of housing, particularly affordable housing, for all economic groups and to limit the net loss of housing units in the City." and "To serve as a vehicle for addressing very low, low and median income housing needs...". Currently, the Housing Trust Fund revenue is generated by the Housing Preservation and Replacement Ordinance. 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. Homeownership units must include resale restrictions that maintain an "equitable balance" between the interests of the owner and the City. These restrictions must be documented and recorded in the Cumberland County Registry of Deeds.

**Staff Recommendation** - For FY 2015-2016, Housing Trust Fund resources should be focused on opportunities where other funding sources do not work or are not effective. Housing Trust Fund investment should be focused on projects designed to create workforce housing targeted to households earning 100% of the area median income and rental housing projects targeted to very-low income households (at or below 50% of the area median income). Until additional sources of funding for the Housing Trust Fund are identified, the City should act prudently when deciding to invest the funds currently available.

Staff is requesting committee approval and recommendation to the City Council of the proposed 2015-2016 Housing Trust Fund Annual Plan and the Application for Affordable Housing Development utilizing Housing Trust Funds.

**Attachments:**

Copy of Chapter 14, Division 31, Sec. 14-489 of the City Code of Ordinances.  
Application for Affordable Housing Development - HTF

not exceed the maximum height recommended for the location of the project pursuant to a height study that has been adopted as part of the city's comprehensive plan.

(Ord. No. 98-06/07, 12-4-06; Ord No. 240-09/10, 6-21-10; Ord. 82-15/16, 10-19-2015)

DIVISION 31. HOUSING TRUST FUND

**Sec. 14-489. Housing trust fund.**

(a) *Purpose.* The purpose of enacting this section is:

1. To establish a City of Portland housing trust fund for the promotion, retention and creation of an adequate supply of housing, particularly affordable housing, for all economic groups and to limit the net loss of housing units in the City.
2. To serve as a vehicle for addressing very low, low, and median income housing needs through a combination of funds as set out in section 14-483 of this chapter.

(b) *Definitions.*

*Very low income household.* A household having an income not exceeding fifty (50%) percent 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.

*Low income household.* A household having an income not exceeding eighty (80%) percent 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.

*Moderate income household.* A household having an income not exceeding one hundred twenty (120%) percent 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.

(c) *Establishment of the housing trust fund.* The city council shall establish a special revenue account under the name "City of Portland Housing Trust Fund." Deposits into the fund shall include:

1. Contributions from the city's housing replacement ordinance under 14-483(i);
2. Funds appropriated to be deposited into the fund by vote of the city council;
3. Voluntary contributions of money or other liquid assets to the fund;
4. Any federal, state or private grant or loan funds provided to the fund;
5. Interest from fund deposits and investments; and
6. Repayments of loans made from the fund.

(d) *Management of the trust fund.* The city manager, or his or her designee, shall serve as the manager of the housing trust fund. The responsibilities of the manager, subject to the orders of the city council, shall include:

1. Maintaining the financial and other records of the housing trust fund;
2. Disbursing and collecting housing trust fund monies in accordance with the housing trust fund annual plan; and
3. Monitoring the use of monies distributed to successful applicants for housing trust fund support to assure on-going compliance with the purposes of the fund and the conditions under which these monies were granted or loaned.

(e) *Housing trust fund annual plan.* Each fiscal year, the city council shall adopt a housing trust fund annual plan. The city manager shall submit to the city council a recommended housing trust fund annual plan, utilizing the revenues of the housing trust fund as well as any other funds the manager may propose as appropriate. The housing committee of the city council or such other committee as the council shall designate shall conduct public hearings on the recommended plan and refer the matter to the council for action.

The housing trust fund annual plan shall include:

1. A description of all programs to be funded in part or in full by the housing trust fund;

2. A description of how funds from the housing trust fund will be distributed among very-low-income, low-income and moderate income households; and
3. The amount of funds budgeted for programs funded in part or in full from the housing trust fund.

Priority for the expenditure of funds collected pursuant to the housing replacement ordinance (see Sec. 14-483) shall be given to the creation of new housing stock, through either new construction or conversion of non-residential buildings to residential use.

(f) *Distribution and use of the housing trust fund's assets.*

1. All distribution of principal, interest or other assets of the housing trust fund shall be made in furtherance of the public purposes set out in section 14-483.
2. During each year, the housing trust fund shall disburse as grants or loans so much of the housing trust fund's assets as the city council in its discretion has approved in the housing trust fund annual plan.
3. Funds shall not be used for city administrative expenses.
4. Funds shall not be used for property operating expenses or supporting services.
5. No grants or loans shall be awarded by the housing trust fund to corporations, partnerships or individuals who are delinquent, at the time of application in the payment of property taxes or other fees to the city of Portland, who have been convicted of arson, who have been convicted of discrimination in the sale or lease of housing under the fair housing laws of the State of Maine, or who have pending violations of current city electrical, plumbing building or housing codes or zoning ordinances.

(g) *Term of affordability.*

1. Whenever funds from the housing trust fund are used for the acquisition, construction or substantial rehabilitation of an affordable rental or cooperative unit, the City of Portland shall impose enforceable requirements on the owner of the housing unit that the unit remain affordable for the remaining life of the housing unit, assuming good faith efforts by the owner to maintain the housing unit and rehabilitate it as necessary. The remaining life of the housing unit shall be presumed to be a minimum of thirty (30) years.
2. Whenever funds from the housing trust fund are used for the acquisition, construction or substantial rehabilitation of ownership housing, the city of Portland shall impose enforceable resale restrictions on the owner to keep the housing unit affordable for the longest feasible time, while maintaining and equitable balance between the interests of the owner and the interests of the city of Portland.
3. The affordability restriction requirements described in this section shall run with the land and the city of Portland shall develop appropriate procedures and documentation to enforce these requirements and shall record such documentation in the Cumberland County Registry of Deeds.

(Ord. No. 281-09/10, 7-19-10)

**Sec. 14-490. Reserved.**

**ARTICLE IV. SUBDIVISIONS\***

-----  
**\*Cross reference(s)**--Ordinances dedicating or accepting any plat or subdivision in the city saved from repeal, § 1-4(h).

**State law reference(s)**--Land subdivisions, 30-A M.R.S.A. § 4403.  
-----

**Sec. 14-491. Authority and purpose.**

This article is adopted pursuant to the terms and provisions of 30-A M.R.S.A. Sections 3001 and 4403, as amended. The purpose of this article is to provide for the harmonious and economic development of the city; for the orderly subdivision of land and its development; for the orderly development of the general area



## **Lead Safe Program**

### **Timeline**

12.05.2014 Submitted to Housing and Community Development Committee  
2007 HUD grant *Healthy Homes/Lead Safe Housing* awarded

### **Summary**

The Housing and Community Development Office has been considering ways to interest multi-family residential property owners to participate in our financing programs to renovate and repair rental housing units. The City of Portland was a past recipient of four three-year Healthy Homes/Lead Safe Housing grants from the U.S. Department of Housing and Urban Development. Our last grant was awarded in 2007. We currently have approximately \$340,000 in program income from these previous grants which must be used to create lead-safe housing units.

In the past, the Lead Safe Housing Program has offered a variety of financing mechanisms, from payable loans to forgivable loans. The most common complaint from previous program participants was that our financing terms are more stringent than other Lead Safe Housing Programs throughout the state. During the last three-year grant (2007-2010), we offered 10 year forgivable loans, the same terms offered through our housing rehab program while both the Maine State Housing Authority and the City of Lewiston offer five year forgivable loans.

Staff believes that these changes will make the program more competitive and provide the opportunity to create additional lead-safe housing units.

More information on the Lead Safe Program can be found on the City's website, at [www.portlandmaine.gov](http://www.portlandmaine.gov).

### **In this chapter**

- **Revisions to the Lead Safe Housing Program Guidelines**, Housing and Community Development Committee memo, 12.05.2014
- **Lead Safe Housing Program Description**, Housing and Community Development Division, 2014



Mary Davis

Division Director, Housing &amp; Community Development Division

**AGENDA ITEM**

**TO:** Councilor Donoghue, Chair  
Members of the Housing and Community Development Committee

**FROM:** Mary Davis, Division Director  
Housing and Community Development Division

**DATE:** December 5, 2014

**SUBJECT:** Revisions to Lead Safe Housing Program Guidelines

**I. SUMMARY OF ISSUE**

The Housing and Community Development Office has been considering ways to interest multi-family residential property owners to participate in our financing programs to renovate and repair rental housing units.

The City of Portland was a past recipient of four, three-year Healthy Homes/Lead Safe Housing grants from the U.S. Department of Housing and Urban Development. Our last grant was awarded in 2007. We currently have approximately \$340,000 in program income from these previous grants which must be used to create lead-safe housing units.

In the past, the Lead Safe Housing Program has offered a variety of financing mechanisms, from payable loans to forgivable loans. The most common complaint from previous program participants was that our financing terms are more stringent than other Lead Safe Housing Programs throughout the state. During the last three-year grant (2007-2010), we offered 10 year forgivable loans, the same terms offered through our housing rehab program while both the Maine State Housing Authority and the City of Lewiston offer five year forgivable loans.

**II. REASON FOR SUBMISSION**

Staff is seeking HCDC approval of revisions in program financing guidelines.

**III. INTENDED RESULT**

Make funding available to Portland and Cumberland County single and multi-family property owners to create lead-safe housing.



Mary Davis

Division Director, Housing &amp; Community Development Division

#### IV. COMMITTEE GOAL/COUNCIL GOAL ADDRESSED

Promote Housing Availability – Provide increased availability in all segments of the housing market while insuring that there is a suitable balance of housing opportunities among those sectors.

#### V. FINANCIAL IMPACT

Currently the Lead Safe Housing Program has approximately \$340,000 available from the repayment of previous loans and grants. Federal regulations require that these funds must be used to create lead-safe housing.

#### VI. STAFF ANALYSIS AND RECOMMENDATION

Staff is requesting HCDC approval to revise terms of financing in the Lead Safe Housing Program from a 10-year forgivable loan to a 5-year forgivable loan.

##### 10-Year Forgiveness Schedule

Year 1 and 2	100% repayment
Year 3 and 4	90% repayment
Year 5	75% repayment
Year 6	60% repayment
Year 7	45% repayment
Year 8	30% repayment
Year 9 and 10	15% repayment
Year 10 anniversary	0% repayment

##### 5-Year Forgiveness Schedule

Year 1	100% repayment
Year 2	80% repayment
Year 3	60% repayment
Years 4	40% repayment
Year 5 anniversary	0% repayment

Staff believes that these changes will make the program more competitive and provide the opportunity to create additional lead-safe housing units.



## Lead Safe Housing Program Description



The Portland Lead Safe Housing Program has adopted the following policies for the administration of its Lead-Based Paint Hazard Reduction Program funded by the U.S. Department of Housing and Urban Development (HUD). The goals of the program are:

- Increase public awareness of lead-based paint hazards.
- Implement a coordinated program for lead hazard reduction in target neighborhoods.
- Create additional lead safe dwellings in the City of Portland. The program has created 434 lead safe units from (1998- 2013).

All program activities will be closely coordinated and monitored by the Portland Lead Safe Housing Program. Program activities will be conducted in conformance with the protocols and regulations issued by HUD, EPA, OSHA, and the Maine Departments of Health and Human Services and Environmental Protection. All units and participants selected for the program shall meet eligibility requirements established by HUD.

**IMPORTANT:** As a condition of receiving lead hazard control funds, property owners must:

- (1) rent units to low-income families for a period of 3 years;
- (2) correct outstanding code violations;
- (3) be current on all payments due to the City of Portland (real estate taxes, water and sewer charges, rehab loan, etc.).

Selection of units will be based on the following descending order of priorities:

- Units occupied by a child with a blood lead level of 20 micrograms/deciliter (ug/dl) or greater
- Units occupied by a child with an elevated blood lead level of five ug/dl or greater
- Units occupied by children less than six years of age
- All other units with two or more bedrooms and located in target neighborhoods.

Target neighborhoods include sections of the East End (Munjoy Hill), Bayside, Parkside, sections of the West End, and Valley Street. Properties located in other areas of Portland may be considered depending on available funds and program capacity. Program staff will determine eligibility. Applicants dissatisfied with eligibility determinations, priority selection, or other decisions made by program staff may appeal to the Director of Housing and Community Development.

Eligible units selected for the program will receive the following services at no cost to the owner:

- XRF testing of the unit(s) to determine the extent of lead-based paint hazards
- Development of abatement specifications by a consultant and the Lead Safe Housing Program
- Blood screening of children, resident education, and if necessary, relocation services
- Inspection and testing after completion of lead hazard control to ensure satisfactory work

The above services will be paid by the Program if performed in accordance with eligibility criteria, HUD Guidelines, and are conducted by a licensed, qualified, properly insured inspection/lead consultant. The city has such a consultant available to perform this work. Owner may choose their own consultant but the consultant must be a licensed, qualified, properly insured inspection/lead consultant. If the owner does not choose a licensed, qualified consultant, the Lead Safe Housing Program will be under no obligation to fund the services.

Grants will be provided dependent upon owner income and other selection criteria. A mortgage deed will be placed on the property to ensure payment and that HUD low-income tenant requirements are maintained for three years.

The owner will contract directly with the lead hazard control contractor for the performance of required services. The Portland Lead Safe Housing Program will developed contracts and specifications for use by the owner. The Portland Lead Safe Housing Program must ensure that all services performed in this program meet all applicable HUD, EPA, OSHA, and Maine regulations and guidelines and that all consultants and contractors are licensed, qualified, and properly insured to perform the work.

The following loan/eligibility criteria have been established for the Portland Lead Safe Housing Program. Selection priorities previously identified will be in effect when applying these criteria.

**Single Family Homes** (see attached excerpt from Title X)

- Owner occupant household income cannot exceed 80% of the median income for the Greater Portland area as established by HUD.
- At the time of application a child under the age of six (72 months) must reside in the home.
- The lead hazard control grant cap is \$25,000 per single-family homeowner. A waiver of this loan cap may be provided contingent upon homeowner's financial circumstances and risk to children in the household.

Deferred grant terms are as follows:

1) All qualified applicants for single family home lead based paint hazard reduction will receive a deferred grant depending on the availability of funds and the unit selection priorities listed. The deferred grant will place a mortgage deed on the property that will be forgiven in five years if the current owner retains the property. If the property is sold or otherwise transferred prior to the 5-year period, a descending balance will be owed upon transfer of title. The rate of repayment if title transfer occurs during the five-year period is listed in item #2. During the five-year period, the homeowner will not be responsible for payments and no interest will accrue. The full amount of the grant will be forgiven after the 5-year period has expired.

2) Repayment schedule if the property is sold or title is transferred within the 5 year cycle:

Year 1	100% repayment
Year 2	80% repayment
Year 3	60% repayment
Year 4	40% repayment
Year 5 anniversary	0% repayment

**Owner Occupied Two Family and Multifamily Apartment Buildings** (see attached excerpt from Title X)

- Owner occupant household income cannot exceed 80% of the median income for the Greater Portland area as established by HUD.
- At the time of application, a child under the age of six (72 months) must reside in the owner's unit.
- (Note: If the owner's unit is not occupied by a child under the age of six (72 months) and or if owner income exceeds 80% of median, the unit cannot qualify, however, the other units in the building may qualify)
- Maximum lead hazard control grant is \$10,000 per unit or \$100,000, whichever is less. Units qualifying for lead hazard reduction funds will be consistent with the Residential Lead-Based Paint Hazard Reduction Act of 1992 commonly referred to as Title X (Section 1011 a) of which excerpts are attached. A waiver of this grant cap may be provided contingent upon owner's financial circumstances and risk to children in the building.

Deferred Grant terms are as follows;

1) All qualified applicants for owner occupied two-family or multi-family apartment lead based paint hazard

reduction will receive a deferred grant depending on the availability of funds and the unit selection priorities listed. The deferred grant will place a mortgage deed on the property that will be forgiven in five years if the current owner retains the property. If the property is sold or otherwise transferred prior to the 5-year period, a descending balance will be owed upon transfer of title. The rate of repayment if title transfer occurs during the five-year period is listed in item #3.

During the five-year period, the homeowner will not be responsible for payments and no interest will accrue. The full amount of the grant will be forgiven after the 5-year period has expired.

- 2) The City will monitor tenant incomes in the building for the required three-year period to ensure compliance with HUD regulations. Violations of this requirement may result in a call for immediate payment of the loan amount.
- 3) Repayment schedule if the property is sold or title is transferred within the 5 year cycle:

Year 1	100% repayment
Year 2	80% repayment
Year 3	60% repayment
Year 4	40% repayment
Year 5 anniversary	0% repayment

**Investor Owned Apartment Buildings** (see attached excerpt from Title X)

- Investor owners shall be limited to \$10,000 per unit or \$100,000, whichever is less. Units qualifying for lead hazard reduction funds will be consistent with the Residential Lead-Based Paint Hazard Reduction Act of 1992 commonly referred to as Title X (Section 1011 a) of which excerpts are attached. A waiver to exceed the grant cap may be provided contingent upon an analysis of the owner's financial circumstances, analysis of the cash flow of the rental building, and risk to children living in the building.
- Enrolled units must be leased to low-income tenants for at least three years following completion of the lead hazard reduction project.

Deferred Grant terms are as follows:

- 1) All qualified applicants for owner occupied two-family or multi-family apartment lead based paint hazard reduction will receive a deferred grant depending on the availability of funds and the unit selection priorities listed. The deferred grant will place a mortgage deed on the property that will be forgiven in five years if the current owner retains the property. If the property is sold or otherwise transferred prior to the 5-year period, a descending balance will be owed upon transfer of title. The rate of repayment if title transfer occurs during the five-year period is listed in item #3.

During the five-year period, the homeowner will not be responsible for payments and no interest will accrue. The full amount of the grant will be forgiven after the 5-year period has expired.

- 2) The City will monitor tenant incomes in the building for the required three-year period to ensure compliance with HUD regulations. Violations of this requirement may result in a call for immediate payment of the loan amount.
- 3) Repayment schedule if the property is sold or title is transferred within the 5 year cycle:

Year 1	100% repayment
Year 2	80% repayment
Year 3	60% repayment
Year 4	40% repayment
Year 5 anniversary	0% repayment

Nonprofit Owners/Housing Organizations (See attached excerpt from Title X)

- Nonprofit owners or housing organizations shall be limited to \$10,000 per unit but may enter as many income eligible units as they wish, contingent upon available funds. A waiver to exceed the loan cap may be provided contingent upon an analysis of the owner's financial circumstances, analysis of the cash flow of the rental building, and risk to children living in the building. The Director of Housing and Community Development must approve a waiver of the loan cap.

Grant Terms

- 1) Qualified nonprofit owners are eligible for grants with no recapture so long as they commit to rent units to low-income tenants for three years.

Owner has read the above-described policies and agrees to abide by them as a condition of participating in the Portland Lead Safe Housing Program. Failure to abide by these policies may result in nonpayment of lead hazard control funds to the owner.

\_\_\_\_\_  
Owner Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Co-Owner Signature

\_\_\_\_\_  
Date

Residential Lead-Based Paint Hazard Reduction Act of 1992 (Title X) Section 1011 (a) states, in part:

- 1) for grants made to assist rental housing, at least 50 percent of the units must be occupied by or made available to families with incomes at or below 50 percent of the area median income level and the remaining units shall be occupied or made available to families with incomes at or below 80 percent of the area median income level, and in all cases the landlord shall give priority in renting units assisted under this section, for not less than 3 years following the completion of lead abatement activities, to families with a child under the age of six years, except that buildings with five or more units may have 20 percent of the units occupied by families with incomes above 80 percent of area median income level;
- 2) for grants made to assist housing owned by owner-occupants, all units assisted with grants under this section shall be the principal residence of families with income at or below 80 percent of the area median income level, and not less than 90 percent of the units assisted with grants under this section shall be occupied by a child under the age of six years or shall be units where a child under the age of six years spends a significant amount of time visiting;

**FY 2014 HUD Income Limits Effective May 1, 2014**

Communities of:

Cape Elizabeth, Casco, Cumberland, Falmouth, Freeport, Gorham, Gray, Long Island, North Yarmouth, Portland, Raymond, Scarborough, South Portland, Standish, Westbrook, Windham, Yarmouth

Family Size:	1 Person	2 Person	3 Person	4 Person	5 Person	6 Person	7 Person	8 Person
30% of median	\$16,250	\$18,600	\$20,900	\$23,200	\$25,100	\$26,950	\$28,800	\$30,650
50% of median	\$27,100	\$30,950	\$34,800	\$38,650	\$41,750	\$44,850	\$47,950	\$51,050
60% of median	\$32,520	\$37,140	\$41,760	\$46,,380	\$50,100	\$53,820	\$57,540	\$61,260
80% of median	\$43,300	\$49,500	\$55,700	\$61,850	\$66,800	\$71,750	\$76,700	\$81,650

Communities of:

Baldwin, Bridgton, Brunswick, Harpswell, Harrison, Naples, New Gloucester, Pownal, Sebago

Family Size:	1 Person	2 Person	3 Person	4 Person	5 Person	6 Person	7 Person	8 Person
30% of median	\$14,350	\$16,400	\$18,450	\$20,500	\$22,150	\$23,800	\$25,450	\$27,100
50% of median	\$23,950	\$27,400	\$30,800	\$34,200	\$36,950	\$39,700	\$42,450	\$45,150
60% of median	\$28,740	\$32,880	\$36,960	\$41,040	\$44,340	\$47,640	\$50,940	\$54,180
80% of median	\$38,300	\$43,800	\$49,250	\$54,700	\$59,100	\$63,500	\$67,850	\$72,250



## **Residential Rehabilitation Program**

### **Summary**

The City's Residential Rehabilitation Program has been the cornerstone of the City's housing policy for existing housing for over 30 years. The preservation of existing housing is Policy #2 in the Housing Component of the City's Comprehensive Plan adopted in 2002. The program will continue to assist low- and moderate- income owners with a wide variety of rehabilitation needs.

For low- to moderate- income owners, costly repairs must be accomplished in a matter of hours, not weeks of loan processing time. This financial assistance is designed to quickly implement the repairs to protect the health and safety of such homes.

More information on the Housing Rehabilitation Program can be found on the City's website at [www.portlandmaine.gov](http://www.portlandmaine.gov).

### **In this chapter**

- **Owner Occupied Housing Rehabilitation Program Guidelines**, Cumberland County HOME Consortium, 04.2014
- **Multi Family Rehabilitation Program**, Housing and Community Development Division, 03.2015
- **Residential Rehab Program background**, excerpt from CDBG application, 11.12.2010

## Cumberland County HOME Consortium Owner Occupied Housing Rehabilitation Program Guidelines

The Cumberland County HOME Consortium (CCHC) is a consortium of cities and towns throughout Cumberland County, formed by a Mutual Cooperation Agreement to provide low and moderate income persons and families affordable financing assistance for existing housing rehabilitation and new construction. The CCHC is approved and funded by the U.S. Department of Housing and Urban Development (HUD) under the HOME Investment Partnerships Program (HOME) to take a regional approach to affordable housing.

The City of Portland's Division of Housing and Community Development will administer the Cumberland County HOME Consortium's housing activities. Contact Ronda Jones at 874.8698, or [rej@portlandmaine.gov](mailto:rej@portlandmaine.gov)

### Purpose:

The Cumberland County HOME Consortium Owner Occupied Housing Rehab Program helps low-moderate income Cumberland County residents fix up their homes. For general rehab, a maximum amount of \$15,000 per home/unit is available. In addition to general rehab, HUD *requires* that all federally assisted rehabilitation include the identification and treatment of lead paint hazards. An additional amount up to \$10,000 per home/unit may be given for lead hazard reduction.

### Eligible Applicants:

Individuals and families who occupy, as their principal residence, a one to four unit building located in Cumberland County and meet program underwriting standards which include the HUD income guidelines. Individuals and families at or below 80% of the median income by family size for the following communities:

#### Income Requirements Effective as of March 25, 2015

Communities of: Baldwin, Bridgton, Brunswick, Harpswell, Harrison, Naples, New Gloucester, Pownal, Sebago

Household Size	1	2	3	4	5	6	7	8
Income Limit	\$40,500	\$46,300	\$52,100	\$57,850	\$62,500	\$67,150	\$71,750	\$76,400

Communities of: Cape Elizabeth, Casco, Cumberland, Falmouth, Freeport, Gorham, Gray, Long Island, North Yarmouth, Portland, Raymond, Scarborough, South Portland, Standish, Westbrook, Windham, Yarmouth

Household Size	1	2	3	4	5	6	7	8
Income Limit	\$43,200	\$49,400	\$55,550	\$61,700	\$66,650	\$71,600	\$76,550	\$81,450

### What types of repairs are eligible?

Priority will be given to health & safety issues, lead paint hazards, energy conservation improvements, & other non-luxury building improvements. You cannot create additional units, refinance mortgages or be reimbursed for past work.

### Are there restrictions on tenant occupied units?

Applicants that own and occupy a two to four unit building will have restrictions on tenant income and rent if any of the rehab/repair work affects a tenant unit. Tenant rent and income restrictions will be in place for a certain period of time ("affordability period") depending on the rehab cost per unit. Please call for more information on these restrictions.

### What are the loan terms & conditions?

Applicants may receive a forgivable loan, low interest loan, or a combination of a forgivable loan and payable loan. The City will determine type of assistance based on applicant's ability to pay. Interest rate can range between 0% - 3%. Length of loan can be up to 20-years. Forgivable loans will have a declining repayment schedule over a period of 10-years. Applicant must occupy the property as their primary residence for the life of the loan. If the applicant moves from the property or sells the property, the entire unpaid balance becomes due and payable.

Assistance is provided on a one-time basis only. Applicant may not own other real estate, including commercial, residential, or recreational. Applicant must be current on all accounts (taxes, sewer charges, etc.)

### Are there other property restrictions?

The maximum "after-rehab" value of a home cannot exceed established HUD limits. Please call for more information on the "after-rehab" value limits.

### What will the City do?

Review your application and determine eligibility, complete a Uniform Physical Condition Standards (UPCS) inspection to determine the scope of work, complete a Heat Loss Analysis, prepare work specifications, inspect the work as it is completed, disburse payments to contractors, prepare all necessary documentation, and monitor compliance with program requirements for applicable affordability period.

For further information: Ronda Jones, Portland City Hall 874-8698, email [rej@portlandmaine.gov](mailto:rej@portlandmaine.gov)



## City of Portland, Maine CDBG Multi-Family Rehabilitation Program



The program is designed to provide low interest rate loans to assist Portland property owners with necessary improvements to residential units occupied by low/moderate income households.

### Qualifying Criteria:

- ◆ Owner-occupied and Investor-owned two-to-four unit buildings in the City of Portland.
- ◆ Be current on all City taxes and fees.
- ◆ Meet underwriting criteria.

### Eligible Improvements:

- ◆ Federally assisted rehab must include testing and treatment of lead paint hazards.
- ◆ Repair of Code Violations
- ◆ Energy Conservation/Weatherization Improvements
- ◆ Other non-luxury building improvements.

### Financing Terms:

- ◆ Interest rate will vary between 1%-3%. Loan may be amortized up to 20 years. Loan to value ratio shall not exceed 95%. Loan payments may be delayed up to four months to allow for completion of rehab work.
- ◆ Non-lead rehab is factored into program limits first; any remaining amount will be dedicated to required lead hazard reduction costs. Lead hazard reduction costs that exceed the maximum loan limits or exceed 95% loan to value will be loaned at 0% due on sale. The costs associated with the treatment of lead paint hazards will be financed with Lead Safe Housing Program funds, subject to the availability of funds. Project must meet the guidelines of the Lead Safe Housing Program to be eligible for those funds.

- ◆ Maximum loan amount is \$15,000 per unit.

Rent Regulation Agreement:

- ◆ Units assisted under this program must be rented to income eligible households at an affordable rent for a period of five years. Fair Market Rents for the Greater Portland Metropolitan Statistical Area, as published by HUD, are used as the standard.
- ◆ Rent shall not increase for one year after loan closing.
- ◆ After the first year, an annual increase of a maximum of 5% of the monthly contract rent plus the actual cost of additional debt service incurred as a result of improvements to the property, property taxes, and owner paid utility charges. Any rent increase must be approved, in advance, by the City.
- ◆ Marketing of all current and future vacancies shall be done to affirmatively further Fair Housing opportunity to all individuals. All public advertising of vacancies shall contain the phrase “Equal Housing Opportunity”.

Income Eligibility:

- ◆ Units assisted under this program must be rented to income eligible households earning at or below 80% of the area median income, as defined by HUD, for the Greater Portland Metropolitan Statistical Area.

**Effective as of March, 2015**

<b>Family Number:</b>	<b>1 Person</b>	<b>2 Person</b>	<b>3 Person</b>	<b>4 Person</b>	<b>5 Person</b>	<b>6 Person</b>	<b>7 Person</b>	<b>8 Person</b>
<b>80% AMI</b>	<b>\$43,200</b>	<b>\$49,400</b>	<b>\$55,550</b>	<b>\$61,700</b>	<b>\$66,650</b>	<b>\$71,600</b>	<b>\$76,550</b>	<b>\$81,450</b>

## C. DEVELOPMENT ACTIVITIES NARRATIVE

### 1. Program/Project Description

The Housing Office, a part of the City of Portland's Division of Housing and Neighborhood Services (HNS), manages housing programs with funds provided by the U.S. Department of Housing and Urban Development (HUD). The focus of our office is to provide safe, decent and affordable housing options for low and moderate income Portland households. In addition to CDBG funded single and multi family residential rehabilitation, we also use funds from the HOME program for single family residential rehabilitation.

In PY 09-10, the City formed a partnership with the Cumberland County CDBG Entitlement Jurisdiction, the Town of Brunswick, and the City of Westbrook to form the Cumberland County HOME Consortium (CCHC). A HOME Consortium is a formal designation approved by HUD that allows local governments that would not otherwise qualify for funding to join with other contiguous units of local government to directly participate in the HOME program. The County and the City will mutually benefit from the formation of the CCHC, organized under a Mutual Cooperation Agreement. The partnership increases the amount of HOME funds available to Portland's Residential Rehabilitation Program, while making it possible to provide the housing program throughout Cumberland County. HOME funds are used to supplement CDBG funds in Portland's Residential Rehabilitation Program. The CCHC will be administered by HNS.

The City's Residential Rehabilitation Program has been the cornerstone of the City's housing policy for existing housing for over 30 years. The preservation of existing housing is Policy #2 in the Housing Component of the City's Comprehensive Plan adopted in 2002: The City's housing goals and priorities outlined in our Consolidated Plan and the Housing component of our Comprehensive Plan are as follows:

- Create affordable housing by subsidizing the construction of new affordable units
- Increase home ownership opportunities for low to moderate income households
- Continue revitalization of low/moderate income neighborhoods by providing low interest rehab loans to property owners renting to low/moderate income tenants
- Increase owner occupancy in targeted neighborhoods by providing low interest loans for closing costs and rehabilitation assistance to low and moderate income homebuyers
- Assist low/moderate income homeowners with their housing rehabilitation needs through low interest loans and grants

The Program will continue to assist low and moderate income owners with a wide variety of rehabilitation needs, particularly in the Libbytown and East Bayside Neighborhoods, current targets of the entire Department of Planning and Urban Development.

East Bayside and Libbytown are the first "micro-neighborhoods" selected by staff for the Targeted Neighborhood Improvement Program. This program focuses on bringing the combined efforts and expertise of all Divisions of the Planning and Urban Development Department to one neighborhood in order to achieve a higher quality of living standard and to multiply the impact of reinvestment and development. Each Division (Inspections, HNS, and Planning) will play a

separate role but will work in collaboration to address more comprehensively the needs of the neighborhood. The Inspections Division will be on the ground, inspecting each house and food service establishment with the intention of bringing each building or business up to code. Housing would follow with incentives for housing improvements through the Residential Rehabilitation Loan Program and the Lead hazard Control program. These programs will include both single and multi-family homes. The Planning Division will conduct an analysis of the area and develop a neighborhood plan to improve the community. The Divisions will invite active participation from interested residents and key stakeholders as the program progresses. Additional stakeholders may include but are not limited to the Portland Police Department Community Policing Division, the Department of Public Services, the East Bayside Neighborhood Organization, and the Portland Housing Authority.

Older homes, many with owners on a fixed income have had their old sewer lines collapse, heating systems breakdown, or water heaters breakdown. Repairs of this nature are expensive and must be accomplished in a matter of hours, not weeks of loan processing time. This year in addition to the standard comprehensive rehab of each property, HNS will continue to set-aside CDBG funds for Emergency Repairs only. This financial assistance is designed to quickly implement the repairs to protect the health and safety of owner-occupied homes.

Applicants that own and occupy a two to four unit building will have restrictions on tenant income and rent if any of the rehab/repair work affects a tenant unit. Tenant rent and income restrictions will be in place for a certain period of time ("affordability period") depending on the rehab cost per unit. Income and rent restrictions will also be placed on investor owned multi-family properties. These restrictions must be reasonable and enforceable to ensure benefit to low-moderate income tenants, and at the same time must not be too onerous that the restrictions discourage landlords from participating in the program.

Applicants may receive a forgivable loan, low interest loan, or a combination of a forgivable loan or payable loan. The City will determine type of assistance based on an applicant's ability to pay. Interest rate can range between 0% - 3%. Term of loan can be up to 20-years. Forgivable loans will have a declining repayment schedule over a period of 10-years. An applicant must occupy the property as their primary residence for the life of the loan or grant.

Federal Wage Rates do not apply to CDBG funded housing projects less than 8 units. As a component of the standard Environmental Review process, *every* housing rehabilitation project must be reviewed by the City of Portland Historic Preservation staff and be cleared by the State Historic Preservation Officer.

## **2. Primary Priority Impact Area**

The Primary Priority Impact Area for this program is clearly Housing. This program provides financial assistance to low-moderate income homeowners and multi family property owners who rent to low-moderate income tenants to repair their residential property, making it safe, energy efficient, and affordable. Housing repairs, particularly of major systems like heating, plumbing, and electrical, and components such as roofs, foundations, siding and windows are typically beyond the financial resources of low-moderate income homeowners. These homeowners usually cannot afford conventional financing for these repairs, or are not eligible for conventional financing due to credit history or income to debt ratios. Our financing allows the work to get done with affordable monthly payments, or in the case of low income

applicants, deferred payments. Often the energy efficiency savings alone can cover the cost of the monthly payment. For multi family properties the tenants in buildings assisted are guaranteed an affordable rent through a Rent Regulatory Agreement (or HOME regulations, depending on the funding source used).

### **3. Community Need Description**

Housing is generally considered affordable if it costs no more than 30% of a household's income. For households whose income falls below 80 percent of the area's median family income, affordable housing – rental and owner-occupied – is more difficult to purchase and maintain.

Lower income households are housing cost burdened. From the year 2000 to 2007 the median home price in Maine has increased by 69% and median rents have increased by 30%. In that same time frame, median income increased by only 20%. For housing to be considered "affordable" by HUD, a family must pay less than 30% of their monthly gross income for housing expenses. For all owner-occupied single family homes in the City, nearly 27% of those owners (3,390) pay more than 30% of their income for mortgage expenses, and 48% of all renters (7,537) pay more than 30% of their income for rent. These statistics show that more and more households, especially low and moderate income households are housing cost burdened. Low and moderate income owner households have little available for home repairs and are often unable to keep up with rehabilitation needs. The repair of major systems such as heating, roofs, sewer lines and chimneys, is often beyond the ability of low and moderate income homeowners. The increasing cost of home heating oil and other fuel sources aggravates the housing cost burden on everyone, and low-moderate income homeowners in particular.

Additionally the number of people in each household has been shrinking in the last twenty years as children leave home, the population ages, and more single households are created, thus increasing the number of housing units needed for the same number of people. Because of limited housing affordable to the range of worker incomes, some people have no housing and many are purchasing or renting homes that are more expensive than they can afford or that require long commutes to work or school.

### **4. Measurable Community Impact**

It is difficult to measure the long term outcomes of a housing rehabilitation program. Clearly the financial assistance helps home owners maintain their housing investment without the financial stress of conventional financing or cash. One way the City will follow an outcome for safer neighborhoods through housing rehabilitation and the Targeted Neighborhood Improvement Program is to work with the Community Policing Program (also funded by CDBG) to track police calls in the past and future in the East Bayside area.

### **5. Diversity and Inclusiveness**

The City is an Equal Opportunity Lender, all disabilities will be accommodated, and all low-moderate income households regardless of race, religion, gender, color, national origin, or familial status will be served. The City of Portland will provide free qualified interpreting services to on-English speaking people, and appropriate services for any applicant with special needs. The City broadly markets its housing rehabilitation programs. An annual mailing is sent to all City residences regarding the activities of the Division of Housing and Neighborhood Services including our housing programs offered. The City advertises in newspapers, radio

public service announcements, press releases and the local cable access channel. All Residential Rehabilitation Loan Program activities are 100% benefit to low-moderate income households.

Portland has a diverse population of ethnic minorities, immigrants, refugees, and persons with disabilities. Stabilized, safe, and affordable neighborhoods are attractive to all residents, and long term and owner occupied residency will prevent some residents from migrating toward substandard properties, and concentrating undesirable socio-economic conditions in those neighborhoods. The creation of a culture of belonging begins with safe neighborhoods, and safe neighborhoods begin with affordable housing.

#### **6. Priority to Lower Incomes**

The financing options available through our program are often the only way lower income households are able to complete housing repairs. Applicants with the greatest need receive the most favorable financing options.

#### **7. Location**

The Residential Rehabilitation Program is a city-wide program. However the program will continue to target the East Bayside Neighborhood while expanding its targeted outreach into the Libbytown Neighborhood.

#### **8. Consistent with City Goals, Plans, and Initiatives**

This program has served a critical role in maintaining existing housing stock and in providing a better quality of life for many of Portland's low-income elderly and young families. This is especially the case during the winter months when heating systems tend to fail and poorly insulated homes place tremendous heating cost burdens on households with little ability to upgrade their homes.

Over the course of the last four years the program has provided assistance to over 100 Portland property owners to eliminate health and safety issues, implement energy efficiency improvements and eliminate lead-based paint hazards. Completing these types of repairs prevents the decline of older housing stock and helps to maintain the tax base, owner's equity and neighborhood stability.

#### **9. Leveraged Funding Narrative**

**Fully Secured Funding:** No matching funds are fully secured as of July 1, 2011; see note below.

**Additional Project Funding:** Technically no CDBG or HOME funds are fully secured for PY11-12 as of the date of this submission. No HUD funds will be fully secured until the HNS Division submits the PY11-12 Action Plan to HUD in May 2011 and it is approved by HUD. The Action Plan cannot be completed until after the Allocation Committee makes its recommendations and the City Council determines the final allocation of funds at its first meeting in April 2011. However we expect flat funding through both the CDBG and HOME programs. HOME funds supplement salaries for each of the staff positions involved in the Housing program. In addition the City has submitted a grant application for new funding through the Lead Hazard Control Grant program administered by U.S. Dept. of Housing and Urban Development.

The City, by partnering with local banks and MaineHousing, leverages significant financial resources to achieve its housing goals. The Homeport Program provides a subsidy up to \$30,000 for first time homebuyers at or below 80% AMI, with a local bank financing the balance. For our Multi-Family Rehabilitation & Acquisition loan program, the City provides up to 50% of the financing and a local bank, MSHA or owner equity provides the remaining 50% necessary to purchase and rehab existing structures. In our owner occupied rehab program leveraged funds are provided through owner contributions and funds from the Lead Safe Housing Program. The table below provides a description of the amount of committed money leveraged from these programs.

**Summary of Leveraged Funds Fiscal Year 2009/2010**

Program	Funds	Source
HomePort	\$3,516,149.02	Local Banks, State & other Federal Funds
Owner Occupied Rehab	\$439,993.43	Owner cash contributions & other Federal Funds
Multi-Family Rehab	\$0	Other Federal Funds
New Rental Construction	\$9,913,632	LIHTC, MSHA, Private Developer Funds
Total Leveraged Funds	\$13,862,714.4	

The Residential Rehabilitation program could continue on a *limited* basis if CDBG funds are not allocated by using HOME and Lead Hazard Control funds.

**10. Budget Narrative**

The ongoing administration and monitoring of the Housing program within the CDBG program is labor intensive. While each member of the Department of Planning and Urban Development contributes to the success of the Housing program, without funded dedicated staff to administer the program the ability of the City to do so is highly unlikely. Moreover, there is neither "income" nor "fees" generated from the CDBG housing program which could support its operations. As a result, funds are being requested, as proposed as shown on the Budget Form (attachment E), which would continue to support this needed and successful housing program.

**11. Financial Need**

Over the last few years, HOME funds have been the primary funding source with CDBG funds used to fill the gap when eligibility issues prohibit the use of HOME funds. The ability to utilize both HOME and CDBG funds allows increased flexibility of the program's eligibility criteria. CDBG funds are much more effective in multi-family rehab projects.

**12. Experience Providing Service**

Because HNS has successfully administered an Owner-occupied and Investor-owned Residential Rehabilitation Program for so many years, it is a program that low-moderate income Portland residents have come to expect will be available as a safety net to help pay for expensive housing repairs. The City currently provides low interest loans and grants to income eligible owners residing in single-family and multi-family homes. This program is funded with a combination of CDBG and HOME funds.



## **Tenant Based Rental Assistance**

### **Timeline**

- 01.02.2014 Submitted to Housing and Community Development Committee  
11.16.2012 Homelessness Task Force recommendations published

### **Summary**

The City of Portland Home Programs Tenant Based Rental Assistance funding allows the Social Services Division to implement programming in line with the Homeless Task Force Recommendations (published November 16th, 2012). These funds are used to pay for security deposits and short term rental assistance for individuals and families residing in homeless shelters. This Program is operated out of the City of Portland's Social Services Division. The Program is operated out of the Division's Home To Stay Program. There will be a centralized intake with a single point of contact located at the Oxford Street Shelter and Family Shelter, utilization of a rapid re-housing approach with a particular focus on reducing recidivism; as such clients will be assigned a case manager to provide follow-up care services. Follow-up service provided by the Home To Stay Program will connect clients to other mainstream resources to ensure successful outcomes.

For more information, contact the Health and Human Services Department's Social Services Division.

### **In this chapter**

- **Tenant Based Rental Assistance Program Update**, Housing and Community Development Committee memo, 01.02.2014

### **See also**

### **HOME Funds**



Mary Davis

Division Director, Housing &amp; Community Development Division

**AGENDA ITEM #3**

**TO:** Councilor Donoghue, Chair  
Members of the Housing and Community Development Committee

**FROM:** Mary Davis, Director  
Housing & Community Development Division

**DATE:** January 2, 2014

**SUBJECT:** Tenant Based Rental Assistance Program Update

**I. SUMMARY OF ISSUE**

The use of \$135,662 in HOME funds for Tenant Based Rental Assistance (TBRA) was approved by City Council in the 2013-2014 Housing Program Budget. TBRA programs can be used to support a variety of different local goals or initiatives. The HOME Program rules are flexible to allow the community to structure a program that meets the needs of the community. The HOME TBRA funds will provide security deposits and short term rental assistance for individuals and families residing in homeless shelters. (Program Description Attachment 1)

**II. REASON FOR SUBMISSION**

The Homelessness Task Force Report submitted to the City Council in November 2012, outlined four recommended actions. Under the Task Force Implementation Plan, the Housing and Community Development Committee was assigned the tasks identified as "Rapid Rehousing". (Excerpt from Homelessness Task Force Report Attachment 2). One of the tasks was to develop a short-term rental assistance program similar to the very successful HPRP Program. The use of HOME funds for Tenant Based Rental Assistance was suggested as one solution.

The Intra-Departmental Agreement is being presented as an update to the Committee. (Attachment 3)

**III. INTENDED RESULT**

It is intended that 110 homeless individuals will receive assistance with security deposits and/or first month's rent with the average payment of \$1,200 per client.

Portland, Maine



Yes. Life's good here.

Mary Davis

Division Director, Housing & Community Development Division

#### **IV. FINANCIAL IMPACT**

Funds were approved in the 2013-2014 Housing Program Budget. There is no additional financial impact at this time.

#### **V. STAFF ANALYSIS**

This information is provided as an update for the Committee. No action is required.

#### **ATTACHMENTS**

Program Description

Task Force Report

Intra-Departmental Agreement

## Attachment 1

***City of Portland***  
***Social Services Division***  
***HOME - Tenant Based Rental Assistance Program***

The City of Portland Home Programs Tenant Based Rental Assistance (TBRA) funding will allow the Social Services Division to implement programming in line with the Homeless Task Force Recommendations (published November 16<sup>th</sup>, 2012). These funds will be used to pay for security deposits and short term rental assistance for individuals and families residing in homeless shelters. This Program will be operated out of the City of Portland's Social Services Division. The Program will be operated out of the Division's Home To Stay Program. There will be a centralized intake with a single point of contact located at the Oxford Street Shelter and Family Shelter, utilization of a rapid re-housing approach with a particular focus on reducing recidivism; as such clients will be assigned a case manager to provide follow-up care services. Follow-up service provided by the Home To Stay Program will connect clients to other mainstream resources to ensure successful outcomes.

### **Participants:**

All applicants must be evaluated for eligibility by use of the standard centralized or coordinated assessment system. To be eligible, an applicant must meet the standards for homelessness (per HUD definition) and have an annual income of less than 30% of area median income. Applicants are eligible for future services only if they have no other housing subsidies from local, state, or federal sources and have no other viable resources to secure or maintain housing. Applicants must reside in a City of Portland homeless shelter. The Oxford Street Shelter, which operates the community overflow sites, and the Family Shelter will each have an assigned point person for TBRA. Applicants from Preble Street and Milestone Shelter will also be eligible for TBRA assessments as determined by Home To Stay Program staff.

The highest priority applicants for rapidly re-housing are those currently homeless in the "mid-range" (clients who have 14-179 bed nights) for whom a potential living unit has been identified and will be available in less than a month. Additionally focus will be placed on clients who have WRAP Around Community Funds for Supports. Biweekly staff meetings will take place to case conference and review client stability plans to ensure all resources have been exhausted and plans are obtainable.

### **Case Management:**

Every eligible program participant or program participant household is to be assigned a case manager who has experience in working with people who are homeless. The case manager must work directly with each program participant or program participant household. The case manager is responsible for providing on-going evaluation of the eligibility for services of each program participant and for the type of services for which they are eligible. The case manager is responsible for determining the type of service needed and the amount of financial assistance required for each program participant while adhering to ESG guidelines. Case managers will be assigned through the Home To Stay Program.

The case manager must work directly with each program participant or program participant household to accomplish the following:

- Determination of the appropriate type of service needed and the amount of financial assistance
- Development of a service plan
- Counseling concerning housing needs
- Assurance that program participants are receiving all needed services from essential service providers, homelessness prevention and rapid re-housing assistance providers, other homeless assistance providers, and mainstream service providers.
- Obtaining all needed local, state, and federal services to benefit the program participant, including public housing, employment assistance and job training.
- Housing location assistance.
- Meet monthly (minimum) for 6 months after housing is secured to ensure housing is maintained

### **Centralized Intake:**

Potential participants will be identified by Housing Counselors at the Oxford Street Shelter and the Family Shelter and Home To Stay for all other shelters. A referral will be made to the intake case manager, who will determine need and eligibility. Once those factors have been determined an Action Plan and Stability Matrix will be completed. The Intake Case Manager is responsible for determining the type, amount, and duration of housing stabilization or relocation services to provide a program participant. In addition, the Case Manager is to be responsible for determining the type of service that is most appropriate for the program participant and the amount of financial assistance required for each program participant in accordance with established guidelines.

Eligible financial assistance may include housing search, rent application fees, security deposit, utility deposits and rent (maximum of one month). The case manager will confer with the Program Manager when determining the amount of utility deposit to be paid. These decisions will be made on a case by case basis.

The provider may make security deposit payments only to an owner with whom the client has entered into a rental assistance agreement. It is anticipated that one hundred ten (110) homeless individuals will receive assistance with security deposits and/or first month's rent with the average payment of \$1,200 per client. Clients will be encouraged to complete good tenant and good neighbor educational workshops and whenever possible clients will be asked to contribute any financial resources they may have to minimize the amount of financial assistance needed.

### **Monitoring:**

The Program Coordinator will be responsible for the daily monitoring of the TBRA. Responsibilities will include file review for quality control, review of client expenditures through the wrap around funds, review of program progress reports and adherence to guidelines. The Program Manager will report to the Social Services Division Administrator who will also monitor program process. A bi-weekly staff meeting will be held with the intake case manager, fiscal accountant appointed to

program and the Program Coordinator to ensure funds balance out and all financial documentation is complete.

The City of Portland's Continuum of Care community already has policies and procedures in place to ensure that a seamless continuum of services, including mainstream resources, is available to both homeless and at-risk of homelessness individuals and families. The City's Social Services Division Home To Stay Program Coordinator will provide regular reports to both the Continuum of Care and Emergency Shelter Assessment Committee (ESAC). Updates will be provided to the CoC Mainstream Resources Committee and HMIS data will be reported to all groups on a monthly basis.

### **Funding:**

The Social Services Divisions has a demonstrated track record of over 30 years administering grant funds. The Social Services Division currently manages thirty (30) federal and state grants totaling over 3 million dollars. The Division also administers another eight (8) million dollars in rent and shelter funds through the General Assistance Program. The Division also has a long history of administering rental funds through the HUD Rapid Re-housing Program and the Veterans Supportive Services Program for families. The Division's Fiscal unit will be responsible for authorizing vendor payments, monitoring program funds, completing monthly reconciliation reports, and all rental units will be receive inspections for code safety issues through the Home To Stay Program. A total of one hundred and ten (110) individuals will receive financial assistance and will locate permanent housing through the \$130,000 allocated for TBRA.

### **Inspections:**

We will follow the same standards we currently use for General Assistance. We will be using a safety check form (see attached), checking to ensure safety standards are met. We will also use Urban Insight to ensure LL have no outstanding issues with Code Enforcement, in cases where LL have outstanding issues or high numbers of complaints we will contact inspections to get guidance around the specific Landlord and address.

### **Income Verification:**

Income will be verified using several methods, self-reporting by clients and utilizing the zero income verification form if no income is present. We will request Social Security print outs of income, pay stubs, utilize WELPAC and other databases to review what income has been reported. We will also use the Work Number, third party verification, to request employment information to the extent Work Number is available.

### **Reporting:**

We will be running reports and tracking out of the two shelter data bases the city maintains, this will allow us greater flexibility to customize reports that would not be available in a web based system. The data bases have been set up to handle programs of similar nature in the past like ESG, Veteran Programs, and Rapid Re-housing models. This model is more cost effective and the offers the most accurate data for reporting to ESAC, CoC and tracking of funds.



## Accessory Dwelling Units

### Timeline

10.19.2015	Approved by City Council
09.24.2015	Approved by Planning Board
04.22.2015	Submitted to Planning Board

### Summary

A Peaks Island organization called HomeStart recently sought changes to the accessory dwelling unit (ADU) language on Peaks Island to allow for year-round, affordable dwelling units in a context-sensitive way. The goal is to allow residents the option of creating units that would not be rented on a seasonal basis but instead be available to workers who live year round on Peaks Island. The adopted language is based on a model from Wellfleet, MA, a community similar to Peaks Island.

Currently, ADUs are limited to lots of 70,000 and 30,000 square feet or more for IR-1 and IR-2 zones respectively. These changes would allow ADUs on smaller lots as long as certain conditions are met:

- The unit must be within part of an existing structure,
- The unit must be rented year-round; and,
- The unit must be affordable to households earning less than 100% of area median income.

This seems to be a reasonable way to develop additional workforce housing in an island context.

Similar amendments were made to allow for more ADUs in the R-5 zone, provided that the units are affordable to households earning less than 80% of AMU. There are existing built spaces in the R-5 zone (carriage houses, attics, basements, and even formerly used buildings) that could be better utilized as an ADU. The R-5 zone is typically characterized by relatively dense off-peninsula neighborhoods like Deering Center or Oakdale.

### In this chapter

- **Encourage and Ensure Housing Amendments: Text Amendments to the Land Use Code**, Planning Board report, 09.24.2015
- **Portland City Code**, Ch. 14 Div. 7.1 Sec. 14-145.3(a) 1, IR-1 Island Residential Zone accessory dwelling unit language
- **Portland City Code**, Ch. 14 Div. 7.2 Sec. 14-145.9(a) 1, IR-2 Island Residential Zone accessory dwelling unit language
- **Portland City Code**, Ch. 14 Div. 6 Sec. 14-118(a) 5, R-5 Residential Zone additional dwelling unit language



# PLANNING BOARD REPORT PORTLAND, MAINE

Encourage and Ensure Housing Amendments  
Text Amendments to the Land Use Code  
City of Portland, Applicant

Submitted to: Portland Planning Board: Public Hearing Date: September 29, 2015	Prepared by: Tyler Norod, Housing Planner and Jeff Levine, Director, Department of Planning and Urban Development Date: September 24, 2015
--	---

## I. INTRODUCTION

On September 15, 2015, the Department of Planning and Urban Development brought before the Planning Board a set of four amendments to Article 14 for consideration and recommendation to the City Council. Collectively, along with the R-6 and B-2 zoning changes recently enacted by the City Council, these constitute what are referred to as the “Encourage and Ensure” package of amendments. That name is because they are designed to “encourage” additional housing development through thoughtful zoning changes to modernize our ordinance and allow for additional housing development; and further that changes proposed to Division 30 are designed to “ensure” that a reasonable percentage of the housing developed in Portland is affordable to those making the area median income.

Due to schedule overruns of earlier agenda items at the September 15, 2015 Planning Board hearing, the housing incentives package was not taken up until 10:15 PM. Unfortunately, the timing was too close to the last ferry for Peaks Island residents to participate in the hearing. Due to these time constraints the Board tabled their vote on the IR-1 and IR-2 island zoning amendments to allow Peaks Island residents to present their comments at the available Board hearing.

The tabled text amendment ordinances were part of a package of amendments as follows:

1. Changes to the Downtown Height Overlay Map to increase allowed heights in some areas from 45’ to 65’;
2. Changes to the Accessory Dwelling Unit (ADU) language for the IR-1 and IR-2 island residential zones to allow ADU’s on more parcels, provided certain conditions are met;
3. Changes to the Accessory Dwelling Unit language for the R-5 zoning district to allow more use of existing building space for ADU’s; and
4. Changes to Division 30 that:

- a. Clarify terminology related to affordable housing;
- b. Expand density bonuses for developments providing affordable housing; and
- c. Require that new developments of 10 units or more restrict at least 10% of the units to be affordable to those making 100-120% of the area median income or below (currently about \$77,500-96,875 for a family of four) or contribute a fee-in-lieu of \$100,000 per unit to the Housing Trust. These developments would also be eligible for a 25% density bonus, and consideration for an Affordable Housing Tax Increment Finance District.

This package of amendments, in addition to the R-6 and B-2 changes, will allow production of additional housing in Portland by reducing the per-unit cost of housing, while at the same time making sure that some portion of that additional housing remain affordable to the workers Portland needs to attract, such as entry level professionals and career blue collar workers. For context, a unit affordable to a median income family of four would rent for about \$1,900 a month, or have a mortgage of about \$350,000. These numbers seem attainable now without much market intervention. However, the need for deed-restricted units at this level stems from the fact that the gap between what is affordable to such a family and what the market produces is likely to continue to grow.

Median Income	FY 2015 Income Limits	Persons in Family							
		1	2	3	4	5	6	7	8
\$77,100	<b>80% Income Limits</b>	\$ 43,200	\$ 49,400	\$ 55,550	\$ 61,700	\$ 66,650	\$ 71,600	\$ 76,550	\$ 81,450
	<b>Housing Expense at 30% of Income</b>	\$ 1,080	\$ 1,235	\$ 1,389	\$ 1,543	\$ 1,666	\$ 1,790	\$ 1,914	\$ 2,036
	<b>100% Income Limits</b>	\$ 53,970	\$ 61,680	\$ 69,390	\$ 77,100	\$ 83,268	\$ 89,436	\$ 95,604	\$ 101,772
	<b>Housing Expense at 30% of Income</b>	\$ 1,349	\$ 1,542	\$ 1,735	\$ 1,928	\$ 2,082	\$ 2,236	\$ 2,390	\$ 2,544
	<b>120% Income Limits</b>	\$ 64,932	\$ 74,208	\$ 83,484	\$ 92,760	\$ 100,181	\$ 107,602	\$ 115,022	\$ 122,443
	<b>Housing Expense at 30% of Income</b>	\$ 1,623	\$ 1,855	\$ 2,087	\$ 2,319	\$ 2,505	\$ 2,690	\$ 2,876	\$ 3,061

## II. PUBLIC COMMENT

A Planning Board workshop was held on May 19, 2015. The legal ad for hearing to consider the amendments appeared in the Portland Press Herald on September 7 and 8, 2015. Four comment letters were received related to the proposed IR-1 and IR-2 text amendments. The comments expressed concerns related to density, parking, and public process. The letters have been attached to this memo for reference.

### III. BACKGROUND

These submissions were developed over the course of several months of meetings between City staff, the public and the Housing and Community Development Committee (HCDC). In February, HCDC convened a Housing Forum in City Hall, where city staff could present city goals and possible tools to address them, and answer questions or concerns raised by the public. Public testimony was also taken at several HCDC meetings on this issue. After reviewing a long list of possible ordinance changes, and refining staff language proposed for inclusionary zoning as well as other changes to Division 30, the submission was refined to the set of ordinance changes before you.

In 2002, the City approved an amendment to its Comprehensive Plan entitled “Housing: Sustaining Portland’s Future.”

In 2014, the City Council set a goal to “Promote Housing Availability [and p]rovide increased availability in all segments of the housing market while insuring that there is a suitable balance of housing opportunities among those sectors.” HCDC put this issue in its workplan for calendar year 2014.

In late 2014 and early 2015, following from this goal and the interests of the Housing and Community Development Committee to address this goal, the City commissioned the Greater Portland Council of Governments to complete a study of the housing market in Portland. That study (Attachment C) was designed to answer the following questions:

1. What is the state of the housing production market in Portland?
2. What kinds of housing are being produced?
3. How does that production compare to City goals and plans with respect to affordability, such as “Housing Portland”?
4. How does that production result in the need for additional housing at different income levels through economic multiplier effects?

The key findings of this study were as follows:

- Our current housing production is not producing enough units for those making below median income
- Our existing housing rental stock appears to generally be reasonably affordable, but in part because the renters may be "sizing down" to a unit they can afford.
- Family sized rentals appear to be less affordable
- Our existing owner-occupied units appear to be primarily affordable to those making above the median income.
- There is a gap between the City’s housing policy goals and what is being produced by the market.
- Every unit of high end housing that is produced in the City brings with it the need for housing for those with lower incomes – for example, to provide services for those high end housing residents

On January 15, 2015, HCDC heard the findings from the Housing Study, along with a universe of possible policy responses to these findings. Following that presentation they instructed staff to come back to their meeting on January 28<sup>th</sup> with some refined recommendations for actions to take in response.

On February 25, 2015, in lieu of their regular meeting, HCDC held a housing forum to present some possible actions and hear from the public. That forum was recorded and is available for viewing from the City web site. The slideshow from that presentation is Attachment D.

On March 11, 2015, the HCDC met to debrief from the forum and hear staff recommendations for policy actions. Staff proposed a laundry list of 17 actions that could be taken, including a proposed inclusionary zoning ordinance. Staff noted that best practices in New England and nationally involved an inclusionary component to permitting housing of a certain scale, and recommended the ordinance be kept fairly simple for implementation reasons. That list of actions was as follows:

1. Revisions to the B-2 zoning district for 500 acres in key commercial corridors/nodes
2. Revisions to the R-6 zoning district for 530 acres of residential land on the Peninsula
3. Rezoning 10 acres of land along the eastern waterfront to B-6 to allow for multifamily housing development
4. Eliminate Parking Requirements for Residential Uses in B3, B5, B6, and B7
5. Eliminate Residential Density Limits in B1 and B2
6. Harmonize off-peninsula residential parking requirements with those of the peninsula
7. Allow the use of the fee in lieu of parking in all off-peninsula (citywide) business zones
8. Update definitions & dimensional standards to promote the viability of lodging houses
9. Amend Downtown Height Overlay Map where to increase 45' heights
10. Allow 1 ADU per owner-occupied single-family homes in all IR zones if leased annually
11. Begin R5 rewrite to reflect current patterns & legalize most nonconforming structures
12. Begin R3 rewrite to reflect current patterns & legalize most nonconforming structures
13. Consider rewriting R7 zone & consider applying it to the zoning map in downtown R6s
14. Limit the removal of dwelling units from the rental market in favor of vacation rentals
15. Limit the conversion of rental housing into condominiums
16. Look at Housing Trust Fund ordinance for revisions to reflect its role in these efforts
17. Changes to Division 30 (Affordable Housing) to provide more useful density bonuses, and to add an inclusionary zoning requirement.

HCDC recommended eight, unimplemented policies in this list be explored in more detail:

1. Rezoning 10 acres of land along the eastern waterfront to B-6 to allow for multifamily housing development
2. Eliminate Parking Requirements for Residential Uses in B3, B5, B6, and B7
3. Eliminate Residential Density Limits in B1 and B2
4. Allow the use of the fee in lieu of parking in all off-peninsula (citywide) business zones
5. Amend Downtown Height Overlay Map where to increase 45' heights
6. Look at Accessory Dwelling Units in Island Residential Zones
7. Look at R5 Zone Accessory Dwelling Unit Requirements & Reuse of Existing Structures
8. Amend Division 30 (Affordable Housing) to (1) Provide Additional Density through Incentives and (2) Add Workforce Housing Requirement (Inclusionary Zoning)

On April 8, 2015, HCDC took up this issue again. The staff memo from that meeting is Attachment E. They refined the list down to seven options to “encourage” further housing and a more specific recommendation for an Inclusionary Zoning Ordinance. They voted 3-1 to forward the Inclusionary Zoning Ordinance to the Planning Board for formal review, and asked that staff prioritize the seven options at their next meeting.

On April 22, 2015, HCDC took up those seven options and recommended the items recently before the Board for further study in conjunction with the Inclusionary Zoning Ordinance. The other items may be forwarded at a future dates but the HCDC did not recommend they move forward at this time.

On May 19, 2015 the Planning Board held a workshop to consider this Housing Incentives package. A hearing was held by the Board on September 15, 2019. All items aside from the proposed IR-1 and IR-2 text amendments were discussed and voted on. The island text amendments were tabled until a later date for reasons described above.

#### **IV. PROPOSED AMENDMENTS**

Changes to the Accessory Dwelling Unit (ADU) language for the IR-1 and IR-2 island residential zones to allow ADU's on more parcels, provided certain conditions are met

A Peaks Island organization called HomeStart has been seeking changes to the ADU language on Peaks Island to allow for year-round, affordable dwelling units in a context sensitive way. The goal is to allow residents the option of creating units that would not be rented on a seasonal basis but instead be available to workers who live year round on Peaks. That organization suggested a model from Wellfleet, MA, a similar community to Peaks Island. Staff adopted this model to the language before you in Attachment A.

Currently, ADU's are limited to lots of 70,000 and 30,000 square feet or more for IR-1 and IR-2 zones respectively. These changes would allow ADU's on smaller lots as long as certain

conditions are met:

- ✓ The unit must be rented year-round
- ✓ The unit must be affordable

This seems to be a reasonable way to develop additional workforce housing in an island context. Specific revisions to the text are detailed in Attachment A.

## **V. Consistency with Comprehensive Plan**

The proposed text amendments have been designed to allow the the IR-1 and IR-2 better accomplish the City's goals particularly as they relate to the creation of housing with a focus on housing that is affordable to a diverse range of households. In this, the amendments align with the city's Comprehensive Plan.

The Comprehensive Plan, adopted in November 2002, updated in 2005, provides a policy framework for managing growth in the city, and clearly advocates dense commercial and mixed-use development that both serves and suits the neighborhood context. Housing: Sustaining Portland's Future includes policies to "[m]aintain and enhance the livability of Portland's neighborhoods as the city grows and evolves through careful land use regulation, design and public participation that respects neighborhood integrity" and "encourage sustainable development patterns and opportunities within the city by promoting efficient land use, conservation of natural resources, and easy access to public transportation, services, and public amenities." In order to do so, the plan suggests "encourag[ing] increased residential densities and mixed uses" and "promot[ing] through city policies a mix of housing types, retail and service businesses, community services, and open space/recreation opportunities of appropriate size, scale, and type within neighborhoods."

## **VI. STAFF RECOMMENDATION**

The staff recommends that the Planning Board find the proposed text amendments to the ADU standards of the IR-1 and IR-2 ordinances be consistent with the Comprehensive Plan and recommend to the City Council adoption of the proposed text amendments.

## **VI. PROPOSED MOTION**

On the basis of the material provided in this report, public testimony, a review of applicable policies, Portland's Comprehensive Plan, the information provided in a workshop on May 19, 2015 for the Housing Incentives package and/or other information as follows:

### **Text Amendments to Definitions, IR-1 and IR-2**

The Planning Board finds that the proposed text amendments to IR-1 and IR-2 island residential zones accessory dwelling unit language as presented in Attachments A1 and A2 [**are or are not**] consistent with the Comprehensive Plan for the City of Portland; and

Therefore, the Planning Board [**recommends or does not recommend**] to the City Council approval of the zoning text amendments to IR-1 and IR-2.

## **VIII ATTACHMENTS**

Attachment A: Proposed Ordinance Amendments

A1 – IR-1 ADU Language (clean version followed by markup version)

A2 – IR-2 ADU Language (clean version followed by markup version)

Attachment C: City Workforce Housing Study – 2015

Attachment D: Slideshow from February Housing Forum

Public Comment:

PC1 – Henry Barbaro 9.15.2015

PC2 – Timmi Sellers 9.22.2015

PC3 – Ann Karlsen 9.15.2015

PC4 – Ann Karlseon 9.24.2015

Alternative Energy.

(Ord. No. 27-85, § 1, 7-15-85; Ord. No. 160-89, § 1, 12-11-89; Ord. No. 33-91, § 10, 1-23-91; Ord. No. 33-11/12, 1-18-12)

**Sec. 14-145.3. Conditional uses.**

The following uses are permitted only upon the issuance of a conditional use permit, subject to the provisions of section 14-474 (conditional uses) of this article and any special provisions, standards or requirements specified below:

(a) *Residential:*

1. Accessory dwelling unit within and clearly subordinate to a principal single-family detached dwelling or legal multi-family dwelling, provided that:
  - a. The accessory unit shall be no more than thirty-five (35) percent of the gross habitable floor area of the building and shall have a minimum floor area of four hundred (400) square feet;
  - b. Lot area shall be seventy thousand (70,000) square feet, or on Peaks Island be an existing lawfully non-conforming lot as of May 1, 2015;
  - c. There shall be no open outside stairways or fire escapes above the ground floor;
  - d. Any additions or exterior alterations such as facade materials, building form, roof pitch and exterior doors shall be designed to be compatible with the architectural style of the building and preserve the single-family appearance of the building. The exterior design of new construction including facade materials, building form, roof pitch and exterior doors shall have a single-family appearance;
  - e. A lower level dwelling unit shall have a minimum two-thirds of its floor-to-ceiling height above the average adjoining ground level;

- f. Either the accessory unit or the principal dwelling shall be occupied by the owner of the lot on which the principal building is located, except for bonafide temporary absences;
  - g. All sanitary waste shall be disposed of by a public sewer, subsurface sewerage system or other method in compliance with state and local regulations; and
  - h. For accessory units created on Peaks Island on existing lawfully non-conforming lots as of May 1, 2015:
    - i. Shall remain under common ownership with the primary unit on the lot;
    - ii. Shall not be sold as condominium units or otherwise separated from the ownership of the pre-existing unit on the site;
    - iii. Shall be rented households earning up to 100% of AMI and be subject to income verification as further outlined in implementing regulations;
    - iv. Shall be rented on an annual basis and may not be used for seasonal or weekly rentals; and
    - v. Shall be built within the principal building or as an attachment in accordance with subsection (d).
- (b) *Institutional*: Any of the following uses provided that, notwithstanding section 14-474(a) (conditional uses) of this article or any other provision of this Code, the Planning Board shall be substituted for the board of appeals as the reviewing authority:
- 1. Schools and other educational facilities including seasonal camps other than campgrounds;
  - 2. Places of assembly, excluding yacht clubs and marinas;

the location, function and operation of principal uses, subject to the provisions of section 14-404 (accessory use) of this article including but not limited to (a) home occupations, (b) private temporary tenting with one (1) tent accessory to a principal residential use, provided that adequate water supplies and sanitation facilities are available in connection with the principal residential use, and (c) roadside stands less than two hundred (200) square feet in floor area for the sale of agricultural products produced on the premises, and the sale of fish and shellfish caught by the occupant of the dwelling or principal structure.

(f) Handicapped family unit, as defined in section 14-47, for handicapped persons plus staffs.

(g) Wind energy systems, as defined and allowed in Article X, Alternative Energy.

(Ord. No. 28-85, § 1, 7-15-85; Ord. No. 161-89, § 1, 12-11-89; Ord. No. 33-91, § 11, 1-23-91; Ord. No. 33-11/12, 1-18-12)

#### **Sec. 14-145.9. Conditional uses.**

The following uses are permitted only upon the issuance of a conditional use permit, subject to the provisions of section 14-474 (conditional uses) of this article and any special provisions, standards or requirements specified below:

(a) *Residential:*

1. Accessory dwelling unit within and clearly subordinate to a principal single-family detached dwelling or legal multi-family dwelling provided that:

a. The accessory unit shall be no more than thirty-five (35) percent of the gross floor area of the principal building and shall have a minimum floor area of four hundred (400) square feet;

b. Lot area shall be thirty thousand (30,000) square feet, or on Peaks Island be an existing lawfully non-conforming lot as of May 1, 2015;

c. There shall be no open outside stairways or fire escapes above the ground floor;

- d. Any additions or exterior alterations such as facade materials, building form, roof pitch, and exterior doors shall be designed to be compatible with the architectural style of the building and preserve the single-family appearance of the building. The exterior design of new construction including facade materials, building form, roof pitch and exterior doors shall have a single-family appearance;
- e. A lower level dwelling unit shall have a minimum two-thirds of its floor-to-ceiling height above the average adjoining ground level;
- f. Either the accessory unit or the principal dwelling shall be occupied by the owner of the lot on which the principal building is located, except for bona fide temporary absences; and
- g. All sanitary waste shall be disposed of by a public sewer, subsurface sewerage system or other method in compliance with state and local regulations; and
- h. For accessory units created on Peaks Island on existing lawfully non-conforming lots as of May 1, 2015:
  - i. Shall remain under common ownership with the primary unit on the lot;
  - ii. Shall not be sold as condominium units or otherwise separated from the ownership of the pre-existing unit on the site;
  - iii. Shall be rented to households earning up to 100% of AMI and are subject to income verification as further outlined in implementing regulations;
  - iv. Shall be rented on an annual basis and may not be used for seasonal or weekly

rentals; and

- v. Shall be built within the principal building or as an attachment in accordance with subsection (d)..

(b) *Institutional*: Any of the following uses provided that, notwithstanding section 14-474(a) (conditional uses) of this article or any other provision of this Code, the Planning Board shall be substituted for the board of appeals as the reviewing authority:

1. Schools and other educational facilities;
2. Places of assembly, excluding yacht clubs and marinas;
3. Municipal uses, provided that outside storage and parking areas are suitably screened and landscaped to ensure compatibility with the surrounding neighborhood;

Such uses shall be subject to the following standards if the total land area of the use is two (2) acres or more:

- a. In the case of expansion of existing such uses onto land other than the lot on which the principal use is located, it shall be demonstrated that the proposed use cannot reasonably be accommodated on the existing site through more efficient utilization of land or buildings, and will not cause significant physical encroachment into established residential area;
- b. The proposed use will not cause significant displacement or conversion of residential uses existing as of July 15, 1985, or thereafter; and
- c. In the case of a use or use expansion which constitutes a combination of the above-listed uses with capacity for concurrent operations, the applicable minimum lot sizes shall be cumulative; and

2. The scale and surface area of parking, driveways, and paved areas shall be arranged and landscaped to be compatible in size and scale with neighboring properties in the area and to properly screen vehicles from adjacent properties and streets.
4. Conversions of existing two-family or multiplex structures into lodging houses, provided that a lodging house shall not be located within five hundred (500) feet of another as measured along street lines to the respective property lines.
5. Use of space existing as of September 3, 2008 to accommodate additional dwelling units under the following conditions:
  - a. This section shall under no conditions permit more than four dwelling units on a lot and shall not allow more than two additional dwelling units on a lot above what would otherwise be permitted;
  - b. Any units created under this section may not be sold as condominium units or otherwise separated from the ownership of at least one of the pre-existing units on the site ;
  - c. Any units created under this section must be affordable to households earning up to 80% of AMI and are subject to income verification as further outlined in implementing regulations ;
  - d. The additional units shall have a minimum floor area of four hundred (400) square feet and may not involve removing more than ten percent of the gross floor area of an existing dwelling unit into a new dwelling unit. Gross floor area shall exclude any floor area that has less than two-thirds of its floor-to-ceiling height above the average adjoining ground level and may include the attic if such space is habitable.

- e. Modifications to existing structures shall be minimal, and be limited to new doors, windows and other openings;
  - f. Parking shall be provided as required by Division 20 of this article;
  - g. There shall be no open, outside stairways or fire escapes above the ground floor; and
  - h. The project shall be subject to Article V for site plan review and approval and the following additional standards:
    - i. Any additions or exterior alterations such as façade materials, building form, roof pitch, and exterior doors shall be designed to be compatible with the architectural style of the building and preserve the single family appearance of the building; and
    - ii. The scale and surface area of parking, driveways and paved areas shall be arranged and landscaped properly to screen vehicles from adjacent properties and streets.
- (b) *Institutional*: Any of the following conditional uses provided that, notwithstanding section 14-474(a) (conditional uses) of this article, or any other provision of this Code, the Planning Board shall be substituted for the board of appeals as the reviewing authority:
- 1. Elementary, middle, and secondary school;
  - 2. a. Long-term and extended care facilities;
  - b. Intermediate care facility for thirteen (13) or more persons;
  - 3. Places of assembly;
  - 4. Reserved;



## **B-1 and B-2 Zoning Text Amendments**

### **Timeline**

10.10.2014	Additional B-1 and B-2 amendments submitted to Planning Board
04.18.2014	B-2 amendments submitted to Planning Board
11.08.2013	B-1 height amendments submitted to Planning Board

### **Summary**

The B-1 and B-2 zones play a critical role in governing the form and function of much of the commercial and mixed-use development in the city. The “Neighborhood Business” B-1 applies to many of Portland’s most successful small-scale, local commercial and mixed-use nodes, from Congress Street in Munjoy Hill to Pine Street in the West End to Rosemont and Stevens Avenue in Deering Center. The “Community Business” B-2 allows for larger-scale commercial and residential development along major arterials, such as Washington Avenue, Forest Avenue, and outer Congress Street.

In the summer of 2014, city staff reviewed the B-2 zone in an effort to address concerns regarding the zone’s encouraging of higher-density housing. The development that the zone is designed to encourage had not occurred. The review resulted in a set of text amendments which increased the permitted housing density, clarified the setback requirements, and provided for lively, urban ground floor uses.

In the fall of 2014, city staff conducted a similar review on the existing B-1 zone, which contained restrictions that effectively precluded it from encouraging appropriate development. The analysis resulted in proposed text amendments, including changes to the dimensional requirements and use tables.

In light of the B-1 zone amendments, the B-2 zone was again revised and clarified.

### **In this chapter**

- **B-1 Text Amendment for Increased Building Height On-Peninsula**, Planning Board report, 11.08.2013
- **Revisions to B-2, B-2b, and B-2c Zoning Text**, Planning Board report, 04.18.2014
- **B-1 and B-2 Zoning Text Amendments**, Planning Board report, 10.10.2014
- **Portland City Code**, Ch. 14 Divs. 9 and 10, B-1 and B-1b Neighborhood Business Zones and B-2 and B-2b Community Business Zones



## PLANNING BOARD REPORT

### PORTLAND, MAINE

#### B-1 Text Amendment for Increased Building Height On-peninsula

Application # 2013-235

EMT, LLC., Applicant

Submitted to: Portland Planning Board: Public Hearing Date: November 12, 2013 Planning Board Report Number: #52-13 Application #: 2013-235	Prepared by: Barbara Barhydt, Development Review Services Manager Date: November 8, 2013
---	--

#### **I. INTRODUCTION**

EMT, LLC is requesting a B-1 text amendment that would allow buildings with first floor commercial and residential units above to have a maximum building height of fifty (50) feet in B-1 zones located on the peninsula. The applicant plans to redevelop 118 Congress Street with a mixed-use structure that includes retail and parking on the first level with residential units on the upper three floors. Currently, the site on the corner of Congress and St. Lawrence Street has a one-story building that is the home of TLA Architects. The structure is setback from Congress with parking in front.

Thomas Federle, Attorney, is the representative for the applicant. The design team includes Pinkham and Greer, Consulting Engineers; Owen Haskell, Inc., surveyor; and David Lloyd, Architect. The Applicant's submission is attached.

#### **II. PUBLIC COMMENT**

The text amendment was advertised in the Portland Press Herald on November 4 and November 5, 2013. A neighborhood meeting was held on October 30, 2013 and the documentation is included in the Applicant's submission, items I and J.

At the time of this report, one written comment has been received from Barbara Vestal, Esq., which is included as Attachment 1. Ms. Vestal recommends that in order to receive the benefit of the extra height, the proposed text amendment should require business uses to be located for the full length of the street frontage, except for an entry to the upper floors.

#### **III. APPLICANT'S DEVELOPMENT PROPOSAL**

The applicant is proposing to redevelop the site at 118 Congress Street, which currently has a one-story building located to the rear of the site with surface parking along the Congress and St. Lawrence Streets frontages. An aerial photo of the site is included in the applicant's submission. The building is the office for TLA architects.

The concept plans for the development are included in the Applicant's submission as Attachments F and G. The first level (A1.0) shows a retail space with 1,029 square feet at the Congress and St. Lawrence corner of the building, an entrance and lobby for the upper floor

residential units along Congress Street, and structured parking for 19 vehicles. The typical floor plan (A1.1.) for the upper floors shows 4 residential units per floor. Assuming four (4) units per floor, this would be 12 units, although the application is not clear on this point. The condominium units have 2 to 3 bedrooms.

The proposed structure would be built to the street lines along Congress and St. Lawrence Streets with 10 foot setbacks from the rear and side property boundaries in compliance with the dimensional standards of the zone. The entire site is within the B-1 zone. The Residential R-6 zone abuts the B-1 zone. The line between the two zones does not follow property boundaries, but rather extends approximately 134 feet from the center-line of Congress Street. The B-1 zone encompasses the properties across Congress Street from the site and the R-6 zone is located across St. Lawrence Street.

The applicant is seeking the text amendment to the B-1 zone to increase the maximum building height for structures that have first floor commercial with residential units above. The applicant is seeking this amendment for the on-peninsula B-1 zones in order to provide first floor ceiling heights to accommodate commercial uses.

#### **IV. APPLICANT'S PROPOSED TEXT AMENDMENT**

EMT, LLC is requesting a text amendment to the B-1 zone that would increase the maximum building height of a structure to 50 feet where the building has a first floor commercial use with residential units above. The proposal mirrors language that is contained in the B-2 zone. The applicant's proposal is as follows:

##### **Sec. 14-165. Dimensional requirements.**

###### **(e) *Maximum structure height:***

1. Off-peninsula locations, as defined in Section 14- 47: Thirty-five (35) feet. Where the lot abuts an R-6 residential zone, the maximum height shall be the maximum permitted height in the R-6 residential zone.
2. On-peninsula locations, as defined in Section 14-47: Forty-five (45) feet except in the case of a building with commercial first floor and residential upper floors, where fifty (50) feet is allowed.

Section VII and IX below contains the policy discussion and staff recommendations, which include alternate language for the Board's consideration. The proposed revisions narrow the applicability of the increased heights to locations along Congress Street and seek to address the public comment to define the extent of business uses on the first level.

#### **V. PURPOSE STATEMENTS OF B-1 AND B-1b**

There are separate purpose statements for the B-1 and B-1b zones. It is important to note a distinction between the two zones is that the B-1b is limited in scale and is intended to provide "...opportunities for establishment of small-scale ground floor commercial uses in existing buildings, serving a local market, while preserving residential uses and character above the ground floor of structures." The B-1 zone is designed for small-scale local businesses with

limited external impacts and it specifically encourages buildings with attractive storefronts and mixed-use buildings with commercial uses on the first level and residential or office uses above. On-peninsula locations are identified for mixed use and high residential density.

The purpose statements for the B-1 and B-1b zones are as follows:

*(a) B-1 Neighborhood Business Zone*

The purpose of the B-1 neighborhood business zone is to provide limited areas for the location of small-scale commercial establishments intended to serve a local market. As a result, uses shall be complementary, quiet and generally do not disturb the comfort and enjoyment of the adjoining neighborhood environment. Uses shall be designed for the pedestrian scale and will provide convenient access for nearby residents and workers to walk in to purchase goods and services. Buildings and uses shall be designed with attractive storefronts or similar features, with windows and doors convenient to a public sidewalk. Building additions are encouraged but not required to meet the maximum setbacks of 14-165(c)(3). This zone shall encourage mixed use buildings such as commercial first floor with residential uses above or combined retail/office uses in a multistory structure. The zone also provides the opportunity for mixed use and high residential density in on-peninsula locations.

Suitable locations for this zone may include street intersections and arterial streets with existing or proposed traditional neighborhood retail and service uses.

*(b) B-1b Neighborhood Business Zone*

The purpose of the B-1b neighborhood business zone is to provide appropriate opportunities for the establishment of small-scale ground floor commercial uses in existing buildings, serving a local market, while preserving residential uses and character above the ground floor of structures. The zone also provides the opportunity for mixed use and high residential density in on-peninsula locations. Building additions are encouraged but not required to meet the maximum setbacks of 14-165(c)(3).

Suitable locations for this zone may include street intersections, arterial streets, and sites with existing or traditional neighborhood retail and service uses.

**VI. SUMMARY OF B-1 and B-1b ZONES**

**A. Maximum Height Requirements:**

The maximum building heights in the B-1 zone are established for on-peninsula and off-peninsula. For the off-peninsula locations, the maximum height is 35 feet unless the zone abuts an R-6 zone, and then the R-6 maximum height of 45 feet applies. In general, the B-1 zones off-peninsula are adjacent to lower density residential zones, such as R-2, R-3 and R-5. On peninsula, the maximum building height is 45 feet, which is the same as the R-6 zone. The B-1 zones on-peninsula are surrounded or adjacent to the R-6 zone. The one exception is the B-1b zone on Washington Avenue that was rezoned from R-3 to B-1b in 2006 in order to permit first

floor commercial uses in the residential structures along that stretch of Washington Avenue. This particular B-1b zone abuts the Recreation Open Space (ROS) zone for the Eastern Promenade and the Industrial I-1b along Anderson Street. (Full B-1 text available at <http://www.portlandmaine.gov/citycode/chapter014.pdf> )

A chart of maximum building heights for some of the city’s residential and business zones are listed below:

<b>Zone</b>	<b>Building Height Maximum</b>
<b>Div. 3. R-2 Residential Zone</b> § 14-66-14-75	<b>35 ft.</b>
<b>Div. 4. R-3 Residential Zone</b> § 14-86-14-93	<b>35 ft.</b>
<b>Div. 6 R-5 Residential Zone</b> § 14-101-115	<b>35 ft.</b>
<b>Div. 7. R 6 Residential Zone</b> § 14-135—14-140	<b>45 ft.</b>
<b>Div. 7.01 R-7 Compact Urban Residential Overlay Zone</b> § 14-141--14-144	<b>50 ft.</b>
<b>Div. 9. B-1 and B-1b Neighborhood Business Zones</b> § 14-161- 167	<i>Off-peninsula</i> <b>35 ft. Where lot abuts R-6, maximum R-6 height permitted.</b> <i>Off peninsula</i> <b>45 ft.</b>
<b>Div. 10. B-2 and B-2b Community Business Zone</b> § 14-181—14-195	<i>Residential Uses</i> <b>B-2 and B-2c: 45 feet</b> <b>B-2b: 45 feet, except where commercial first floor and residential upper floors, 50 feet is allowed, except for the portion a building located within 65 feet of Franklin Street, where 65 feet is allowed</b> <i>Business and non-residential uses</i> <b>B-2 and B-2c : 45 ft. (65 ft. on lots over 5 acres)</b> <b>B-2b: 50 ft.</b>
<b>Div. 12. B-3 Downtown Business Zones</b> § 14-216—14-221.1	<b>By Height Overlay (65 to 250 feet maximum)</b>

**B. Location of B-1 Zones:**

The B-1 Neighborhood business zones are located throughout Portland at small nodes within residential neighborhoods or located along arterials, again surrounded by adjoining residential zones. The B-1 zones on the peninsula are listed below along with excerpts from the Zoning Map.

**West End**

1. Pine and Brackett Streets: The B-1 zone extends along Pine Street from the B-3 zone at Longfellow Square to one lot beyond Clark Street and from the intersection of Pine and Brackett to 155 Brackett Street (Youth in Action). In 2012, the Planning Board

recommended and the City Council adopted B-1 text amendments to expand the range of artist and musician studios allowed in the B-1 zone and adjusted the boundaries of this B-1 zone to include 155 Brackett. This area is located within the West End Historic District.

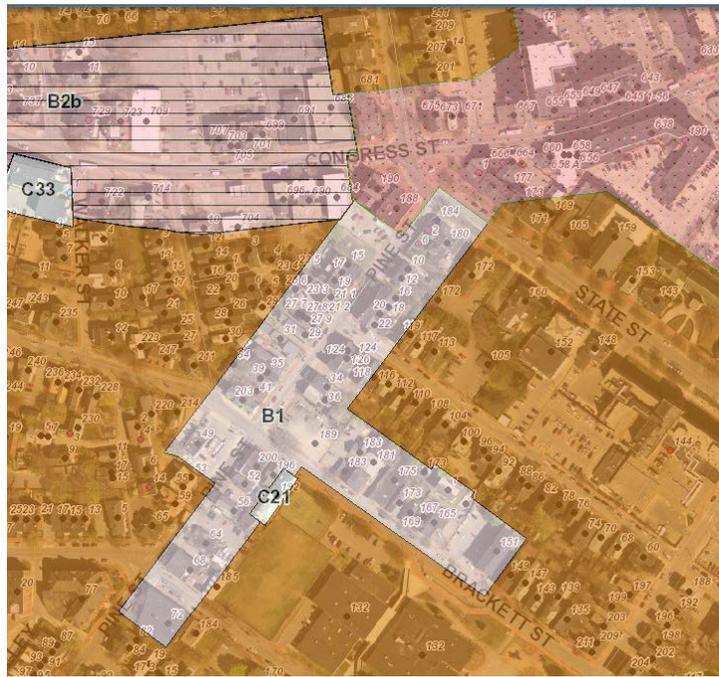


Figure 1: Pine Street and Brackett

2. Danforth, May, and School: This B-1 zone encompasses a small node of business uses interspersed with residential uses along Danforth Street at the intersection of May and School Streets. This node abuts the West End Historic District.



Figure 2: West End B-1 Zones

3. Danforth at Brackett: The B-1 zone is along Danforth Street and includes a Laundromat and corner store. It is within the West End Historic District
4. York and Brackett: The area includes a few structures at the corner of York and Brackett. It is across from Harborview Park.
5. York and High Street: There is a B-1 zone at the corner of York and High Streets. At the October 8, 2013 meeting, the Planning Board voted unanimously to recommend to City Council that this parcel be rezoned to Downtown B-3.

### Munjoy Hill

1. Congress Street:  
There are two B-1 zones along Congress Street on Munjoy Hill. The B-1 zone extends from the B-2 zone at the Washington Avenue and Congress intersection along the westerly side of Congress to Sheridan Street. The zone is approximately 130 feet in depth and encompasses the buildings with Congress Street frontage. The other B-1

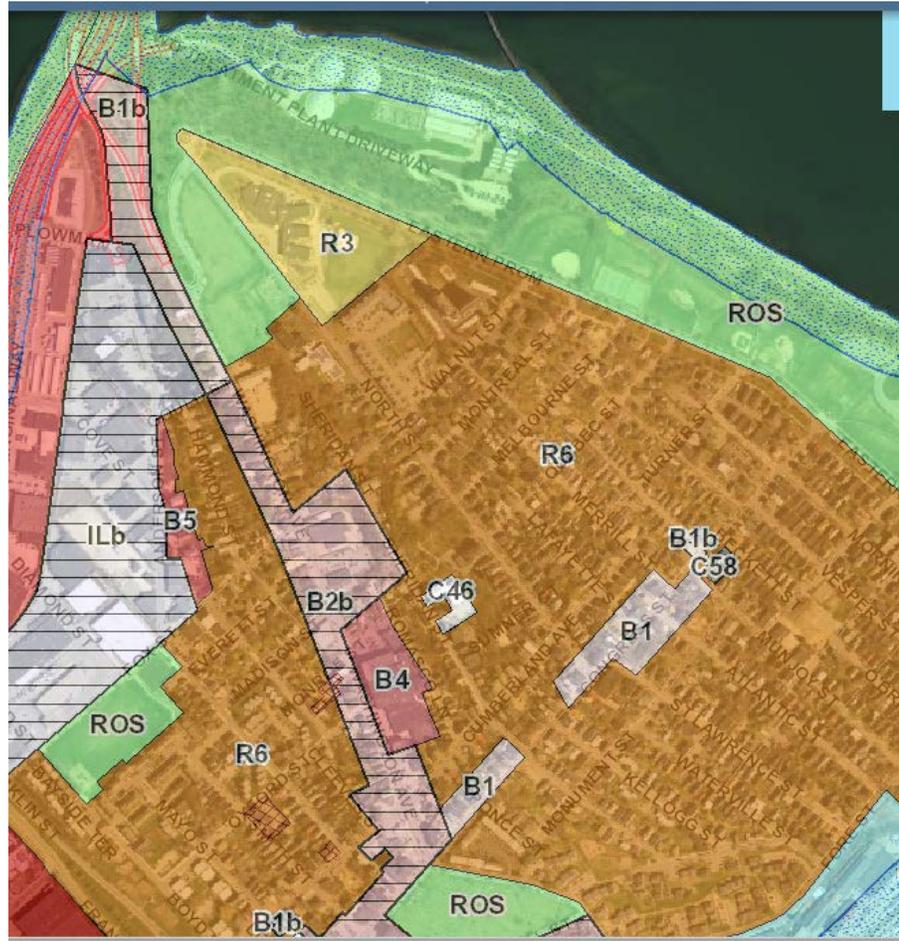


Figure 3: Excerpt from Portland Zoning Map

2. There are two B1-b zones shown on Figure 3. There is a B-1b zone at 73 Congress Street, which was rezoned to allow a restaurant (the Front Room) on the first floor and retain the residential uses above in the existing structure. The second area is along Washington Avenue. It is characterized by smaller scaled residential structures and had been zoned R-3 until 2006, when the area was rezoned to B-1b to accommodate a commercial use on the first floor of a structure at 218 Washington Avenue.

## VII. EXISTING CONDITIONS ANALYSIS

### A. West End

Two of the West End B-1 zones are located fully within the West End Historic District and a third one abuts this district. Photos of the Pine and Brackett district are included as [Attachment 2](#). The height of existing buildings in this district are below the current allowable height of 45 feet. Recently, the Planning Board and the Historic Preservation Board reviewed and approved a mixed-use project at the corner of Pine and Brackett. During the review, the Historic

Preservation Board had concerns about the overall massing and height of the proposed structure at this corner. The applicant was asked to step back the upper floor to meet the Historic Preservation review standards. To allow added height in this B-1 zone would increase the potential tension between the existing development pattern and new development.

The other B-1 zones located in the West End are small business nodes at intersections Caitlin Cameron, Urban Designer, and Libby MacCarthy, intern, created photo montages of the B-1 zones outside of the West End district, which are included as Attachment 3 (within Historic District), 4, 5 and 6. Their assessment of the existing conditions and heights are as follows:

The Danforth and May area consists of 12 properties – 9 multifamily residential buildings, 2 parking lots, and 1 mixed use building. Building heights in this particular B1 zone are fairly consistent. The largest portion of buildings in the Danforth and May B1 zone are between 30 and 35 feet, along with several buildings immediately outside of the B1 zone. There are also two buildings between 25 and 30 feet and one smaller building standing at approximately 15 feet. The average building height along this block is approximately 30.5 feet, with little variation in height along each section of the block, continuing outside of the zone's boundary as well.

On the corner of York and Brackett Streets there are 4 properties confined within the B1 zone, one on Brackett and three on York. Building height in this area is more varied than in the Danforth and May B1 zone, though there are fewer properties in a smaller area, making the height difference more apparent. Two of the buildings fronting York Street, 2 and 3 story buildings, are approximately 25 feet, while the building fronting Brackett, 3.5 stories, as well as 225 York Street (4 stories) stand at approximately 40 feet. The elevation in this particular area is also varied allowing for an additional sense of height variation relative to location within the zone. It is important to note that three of these buildings face Harborview Park and therefore, the street is not built up on both sides.

#### B. Munjoy Hill

There are two B-1 zones along Congress Street on Munjoy Hill and there are two B-1b zones on Munjoy Hill along Washington Avenue and one on Congress Street. The photo montages created by Caitlin Cameron and Libby MacCarthy are Attachments 7 and 8. Their assessment is as follows:

The B1 zoned section of Munjoy Hill is comprised of an eclectic mix of residential, retail, and commercial buildings. Forty buildings in total, the zone includes twenty-four buildings used for residential purposes, ten for mixed-use, four for retail and one for non-profit services.

The zoning ordinance currently allows building heights of up to 45 feet in the B1 zone. However, only 15% of buildings in this zone reach heights over 40 feet. The remaining 85% are less than 35 feet, with the average building standing at 30 feet. Though the largest portion of buildings in the area are between 30 – 35 feet, each block contains some height variation, some containing both 15 foot and 40 foot buildings.

A proposed amendment to the current zoning ordinance would allow for a 5 foot extension to the existing maximum building height. One-hundred eighteen Congress is one project site, where such an extension has been recommended. Within the context of this site, there are six buildings with heights under 25 feet, three buildings between 30 - 35 feet, two 40 foot buildings and one building with a maximum height of 45 feet. Though not a part of the B1 zone, 134 Congress Street, which sits to the right of the project site, stands at approximately 15 feet and 25 feet.

The B1b stretch of Washington Avenue is a little anomalous due to its location at the edge of the peninsula and the recreation open space on the opposite side of the street. There are six buildings in this zone and they are currently all residential (with one garage). This stretch of the street is not dense, often with vacant lots or parking between each building. The building heights are all under 30 feet with primarily one and two-story homes. There is one building that is three-story and rises to 30 feet. There are three two-story buildings at 25 feet and two one-story buildings at fifteen feet or less. The scale of this zone is decidedly short and not very dense.

## **VIII. COMPREHENSIVE PLAN AND POLICY DISCUSSION**

Two of the B-1 zones on the West End are within the West End Historic District. The other locations are small nodes surrounded by established residential areas. Portland's Comprehensive Plan includes goals regarding historic preservation, which include the following:

- Protect and enhance neighborhood character;
- Foster and encourage preservation, restoration, and rehabilitation that respect the historic, cultural, architectural and archeological significance of distinctive area, sites, structures, and objects.

One of the goals of *Housing: Sustaining Portland's Future* calls for building a vibrant city:

- Build upon the distinctive fabric of Portland's built environment by rehabilitating historic resources and by developing new buildings that respect the scale and character of traditional development patterns. New development shall be pedestrian oriented and accessible.

This same element of the comprehensive plan encourages sustainable development that include the following:

- Encourage neighborhood business centers throughout the city to reduce dependence on the car and to make neighborhood life without a car more practical.
- Maintain and enhance the livability of Portland's neighborhoods as the City grows and evolves through careful land use regulation, design and public participation that respects neighborhood integrity.
  - While accommodating needed services and facilities, protect the stability of Portland residential neighborhoods from excessive encroachment by inappropriately scaled and obtrusive commercial, institutional, governmental and other non-residential uses.
  - Support Portland's livable neighborhood by encouraging a mix of uses that provide goods and services needed and are within walking distance of most residents.

- o Encourage innovative new housing development, which is designed to be compatible with the scale, character, and traditional development of each individual residential neighborhood.

As part of the Downtown Vision Plan there was a height study prepared that recommended that became the basis for the height overlay map for the Downtown B-3 zone. The focus was on the downtown and did not incorporate the areas that are B-1; however, the underlying concept of the plan was to allow greater building heights along the spine of the peninsula (Congress Street) with the building heights reduced or graduated downward to the harbor and back cove. The *New Vision for Bayside* plan revised this premise for the Bayside neighborhood, but the concept of increased height along the spine of the peninsula has relevance for this proposed text amendment.

The two B-1 zones in the West End are located in the historic district and the other locations are small scaled and surrounding by residential uses. The goals regarding preserving the historic resources, protecting neighborhood integrity, and avoiding inappropriately scaled development are applicable to these areas. The existing 45 foot height limit is more compatible with the cohesiveness of the built environment in this neighborhood. The planning staff recommends narrowing the focus of the proposed text amendment to the two B-1 zones along Congress Street, which is the spine of the peninsula. These zones are located along a major arterial and the neighborhood business zones provide a range of businesses and services for the surrounding residents. There are also opportunities for redevelopment along this corridor that could improve the pedestrian experience along this corridor and enhance the livability of the neighborhood.

Secondly, the B-1b zones are generally very limited in area and are intended for the allow flexibility to add a business use to existing residential structures while preserving the residential use. The B-1b zone along Washington Avenue abuts B-2b, I-1b and ROS. It encompasses an area that was residentially zoned at a low density (R-3) until 2006. The rezoning was based upon the request of the owner at 218 Washington Avenue who sought to add a commercial use in his building and the remaining structures are residential. A portion of this area has been the subject of another request to rezone the area to R-7, which the Planning Board did not support due to the potential intensity of the development. While there is potential for redevelopment in this area, it appears to be appropriate to evaluate this area when the City studies the residential zones on the peninsula. At this time, the staff are recommending that the 45 foot maximum building height for the B-1b zone be retained.

Barbara Vestal, Esq., submitted public comment regarding the proposed text amendment (Attachment 2). She supports the increase in building height provided it is clarified that the entire first floor street frontage is commercial or retail, except for a small lobby entrance for upper floor residences. She notes that the benefit of increased building height should include a requirement for active uses on the first level. She states that “While I would prefer that retail/commercial use be required to occupy the entire depth of the building, it might be sufficient if is required to extend back to a depth of 18 to 20 feet.” The Downtown B-3 zone has provisions for the Pedestrian Activity District, which is an overlay requiring active uses along specified downtown streets. The PAD District requires that “at least 75% of the street level frontage of a building on a street located within the PAD overlay zone must be utilized,

and, at minimum, the first floor area to be occupied shall be 75% of the street level frontage multiplied by a 20 foot depth.” A similar provision is shown below for the Board’s consideration to promote active business uses to occupy the majority of the primary street frontage and support increased pedestrian activity in the zone.

The proposed revisions developed by the planning staff include the following:

**Sec. 14-165. Dimensional requirements.**

(e) *Maximum structure height:*

1. Off-peninsula locations, as defined in Section 14- 47: Thirty-five (35) feet. Where the lot abuts an R-6 residential zone, the maximum height shall be the maximum permitted height in the R-6 residential zone.
2. On-peninsula B-1 and B-1b locations, as defined in Section 14-47: Forty-five (45) feet, except in the case of a building in a B-1 zone along Congress Street with commercial first floor and residential upper floors, where fifty (50) feet is allowed. The commercial first floor uses shall utilize at least 75% of the first floor frontage along Congress Street for a minimum depth of 20 feet.

Lastly, the Planning Division is preparing a height overlay map for consideration by the Planning Board and the City Council, which will incorporate all of the specific height regulations on the peninsula. The B-1 zone modifications would be included in that map.

**IX. STAFF RECOMMENDATION**

The applicant’s request to increase the building height of mixed-use (commercial first floor and residential above) for the on-peninsula B-1 zones appears consistent with Comprehensive Plan policies to encourage neighborhood commercial uses within neighborhoods. However the West End B-1 zones and the B-1b zones are limited in scale and are located in historic districts or sensitive areas for development. The Planning staff recommends a narrower application of this proposed height increase for those B-1 zones along Congress Street, which is consistent with the City’s policies to sustainable neighborhoods with businesses and services near residences. The intent of the text amendment is to accommodate the needs of first floor commercial uses, so that these uses are a viable option for mixed use projects. The amendments proposed by the applicant are similar to the language currently found in the B-2 zone. The question has been raised to clarify the extent of commercial uses along street frontage in order to benefit with the additional height. The staff is suggesting language to encourage business uses for a minimum of 75% of the Congress Street frontage and for a minimum width of 20 feet, which reflects language found in the B-3 zone. Planning staff recommends that the Planning Board support the application for the B-1 text changes that incorporate the changes proposed by staff.

**X. PROPOSED MOTION**

On the basis of the application, plans, reports and other information submitted by the applicant, the policies and requirements of the B-5 zone, the Comprehensive Plan, public comment, staff

comments and recommendations contained in Planning Report #52-13, and the testimony presented at the Planning Board Hearing, the Planning Board finds:

- A. the following proposed text amendment to the Neighborhood Business B-1 Zone, Sec. 14-165. Dimensional requirements, (e) Maximum structure height [**is or is not**] consistent with Portland's Comprehensive Plan:

**Option a (Staff Recommendation)**

2. On-peninsula B-1 and B-1b locations, as defined in Section 14-47: Forty-five (45) feet, except in the case of a building in a B-1 zone along Congress Street with commercial first floor and residential upper floors, where fifty (50) feet is allowed. The commercial first floor uses shall utilize at least 75% of the first floor frontage along Congress Street for a minimum depth of 20 feet.

**OR**

**Option b (Applicant's Proposal)**

2. On-peninsula locations, as defined in Section 14-47: Forty-five (45) feet except in the case of a building with commercial first floor and residential upper floors, where fifty (50) feet is allowed.

- B. That the Planning Board **therefore** [**recommends or does not recommend**] the Text Amendments to the City Council for adoption.

**Attachments:**

1. Public Comment – Barbara Vestal, Esq. , November 4, 2013
2. Photos of Pine and Brackett
3. Photomontage- 211-207 Danforth
4. Photomontage-241-259 Danforth
5. Photomontage-244-254 Danforth
6. Photomontage- 26 Brackett & 231-225 York
7. Photomontage-99 – 127 Congress
8. Photomontage – 100 -118 Congress

**Applicant's Submittal:**

- A. Application 10-16-2013
- B. Proposed Amendment
- C. Right, Title and Interest
- D. Map of Zone
- E. Proposed Use
- F. Site Plan – First Floor
- G. Typical Floor Plan
- H. Aerial
- I. Neighborhood Meeting Certification
- J. Neighborhood Minutes



# PLANNING BOARD REPORT PORTLAND, MAINE

## REVISIONS TO B-2, B-2B, AND B-2C ZONING TEXT CITY OF PORTLAND, APPLICANT

Submitted to: Portland Planning Board Public Hearing Date: April 22, 2014	Prepared by: Christine Grimando, Senior Planner Date: April 18, 2014
--	---

### I. Introduction

A public hearing has been scheduled to consider a number of revisions to the B-2, B-2b and B-2c zoning text. An earlier iteration of the changes were reviewed by the Council's Housing and Community Development Committee, as well as at the April 8, 2014 Planning Board workshop.

The changes are designed to meet the Council's goal of encouraging appropriately scaled and designed housing development. They also aim to simplify the dimensional standards that vary according to the adjacent use and/or zone. The full text of the draft amendment is attached for your review.

A public hearing was advertised on April 14<sup>th</sup> and 15<sup>th</sup>, notices were sent to the interested citizens list and posted on the city's web page.

### II. Purpose Statement for B-2

The purpose statement for B-2, B-2b, and B-2c is provided below. The full text of the existing purpose statement is included in Attachment 1. Excerpts of some areas of B-2 zones from the Portland Zoning Map are included below the Purpose Statement summary for illustration. The entire Zoning map is included for reference as Attachment 2.

**B-2 Land Use Policy.** The purpose of the B-2 community business zone is intended to provide a broad range of goods and services, a mixture of large and small businesses as well as appropriate locations for the development of community centers offering a mix of commercial uses and services serving the adjoining neighborhoods and the larger community. Development in the B-2 zone should relate to the surrounding neighborhoods by design, orientation, and circulation patterns, and be accessible by automobile, pedestrian, and bicycle. B-2 and B-2b are to provide locations for high to moderate density housing in urban neighborhoods along arterials.

The B-2 zone is found along arterials, where it is often a linear strip that abuts adjoining residential neighborhoods and zones. The B-2 zone is also the zone that encompasses areas developed as shopping centers.

Examples of B-2 zones include districts along Washington Avenue (former Andover College; Northport/Northgate area); Forest Avenue (Woodfords Corner to Morrills Corner); Brighton Avenue (Pine Tree Shopping Center area); St. John Street/Libbytown area and Congress Street (Westgate area).

**B-2b Land Use Policy.** The purpose of the B-2b community business zone is intended to provide neighborhood and community retail, business and service establishments that are oriented to and built close to the street. The B-2b zone is appropriate in areas where a more compact urban development pattern exists on-peninsula or in areas where a neighborhood compatible commercial district is established off-peninsula and each area exhibits a pedestrian scale and character. Such locations may include the peninsula and other arterials and intersections with an existing urban or neighborhood oriented building pattern.

The B-2b zone was developed in the late 1990s to support a more compact urban form for business districts on the peninsula as well as certain off-peninsula commercial corridors.

Examples of B-2b districts include Forest Avenue (I-295 to Woodfords Corner); Forest Avenue area (on-peninsula); Washington Avenue (on-peninsula); Congress Street (Longfellow Square to Bramhall area); Portland Street/Forest Avenue area and India Street area.

**B-2c Land Use Policy.** The B-2c zone is distinguished from the B-2 zone by an emphasis on protecting adjoining residential neighborhoods from the impacts of businesses that serve liquor and other uses incompatible from adjoining residential areas due to noise.

B-2c district includes the western side of Forest Ave. from Saunders St. (just north of Woodford's Corner) to the southern edge of Baxter Woods.

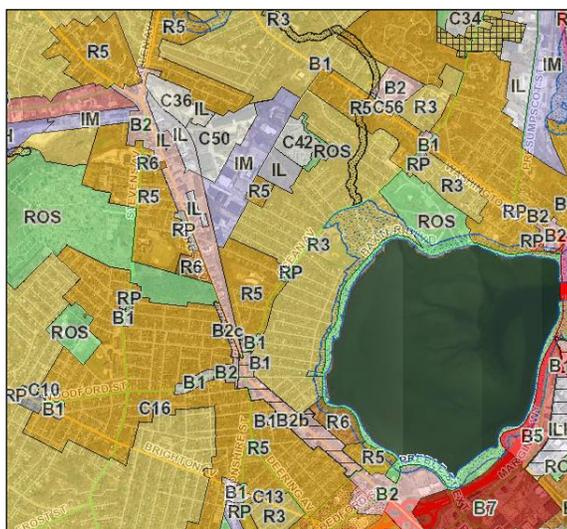
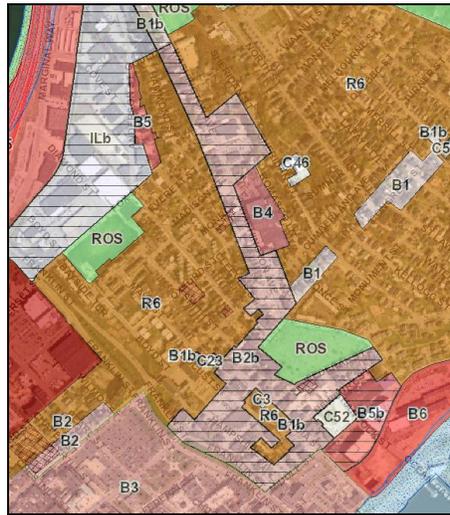


Figure 1, Existing Zoning on Forest Avenue





**Figure 5, B-2b Washington Ave.**

### III. Comprehensive Plan Policies

Comprehensive Plan documents related to the proposed amendments are summarized below.

Portland's Comprehensive Plan, Volume 1, adopted in November 2002, updated in 2005, provides a policy framework for managing growth in the city. State Goal D, Encourage Decent Housing references and reinforces Housing: Sustaining Portland's Future through recommending a diversity of housing types and sizes, including *higher density housing such as row houses, small lots, reuse of non-residential buildings, and mixed-use buildings* (p. 44), and *Encourage higher density housing for both rental and home ownership opportunities, particularly located near services, such as schools, businesses, institutions, employers, and public transportation* (p. 44).

Housing: Sustaining Portland's Future. The housing component of the Comprehensive Plan, adopted in November 2002, contains numerous policies supporting a diverse housing supply. Particularly pertinent sections are excerpted below:

- *Policy #1, Ensure that an adequate supply of housing is available to meet the needs, preferences, and financial capabilities of all Portland households, now and in the future. Recommendations for implementation of this policy include Housing in Business zones: Combine housing and economic development strategies to create high-density housing and mixed-use developments in business zones.*
- *Policy #3, Maintain and enhance the livability of Portland's neighborhoods as they city grows and evolves through careful land use regulation, design and public participation that respects neighborhood integrity. Recommendations for implantation of this policy include Housing Along Arterials: Maintain residential zoning along arterials and encourage increased residential densities and mixed uses within business zones.*

Transforming Forest Avenue. This transportation and land use plan for the Forest Avenue Corridor was adopted by the City Council in June 2014 as an element of the City's Comprehensive Plan. Forest

Avenue is comprised of the B-2, B-2b, and B-2c zones. Transforming Forest Avenue includes land use, streetscape, and transportation related recommendations to encourage transit-supportive development and the evolution of Forest Avenue into a complete street. Section 3.2.1, Vibrant and Diverse Land Uses, recommends supporting a mixture of uses in close proximity to foster both economic vitality and safety. It also recommends sensitivity to commercial and residential use transitions through possible landscaping, screening, and other site design considerations. Section 3.2.2, Compact Uses, recommends concentrating development and activities along transit routes, with particular attention to creating an environment welcoming to pedestrians. These sections are excerpted below.

#### 3.2.1 Vibrant and Diverse Land Uses:

- The existence of vibrant and diverse land uses should stimulate a variety of activity at all times of day in order to increase the economic vitality and perceived safety along the corridor.
- Mixed use is typically achieved by having a variety of uses located in close proximity, either within the same building or in adjacent structures. A typical example is to have commercial on the bottom floor of a building and residential above.
- Successfully mixing uses requires attention to the transition between the varied uses... Improvements can be made to accomplish a residential character without restricting mixed-uses. For example, residences can be buffered from busier parts of the corridor with landscaping. Building equipment can be attractively screened from view of residences.

#### 3.2.2 Compact Uses:

- Increasing convenience by concentrating development and activities along transit routes increases the likelihood of transit use.
- Compact uses can be encouraged in a variety of ways, though the general approaches focus on either new development or infill of existing structures. Particularly in the commercial areas, incentives can be used to encourage new development to more fully realize the desired density within the current zoning code. Incentives for infill of existing development can also be used to increase density, and to enhance the pedestrian environment.

### **IV. Council Goals**

One of the 2014 Council Common Goals and Objectives is to Promote Housing Availability. One of the stated housing objectives is for the Planning & Urban Development Department to rewrite portions of the zoning ordinance, including the B-2 portion, to allow for greater housing opportunities.

### **V. Proposed Zoning Text Amendments**

The B-2b zone and amendments to the B-2 zones over the past few years were intended to support greater density and incentives for housing along commercial corridors; however, the revisions did not result in more housing. The proposed text amendments to the B-2 zones are spurred from a public policy desire to have a viable multi-family density standard. Currently, you can develop housing consistent with the density allowed in the nearest residential zoning district, or you can develop housing at a density of one unit per 1,000 square feet of lot area if the ground floor is used for commercial purposes. There is also an incentive to allow greater building heights for affordable housing projects. Various options were

discussed with the Council’s Housing and Community Development Committee, as well as at the Planning Board workshop. Based on those discussions, we are recommending several changes in the attached amendment. The first is to lower the 1,000 square feet per unit requirement to 435 square feet per unit. The second recommendation to come out of the HCDC meeting was to remove the requirement that the ground floor use be commercial in order to qualify for this higher density, while adding some additional criteria to insure a lively, urban ground floor, including residential uses. In addition, stronger language was proposed to prohibit parking within the front yard.

At the April 8<sup>th</sup> workshop the Planning Board requested that one set of setbacks be explored in the interest of clearer standards. Currently setbacks differ according to whether the property in question abuts a residential use, a residential zone, or a commercial zone. There was feedback from the public that a setback from a use is particularly unwieldy, as uses may change frequently. All reference to setbacks according to an adjacent use have been removed. Other, greater setbacks for parcels adjacent to residential zones have also been consolidated into one, unified standard.

These additional setbacks for residential uses and zones were clearly implemented to offer protections to residential properties from the relatively higher impacts of commercial uses. If the Board has concerns about these setbacks going away altogether the Board may want to modify setbacks as proposed. Another option is to not emphasize the required distance of the individual setback between the B-2 zones and adjacent residential zones so much as other site design tools that you have open to you in the review process. In the Transforming Forest Avenue report mention is made of sensitive transitions being important for residential and commercial properties that abut each other, but the emphasis is on landscaping, screening, connectivity, and design techniques that might accomplish this. With that in mind, addressing this topic with future changes in the Design Manual is another possibility.

Another policy change discussed by staff, but not presented here for consideration, was removing drive-throughs as a permitted use in the B-2b zone. Currently drive-throughs is #19 in the list of permitted uses when not adjacent to a residential use or zone, as well as conditional use #4 when adjacent to a residential use or zone. The elimination of drive-throughs in this zone would be consistent with the many City policies supporting a safe and vibrant pedestrian realm. This was not a topic mentioned in the public hearing notice, so it is not included in this amendment, but is flagged here as a potential future policy change for B-2b if the Board wishes to see a draft of this change brought forward.

A summary of the proposed text amendments is provided below. See Attachment 1 for the complete zoning amendments.

- A. Permitted Uses. Multi-family is currently a permitted residential use when located near particular residential zones or when in a mixed-use building. As proposed multi-family is allowed in each of the B-2 zones without qualification:

Sec. 14 182. Permitted uses.

...

(a) Residential:

- 2. Multi-family dwellings ~~are permitted when the nearest residential zone is R-4, R-5, R-6 or R-7. Multi-family dwellings are permitted in any structure with commercial uses in the first~~

~~floor regardless of the nearest residential zone;~~

- B. Dimensional Standards. The dimensional standards have been both substantively amended and reformatted into a table. Below is a comparison table of existing and proposed dimensional standards:

	EXISTING		PROPOSED
	<i>B-2 Entirely Residential</i>	<i>B-2 Not Entirely Residential</i>	<i>B-2</i>
Minimum Lot Size	None	None in B-2b	None
		10,000 sf. in B-2 and B-2c	
		10,000 sf. for intermediate, long term, or extended care facilities	
Minimum Street Frontage	None	50 feet	25 feet
Front Yard Setback Minimum	None	None	None
Rear Yard Setback Minimum	10 feet, except as provided for below:	10 feet, except as provided for below:	10 feet, except as provided for below:
	20 feet when abutting residential zone	20 feet when abutting residential zone	
	5 feet for accessory structures	5 feet for accessory structures	5 feet for accessory structures
	15 feet for portions of buildings over 45 feet in height		15 feet for portions of buildings over 45 feet in height
Side Yard Minimum	5 feet, except as provided for below:	None, except as provided for below:	None, except as provided for below:
	10 feet when abutting residential zone	10 feet when abutting a residential zone or first floor residential use	
	5 feet for accessory structures	5 feet for accessory structures	5 feet for accessory structures
	15 feet for portions of buildings over 45 feet in height		15 feet for portions of buildings over 45 feet in height
Side Yard on Side Street	None	10 feet minimum on side yards along side streets	<i>Removed altogether</i>
		10 feet maximum in B-2b zone except for newly constructed building on lot abutting 2 or more streets, for which one street front shall conform to the maximum front yard	
Front Yard Maximum <sup>[1]</sup>	Average depth of abutting developed lots on each side or as set by Planning Board <sup>[2]</sup>	Average depth of abutting developed lots on each side or as set by Planning Board <sup>2</sup>	No more than 10 feet, except that the Planning Board or Planning Authority may approve a modified front yard setback for irregularly shaped lots or lots with frontage less than 40 feet provided this standard is met to the maximum extent practicable. <sup>[2]</sup>
	No more than 10 feet in B-2b on-peninsula	No more than 10 feet in B-2b on-peninsula	
Height Maximum	45 feet in B-2 and B-2c	45 feet in B-2 and B-2c zones	45 feet except as provided for below:
		50 feet in B-2b	50 feet if first floor is partially or wholly occupied by a commercial use.
		65 feet in B-2 and B-2c zones on lots >5 acres, provided that all setbacks increase by 1 foot for each foot of height over 45	65 feet in B-2 and B-2c zones on lots >5 acres, provided that all setbacks increase by 1 foot for each foot of height over 45 feet.
	65 feet within 65 feet of Franklin St.	65 feet within 65 feet of Franklin St.	65 feet within 65 feet of Franklin St.
Maximum Impervious Surface Ratio	None		For residential uses: None
		80% in B-2 and B-2c	For all other permitted uses: 80% in B-2 and B-2c
		90% in B-2b	For all other permitted uses: 90% in B-2b
Minimum Lot Area per Dwelling Unit	Residential density requirements of the nearest adjacent residential zone.	<i>Multi-family dwellings above first floor commercial uses:</i> One thousand (1,000) square feet of land area per dwelling unit is required.	Off-peninsula locations, as defined in section 14-47: 1,500 square feet, except as provided for in (b) below.
	On-peninsula locations, as defined in section 14-47: 435 square feet	On-peninsula locations, as defined in section 14-47: 435 square feet	On-peninsula locations (as per 14-47) and projects with active street frontages, as defined in section 14-188, below: 435 square feet.
Pavement Setback	10 feet from side or rear yard lines abutting residential zones	None	<i>Removed altogether</i>

[1] Building additions do not have to meet this section.

[2] If lot has less than 40 feet of frontage and is more than 100 feet deep then no maximum setback is required. If existing structures are within 20 feet of the street or meet the front yard maximum, and remainder of lot has less than 40 feet of frontage, then no maximum setback is required. Where setbacks exceed 10 feet, a continuous, attractive, and pedestrian-scaled edge treatment shall be constructed along the street, consisting of street trees spaced at no more than 15 feet on center, approved by City arborist, and a combinations of landscaping no less than 4 feet deep, ornamental brick or stone walls or ornamental fencing.

- C. Parking. Sec. 14-186, (d) has been amended to prohibit parking in the front yard between the street line and the required minimum setback line in B-2, B-2b, and B-2c, except where there are existing buildings that exceed the front yard setback in which case a maximum of 10% of the total on-site parking can be in the front yard setback.
- D. Active Street Frontages. Lastly, a new section, 14-188. Active street frontages, has been added. Both the stronger prohibition than existing on parking in the front yard setback, and the addition of active street frontage standards are aimed at creating conditions that will foster a safe and lively street presence, guided by the idea that these are greater predictors of vibrant street life than mandating ground floor commercial uses. The Active street frontage standard offers criteria for the primary building façade for qualifying as an active street frontage, and by extension, the greater density allowance: *A building will be determined to have an active street frontage upon meeting the following guidelines to the greatest extent practicable as determined by the Planning Board or Planning Authority: the primary building façade shall be within ten feet of the front street line; there shall be no parking on the lot within 35 feet of the front street line; no more than 25% of the first floor primary façade shall consist of access to garages, unutilized space, service entrances, storage or mechanicals, and the remaining minimum 75% shall have an average depth of a minimum of 20 feet for residential or commercial uses; all primary ground floor entries to multi-family buildings must orient to street, not to interior blocks or parking lots.*

## **VI. Staff Recommendations**

The staff recommends that the Planning Board find the proposed text amendments to be consistent with the Comprehensive Plan and recommend to the City Council adoption of the proposed text amendments.

## **VII. Motions for the Board to Consider**

On the basis of information contained in the Planning Report and testimony presented at the public hearing, the Board finds:

The proposed B-2, B-2b, and B-2 related zoning amendments (are or are not) in conformance with the City of Portland Comprehensive Plan and therefore (recommends or does not recommend) approval of the proposed zoning Amendments to the City Council.

Attachments:

1. Proposed Text Amendments to Portland Land Use Code, Div. 10. B-2 and B-2b Community Business Zone.
2. City of Portland, Maine Zoning map.



# PLANNING BOARD REPORT PORTLAND, MAINE

## B-1 AND B-2 ZONING TEXT AMENDMENTS CITY OF PORTLAND, APPLICANT

Submitted to: Portland Planning Board Public Hearing Date: October 14, 2014	Prepared by: Nell Donaldson, Planner Date: October 10, 2014
--	--

### **I. INTRODUCTION**

The B-1 and B-2 zones play a critical role in governing the form and function of much of the commercial and mixed-use development in the city. The Neighborhood Business B-1 applies to many of Portland's most successful small-scale, local commercial and mixed-use nodes, from Congress Street in Munjoy Hill and Pine Street in the West End to Rosemont and Stevens Avenue in Deering Center. The B-2 provides locations for larger scale commercial and residential development along the city's major arterials, such as Washington Avenue, Forest Avenue, and outer Congress Street. Many of the city's existing shopping centers, including Northgate, Westgate, and Hannaford's, lie in the B-2 zone.

In the summer of this year, city staff reviewed the B-2 zone in an effort to address concerns regarding the zone's efficacy in encouraging higher-density housing. The zone is explicitly designed to encourage "moderate to high density housing in urban neighborhoods along arterials" (14-181), and the city had made prior revisions in an effort to stimulate housing development, but that development had not occurred. The review resulted in a set of text amendments, adopted in June of 2014, which increased the permitted housing density, clarified the setback requirements, and provided for lively, urban ground floor uses.

In the fall of this year, city staff conducted a similar review on the existing B-1 zone, after realizing that it, in much the same vein, contained street frontage, setback and other restrictions which effectively precluded it from successfully encouraging the traditional small-scale commercial and mixed-use form so prized in the city's existing neighborhood retail nodes. The purpose of the B-1 zone, as stated in the code, is to

"provide limited areas for the location of small-scale commercial establishments intended to serve a local market. As a result, uses shall be complementary, quiet and generally do not disturb the comfort and enjoyment of the adjoining neighborhood environment. Uses shall be designed for the pedestrian scale and will provide convenient access for nearby residents and workers to walk in to purchase goods and services. Buildings and uses shall be designed with attractive storefronts or similar features, with windows and doors convenient to a public sidewalk" (14-161).

As with the B-2, the existing B-1 had failed to encourage the type of development the zone exists to promote; there has been very little new retail or mixed-use development in the B-1 zone. The analysis resulted in several

proposed text amendments, including changes to the dimensional requirements and use tables. These were first presented to the Planning Board in September of 2014 as part of a review of a zoning map amendment request at 145 Washington Avenue.

Lastly, in conducting the B-1 review, it became clear to staff that minor but substantive text amendments to the B-2 were needed in order to resolve concerns that arose from the June 2014 text changes. These proposed amendments were also presented to the board in workshop format in September of 2014.

A legal ad for this board hearing was posted on the city's web page and appeared in the *Portland Press Herald* on October 6 and 7, 2013. Notices were also sent to the interested citizen list.

## **II. PROPOSED TEXT AMENDMENTS**

Text amendments are proposed for both the Neighborhood Business B-1 zone and the Community Business B-2 zone. These include changes to the existing dimensional standards and permitted uses under both zoning classifications.

### ***B-1 Neighborhood Business Zone (Attachment 1)*** ***Dimensional Standards.***

1. *Minimum street frontage.* Under the proposed amendments, the minimum street frontage requirement would be reduced from 50 ft. to 20 ft. A smaller minimum street frontage lends itself to the fine grained, small lot development pattern that constitutes so many walkable commercial areas and so much of the city's peninsula. Most lots in the existing B-1 and B-1b zones on Congress Street in Munjoy Hill, for example, have street frontages ranging from 35 ft. to 45 ft. range. The intent of lowering this standard is to allow existing smaller lots to be used or created.
2. *Rear setback.* Currently, there is no rear setback in the B-1 zone, except the setback is 20 ft. when abutting a residential zone or a first floor residential use. Under the proposed amendments, the rear setback would change to 10 ft. when abutting a residential zone, with no reference to abutting uses. Similarly to the principal structure setback, the existing rear setback for accessory structures is none, except when abutting a residential use or zone. The only change to this standard is the elimination of the reference to the abutting use. In both of these cases, staff felt that the adjacent zone, rather than use, should dictate the setback, as uses are subject to more frequent change.
3. *Side setbacks.* In the existing B-1 zone, there are no side setbacks, except when abutting residential uses or zones, when the setback is 10 ft. for principal structures and 5 ft. for accessory structures. Under the proposed amendments, the side setbacks would continue to be zero, except 5 ft. when abutting a residential zone. Again, the references to abutting residential uses are removed for both principal and accessory structures.
4. *Side yard on side street.* Currently, the side yard on side street setback is a maximum of 10 ft., which only applies to the property lines on the two "most major" streets in the case of a lot on two corners. Originally, staff had suggested eliminating this maximum setback entirely. However, upon reconsideration, staff is recommending simplifying the existing standard to state that the maximum applies to only one side street in cases where the lot has more than one.
5. *Stepbacks.* Stepbacks are proposed as a new dimensional standard for the B-1 zone. Under the stepback provision, portions of structures above 35 ft. would be required to be stepped back an additional five feet on side and rear lot lines when those lot lines abut a residential zone. In total, then, portions of structures above 35 feet would be required to be stepped back 15 ft. from a rear property line, and 10 ft. from the side property line.
6. *Maximum floor areas.* The B-1 zone currently has maximum first floor areas, which are variable by number of tenants. The intent of this existing language is to limit the overall first floor non-residential

footprint in a development. Aside from a more limited list of allowed uses, this is central to how B-1 distinguishes itself as a smaller scale commercial zone. This intent is a sound one, but modification of this language is proposed. Instead of controlling for floor area by number of tenants in a building, the amendments suggest simply limiting total maximum first floor area for non-residential uses to 10,000 SF per structure. Existing structures would be exempt from this standard. In addition, the modified language would limit the total maximum floor area per retail establishment to 5,000 SF. It should be noted that floor area for a use does not include bulk storage, kitchen areas, or vent shafts. Much of the successful existing retail in the B-1 zone, including the Hilltop Superette (former Colucci's) and Hilltop Coffee on Congress Street, Pat's Meat Market on Stevens Avenue, and Rosemont Market on Brighton Avenue, is between 2,000 and 4,000 SF in first floor area. A typical Home Depot is about 125,000 SF, and supermarkets are often in the 40,000 to 80,000 SF range. The intent of this standard is not to imply that there is not economic or aesthetic value in or need for larger commercial spaces, but only to cultivate increments of smaller non-residential development in areas where this seems most in keeping with the neighborhood context.

7. *Maximum structure height.* Where a B-1 zone abuts an R-6 zone off-peninsula, the maximum height is governed by the maximum height of the R-6, which is 45 feet. In the period since the board's workshop on this item, staff has recommended that the City Council increase the building height in the R-6A to 65 feet. Deeming this too high for the B-1 zone, staff suggests adding a footnote which creates an exception from the cross-reference to the R-6 in the case of an adjacent R-6A zone. The footnote establishes a maximum height in this instance of 45 ft. (or the maximum allowable height of the R-6 zone).

*Restaurants.* Currently, restaurants are limited to 1,000 SF (not including kitchen and storage), and are allowed as a conditional use only. Under the proposed amendments, the maximum floor area for a restaurant would be increased to 2,000 SF and restaurants would be listed as a permitted use, though the conditional use criteria, such as traffic standards and limited hours of operation, would continue to apply. The intent of this change is consistent with the other B-1 changes that strive to give that zone more utility while still maintaining it as a small-scale commercial zone. According to city assessing data, there is currently no Munjoy Hill restaurant that exceeds this square footage. For example, the Blue Spoon on Congress Street has a floor area of approximately 1,100 SF (inclusive of kitchen and other non-dining areas) and the Front Room has a floor area of approximately 1,600 SF (inclusive of kitchen and non-dining areas). Other restaurants on Washington Avenue and at the base of Congress Street were sampled, as well. This new maximum would not preclude many of the city's existing local restaurants and is a suitable cap for what the B-1 zone is intended for.

*Uses.* Two uses are proposed to be added because it has been recently pointed out they are not included in B-1, and warrant inclusion:

1. Combined living/working spaces including, but not limited to, artist residences with studio space. The code allows living and working, but not simultaneously when in a B-1 zone. Other business and industrial zones allow this.
2. Professional, business, and general offices, excluding veterinarians. The B-1 zone currently allows professional offices, excluding veterinarians. Professional office is defined as "the office of a doctor, dentist, optometrist, psychologist, accountant, lawyer, architect, engineer or similar professional" (14-47). Professional office is highly restrictive as an office category; the B-1 can accommodate other varieties of office uses.

*Format.* Lastly, the dimensional standards have been converted to a table format, making them more concise and accessible. This is consistent with formatting changes made to other sections of the land use code as they have been amended.

### ***B-2, Community Business Zone (Attachment 2)***

*Drive-throughs in the B-2b zone.* Drive-throughs associated with a permitted use are currently allowed in the B-2b zone, so long as they are not located adjacent to a residential use or zone. In this case, they are permitted

conditionally. Drive-throughs, however, are generally deemed incompatible with the purpose of the zone, as the zone is “intended to provide neighborhood and community retail, business and service establishments that are oriented to and built close to the street” and since the B-2b is written for areas “which exhibit a pedestrian scale and character.” 14-181(b)). Under the proposed amendments, the references to drive-throughs as permitted or conditional uses in the B-2b would be eliminated.

*Minimum street frontage.* 20 ft. is being proposed as the minimum street frontage; 25 ft. is the current minimum frontage. Prior to the June amendments, the frontage requirement was 0 ft. for developments that were entirely residential, and 50 ft. for mixed-use or entirely non-residential sites. In an effort to streamline the dimensional requirements, to move away from neighboring use-based dimensional standards, and to allow for smaller lots to be created and/or built upon, a single standard of 25 ft. was adopted. In the intervening time, staff has received feedback from property owners in the B-2 zone with frontage just under 25 ft. On closer examination, this case is sufficiently common to merit a modification to this standard.

*Stepbacks.* Stepbacks are proposed as a new dimensional standard for the B-2 zone. As in the B-1, portions of structures above 35 ft. would be required to be stepped back an additional five feet on side and rear lot lines when those lot lines abut a residential zone, for a total distance of 15 feet from the rear property line and 5 feet from side property lines above 35 feet.

### **III. COMPREHENSIVE PLAN**

The proposed text amendments have been designed to allow the B-1 and B-2 zones better accomplish their own purposes, particularly as they relate to form and walkable, neighborhood-scaled development. In this, the amendments comport with the city’s Comprehensive Plan.

The Comprehensive Plan, adopted in November 2002, updated in 2005, provides a policy framework for managing growth in the city, and clearly advocates dense commercial and mixed-use development that both serves and suits the neighborhood context. *Housing: Sustaining Portland’s Future* includes policies to “[m]aintain and enhance the livability of Portland’s neighborhoods as the city grows and evolves through careful land use regulation, design and public participation that respects neighborhood integrity” and “encourage sustainable development patterns and opportunities within the city by promoting efficient land use, conservation of natural resources, and easy access to public transportation, services, and public amenities.” In order to do so, the plan suggests “encourag[ing] increased residential densities and mixed uses within business zones” and “promot[ing] through city policies a mix of housing types, retail and service businesses, community services, and open space/recreation opportunities of appropriate size, scale, and type within neighborhoods.”

Similarly, the final *Sustainable Portland* report includes policies such as “support[ing] and enhanc[ing] a citywide system of neighborhood business districts that are neighborhood-oriented, provide local services within a walkable distance from neighborhood population centers, and are linked by transit.”

### **IV. PUBLIC COMMENT**

Staff has received no public comment on the proposed text amendments.

**Table 1: B-1 and B-2 Zones, Proposed Amendments**

	<b>Existing B-1/B-1b</b>	<b>Proposed B-1/B-1b</b>	<b>Existing B-2/B-2b/B-2c</b>	<b>Proposed B-2/B-2b/B-2c</b>
<b>Min. Lot Size</b>	School: 20,000 SF	School: 20,000 SF	None	None
	Place of Assembly: 10,000 SF	Place of Assembly: 10,000 SF		
	Other Non-Res Uses: None	Other Non-Res Uses: None		
	Residential: None	Residential: None		
<b>Min. Lot Area per D.U.</b>	On-peninsula: 435 SF	On-peninsula: 435 SF	On-peninsula: 435 SF	On-peninsula: 435 SF
	Off-peninsula: min. lot area of nearest residential zone, except 1,000 SF for multi-family	Off-peninsula: min. lot area of nearest residential zone, except 1,000 SF for multi-family	Off-peninsula: 1,500 SF, or 435 SF if active street frontage	Off-peninsula: 1,500 SF, or 435 SF if active street frontage

	dwelling above first floor	dwelling above first floor		
<b>Min. Street Frontage</b>	50 ft., or the average of lots w/in 200 ft. in same zone	20 ft.	25 ft.	20 ft.
<b>Min. Lot Width</b>	None	None	None	None
<b>Min. Front Yard</b>	None	None	None	None
<b>Max. Front yard</b>	10 ft., or the maximum front yard setback shall not exceed the average depth of nearest developed lots if that average depth is less than 10 ft.	10 ft., or the maximum front yard setback shall not exceed the average depth of nearest developed lots if that average depth is less than 10 ft.	10 ft., except a different amount may be approved for irregularly shaped lots or lots with frontage less than 40 ft.	10 ft., except a different amount may be approved for irregularly shaped lots or lots with frontage less than 40 ft.
<b>Min. Rear Yard</b>	Principal: None, except 20 ft. if abutting residential zone or first floor residential use	Principal: None, except 10 ft. if abutting a residential zone.	Principal: 10 ft.	Principal: 10 ft.
	Accessory: None, except 5 ft. if abutting a residential zone or first floor residential use	Accessory: None, except 5 ft. if abutting a residential zone	Accessory: 5 ft.	Accessory: 5 ft.
<b>Min. Side Yard</b>	Principal: None, except 10 ft. if abutting residential zone or first floor residential use	Principal: None, except 5 ft. if abutting residential zone.	Principal: None	Principal: None
	Accessory: None, except 5 ft. if abutting a residential zone or first floor residential use	Accessory: None, except 5 ft. if abutting a residential zone	Accessory: 5 ft.	Accessory: 5 ft.
<b>Side Yard on Side Street</b>	10 ft. maximum setback (if on three streets, only applies to two 'most major' streets)	10 ft. maximum setback (applies to only one side street in cases of more than one)	None	None
<b>Structure Stepbacks</b>		Portions of a structure above 35 ft. shall be no closer than 10 ft. from the side property line and no closer than 15 ft. from the rear property line when such property line abuts a residential zone.		Portions of a structure above 35 ft. shall be no closer than 5 ft. from the side property line and no closer than 15 ft. from the rear property line when such property line abuts a residential zone.
<b>Max. Structure Height<sup>1</sup></b>	Off- peninsula: 35 ft., except where abutting R-6, where max. height shall be the max. height of R-6	Off- peninsula: 35 ft., except where abutting R-6, where max. height shall be the max. height of R-6. <sup>2</sup>	45 ft., except: a. 50 feet if first floor is commercial use b. 65 feet in B-2 and B-2c zones on lots >5 acres with increases to setbacks c. 65 ft. within 65 ft. of Franklin	45 ft., except: a. 50 feet if first floor is commercial use b. 65 feet in B-2 and B-2c zones on lots >5 acres with increases to setbacks c. 65 ft. within 65 ft. of Franklin
	On-peninsula: 45 ft., except 50 ft. along Congress Street if commercial first floor & residential upper floors	On-peninsula: 45 ft., except 50 ft. along Congress Street if commercial first floor & residential upper floors.		
<b>Max. Floor Area</b>	Single-tenant: 5,000 SF (first floor only)	Total maximum first floor area for non-residential uses per structure: 10,000 SF <sup>3</sup>		
	Multi-tenant: 10,000 SF (first floor only)	Total maximum floor area per retail establishment: 5,000 SF		
<b>Max. Impervious Surface</b>	90%	90%	Residential: None	Residential: None
			Other uses in B-2, B-2c: 80%	Other uses in B-2, B-2c: 80%
			Other uses in B-2b: 90%	Other uses in B-2b: 90%

<sup>1</sup> The commercial first floor uses shall utilize at least 75 percent of the first floor frontage along Congress Street and shall have an average depth of at least 20 feet.

<sup>2</sup> Except when B-1 properties abut an R-6A zone, the maximum height shall be 45 ft.

<sup>3</sup> Structures which existed prior to date of enactment of the B-1/B-1b zones are exempt.

## V. STAFF RECOMMENDATION

The staff recommends that the Planning Board find the proposed text amendments to be consistent with the Comprehensive Plan and recommend to the City Council adoption of the proposed text amendments.

## VI. PROPOSED MOTION

On the basis of the material provided in this report, public testimony, a review of applicable policies, and other information, the Planning Board finds that the proposed text amendments to Division 9. B-1 and B-1b Neighborhood Business Zones and Division 10. B-2 and B-2b Community Business Zones **[are or are not]** consistent with the Comprehensive Plan and **[recommends or does not recommend]** adoption of the proposed amendment to the City Council.

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.
- (g) *Off-street parking*: Off-street parking is required as provided in division 20 (off-street parking) of this article.

(Ord. No. 232-81, § 602.7B.6, 11-16-81; Ord. No. 240-09/10, 6-21-10; Ord. No. 221-13/14, 6-2-14)

**Sec. 14-159. Shoreland and flood plain management regulations.**

Any lot or portion of a lot located in a shoreland zone as identified on the city shoreland zoning map or in a flood hazard zone shall be subject to the requirements of division 26 and/or division 26.5.

(Ord. No. 232-81, § 602.7B.7, 11-16-81; Ord. No. 15-92, § 15, 6-15-92)

**Sec. 14-160. Reserved.**

DIVISION 9. B-1 AND B-1b NEIGHBORHOOD BUSINESS ZONES\*

-----  
**\*Editor's note**--Ord. No. 292-88, adopted Apr. 4, 1988, with an effective date of July 1, 1988, repealed §§ 14-161--14-167 of Div. 9, B-1 Business Zone, of this article and enacted in lieu thereof similar new provisions as set out in §§ 14-161--14-167. Formerly, such sections derived from §§ 602.8.A--602.8.G of the city's 1968 Code and from Ord. No. 74-72, adopted Mar. 6, 1972, and Ord. No. 499-74, § 4, adopted Aug. 19, 1974.

-----

**Sec. 14-161. Purpose.**

*(a) B-1 Neighborhood Business Zone*

The purpose of the B-1 neighborhood business zone is to provide limited areas for the location of small-scale commercial establishments intended to serve a local market. As a result, uses shall be complimentary, quiet and generally do not disturb the comfort and enjoyment of the adjoining neighborhood environment. Uses shall be designed for the pedestrian scale and will provide convenient access for nearby residents and workers to walk in to purchase goods and services. Buildings and uses shall be designed with attractive storefronts or similar features, with windows and doors convenient to a public sidewalk. Building additions are encouraged but not required to meet the maximum setbacks of 14-165(c)(3). This zone shall encourage mixed use buildings such as commercial first floor with residential uses above or combined retail/office uses in a multistory structure. The zone also provides the opportunity for mixed use and high residential density in on-peninsula locations.

Suitable locations for this zone may include street intersections and arterial streets with existing or proposed traditional neighborhood retail and service uses.

*(b) B-1b Neighborhood Business Zone*

The purpose of the B-1b neighborhood business zone is to provide appropriate opportunities for the establishment of small-scale ground floor commercial uses to serve a local market, while preserving residential uses and character above the ground floor of structures. The zone also provides the opportunity for mixed use and high residential density in on-peninsula locations. Building additions are encouraged but not required to meet the maximum setbacks of 14-165(c)(3).

Suitable locations for this zone may include street intersections, arterial streets, and sites with existing or traditional neighborhood retail and service uses.

(Ord. No. 292-88, 4-4-88; Ord. No. 133-93, § 1, 11-15-93; Ord. No. 94-99, 11-15-99; Ord. No. 281-10/11, 7-18-11; Ord. 90-14/15, 11/17/2014)

**Sec. 14-162. Permitted uses.**

(a) The following uses are permitted in the B-1 zone and on

the ground floor level of buildings in the B-1b zone. For permitted uses in the upper stories of buildings in the B-1b zone, refer to subsection (5) below: in existence on November 15, 1993:

1. *Residential*
  - a. Any residential use permitted in the residential zone abutting the lot is permitted. If there is no abutting residential zone, any residential use permitted in the nearest residential zone to the lot is permitted. In the case of two (2) or more abutting residential zones, any residential use permitted in the most restrictive such zone is permitted.
  - b. In any structure with commercial use on the first floor, multifamily dwellings are permitted above the first floor.
  - c. Combined living/working spaces including, but not limited to, artist residences with studio space.
2. *Business:* Business uses listed below are permitted, provided that such use which generates in excess of a ratio of 100 peak hour vehicle trips per 2000 sq.ft. of space, and generates in excess of 100 peak hour vehicle trips is prohibited. As set forth in the City of Portland Technical Manual, section I, the city traffic engineer shall require a traffic study when it calculates the proposed use will generate in excess of a total of 50 peak hour vehicle trips.
  - a. Professional, business, and general offices , but excluding veterinarians.
  - b. Business services, as defined in section 14-47, but excluding beverage container redemption centers.
  - c. Personal services, as defined in section 14-47.
  - d. Offices of building tradesmen, provided there is no exterior storage of building materials.
  - e. Retail establishments, provided such do not include drive-through sales or services and do not operate between the hours of eleven (11) p.m. and six (6) a.m. and do not accept deliveries or services

between the hours of ten (10) p.m. to seven (7) a.m.

- f. Beverage dealers (as defined in 32 M.R.S.A. 1862) provided they meet the following requirements:
  - i. Maximum total floor area for beverage container redemptions, including the storage of spent beverage containers, shall be no greater than five hundred (500) sq. ft. or ten (10) percent of the total floor area of the facility, whichever is less;
  - ii. Beverage container redemption is an accessory use to a principal retail use that includes beverage sales. Local beverage container redemption centers as defined in 32 M.R.S.A. 1867, as may be amended, are not allowed as a principal use.
  - iii. Storage of all beverage containers shall be contained entirely within the building providing retail sales.
- g. Studios for artists, photographers and craftspeople including, but not limited to painters, sculptors, dancers, graphic artists and musicians.
- h. Restaurants are permitted in the B-1 zone and on the ground floor level of buildings in the B-1b zone provided they meet the following additional requirements in addition to the vehicle trips standards of in Sec. 14-162.a.2:
  - a. As set forth in the City of Portland Technical Manual, section I, the city traffic engineer shall require a traffic study when it calculates the proposed use will generate in excess of a total of 50 peak hour vehicle trips.
  - b. Maximum total floor area for use of the public shall be two thousand (2,000) square feet.
  - c. The hours of operation shall be limited to between 6:00 a.m. and 11:00 p.m. each day.

d. Food service and consumption are the primary function of the restaurant.

3. *Institutional:*

- a. Places of religious assembly;
- b. Municipal offices;
- c. Elementary, middle and secondary schools;
- d. Nursery schools and kindergarten;
- e. Clinics of less than three thousand (3,000) square feet of total floor space.

4. *Other:*

- a. Lodging houses;
- b. Utility substations, as defined in section 14-47, subject to the standards of article V (site plan), sections 14-522 and 14-523 notwithstanding;
- c. Day care facilities or babysitting services;
- d. Accessory uses as provided in section 14-404;
- e. Bed and breakfast, subject to the standards of article V (site plan), sections 14-522 and 14-523 notwithstanding.
- f. Hostels, provided the applicant submits a site plan and operations plan demonstrating compliance with the following conditions:
  - i. No more than twenty (20) overnight transient guests shall be permitted in the facility at any one time.
  - ii. All applicable provisions of Article V of this chapter shall be met.
  - iii. Parking shall be provided in compliance with

Division 20 of this Article.

- iv. No unaccompanied minors under the age of eighteen (18) shall be permitted in the facility.
  - v. The length of stay for transient guests shall not exceed fifteen (15) days out of any sixty-day period.
  - vi. The building shall meet the applicable occupant load requirements as defined by the International Building Code and the NFPA Life Safety Code, as such codes are amended or adopted by the city.
  - g. Neighborhood center.
5. Uses permitted above the ground floor level of buildings in the B-1b zone:
- a. Any residential use set forth in section 14-162(a);
  - b. Bed and breakfast, subject to the standards of article V (site plan), sections 14-522 and 14-523 notwithstanding.
  - c. Hostels, provided the applicant submits a site plan and operations plan demonstrating compliance with the following conditions:
    - i. No more than twenty (20) overnight transient guests shall be permitted in the facility at any one time.
    - ii. All applicable provisions of Article V of this chapter shall be met.
    - iii. Parking shall be provided in compliance with Division 20 of this Article.
    - iv. No unaccompanied minors under the age of eighteen (18) shall be permitted in the facility.
    - v. The length of stay for transient guests shall

not exceed fifteen (15) days out of any sixty-day period.

- vi. The building shall meet the applicable occupant load requirements as defined by the International Building Code and the NFPA Life Safety Code, as such codes are amended or adopted by the city.

6. Wind energy systems, as defined and allowed in Article X, Alternative Energy.

(Ord. No. 292-88, 4-4-88; Ord. No. 133-93, § 2, 11-15-93; Ord. No. 125-97, § 5, 3-3-97; Ord. No. 94-99, 11-15-99; Ord. No. 74-06/07, 12-4-06; Ord. No. 127-09/10, 1-4-10 emergency passage; Ord. No. 278-09/10, 7-19-10, Ord. 10 10/11, 8-2-10; Ord. No. 279-09/10, 6-6-11; Ord. No. 33-11/12, 1-18-12; Ord. No. 162-12/13, 4-1-13; Ord. 90-14/15, 11-17-2014)

-----  
**\*Editor's Note-** Pursuant to Ord. No. 74-06/07, enacted on 12-4-06 changes made in (2) *Business* are effective October 16, 2006.  
-----

**Sec. 14-163. Conditional uses.**

(a) The following use shall be permitted only upon the issuance of a conditional use permit, subject to the provisions of section 14-474 (conditional uses) and any special provisions, standards or requirements specified below:

1. Temporary wind anemometer towers, as defined in sec. 14-47, are permitted provided the following standards are met in addition to sec. 14-430:
  - a. Towers may be installed for the purpose of wind data collection for no more than two (2) years after the issuance of a certificate of occupancy for the tower. At the conclusion of the aforementioned two (2) years, the tower must be dismantled and removed from the site within sixty (60) days; and
  - b. Towers shall be constructed according to plans and specifications stamped by a licensed professional engineer, which shall be provided to the board of appeals with the application; and
  - c. Towers shall be set back from habitable buildings by a distance equal to 1.1 times the tower height; and

- d. The applicant shall provide a safety report prepared and stamped by a licensed professional engineer to the Board of Appeals with their application for conditional use, which demonstrates how the proposed temporary wind anemometer tower is safe in terms of strength, stability, security, grounding, icing impacts and maintenance; and
- e. The applicant shall provide evidence of commercial general liability insurance, such insurance to be satisfactory to Corporation Counsel and cover damage or injury resulting from construction, operation or dismantling of any part of the temporary wind anemometer tower; and
- f. Towers and associated guy wires shall be sited to minimize their prominence from and impacts on public ways (including pedestrian ways); and
- g. Towers shall be used for installing anemometers and similar devices at a range of heights from the ground to measure wind characteristics (speed, direction, frequency) and related meteorological data, but shall not be used for any other purpose; and
- h. A performance guarantee shall be required for the cost of removal of the tower, guy wires and anchors. This requirement may be satisfied by surety bond, letter of credit, escrow account or by evidence, acceptable to the City, or the financial and technical ability and commitment of the applicant or its agents to remove the facility at the end of the use period.

2. Wind energy systems, as defined and allowed in Article X, Alternative Energy.

(Ord. No. 292-88, 4-4-88; Ord. No. 133-93, § 3, 11-15-93; Ord. No. 94-99, 11-15-99; Ord. No. 74-06/07, 12-4-06; Ord. No. 29-09/10, 8-3-09, emergency passage; Ord. No. 278-09/10, 7-19-10; Ord. No. 33-11/12, 1-18-12; Ord. 90, 11-17-2014)

-----  
**\*Editor's Note-** Pursuant to Ord. No. 74-06/07, enacted on 12-4-06 changes made in

(2) *Business* are effective October 16, 2006.

-----

**Sec. 14-164. Prohibited uses.**

Uses not enumerated in sections 14-162 and 14-163 as either permitted or conditional uses are prohibited.

(Ord. No. 292-88, 4-4-88)

**Sec. 14-165. Dimensional requirements.**

In addition to the provisions of division 25 (space and bulk regulations and exceptions) of this article, residential uses in off-peninsula locations, permitted under section 14-162(a) shall meet the requirements of such abutting or nearest residential zone except minimum lot area per dwelling unit. Residential uses in on-peninsula locations, as defined in Section 14-47, and nonresidential uses in the B-1 and B1-b zones shall meet the following minimum requirements:

<b>Min. Lot Size</b>	School: 20,000 SF Place of Assembly: 10,000 SF Other Non-Res Uses: None Residential: None
<b>Min. Lot Area per D.U.</b>	On-peninsula: 435 SF Off-peninsula: min. lot area of nearest residential zone, except 1,000 SF for multi-family dwellings above first floor
<b>Min. Street Frontage</b>	20 ft.
<b>Min. Lot Width</b>	None
<b>Min. Front Yard</b>	None
<b>Max. Front yard</b>	10 ft., or the maximum front yard setback shall not exceed the average depth of nearest developed lots if that average depth is less than 10 ft.
<b>Min. Rear Yard</b>	Principal: None, except 10 ft. if abutting a residential zone. Accessory: None, except 5 ft. if abutting a residential zone

<b>Min. Side Yard</b>	Principal: None, except 5 ft. if abutting residential zone.  Accessory: None, except 5 ft. if abutting a residential zone
<b>Max. Side Yard on Side Street</b>	10 ft., except that this requirement applies to only one side street in cases where a lot has more than one side street
<b>Structure Stepbacks</b>	Portions of a structure above 35 ft shall be no closer than 10 ft from the side property line and no closer than 15 feet from the rear property line when such property line abuts a residential zone.
<b>Max. Structure Height<sup>1</sup></b>	Off- peninsula: 35 ft., except where abutting R-6, where max. height shall be the max. height of R-6. <sup>2</sup>  On-peninsula: 45 ft. except 50 ft. along Congress Street if commercial first floor & residential upper floors.
<b>Max. Floor Area</b>	Total maximum first floor area for non-residential uses per structure: 10,000 SF <sup>3</sup>  Total maximum floor area per retail establishment: 5,000 SF
<b>Max. Impervious Surface</b>	90%

1. The commercial first floor uses shall utilize at least 75 percent of the first floor frontage along Congress Street and shall have an average depth of at least 20 feet.
2. Except when B-1 properties abut an R-6A zone, the maximum height shall be 45 feet.
3. Structures which existed prior to date of enactment of the B-1/B-1b zones are exempt.

(Ord. No. 292-88, 4-4-88; Ord. No. 52-96, § 1, 7-15-96; Ord. No. 94-99, 11-15-99; Ord. No. 281-10/11, 7-18-11; Ord. No. 118-13/14, §165 (e), 1-15-14; Ord. 90-14/15, 11-17-2014)

**Sec. 14-166. Other requirements.**

All nonresidential uses in B-1 and B-1b zones shall meet the requirements of division 25(space and bulk regulations and exceptions) of this article in addition to the following requirements:

- (a) *Landscaping and screening:* The site shall be suitably landscaped for parking, surrounding uses and accessory site elements, including storage and solid waste receptacles where required by article IV (subdivisions)

and article V (site plan).

- (b) *Curbs and sidewalks:* Curbs and sidewalks as specified in article VI of chapter 25.
- (c) *Off-street parking and loading:* Off-street parking and loading are required as provided in division 20 and division 21 of this article.
- (d) *Front yard parking:* There shall be no off street parking in the front yard between the street line and the required maximum setback line. Where an existing building setback exceeds the maximum front yard setback, a maximum of ten (10) percent of the total parking provided on the site may be located between the principal structure and the street.
- (e) *Signs:* Signs shall be subject to the provisions of division 22 of this article.
- (f) *Exterior storage:* There shall be no exterior storage with the exception of fully enclosed containers or receptacles for solid waste disposal. Such containers or receptacles shall be shown on the approved site plan. In no event shall vehicles, or truck trailers with or without wheels, be used for on-site storage. Truck load sales shall not be considered outside storage provided that such activity does not extend beyond three (3) consecutive days nor occur more frequently than three (3) times a calendar year.
- (g) *Storage of vehicles:* Storage of vehicles is subject to the provisions of section 14-335.
- (h) *Shoreland and flood plain management regulations:* If the lot is located in a shoreland zone or in a flood hazard zone, then the requirements of division 26 and/or division 26.5 apply.

(Ord. No. 292.88, 4-4-88; Ord. No. 94-99, 11-15-99)

**Sec. 14-167. External effects.**

Every use in a B-1 or B-1b zone shall be subject to the following requirements:

- (a) *Enclosed structure:* The use shall be operated within a completely enclosed structure, except for those specific

open air activities licensed by the City, including but not limited to outdoor seating, sidewalk sales, etc.

- (b) *Noise*: The volume of sound, measured by a sound level meter with frequency weighting network (manufactured according to standards prescribed by the American Standards Association), generated shall not exceed fifty-five (55) decibels on the A scale, on impulse (less than one (1) second), at lot boundaries, excepting air raid sirens and similar warning devices.
- (c) *Vibration and heat*: Vibration inherently and recurrently generated and heat shall be imperceptible without instruments at lot boundaries.
- (d) *Glare, radiation or fumes*: Glare, radiation or fumes shall not be emitted to an obnoxious or dangerous degree beyond lot boundaries.
- (e) *Smoke*: Smoke shall not be emitted at a density in excess of twenty (20) percent opacity level as classified in Method 9 (Visible Emissions) of the Opacity Evaluation System of the U.S. Environmental Protection Agency.
- (f) *Materials or wastes*: No materials or wastes shall be deposited on any lot in such form or manner that they are clearly visible from neighbors' properties or may be transferred beyond the lot boundaries by natural causes or forces. All solid waste disposal, including materials which might cause fumes or dust, or constitute a fire hazard if stored out-of-doors, shall be only in fully enclosed containers or receptacles. Areas attracting large numbers of birds, rodents or insects are prohibited.

(Ord. No. 292-88, 4-4-88; Ord. No. 94-99, 11-15-99)

**Sec. 14-168 - Sec. 14-180 Reserved.**

DIVISION 10. B-2 AND B-2b COMMUNITY BUSINESS ZONES\*

-----  
**\*Editor's note**—Ord. No. 293-88, adopted Apr. 4, 1988, with an effective date of July 1, 1988, repealed §§ 14-181-14-187 of Div. 10, B-2 Business Zone, of this article and enacted in lieu thereof similar new provisions as set out in §§ 14-181-14-187. Formerly, such sections derived from §§ 602.9.A-602.9.G of the city's 1968 Code and from Ord. No. 74-72, adopted Mar. 6, 1972; Ord. No. 499-74, § 4, adopted Aug. 19, 1974; Ord. No. 334-76, § 6, adopted July 7, 1976; and Ord. No. 274-77, adopted May 16, 1977.  
-----

**Sec. 14-181. Purpose.**

(a) B-2 Community Business Zone

The purpose of the B-2 community business zone is:

1. To provide appropriate locations for the development and operation of community centers offering a mixture of commercial uses, housing and services serving the adjoining neighborhoods and the larger community.
2. The variety, sites and intensity of the permitted commercial uses in the B-2 zone are intended to be greater than those permitted in the B-1 neighborhood business zone.
3. The B-2 zone will provide a broad range of goods and services and general businesses with a mixture of large and small buildings such as grocery stores, shops and services located in major shopping centers and along arterial streets. Such establishments should be readily accessible by automobile, by pedestrians and by bicycle. Development in the B-2 zone should relate to the surrounding neighborhoods by design, orientation, and circulation patterns.
4. The B-2 and B-2b will provide locations for moderate to high density housing in urban neighborhoods along arterials.

(b) B-2b Community Business Zone

The B-2b zone is intended to provide neighborhood and community retail, business and service establishments that are oriented to and built close to the street. The B-2b zone is appropriate in areas where a more compact urban development pattern exists such as on-peninsula or in areas off-peninsula where a neighborhood compatible commercial district is established which exhibits a pedestrian scale and character. Such locations may include the peninsula and other arterials and intersections with an existing urban or neighborhood oriented building pattern.

(c) B-2c Community Business Zone

To protect and enhance the quiet enjoyment of adjoining residential neighborhoods from the impacts of businesses that serve liquor and from other uses that are incompatible with adjoining neighborhoods due to noise.

(Ord. No. 293-88, 4-4-88; Ord. No. 25, 7-07-99: emergency enactment of 120-day moratorium, effective 7/07/99 thru 11/04/99; Ord. No. 94A, 11-01-99: emergency enactment of 44-day extension of moratorium enacted on 7-07-99, effective date 11/01/99 thru 12/15/99; Ord. No. 94-99, 11-15-99; Substitute Ord. No. 189-00, §2, 4-24-00; Ord. No. 151-03/04, 02/23/04; Ord. No. 244-09/10, 6-21-10)

-----

**\*Editor's Note:** Order No. 25, adopted 7-07-99, enacted an emergency 120-day moratorium on drive-through facilities on lots in B-2 Zone adjacent to lots with residential uses effective 7-07-99 through 11-1-99; Ord. No. 94A, adopted 11-01-99 extended the moratorium on said drive-through facilities through December 15, 1999.

-----

**Sec. 14-182. Permitted uses.**

The following uses are permitted in the B-2, B-2b and B-2c zones except that any use involving a drive-through is prohibited in these zones unless otherwise provided in section 14-183:

(a) *Residential:*

1. Attached single-family and two-family dwellings;
2. Multi-family dwellings;
3. Handicapped family units;
4. Combined living/working spaces including, but not limited to, artist residences with studio space; and

(b) *Business:*

1. General, business and professional offices, as defined in section 14-47;
2. Personal services, as defined in section 14-47;
3. Offices of building tradesmen;
4. Retail establishments;
5. Restaurants, except that restaurants shall close for all purposes including the service of alcohol

no later than 11:00 p.m.;

6. Drinking establishments, except that drinking establishment as defined in section 14-47, and bars as defined in section 14-217.5 (a) (1), shall not be permitted in the B-2c zone;
7. Billiard parlors;
8. Mortuaries or funeral homes;
9. Miscellaneous repair services, excluding motor vehicle repair services;
10. Communication studios or broadcast and receiving facilities;
11. Health clubs and gymnasiums;
12. Veterinary hospitals, but excluding outdoor kennels;
13. Theaters and performance halls;
14. Hotels or motels of less than one hundred fifty (150) rooms;
15. Dairies in existence as of November 15, 1999;
16. Bakeries in existence as of November 15, 1999;
17. Bakeries established after November 15, 1999, provided the bakeries include retail sales within the principal structures. Bakeries in the B-2b zone shall be no greater than seven thousand (7,000) square feet in size;
18. Drive-throughs associated with a permitted use in the B-2 zone provided that such do not include drive-throughs on any lot adjacent to any residential use or zone. For purposes of this section, only, "adjacent to" shall include uses across a street if within 100 feet of the subject lot boundary;
19. Registered medical marijuana dispensaries; and

20. Commercial kitchens provided the commercial kitchen includes retail sales or a tasting room within the principal structure. Commercial kitchens in the B-2b shall be no greater than 7,000 square feet in floor area.

(c) *Institutional:*

1. Long term, extended and intermediate care facility;
2. Clinics, as defined in section 14-47;
3. Places of assembly;
4. Kindergarten, elementary, middle and secondary schools;
5. College, university, trade schools; and
6. Municipal buildings and uses.

(d) *Other:*

1. Lodging houses;
2. Day care facilities or babysitting services;
3. Utility substations, as defined in section 14-47, subject to the requirements of article V (site plan), sections 14-522 and 14-523 notwithstanding;
4. Accessory uses, as provided in section 14-404;
5. Bed and breakfast, subject to the standards of article V (site plan), sections 14-522 and 14-523 notwithstanding. A bed and breakfast may include a meeting facility if the facility meets the following standards:
  - a. The meeting facility shall be limited to the following types of uses:
    - i. Private parties.
    - ii. Business meetings.
    - iii. Weddings.
    - iv. Receptions.
    - v. Seminars.

vi. Business and educational conferences.

b. The building in which the bed and breakfast and the meeting facility will be located was in existence on March 3, 1997, and was greater than four thousand (4,000) square feet in floor area on that date.

6. Studios for artists and craftspeople, provided that the area of such studios does not exceed four thousand (4000) square feet for each studio space.

7. Hostels, provided the applicant submits a site plan and operations plan demonstrating compliance with the following conditions:

a. All applicable provisions of Article V of this chapter shall be met.

b. Parking shall be provided in compliance with Division 20 of this Article.

c. No unaccompanied minors under the age of eighteen (18) shall be permitted in the facility.

d. The length of stay for transient guests shall not exceed fifteen (15) days out of any sixty-day period.

e. The building shall meet the applicable occupant load requirements as defined by the International Building Code and the NFPA Life Safety Code, as such codes are amended or adopted by the city.

8. Wind energy systems, as defined and allowed in Article X, Alternative Energy.

(Ord. No. 293-88, 4-4-88; Ord. No. 39-96, § 2, 10-7-96; Ord. No. 125-97, § 6, 3-3-97; Ord. No. 164-97, § 2, 12-1-97; Ord. No. 25, 7-07-99: emergency enactment of 120-day moratorium, effective 7/07/99 thru 11/04/99; Ord. No. 94A, 11-01-99: emergency enactment of 44-day extension of moratorium enacted on 7-07-99, effective date 11/01/99 thru 12/15/99; Ord. No. 94-99, 11-15-99; Ord. No. 118-00, 11-20-00; Ord. No. 151-03/04, 02/23/04; Ord. No. 127-09/10, 1-4-10 emergency passage; Ord. No. 244-09/10, 6-21-10; Ord. No. 283-09/10, 7-19-10 emergency passage; Ord. 10 10/11, 8-2-10; Ord. No. 279-09/10, 6-6-11; Ord. No. 33-11/12, 1-18-12; Ord. No. 113-11/12, 2-22-12; Ord. No. 41-12/13, 9-5-12; Ord. No. 263-13/14, 6-16-14; Ord. 90-14/15, 11-17-2014; Ord. 100-15/16, 11-16-2015)

**Sec. 14-183. Conditional uses.**

The following uses are permitted in the B-2, B-2b and B-2c zone, as provided in section 14-474 (conditional uses), if they meet the following requirements:

- (a) *Business.* Any of the following conditional uses, provided that, notwithstanding section 14-474(a) of this article or any other provision of this code, the Planning Board shall be substituted for the board of appeals as the reviewing authority over conditional business uses:
1. Major and minor auto service stations in the B-2 zone, only;
  2. Major or minor auto service stations in the B-2b zone in existence as of November 15, 1999;
  3. Car washes;
  4. Drive-throughs in the B-2 zone which are adjacent to any residential use or zone; and
  5. Automobile dealerships.

In addition to approval by the Planning Board with respect to the requirements of article V (site plan), sections 14-522 and 14-523 notwithstanding, these uses shall comply with the following conditions and standards in addition to the provisions of section 14-474:

- a. *Signs:* Signs shall not adversely affect visibility at intersections or access drives. Such signs shall be constructed, installed and maintained so as to ensure the safety of the public. Such signs shall advertise only services or goods available on the premises.
- b. *Circulation:* No ingress and egress driveways shall be located within thirty (30) feet from an intersection. No entrance or exit for vehicles shall be in such proximity to a playground, school, church, other places of public assembly, or any residential zone that the nearness poses a threat or potential danger to the safety of the public.

6. Drive-throughs, where permitted, shall also specifically comply with the following conditions:
  - a. Location of Drive-throughs: Features, such as windows, vacuum cleaners and menu/order boards, stacking lanes, must be placed, where practicable, to the side and rear of the principal building except where such placement will be detrimental to an adjacent residential zone or use, and shall be located no nearer than forty (40) feet from any adjoining property located in a residential zone. This distance shall be measured from the outermost edge of the outside drive-through feature to such property line. In addition, drive-through features shall not extend nearer than twenty-five (25) feet to the street line. The site must 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.
  - b. Noise: Any speakers, intercom systems, or other audible means of communication shall not play prerecorded messages. Any speakers, intercom systems, audible signals, computer prompts, or other noises generated by the drive-through services or fixtures shall not exceed 55 dB or shall be undetectable above the ambient noise level as measured by a noise meter at the property line, whichever is greater.
  - c. Lighting: Drive-through facilities shall be designed so that 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 14-526.
  - d. Screening and Enclosure: Where automobiles may queue, waiting for drive-through services, their impacts must be substantially mitigated to protect adjacent residential properties from headlight glare, exhaust fumes, noise, etc. As deemed necessary by the reviewing

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; and

- e. Pedestrian access: Drive-through lanes shall be designed and placed to minimize crossing principal pedestrian access-ways or otherwise impeding pedestrian access.
- f. Hours of Operation: The Board, as part of its review, may take into consideration the impact hours of operation may have on adjoining uses.
- g. Conditions specific to major or minor auto service stations, car washes and automobile dealerships:
  - i. A landscaped buffer, no less than five (5) 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;
  - ii. Car washes shall be designed to avoid the tracking of residual waters into the street.

(b) *Other:*

- 1. Printing and publishing establishments except as provided in subsection b. below;
- 2. Printing and publishing establishments in continuous operation at their current location since April 4, 1988, or earlier and which exceeded ten thousand (10,000) square feet of aggregate gross floor area at that time;
- 3. Wholesale distribution establishments; and
- 4. Research and development and related production

establishments.

Uses listed in this paragraph (b) (other) 1, 3 and 4 shall be limited to ten thousand (10,000) square feet of aggregate gross floor area, and uses listed in this paragraph (b) (other) 1, 2, 3 and 4 shall be subject to the following conditions and standards in addition to the provision of section 14-474:

- a. Traffic circulation: The site shall have an adequate traffic circulation pattern designed to avoid hazards to vehicular circulation on adjoining streets. All stacking of motor vehicles shall be on site, and loading facilities shall be located to the rear of the building and shall not be visible from the street.
  - b. Building and site design: The exterior design of the structures, including architectural style, facade materials, roof pitch, building form, established setbacks and height, shall be of a commercial rather than industrial character. The site shall contain screening and landscaping which shall meet the requirements of section 14-526 for screening between land uses and the City of Portland Technical Manual.
5. Temporary wind anemometer towers, as defined in Sec 14-47, are permitted provided the following standards are met in addition to Sec 14-430:
- a. Towers may be installed for the purpose of wind data collection for no more than two (2) years after the issuance of a Certificate of Occupancy for the tower. At the conclusion of the aforementioned two (2) years, the tower must be dismantled and removed from the site within sixty (60) days; and
  - b. Towers shall be constructed according to plans and specifications stamped by a licensed professional engineer, which

shall be provided to the Board of Appeals with the application; and

- c. Towers shall be set back from habitable buildings by a distance equal to 1.1 times the tower height; and
- d. The applicant shall provide a safety report prepared and stamped by a licensed professional engineer to the Board of Appeals with their application for conditional use, which demonstrates how the proposed temporary wind anemometer tower is safe in terms of strength, stability, security, grounding, icing impacts and maintenance; and
- e. The applicant shall provide evidence of commercial general liability insurance, such insurance to be satisfactory to Corporation Counsel and cover damage or injury resulting from construction, operation or dismantling of any part of the temporary wind anemometer tower; and
- f. Towers and associated guy wires shall be sited to minimize their prominence from and impacts on public ways (including pedestrian ways); and
- g. Towers shall be used for installing anemometers and similar devices at a range of heights from the ground to measure wind characteristics (speed, direction, frequency) and related meteorological data, but shall not be used for any other purpose; and
- h. A performance guarantee shall be required for the cost of removal of the tower, guy wires and anchors. This requirement may be satisfied by surety bond, letter of credit, escrow account or by evidence, acceptable to the City, or the financial and technical ability and commitment of the applicant or its agents to remove the facility at the end of the use period.

6. Wind energy systems, as defined and allowed in Article X, Alternative Energy.

(Ord. No. 293-88, 4-4-88; Ord. No. 16-92, 6-15-92; Ord. No. 39-96, § 3, 10-7-96; Ord. No. 25, 7-07-99: emergency enactment of 120-day moratorium, effective 7/07/99 thru 11/04/99; Ord. No. 94A, 11-01-99: emergency enactment of 44-day extension of moratorium enacted on 7-07-99, effective date 11/01/99 thru 12/15/99; Ord. No. 94-99, 11-15-99; Ord. No. 151-03/04, 02-23-04; Ord. No. 29-09/10, 8-3-09, emergency passage; Ord. No. 276 -09/10, 7-19-10; Ord. No. 278-09/10, 7-19-10; Ord. No. 10 10/11, 8-2-10; Ord. No. 33-11/12, 1-18-12; Ord. 90, 11-17-2014)

**Sec. 14-184. Prohibited uses.**

Uses not enumerated in sections 14-182 and 14-183 as either permitted uses or conditional uses are prohibited.

(Ord. No. 293-88, 4-4-88)

**Sec. 14-185. Dimensional requirements.**

In addition to the provisions of division 25 (space and bulk regulations and exceptions) of this article, lots in the B-2, B-2b, and B-2c zones shall meet the following dimensional requirements:

<b>Minimum Lot Size</b>	None
<b>Minimum Street Frontage</b>	20 feet
<b>Front Yard Setback Minimum</b>	None
<b>Rear Yard Setback Minimum</b>	10 feet, except as provided for below: a. 5 feet for accessory structures
<b>Side Yard Setback Minimum</b>	None required, except as provided for below: a. 5 feet for accessory structures
<b>Side Yard on Side Street Setback Minimum</b>	None
<b>Front Yard Maximum<sup>1</sup></b>	No more than 10 feet, except that the Planning Board or Planning Authority may approve a different amount for irregularly shaped lots or lots with frontage less than 40 feet provided this standard is met to the maximum extent practicable. <sup>2</sup>
<b>Structure Stepbacks</b>	Portions of a structure above 35 feet shall be no closer than 5 feet from the side property line and no closer than 15 feet from the rear property line when such property line abuts a residential zone.

<p><b>Height maximum</b></p>	<p>45 feet except as provided for below:          a. 50 feet if first floor is partially or wholly occupied by a commercial use.          b. 65 feet in B-2 and B-2c zones on lots &gt;5 acres provided that all setbacks, except for front yard setbacks and side yard on side street setbacks, increase by 1 foot for each foot of height over 45 feet.          c. 65 feet within 65 feet of Franklin St.</p>
<p><b>Maximum Impervious Surface Ratio</b></p>	<p>a. For residential uses: None          b. For all other permitted uses: 80% in B-2 and B-2c          c. For all other permitted uses: 90% in B-2b</p>
<p><b>Minimum Lot Area per Dwelling Unit</b></p>	<p>a. Off-peninsula locations, as defined in section 14-47: 1,500 square feet, except as provided for in (b) below.          b. On-peninsula locations (as per 14-47) and projects with active street frontages, as defined in section 14-188, below: 435 square feet.</p>

<sup>1</sup> Building additions do not have to meet this section.

<sup>2</sup> If lot has less than 40 feet of frontage and is more than 100 feet deep then no maximum setback is required. If existing structures are within 20 feet of the street or meet the front yard maximum, and remainder of lot has less than 40 feet of frontage, then no maximum setback is required. Where setbacks exceed 10 feet, a continuous, attractive, and pedestrian-scaled edge treatment shall be constructed along the street, consisting of street trees spaced at no more than 15 feet on center, approved by City arborist, and a combinations of landscaping no less than 4 feet deep, ornamental brick or stone walls or ornamental fencing.

(Ord. No. 293-88, 4-4-88; Ord. No. 52-96, § 2, 7-15-96; Ord. No. 94-99, 11-15-99; Ord. No. (Substitute)189-00, §3, 4-24-00; Ord. No. 151-03/04, 02/23/04; Ord. No. 244-09/10, 6-21-10; Ord. No. 41-12/13, 9-5-12; Ord. No. 163-13/14, 6-16-14; Ord. 90-14/15, 11-17-2014)

**Sec. 14-186. Other requirements.**

All nonresidential uses in the B-2 and B-2b zone shall meet the requirements of division 25 (space and bulk regulations and exceptions) of this article in addition to the following requirements:

- (a) *Landscaping and screening:* The site shall be suitably landscaped for parking, surrounding uses and accessory site elements, including storage and solid waste receptacles where required by article IV (subdivisions) and article V (site plan).
- (b) *Curbs and sidewalks:* Curbs and sidewalks as specified in article VI of chapter 25.
- (c) *Off-street parking and loading:* Off-street parking and loading are required by division 20 and division 21 of this article;
- (d) *Front yard parking:*

There shall be no off-street parking in the front yard between the street line and the required minimum setback line in the B-2, B-2b and B-2c. Where existing buildings exceed the minimum front yard setback, a maximum of ten (10) percent of the total parking provided on the site may be located between the principal structure and the street.
- (e) *Signs:* Signs shall be subject to the provisions of division 22 of this article.
- (f) *Exterior storage:* There shall be no exterior storage with the exception of fully enclosed containers or receptacles for solid waste disposal. Such containers or receptacles shall be shown on the approved site plan. Vehicles or truck trailers with or without wheels shall not be used for on-site storage (1) except where such storage is located in a designated loading zone identified on an approved site plan; or (2) such storage is not visible from the street or adjacent residences during winter months and such storage area is identified on an approved site plan. Truck load sales shall not be considered outside storage provided that such activity does not extend beyond three (3) consecutive days nor occurs more frequently than three (3) times a calendar year.
- (g) *Storage of vehicles:* Storage of vehicles is subject to the provisions of section 14-335.
- (h) *Shoreland and flood plain management regulations:* If the lot is located in a shoreland zone or in a flood hazard

zone, then the requirements of division 26 and/or division 26.5 apply.

(Ord. No. 293-88, 4-4-88; Ord. No. 51-96, 7-15-96; Ord. No. 94-99, 11-15-99; Substitute Ord. No. 189-00, §4, 4-24-00; Ord. No. 151-03/04, 02/23/04; Ord. No. 263-13/14, 6-16-14)

**Sec. 14-187. External effects.**

Every use in a B-2, B-2b and B-2c zone shall be subject to the following requirements:

- (a) *Enclosed structure*: The use shall be operated within a completely enclosed structure except for those specific open air activities licensed by the City, including but not limited to outdoor seating, sidewalk sales, etc.
- (b) *Noise*: Except as provided in 14-183(1)(iii)(2) (relating to Drive-throughs), the volume of sound, measured by a sound level meter with frequency weighting network (manufactured according to standards prescribed by the American Standards Association), generated shall not exceed sixty (60) decibels on the A scale between 7:00 a.m. and 9:00 p.m. and fifty-five (55) decibels on the A scale between 9:00 p.m. and 7:00 a.m., on impulse (less than one (1) second), at lot boundaries, excepting air raid sirens and similar warning devices.
- (c) *Vibration and heat*: Vibration inherently and recurrently generated and heat shall be imperceptible without instruments at lot boundaries.
- (d) *Glare, radiation or fumes*: Glare, radiation or fumes shall not be emitted to an obnoxious or dangerous degree beyond lot boundaries.
- (e) *Smoke*: Smoke shall not be emitted at a density in excess of twenty (20) percent opacity level as classified in Method 9 (Visible Emissions) of the Opacity Evaluation System of the U.S. Environmental Protection Agency.
- (f) *Materials or wastes*: No materials or wastes shall be deposited on any lot in such form or manner that they may be transferred beyond the lot boundaries by natural causes or forces. All material which might cause fumes or dust, or constitute a fire hazard if stored out-of-doors, shall be only in closed containers. Areas attracting large numbers of birds, rodents or insects are prohibited.

(Ord. No. 293-88, 4-4-88; Ord. No. 94-99, 11-15-99; Ord. No. 03/04, 02/23/04)

**Sec. 14-188. Active street frontages**

A building will be determined to have an active street frontage upon meeting the following guidelines to the greatest extent practicable as determined by the Planning Board or Planning Authority: the primary building façade shall be within ten feet of the front street line; there shall be no parking on the lot within 35 feet of the front street line; no more than 25% of the first floor primary façade shall consist of access to garages, unutilized space, service entrances, storage or mechanicals, and the remaining minimum 75% shall have an average depth of a minimum of 20 feet for residential or commercial uses; all primary ground floor entries to multi-family buildings must orient to street, not to interior blocks or parking lots.  
(Ord. No. 263-13/14, 6-16-14)

**Sec. 14-189.- 14-195. Reserved.**

DIVISION 11. A-B AIRPORT BUSINESS ZONE\*

-----

~~\*Editor's note~~—Ord. No. 295-88, adopted Apr. 4, 1988, repealed §§ 14-196–14-202 of Div. 11, A-B Business Zone, of this article and enacted in lieu thereof similar new provisions as set out in §§ 14-196–14-202. Formerly, such sections derived from §§ 62.9A.A–602.9A.G of the city's 1968 Code and from Ord. No. 348-71, § 2, adopted Aug. 2, 1971; Ord. No. 499-74, § 4, adopted Aug. 19, 1974; Ord. No. 334-76, § 6, adopted July 7, 1976; and Ord. No. 275-77, adopted May 16, 1977.

-----

**Sec. 14-196. Purpose.**

The purpose of the A-B airport business zone is:

To provide an area for the development of airport-related enterprises. Appropriate uses permitted in this district are those customarily associated with the operation of the airport terminal and individual airlines and accessory uses to provide for the comfort and convenience of the airport's patrons and employees.

(Ord. No. 295-88, 5-23-88)

**Sec. 14-197.1. Permitted uses.**

The following uses are permitted in the A-B zone:

- (a) Administration;



## **B-7 Zone Parking Text Amendments**

### **Timeline**

09.25.2015 Submitted to Planning Board. Public hearing.

### **Summary**

A challenge in the Bayside neighborhood is the regulation of surface parking. The Bayside Plan asserts the neighborhood should be an “attractive urban gateway and extension of the downtown”, with “mixed use and compact development”, “[emphasizing] a quality pedestrian experience”. “Extensive land consumption by surface parking lots” is to be avoided. Surface parking is a poor substitute for a continuous street wall of buildings supporting pedestrian activity and street life.

In 2011, the Planning Board recommended, and the City Council approved, a series of amendments that provided more flexibility for surface parking. This provision grandfathered existing blacktop parking. This change would assist redevelopment or reuse of existing buildings on smaller lots, and support the transition of Bayside from a warehouse/industrial district to a mixed use district.

Gravel areas do not have the grandfathered status of paved parking areas although there have been several recent redevelopment proposals involving properties that are reliant on the area presently occupied by gravel parking space. For property owners, gravel areas in the short-term may have value as stand-alone parking lots. The long-term view is that these lots have value as parking to support a significant on-site redevelopment or as a building lot for a stand-alone building. Bayside has many gaps in the streetscape so redevelopment of these sites is important in filling these spaces. Appropriately scaled redevelopment proposals of these sites could be hindered if some flexibility for gravel areas is not provided.

### **In this chapter**

- **Proposed Zoning Amendments: Surface Parking (B-7)**, Planning Board report, 09.25.2015
- **Portland City Code**, Ch. 14 Div. 17 Sec. 14-295(a) 24-26, surface parking language



## PLANNING BOARD REPORT PORTLAND, MAINE

Proposed Zoning Amendments  
Surface Parking (B-7) and Commercial Kitchens (B-7, B-2 and B-2b)  
City of Portland, Applicant

Submitted to: Portland Planning Board Public Hearing Date: Sept. 29, 2015	Prepared by: Richard Knowland, Senior Planner Report Prepared: September 25, 2015
--	--

### I. INTRODUCTION

A public hearing has been scheduled to consider text amendments to the B-7 zone regarding regulation of surface parking. The amendments focus on how existing gravel surface areas should be treated in terms of parking setbacks from the street line. During the recent Bayside Bowl site plan review, staff indicated that amendments regarding the regulation of gravel surface lots in the B-7 would be forthcoming.

A minor amendment allowing commercial kitchens in the B-7 as a permitted use with accompanying retail space is also proposed. Commercial kitchens are presently a conditional use in the B-7 zone but do not allow a retail presence within the building. Staff is also proposing amendments to the B-2 and B-2b zone regarding community kitchens. The westerly section of Bayside has a B-2b zone adjacent to the B-7 zone which staff learned several weeks ago is the likely home of a new commercial kitchen.

In addition to a legal ad appearing in the September 21, 2015 and September 22, 2015 editions of the Portland Press Herald, notices were also sent to the Interested Parties List.

### II. BACKGROUND – Bayside Vision and B-7 Surface Parking

#### A. Bayside Vision

Perhaps the most challenging issue in Bayside is the regulation of surface parking. The basic premise of the Bayside Plan is that the neighborhood should be a dense mixed use district. The Bayside Plan uses such phrases as an "attractive urban gateway and extension of the downtown", "mixed use and compact development", "compact blend of uses", and "emphasizes a quality pedestrian experience". A guiding principle of the plan is that parking structures are encouraged to "avoid extensive land consumption by

surface parking lots". The desired model for Bayside's future is a transit oriented development "free from the dependence upon the automobile" and "utilization of transportation, other than automobile is strongly encouraged".

Surface parking by its nature can take up a lot of land. For example, the surface parking of the DHS parking lot is 3 or 4 times greater than the actual footprint of the building. Surface parking is a poor substitute for a continuous street wall of buildings whose shoppers, workers and visitors support pedestrian activity and street life in contrast to the "dead zones" created by parking lots.

Ideally all vacant or underutilized sites in Bayside would instantly become redeveloped with new multi-story buildings and minimal surface parking. The reality is that it will take some time for market forces to absorb new development to justify larger scale development with accompanying structured parking. While Bayside has had an impressive number of larger scale projects such as the Intermed building, Pearl Place, Bayside Village student housing and Midtown, there have been a number of much smaller projects such as Bangor Savings, Gorham Savings, Bayside Bowl that have faced either land area constraints or market constraints in achieving a maximum build out of their property.

Realizing the incremental nature of achieving the Bayside Vision, in 2011 the Planning Board recommended and the City Council approved a series of amendments that provided more flexibility for surface parking. This provision basically grandfathered existing blacktop parking. The thought was this change would assist redevelopment or reuse of existing buildings on smaller lots in supporting the transition of Bayside from a warehouse/industrial district to a mixed use district. Under the previous ordinance a reuse proposal or minor change in a site could trigger site plan review resulting in the removal of all existing parking within 35 feet of the street line, effectively undermining suitable reuse proposals (such as the reuse of the mattress factory building to Portland Architectural Salvage).

#### **B. Existing B-7 Surface Parking Regulations**

The existing B-7 zoning text requires newly created surface parking spaces be setback a minimum of 35 feet from the street to discourage a parking dominated streetscape and to encourage building construction near the street line. Large expanses of parking spaces sited near the street line follows a suburban development model in contrast to the Bayside Plan which emphasizes building development near the street.

A presumption has been made under the present zoning ordinance that all **paved** areas (existing as of the B-7 zoning ordinance date) are grandfathered from the 35 foot parking setback. Left unsaid is the status of **gravel** areas that likely have a murky history in terms of qualifying for this grandfathered provision. Most of these gravel lots were originally part of the rail road land holdings in Bayside that were conveyed to private property owners or the city over a period of time in the 1980s and 1990s. Historically they were part of a rail road corridor and not used for vehicle parking.

Gravel areas do not have the grandfathered status of paved parking areas although there have been several recent redevelopment proposals involving the Schlotterbeck & Foss and Bayside Bowl properties that are reliant on the space presently occupied by gravel for parking. For property owners gravel areas in the short term may have value as stand alone parking lots. The long term view is these lots have value as (1) parking to

support a significant on-site redevelopment or (2) as a building lot for a stand alone building. Bayside has many gaps in the streetscape so redevelopment of these sites is important in filling these spaces. Appropriately scaled redevelopment proposals of these sites could be hindered if some flexibility for gravel (non-paved) areas is not provided.

### C. Existing Gravel Areas in B-7

All gravel lots located in the B-7 zone are listed below with information on land area, use and other data.

**Schlotterbeck & Foss...** Gravel area 10,314 SF in size. Existing site includes 5 story building; 1 story building; black top parking lot; and gravel parking. Total parcel area: 1.07 acres. A mixed use development proposal for this light industrial building is expected to be submitted shortly. Note: Size of gravel area and height of building (5 stories) would qualify under the proposed amendments.



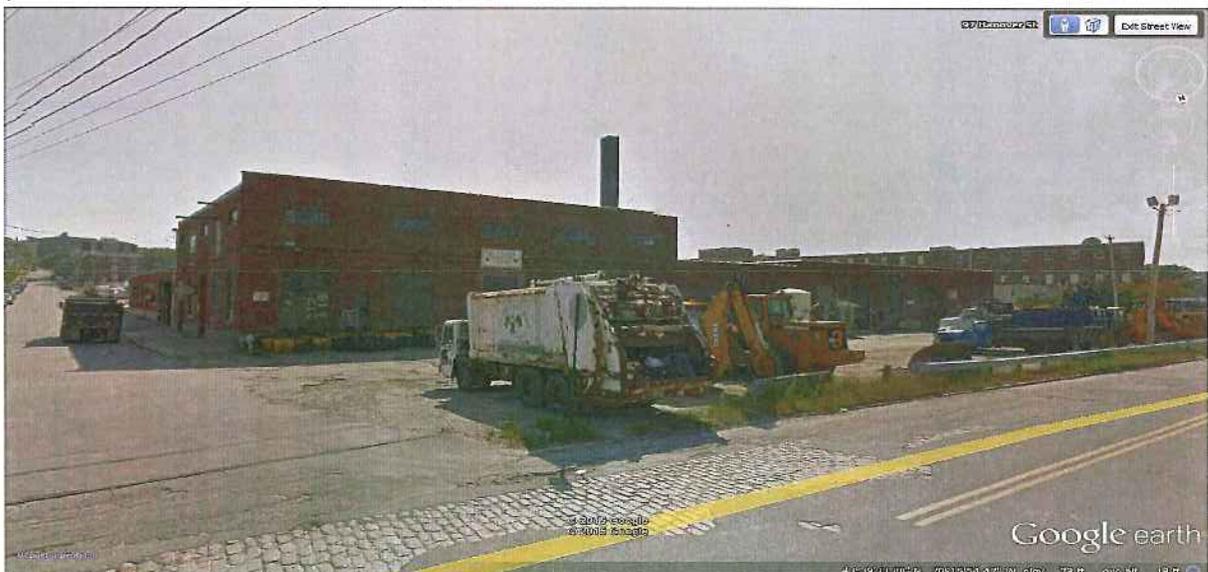
**View of Schlotterbeck & Foss Building Corner of Preble Street and Kennebec Street**

**Bayside Bowl...** Gravel area 14,280 SF in size. Bayside Bowl established a bowling alley in a former retail/warehouse building in 2009. Planning Board recently approved a multi-story building addition expanding the bowling alley and a community squash court facility. Total parcel area: 1.27 acres. Note: Size of gravel area and building floor area (48,857 SF) would qualify under the proposed amendments.



**View of Bayside Bowl Corner of Alder Street and Kennebec Street**

**156-174 Kennebec Street DPS Parking Lot...** Gravel area about 2,000 SF in size but part of a larger parking area (15,092 SF) for DPS trucks. Contiguous to large brick building at 82 Hanover Street owned by City. With the planned relocation of DPS, the brick building offers intriguing reuse possibilities. This parking area could help support the redevelopment of the brick building either as parking or as a building addition. Note: Size of gravel and brick building floor area (40,768 SF) would qualify under the proposed amendments assuming the brick building is redeveloped in the future



**View of 156-174 Kennebec Street, Corner of Hanover Street and Kennebec Street**

**176-188 Kennebec Street DPS Parking Lot...** Gravel area 9,659 SF in size (entire lot) next to New System Laundry building. Note: Size of gravel lot qualifies under the proposed amendments but a building meeting the minimum height requirement or a minimum 40,000 SF building would need to be built on this or a contiguous parcel.



**View of 176-178 Kennebec Street , Corner of Kennebec Street and Parris Street**

**Other Gravel Parking Lots In Bayside:**

**Somerset-Pearl-Kennebec-Chestnut Block (Noyes/Oakhurst Dairy gravel parking lot)...** Gravel area 2.0 acres in size. Site would not qualify under the proposed amendments since the gravel area exceeds 15,000 SF but may already have site plan approval for a parking lot. As a large scale site of 2 acres an appropriate redevelopment scheme for this property should have the ability to meet the normal 35 foot setback requirement.

**E.Perry scrap yard 115 Lancaster Street...** An unpaved surface covers most of the 1.65 acre area. Site would not qualify for the proposed amendments since gravel area exceeds 15,000 SF. An appropriate redevelopment scheme for this site should be able to meet the 35 foot parking setback.

**Verizon Building at Somerset and Franklin Street...** Gravel area 17,000 SF. Total site is 1.1 acres. There is an existing one story building on the site. Gravel area was created sometime after 2007 Whole Foods opened. Note: This site would not qualify for the proposed amendments for several reasons. Exceeds maximum gravel area size. Past use of gravel area included parking for a non-contiguous parcel (Whole Foods). Also total parking on the site presently exceeds the normal zoning requirement for the Verizon building a further disqualification. Present Verizon building doesn't meet minimum height requirement or minimum building size.

### III. EXISTING B-7 SURFACE PARKING ZONING TEXT

The existing B-7 provisions for surface parking is shown below [Sec 14-295(a)(24) and (25)].

**Sec. 14-295(a)(24):** Note this section effectively grandfathers existing blacktop parking areas from the 35 foot building setback provision. As discussed in section II of this memo, section 24 was added in 2010 to provide more flexibility for existing parking in encouraging more reuse proposals in Bayside on smaller scale lots.

24. Surface parking existing as of March 9, 2005 and in continuous existence thereafter, including the reorganization of parking spaces and maneuvering aisles. This section shall apply to surface parking accessory to a principle use and a parking lot as a principle use. Existing surface parking that does not comply with the standards of sec. 14-299(f) may continue, provided that any modifications to the site layout, development constituting a site plan, or building renovations exceeding a value of thirty (30) percent of the assessed value of the building on file at the City of Portland Assessor's Office, shall require the parking to be upgraded to meet the standards of sec 14-299 (f) to the extent practicable.

**Sec. 14-295 (a)(25):** Note this section reflects the original B-7 zoning text intent (passed in 2006) that newly constructed parking spaces should be a minimum of 35 feet from the street to de-emphasize surface parking along the street edge and to reserve such space for building development. In 2010 it was amended to make new parking spaces a permitted use rather than a conditional use.

25. Surface parking created after March 9, 2005, provided that the spaces (and newly created maneuvering aisles) are thirty-five (35) feet or greater from a street and further that the standards below (a to c) are also met. This section shall apply to surface parking accessory to a principal use or a parking lot as principal use. The thirty-five (35) foot setback need not apply in the case of a property in which eighty (80%) of the property frontage has a building within ten (10) feet of the property frontage and or a driveway located perpendicular to the site. The parking area shall meet the standards of sec. 14-299(f).

- a. No surface parking shall be encumbered by lease or other use commitment to an off-site use exceeding twenty-four month term; and
- b. For surface parking areas of twenty-thousand (20,000) square feet or greater in area, lease or other use agreements for surface parking shall not preclude the relocation of such parking for more than twenty-four month terms; and
- c. Any such parking shall in its lease stipulate that developer/owner reserves the right to relocate said parking or convert surface parking to structured parking as long as the replacement parking is located a reasonable distance from the associated use.

### IV. PROPOSED ZONING AMENDMENTS (SURFACE PARKING)

Proposed text amendments are intended to address the status of existing gravel areas posed by such sites as Bayside Bowl and Schlotterbeck & Foss that offer significant redevelopment opportunities. The amendments uses a carrot by allowing existing gravel areas to be converted to surface parking (within 35 feet of the street) if the developer

proposes a minimum but significant level of redevelopment activity on the site or a contiguous site. This incentive measure supports the Bayside policy of creating a denser urban neighborhood but not at the expense of allowing excessive surface parking without some linkage to building development. A model for this concept is the Bayside Bowl project. See Attachment 2 for site plan.

The provision focus on smaller gravel areas (15,000 SF or less) so that larger lots which presumably have a greater ability to address parking setbacks will continue to meet the normal setback requirements.

This option more directly addresses the regulation of vacant lots which is at the heart of the issue. As discussed above these are typically smaller lots that were part of the rail road corridor and sold to abutters and others in the 1980s and 1990s. This alternative links flexibility in parking regulations with some level of building development activity.

**Proposed Text Amendment: Add the following section under Sec. 14-295 (a) (26) as a permitted use.**

(26) Notwithstanding Sec. 14-295 (a) (24) and (25) above, surface parking that does not meet the 35-foot parking setback, provided that:

- a. All or a portion of the 35 foot setback area had a gravel surface on September 29, 2015.  
**Note:** Gravel areas in the B-7 are listed in section II of this memo.
- b. The total gravel surface area on the lot and any contiguous lots did not exceed 15,000 square feet on September 29, 2015.  
**Note:** The 15,000 SF limit is intended to limit the application of this provision. Larger scale lots should be able to meet the normal setback requirements.
- c. The parking spaces provide parking to a principle building on the same lot and or a principle building on a contiguous lot.  
**Note:** The gravel area must be contiguous with redevelopment activity or on the same lot qualifying for the reduced parking set back. In some cases the gravel area may have a separate deed from where the redevelopment is taking place although it still must be contiguous to it. This provision is not intended to provide off-site parking for another use.
- d. One of the buildings described in paragraph c above meets the minimum height requirements of the Bayside Height Overlay Map and/or a building on the site has a floor area of 40,000 SF or greater.  
**Note:** Links flexibility in parking setbacks in exchange for a minimum scale of building development.

- e. The total number of spaces within 35 foot setback in combination with other spaces on the lot does not exceed the minimum parking spaces required in sec. 14-526 (a) (4)(a)(1).

**Note:** Use of the gravel parking area must not result in parking that is excessive for the site beyond normal minimum parking requirements.

- f. The proposed parking spaces meets the landscape and buffer requirements of 14-299 (F).

**Note:** This standard requires that parking must not occupy a portion of a public sidewalk; driveway entrances must meet the City of Portland Technical Manual Standards; and that landscape and buffer standards must meet City of Portland Technical and Design Manual.

- g. Parking spaces within the 35 foot setback shall provide stormwater quality treatment if required by the City of Portland Stormwater Management Standards and the Maine DEP Chapter 500 Stormwater Management Standards. If not required, an alternative low impact development treatment approved by the Planning Board shall be provided.

**Note:** The Board requested that we draft an amendment requiring stormwater treatment for those parking lots taking advantage of this section. Currently such sites would not qualify for stormwater quality review under City and DEP standards since hard packed gravel sites such as these would be considered impervious and thus grandfathered from water quality requirements.

An example of an acceptable treatment system meeting normal City and DEP standards is the Filterra bioretention system. An overview of this system (excerpt from the DEP's Stormwater Best Management Practice Manual) is provided as Attachment 3. The Board has seen this system used in a number of development site plans in peninsula locations. The primary advantage of this system is that it can be installed in tight sites and visually looks like a street tree with a grate.

Cost is a down side as the smallest Filterra unit runs about \$15,000 installed although it can treat about one-third of an acre. A more traditional engineered concrete tank system would be more expensive.

Low intensity development treatment systems such as filter strips and rain gardens are possible but these systems require an adequate amount of land area. It appears unlikely that the leftover green space of the Bayside parcels described in this report will

have enough space to provide a filter strip or rain garden to effectively treat stormwater to the level required by the normal standards of the City and DEP. The Bayside Bowl site plan did provide a filter strip but it would not meet the same level of treatment as a Filterra unit or other approved systems.

Information on low impact development treatment systems from the Low Impact Development Center ([www.lid-stormwater.net](http://www.lid-stormwater.net)) is shown as Attachment 4.

In reviewing the amendment the Board should consider a number of factors. The proposed amendment as written would not require the level of stormwater treatment equivalent to that of a Filterra system. More likely the approved system might be similar to that of a stone infiltration trench approved for the Bayside Bowl site plan which provides some treatment but not to the level of a Filterra. Alternative amendment language would be to require stormwater treatment meeting the normal City and DEP standards regardless of whether the site has grandfathered impervious surfaces. This has cost implications as discussed in the second paragraph of this section.

adopted by the city;

24. Surface parking existing as of March 9, 2005 and in continuous existence thereafter, including the reorganization of parking spaces and maneuvering aisles. This section shall apply to surface parking accessory to a principle use and a parking lot as a principal use. Existing surface parking that does not comply with the standards of Sec. 14-299(f) may continue, provided that any modifications to the site layout, development constituting a site plan, or building renovations exceeding a value of thirty (30) percent of the assessed value of the building on file at the City of Portland Assessor's Office, shall require the parking to be upgraded to meet the standards of Sec. 14-299(f) to the extent practicable;
  
25. Surface parking created after March 9, 2005, provided that the spaces (and newly created maneuvering aisles) are thirty-five (35) feet or greater from a street and further that the standards below (a to c) are also met. This section shall apply to surface parking accessory to a principal use or a parking lot as principle use. The thirty-five (35) foot setback need not apply in the case of a property in which eighty percent (80%) of the property frontage has a building within ten (10) feet of the property frontage and or a driveway located perpendicular to the site. The parking area shall meet the standards of Sec. 14-299 (f):
  - a. No surface parking shall be encumbered by lease or other use commitment to an off-site use exceeding a twenty-four month term;
  
  - b. For surface parking areas of twenty-thousand (20,000) square feet or greater in area, lease or other use agreements for surface parking shall not preclude the relocation of such parking for more than twenty-four (24) month terms; and
  
  - c. Any such parking shall in its lease stipulate that developer/owner reserves the right to

relocate said parking or convert surface parking to structured parking as long as the replacement parking is located a reasonable distance from the associated use;

26. Notwithstanding Sections 14-295(a) (24) and (25) above, surface parking that does not meet the 35-foot parking setback, provided that:
  - a. All or a portion of the 35-foot setback area had a gravel surface on September 29, 2015;
  - b. The total gravel surface area on the lot and any contiguous lots did not exceed 15,000 square feet on September 29, 2015;
  - c. The parking spaces provide parking to a principle building on the same lot and or a principle building on a contiguous lot;
  - d. One of the buildings described in paragraph c above meets the minimum height requirements of the Bayside Height Overlay Map and/or a building on the site has a floor area of 25,000 square feet or greater;
  - e. The total number of spaces within 35-foot setback in combination with other spaces on the lot does not exceed the minimum parking spaces required in Sec. 14-526(a) (4) (a) (1);
  - f. The proposed parking spaces meet the landscape and buffer requirements of 14-299(f); and
  - g. Parking spaces within the 35-foot setback shall provide stormwater quality treatment if required by the City of Portland Stormwater Management Standards and the Maine DEP Chapter 500 Stormwater Management Standards. If not required, an alternative low impact development treatment system approved by the Planning Board shall be provided; and
27. Bakeries, coffee roasters and commercial kitchens



## **Downtown Height Overlay Map Amendment**

### **Timeline**

09.24.2015 Submitted to Planning Board

### **Summary**

Changes to the Downtown Height Overlay Map have been submitted to the Planning Board to increase allowed heights in some areas from 45' to 65'. See the attached map for boundaries of the revised overlay area.

### **In this chapter**

- **Downtown Height Overlay Map**, City of Portland, 10.2013
- **Portland City Code**, Ch. 14 Div. 12 Sec. 14-220(i), Maximum Height of Structures

### **See also**

### **Accessory Dwelling Units**

- **Encourage and Ensure Housing Amendments: Text Amendments to the Land Use Code**, Planning Board report, 09.24.2015



building shall be less than thirty-five (35) feet in height within fifty (50) feet of any street frontage, except that this provision shall not apply to:

1. Accessory building components and structures such as truck loading docks covered parking, mechanical equipment enclosures and refrigeration units.
2. Information kiosks and ticketing booths.
3. Public transportation facilities of less than 10,000 square feet, or additions of less than 5000 square feet to existing public transportation facilities provided that the cumulative additions as of June 4, 2007 do not exceed 10,000 square feet.
4. Additions to buildings existing as of June 4, 2007 provided that the cumulative additions since June 4, 2007 do not exceed ten percent (10%) of the building footprint on June 4, 2007, except building additions on those portions of the lot located closer to the street line than the building footprint existing as of June 4, 2007 shall not be included in this 10% limitation.
5. Utility substations, including sewage collection and pumping stations, water pumping stations, transformer stations, telephone electronic equipment enclosures and other similar structures.
6. Additions to and/or relocation of designated historic structures or structures determined by the historic preservation committee to be eligible for such designation.
7. Parking attendant booths or bank remote teller facilities.
8. Structures accessory to parks and plazas.
9. Buildings or building additions of less than 2,500 square feet footprint, on lots or available building sites of less than 3,000 square feet.

(i) *Maximum height of structures:*

1. The overall maximum permitted height of structures shall be as depicted on the [downtown height overlay map](#), a copy of which is on file in the department of planning and urban development.
  2. Maximum height along street frontages and minimum step-back dimensions shall be as depicted on the downtown maximum street wall height and minimum step-back map, a copy of which is on file in the department of planning and urban development.
  3. Where the [downtown height overlay map](#)<sup>[NLE1]</sup> depicts a height plus forty (40) feet, the building form may extend up to forty (40) feet above the designated height limit for the purpose of providing a distinctive graduated design for an architectural building top and to enclose rooftop appurtenances as required by section 14-526(d) 9 of article V (site plan) and the City of Portland Design Manual. No habitable floor area shall be developed within the building envelope permitted by the additional forty (40) feet, unless at least fifty (50) percent of such habitable floor area is devoted exclusively to one (1) or more publicly accessible uses, such as eating or drinking establishments, an observatory, community meeting rooms or halls available to the public or such other uses that make reasonable accommodation for public use at reasonable times, on a nonmembership basis at no cost or at a cost that will not exclude use by the general public, and provided that such floor area is incidental to the primary design intent of the space to achieve the standards of this section. Notice of such public use and how it may be accessed by the general public must be given on the first floor of the building in a manner reasonably located to inform the general public of the availability of the public use.
- (j) *Maximum building area and floor area for buildings which exceed one hundred twenty-five (125) feet in height:*
1. For portions of structures which exceed one hundred twenty-five (125) feet in height, the maximum horizontal building coverage at one hundred twenty-five (125) feet or higher shall not exceed



## **Housing Preservation and Replacement**

### **Timeline**

11.20.2015 Submitted to Planning Board  
11.2015 Public hearings

### **Summary**

The Housing Preservation and Replacement Ordinance was originally adopted in 2002 and last amended in 2015. The ordinance requires that anyone demolishing or otherwise removing housing units, with limited exceptions, replace the units or make a payment in the City's Housing Trust. That payment is adjusted based on the cost of living, and is currently approximately \$64,200 per unit.

In 2015 the City approved three changes to Division 29 regulating the Housing Replacement ordinance:

- Requiring that any replacement units provided off-site be located within the same U.S. Census Block Group as, or within 1,500 feet of, the units removed;
- Adding a three year timeframe to situations where a performance guaranty or letter of credit is held in lieu of replacement units or a payment to the Housing Trust; and,
- Clarifying that "loss of dwelling unit" includes units remaining vacant for extended periods of time.

The City also took this opportunity to remove what appeared to be redundant references to "dwellings and/or dwelling units" and replaced them with the term "dwelling unit" as that is the defined term in Division 29.

### **In this chapter**

- **Amendment to Division 29: Housing Preservation and Replacement Ordinance**, Planning Board report, 11.20.2015
- **Portland City Code**, Ch. 14 Div. 29, Housing Preservation and Replacement



# PLANNING BOARD REPORT PORTLAND, MAINE

Amendment to Division 29  
Housing Preservation and Replacement Ordinance  
City of Portland, Applicant

Submitted to: Portland Planning Board Public Hearing Date: November 10, 2015 continued to November 24, 2015	Prepared by: Jeff Levine, Director Report Prepared: November 20, 2015
---	--

## I. INTRODUCTION

A public hearing has been scheduled to consider a proposal initiated by City staff and approved by the Housing and Community Development Committee at their meeting on October 14 to amend Division 29 of the Land Use Ordinance relating to housing preservation and replacement.

In addition to legal ads appearing in the November 2, 2015 and November 3, 2015 editions of the Portland Press Herald, notices were sent to the Interested Parties List.

## II. STAFF PROPOSAL

Based on feedback from the Planning Board at the previous hearing on November 10, staff is now proposing that three changes be made to Division 29:

- Requiring that any replacement units provided off-site be located within the same U.S. Census Block Group as the units removed. Alternatively, staff is offering that these replacement units could be within a set distance of the dwelling units removed, though that was not the Housing & Community Development Committee's final recommendation;
- Adding a three year timeframe to situations where a performance guaranty or letter of credit is held in lieu of replacement units or a payment to the Housing Trust; and
- Clarifying that "loss of dwelling unit" includes units remaining vacant for extended periods of time.

The first two of these changes were recommended unanimously by the Housing and Community Development Committee of the City Council at their meeting on October 14. The third item was added at the suggestion of the Planning Board. We have removed another suggestion to add a definition of "application" as it is not considered necessary.

Finally, we have taken this opportunity to remove what appear to be redundant references to "dwellings and/or dwelling units" and replaced them with the term "dwelling unit" as that is the defined term in Division 29.

### **III. BACKGROUND**

The Housing Preservation and Replacement Ordinance was originally adopted in 2002 and last amended in 2011. The ordinance requires that anyone demolishing or otherwise removing housing units, with limited exceptions, replace the units or make a payment in the City's Housing Trust. That payment is adjusted based on the cost of living, and is currently approximately \$64,200 per unit.

The Housing Trust contributions have been a valuable way to produce replacement housing. The Trust is far more flexible than federal sources of funds and provides a tool for the City to support creation of workforce and affordable housing at no direct cost to the City's general fund. Most recently, the Housing Trust was used to help fund the 65 Munjoy Street project, an eight unit affordable home ownership project.

However, as the housing market has strengthened, there have been fewer units being removed. In addition, since there are housing developments occurring in the City, those wishing to remove units have been seeking to partner with developers of other housing projects to replace the lost units. In theory, that means the ordinance is functioning as planned. However, there is a need to clarify the rules under which units are actual replacements, and not simply housing that may have been developed elsewhere in the city regardless.

There is also a need to bring closure to situations where the City holds performance guaranties in lieu of replacement units or payments to the Housing Trust.

Finally, there is a concern that units that are left vacant voluntarily are reducing our housing stock. These amendments would state that a unit is considered removed when it has been vacant for three years or more unless it has been posted against occupancy due to circumstances beyond the owner's control.

### **IV. Land Use Policy and Comprehensive Plan Considerations**

These changes are consistent with the Comprehensive Plan goal that "[t]he existing housing stock will be enhanced and preserved." They are also consistent with the three purposes of Division 29:

1. To promote and facilitate an adequate supply of housing, particularly affordable housing for all economic groups;
2. To limit the net loss of housing units in the city;
3. To preserve housing in zones where housing is permitted for in the city for all residents in order to promote the health, safety and welfare of its citizens.

These changes will better limit the net loss of housing units in residential zones in the city by ensuring that replacement units are truly related to the units being removed, both geographically and in terms of timing.

### **V. DRAFT OF PROPOSED AMENDMENT**

A draft of the proposed text amendment follows.

## **VI. SUMMARY**

The amendments are summarized in III. Background above.

## **VII. MOTIONS FOR THE BOARD TO CONSIDER**

On the basis of the application, plans, reports and other information submitted by the applicant, findings and recommendations contained in the Planning Board Report for the public hearing on November 10, 2015 and on the basis of the testimony presented at the public hearing, the Planning Board finds that the proposed zoning text amendments **[is or is not]** consistent with Portland's Comprehensive Plan and **[recommends or does not recommend]** adoption of the amendments to the City Council.

-----  
**\*Editor's Note**—Pursuant to Council Order 280-09/10 passed on 7/19/10 Division 29 (Preservation and Replacement of Housing Units) was repealed in its entirety and replaced with a new Division 29 (Housing Preservation and Replacement).  
-----

DIVISION 29. HOUSING PRESERVATION AND REPLACEMENT

**Sec. 14-483. Housing preservation and replacement.**

(a) *Purpose.* The purpose of these regulations is:

1. To promote and facilitate an adequate supply of housing, particularly affordable housing for all economic groups;
2. To limit the net loss of housing units in the city;
3. To preserve housing in zones where housing is permitted for in the city for all residents in order to promote the health, safety and welfare of its citizens.

(b) *Definitions.*

*Dwelling unit.* A dwelling unit is one (1) or more rooms with private bath and kitchen facilities comprising an independent self-contained dwelling unit. For purposes of this section only it also includes single family, two-family and multi-family dwellings and any dwelling units in those dwellings, or dwelling units, or rooms that people rent or sleep in within lodging houses, dormitories, shelters and sheltered care group homes.

*Loss of dwelling unit* for purposes of this section means the elimination or conversion to nonresidential use of a dwelling unit and dwelling units that remain vacant for three years or more or are lost due to demolition unless the vacancy or demolition results from accidents outside of the owner's control, fire, natural disasters, or acts of war.

*Original site* means the location where the demolition or conversion to non-residential use of dwelling units will take place.

(c) *Applicability.* Except as otherwise provided in this section, this section shall apply to the loss of three or more dwelling units in a five year period, provided that such dwelling units were a legally registered residential use as of July 1, 2002.

Except as otherwise provided in this section, this section shall also apply to proposals that (a) result in the loss of fewer than three (3) dwelling units which were legally registered residential use as of July 1, 2002, and (b) creates surface parking.

Determination of number of the dwelling units within a structure or structures and the number of units lost will be based on records in the Department of Planning and Urban Development indicating the legal, registered use of the property since July 1, 2002 through the time of application. The actual use of the property for purposes of applicability of this section may be rebutted by the owner by proof of documentary evidence including but not limited to photographs, letters, and sworn affidavits. The Planning Authority may conduct its own investigation of the actual use and shall determine the applicability of this section based on the totality of the evidence.

(d) *Exemptions.*

This section does not apply to:

1. Consolidation, elimination or reconfiguration of one (1) or more dwelling units within an existing structure, as long as all the resulting units remain as dwelling units after such consolidation, elimination or reconfiguration, except as provided by subsection 5 below. Conversion of a dwelling unit to a hotel or motel room shall not qualify for the exemption provided by the paragraph.

The amendments to paragraph (d)(1) approved by the City Council on June 6, 2011 shall have an effective date of April 25, 2011 but not apply to any final determination regarding the applicability of this section made by the Planning Authority prior to April 25, 2011.

2. Proposals that result in a number of units equal to or greater than the number of units lost as determined by the Planning Authority; or

3. Grandfathered dwelling units existing in zones which no longer permit residential uses.
4. Property which has been ordered demolished by the City, pursuant to 17 M.R.S.A. §2851, et seq., as amended, except where it is determined by the Building Authority that the deterioration was caused by neglect or lack of maintenance.
5. Subparagraph 1, above notwithstanding, the conversion to a non-residential use of any dwelling units located on the ground floor of a building within a business zone.

(e) *Site plan administrative authorization or approval required.* Notwithstanding any other provision of this section, a person who proposes to demolish or to convert to a nonresidential use three or more dwelling units in the City, in a zone where such use is otherwise permitted, must first obtain administrative authorization or site plan approval from the City's Planning Authority or Planning Board pursuant to Sec. 14-521, et. seq.

In addition the requirements of 14-521, et. seq., where this section is applicable, the applicant must also submit a statement certifying the number of dwelling units to be demolished or converted to nonresidential use, as well as a description of the characteristics of each of those units.

(f) *Tenant Notification Requirements.* Prior to elimination as a result of demolition or conversion to non-residential use, the owner shall:

1. Provide the Planning Authority a list containing the name of each tenant currently residing in the dwelling units to be demolished or converted to non-residential use, as well as verification of compliance with tenant notice requirements of this section.
2. Deliver to each tenant who occupies such a dwelling unit a written notice to vacate the unit. The notice shall either be sent by certified mail, return receipt requested, or served in-hand. The notice will grant the tenant not less than ninety (90) days from the date of receipt of the notice to vacate the unit; and
3. File proof of service of the notice with the Planning Authority.

(g) *Housing Replacement Requirements.* In addition to the requirements of 14-521, et. seq, the Planning Authority shall require, as a condition of approval, that an owner shall replace any dwelling units that are demolished or converted to non residential use.

This section may be satisfied in any one of the following ways:

1. Construction of Units. The construction of housing units within a new structure or a new addition either on site or off-site;
2. Residential Conversion. The conversion of a nonresidential building to residential use; or

The applicant may use either of the two methods or a combination of the two to fulfill their replacement requirement.

(h) *Replacement Unit Requirement.* In addition to the foregoing, all replacement units built pursuant to sub-section (g)(1) or (2) above shall:

1. Be located within the same United States Census Block Group as the parcel from which the dwelling units are being removed or within 1,500 feet of the dwelling units being removed;
2. Not previously have been on the market as of the date of application;
3. Be situated within a development which has not been a candidate for site plan approval as of the date of the application; and
4. Be comparable in size to the units replaced; for the purpose of this section, "comparable in size" means that the aggregate size of the replacement units will be no less than 80% of the size of the aggregate of the original units.

(i) *Contribution to the Housing Trust Fund.*

1. The applicant may meet the requirements of this section by depositing \$50,000 for each dwelling unit into the City's Housing Trust Fund in section 14-489.

2. Beginning on January 1, 2004 and annually thereafter, the amount of the contribution shall be adjusted by multiplying this amount originally deposited for each unit by a fraction, the denominator of which shall be the "Consumer Price Index for Urban Wage Earners and Clerical Workers ("CPI-W")," U.S. City Average, "All Items Index," as published by the United States Bureau of Labor Statistics ("the Index") for January 1, 2003 Year, and the numerator of which shall be the Index for the same month in each subsequent year. In the event that the Index is not then in existence, the parties shall use such equivalent price index as is published by any successor governmental agency then in existence; or, if none, then by such nongovernmental agency as may then be publishing an equivalent price index, in lieu of and adjusted to the Index. If the Index shall cease to use 1982-84 equals 100 as the basis of calculation, or if a substantial change is made in the terms or number of items contained in the Index, the Base Index shall be adjusted to conform to such change, using such computation thereof, if available, as shall be employed by the United States Department of Labor in computing same. Notwithstanding anything herein to the contrary, contributions made after January 1, 2004 shall not be less than the amount originally required to be deposited pursuant to sub-section (i) (1) for each rooming or dwelling unit.

(j) *Performance Guaranty/Letter of Credit.* Owners or affiliates must post a performance guaranty in the form of a letter of credit, or other security acceptable to the city attorney, in the amount equivalent to the amount the applicant would have been required to contribute to the City's Housing Trust Fund if the applicant had chosen that option pursuant to sub-section g. Such a performance guaranty shall be valid for no more than three years, after which the full amount due shall be provided to the City's Housing Trust Fund if replacement units satisfying the conditions of this Division 29 do not have Certificates of Occupancy.

(k) *Partial waiver of replacement requirements.* Any owner who has applied for site plan review for elimination or conversion to non-residential use of dwelling units may apply to the Zoning Board of Appeals for a partial waiver from the housing replacement requirements of this section. Such waiver may be a downward adjustment of up to fifty percent (50%) of the owner's housing replacement obligation if the owner establishes to the board's

satisfaction that:

1. The proposed development is consistent with the comprehensive plan;
2. The proposed development provides significant value and benefit to the immediate and surrounding neighborhood, including, but not limited to, community enhancement, social benefits or job creation;
3. The applicant demonstrates with objective evidence that the imposition of the requirements of this section would impose such an economic burden upon the project relative to its scope that it renders the project impossible to develop; and
4. The requested relief does not constitute a grant of a special privilege inconsistent with the limitations upon similar properties.

The Zoning Board of Appeals must make positive findings on each of the four (4) criteria above in order for any such adjustment to be valid. An applicant aggrieved of a decision of the Zoning Board of Appeals may appeal a decision under this subsection pursuant to Sec. 14-553 of the City Code.

(l) *Effect of Other City Ordinances.*

1. *Historic Preservation.* Nothing in this division shall permit the demolition or conversion to non-residential use, of dwelling units in residential property protected by the Historic Preservation Ordinance (Sections 14-601, et seq.), except as permitted by that ordinance.
2. *Conditional Zone.* A conditional zone may not be used to circumvent the application of this section. The terms of this section shall apply to any conditional zone which involves dwelling units affected by this section. Notwithstanding the foregoing, nothing herein shall be deemed to prevent the City and the applicant from agreeing to terms which exceed those imposed by this section by means of a conditional zone.

(m) *Appeals.* Any applicant aggrieved by a decision of the Planning Authority under this section may appeal to the Zoning Board of Appeals within 30 days of that decision.

(Ord. No. 27-02/03, 10-7-02; Ord. No. 280-09/10, 7-19-10; Ord. No. 241-10/11, 6-6-11; Order 133-15/16, 1-4-2016)



## **Inclusionary Zoning, Density Bonuses, and Reduced Fees**

### **Timeline**

09.24.2015 Submitted to Planning Board  
09.15.2015 Public hearing

### **Summary**

Changes proposed to Division 30 are designed to ensure that a reasonable percentage of the housing developed in Portland is affordable to those making the area median income.

Changes included:

- Clarify terminology related to affordable housing;
- Expand density bonuses for developments providing affordable housing; and
- A new inclusionary development ordinance that requires new developments of 10 units or more to restrict at least 10% of the units as affordable to those making less than 100-120% of the area median income (in 2015, about \$77,500-96,875 for a family of four) or contribute a fee-in-lieu of \$100,000 per unit to the Housing Trust. These developments would also be eligible for a 25% density bonus, and consideration for an Affordable Housing Tax Increment Finance District.

Details related to specific requirements of this new inclusionary zoning ordinance can be found in the attached Implementation Regulations.

### **In this chapter**

- **Inclusionary Zoning Implementation Regulations**, adopted by Planning Board, 01.12.2016
  - Background and Definition
  - Guidelines for Developers of Homeownership Housing
  - Guidelines for Developers of Rental Housing
  - Regulations for Owners & Tenants of Workforce Rental Units
  - Regulations for Owners of Workforce Homeownership Units
- **Portland City Code**, Ch. 14 Div. 30, Affordable Housing



## **Inclusionary Zoning Implementation Regulations Background & Definitions**

### **In accordance with Section 14-487 - Ensuring Workforce Housing**

#### **Background**

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

This policy shall apply to development projects that create ten (10) or more new dwelling units for rent or for sale through new construction, substantial rehabilitation of existing structures, adaptive reuse or conversion of a non-residential use to residential use, or any combination of these elements. This policy shall not apply to projects that have submitted complete Master Development Plan, Level III Site Plan, or comparable applications to move forward prior to November 18, 2015. Notwithstanding any language to the contrary in Chapter 14, all developments of ten (10) units or more are conditional uses subject to Planning Board review on the condition that they comply with the requirements of Section, 14-487 of Portland's zoning ordinance.

#### **Definitions**

Unless otherwise expressly provided herein, the following terms shall have the respective meanings set forth below for all purposes of the associated inclusionary zoning guidelines:

**Affordable**: 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 insurance, HOA fees, and taxes), 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.

**Affordable Housing Agreement**: Means an agreement detailing the affordable housing conditions associated with the approval of a project in accordance with Division 30 of the City's Code. The Affordable Housing Agreement (AHA) will be recorded at the Registry of Deeds or in the Land Court in the chain of title for the project. If an off-site property is used to satisfy any of the Owner's requirements in the AHA, the Owner must make a marginal reference in the chain of title of the title for that property that triggered the requirement to create these income restricted units.

**Applicant**: A Household that is applying, recertifying, or offering to purchase a Workforce Unit.



City: The City of Portland or its agent.

Development Fees:

- (a) The following fees, as described in this chapter: site plan review and inspection fees; subdivision review and inspection fees; and administrative fees;
- (b) Construction and permit fees as described in chapter 6. "Development fees" does not include any fees charged for reviews conducted by a party other than the city; and
- (c) Development Fees does not include the "fee-in lieu" option for providing cash in place of on-site workforce units.

Developer: Means the owner of the project.

Dwelling Unit: Has the same meaning as defined in Section 14-47 of the Code.

Eligible Household: Means a household (1) which qualifies, at the time of the mortgage or rental application, with regard to household income as per the U.S. Department of Housing and Urban Development's (HUD) Metropolitan Statistical Area (MSA) for Portland, or for a subsequent metric as approved by the City of Portland; and (2) the members of which do not, at the time of the mortgage or rental application, own residential real estate. Eligible Households may consist of a single individual of at least 18 years of age or a family. However, households headed by students or other individuals whose principal sources of financial support are from family members and/or are listed as dependents by others are not eligible; (4) Heads of household must be U.S. citizens or permanent resident aliens.

Gifted – Cash and/or other assets made available by another party for your use, with no obligation – expressed or implied – either in form of cash or future services, to repay this sum at any time.

Project: means a real estate development project:

- (a) That is permissible under the provisions of this chapter in the zone in which it is proposed;
- (b) That creates new dwelling units, among which is at least one affordable housing unit for rent or sale, through new construction, substantial rehabilitation of existing structures, adaptive reuse or conversion of a non-residential use to residential use, or any combination of these elements. Affordable housing units for sale or rent may not differ in exterior design from other units within an eligible project.

Household: Meaning one or more persons who will live regularly in the unit as their principal residence. If a household is comprised of more than one person, they shall be related by blood, marriage, domestic partnership, or by operation of law. This may include qualified unrelated



applicants who apply together for a lease or mortgage. Legal custody is required for households including one or more minor children.

Market Rent: Rent which already is being charged to the general public for similar units in a project.

Owner: Means all legal and equitable owners (including, but not limited to, any person, persons, firm, partnership, association, joint venture, corporation, or any public or private entity or entities or the owner's agent) of a building or project during the term of the permit and any heir, successor, or assign of any person holding an ownership interest in the project or building.

Recertification: The updating of documentation related to household income and size to determine continued household eligibility for a Workforce Rental Unit.

Workforce Rental Unit: Means a dwelling unit which is affordable to a household earning up to 100% of HUD AMI. Annual rent increases for that unit are limited by deed restriction, lease agreement, or other legally binding agreement to the percentage increase in the HUD Greater Portland Metropolitan Statistical Area median income figures for a household of that size.

Workforce Homeownership Unit: Means a dwelling unit for which the purchase price is affordable to a household earning up to 120% of HUD AMI. The resale price is limited by deed restriction or other legally binding agreement for all future sales of the unit, or a lesser term as permitted in regulations, to the percentage increase in the HUD Greater Portland Metropolitan Statistical Area median income figures for a household of that size.

Workforce Unit: A designated unit that is affordable to Eligible Households earning up to 100% - 120% AMI depending on the units use as a rental property or home ownership.



## **Inclusionary Zoning Implementation Guidelines for Developers of Homeownership Housing**

### **Applicability/Conditional Use Requirement**

Division 30, Section 14-487 of the City's Zoning Ordinance requires that development projects creating ten (10) or more new dwelling units for rent or for sale through new construction, substantial rehabilitation of existing structures, adaptive reuse or conversion of a non-residential use to residential use, or any combination of these elements set aside a portion of the project as Workforce Housing. This provision does not apply to projects that have submitted complete Master Development Plan, Level III Site Plan, or comparable applications to move forward prior to November 18, 2015.

All developments of ten (10) units or more are conditional uses subject to Planning Board review on the condition that they comply with the requirements set forth in Division 30, Section 14-487.

### **Workforce Housing Minimum**

At least ten percent (10%) of the units in the project shall meet the definition of Workforce Housing Unit for sale or for rent. The number of units required is rounded down to a whole number if the Workforce Units are provided on- or off-site. If a Developer prefers to pay a fee-in lieu of each Workforce Unit, as outlined in greater detail below, than the Workforce obligation will be calculated on a fractional value to one tenth. For example, a project creating 26 units of housing would be required to provide two (2) units of on-site as Workforce Units. If the Developer instead prefers to pay the fee-in lieu of providing Workforce Units the Developer would be required to pay 2.6 times the current rate as established by the City.

### **Household Income Limits**

In accordance with Division 30 of the City's Zoning Ordinance, the sale of Workforce Units will be restricted to households at or below 120% of the area median income (AMI). The City will reference Area Median Income figures published annually by HUD for the Portland Metropolitan Statistical Area (MSA) or other income limits as deemed reasonable by the City. The City will make available on its website a list of income limits by household size. If at a time in the future HUD no longer provides these annual figures, the City will identify another similar method of determining income guidelines for affordability.

### **Eligible Households for Workforce Homeownership Units**

At the time of sale, a buyer must be a member(s) of an Eligible Household as defined within the Background and Definition section of the City's Inclusionary Zoning Guidelines. The Household must occupy the Workforce Homeownership Unit (Workforce Unit) as its principal residence. To purchase



a Workforce Unit an Eligible Household must be permanent residents of the United States. The Intent is to limit the risk of a loss of the Unit's affordability restrictions due to foreclosure of a household no longer able to reside in the United States. Household size/composition upon the unit's sale should be appropriate to the size of the unit as outlined in the chart below. For the qualification of households by unit size, the head of the household and spouse/partner are assumed to share a bedroom. Two children whose ages are not excessively disparate, may share a bedroom. Legal custody is required for households including one or more minor children. There will be no fewer than one, nor more than two persons per bedroom.

The City will consider households eligible based on their adjusted gross income. The City will use a process similar to what HUD recommends for the HOME program to determine adjusted gross income or another method as deemed reasonable by the City. The Owner or their representative will collect and compile all of the relevant paperwork needed to assess a household's eligibility. Verification will require sufficient proof of household size and income in the form of mortgage pre-approval letters, official tax statements, W-2 forms, pay stubs, credit reports, bank statements, birth certificates, and any other reasonable documents requested by the City to aid in their efforts to verify whether or not a household is eligible. The City shall have the final approval of whether or not a household meets the income or size requirements of each Workforce Unit prior to closing. The City reserves the right to request proof of income for the last three years from an applicant. The City may request additional information if needed.

The chart below indicates the minimum household size for each unit type based on bedroom count.

	<b>Studio/One-Bed</b>	<b>Two-Bed</b>	<b>Three-Bed</b>	<b>Four-Bed</b>
<b>Minimum Household Size By Bedroom</b>	1	2	3	4

Workforce Units will also be subject to maximum household sizes based on bedroom counts. The following chart outlines the maximum persons allowable per bedroom assuming the occupants meet all other requirements related to qualifications for determining a household such as age of children sharing bedrooms.

	<b>Studio/One-Bed</b>	<b>Two-Bed</b>	<b>Three-Bed</b>	<b>Four-Bed</b>
<b>Maximum Household Size By Bedroom</b>	2	4	6	8

Eligible Households may not qualify if any member of the household owns other residential real estate at the time of application or sale.



The City reserves the right to perform an asset test to help determine a household's income. This may include making certain assumptions about the average returns that would be reasonable to expect from certain investments including stocks, bonds, annuities, mutual funds, dividends, trusts, money market accounts, certificates of deposit (CD's) or other financial instruments. The City may request documentation for the three most recent years to help determine a household's income.

Closing costs and a down payment of up to 20% of the sale price may be gifted to an Eligible Household as outlined in the Workforce Housing Background and Definitions Regulations.

**Maximum Allowable Sale Price**

The calculation of the maximum allowable sales price will be determined by the City. The price will in part be based on the minimum number of bedrooms in each Workforce Unit for sale as outlined in the chart below:

	Studio/One-Bed	Two-Bed	Three-Bed	Four-Bed
<b>Max Sale Price Basis -Household Size</b>	1	2	3	4

For example, the maximum allowable sale price of a two bedroom Workforce Unit will be based on what is affordable to a two (2) person household. A larger household of four (4) persons meeting the income qualifications for their household size would still be able to purchase this unit but the maximum allowable sale price will be calculated based on a two (2) person household. It is important to be clear that this is to calculate the maximum allowable sale price of a Workforce Unit and that units may be sold at lower prices depending on the market, location, and condition of a unit.

The maximum allowable sale price at the initial sale of a Workforce Unit and for any subsequent sales will be based on the following calculation:

- 1) Begin by calculating 30% of the gross monthly income for a household earning 120% AMI as appropriate for the minimum household size for each Workforce Unit by bedroom type.
  - o  $(\text{Household's } 120\% \text{ AMI} \times 0.30) / 12 = \text{monthly income available for housing expenses.}$
- 2) Housing expenses available for studios will be calculated at 85% of the income available for a one person household using the following formula:
  - o  $((\text{Household's } 120\% \text{ AMI} \times 0.30) \times 0.85) / 12 = \text{monthly income available for housing expenses of a studio unit.}$
- 3) That portion of monthly income may be attributed to mortgage payments less other housing related expenses such as real estate taxes, mortgage insurance, condominium/HOA fees, and insurance.
  - o Mortgage insurance will be estimated similar to current rates utilized by the Federal



Housing Administration (FHA) or another reasonable method as determined by the City. Currently, for 30 year mortgages of less than \$625,000 with Loan to Value (LTV) ratios equal or less than 95%, the FHA utilizes a rate of 80 basis points on the mortgaged amount. The actual rate used in the calculation will be determined at the time the unit is marketed.

- 4) The sale price will then be based off a 30 year fixed rate mortgage with a 5% down payment.
  - o It will be allowable for qualified buyers to offer a larger down payment but a down payment larger than 5% will not increase the maximum allowable sale price of a Workforce Unit.
- 5) Interest rates for the calculation will be the average national mortgage rate over the past thirteen years as determined by the Freddie Mac Primary Mortgage Market Survey or another source as determined reasonable by the City. The interest rate for the calculation will be determined at the time the unit is marketed.

Purchase price limits establish maximum allowable sale prices. An Eligible Household's financial situation will determine the mortgage amount that can be borrowed. This amount may be more or less than the maximum allowable sales price of a particular Workforce Unit. However, at no time shall a Workforce Unit be sold for greater than the maximum allowable sale price as determined by the City.

### **Condominium/HOA Fees**

If the Developer is setting up a new condominium trust or homeownership association (HOA), then the Developer shall present to the City a draft condominium/HOA budget and related governing documents. The City may request quotes and/or justification for costs, including replacement reserves, insurance, water and sewer, utilities, management fees, and other services. The City will have final approval of the initial condominium/HOA fee to ensure that a reasonable front-end calculation of cost in setting initial fees for a Project.

The condominium/HOA fee will be shared proportionately between units based on the City's tax assessment for the value of the units. If assessed values are not available at the time of initial sale of the units than initial sale prices will be used to determine the appropriate share of costs. Workforce Units' tax assessments by the City will take into consideration the Unit's restrictions and assess the Unit's value accordingly. Voting rights within the association will be no more or less than one vote per unit and will not be based on the value of paid fees or other metric as allowable by state law. Condominium/HOA fees for Workforce Units may not increase more than 10% in a single year or 25% in any three year period without a supermajority vote gaining 100% support of the association.

The City shall have a right of first refusal if a Workforce 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 to the Unit's affordability restrictions. The City shall also have the option of using City funds to support



Workforce Units facing large special assessments that may pose a risk to the Workforce Household's ability to maintain their unit's affordability.

### **Right of First Refusal**

The City of Portland shall have the right of first refusal to purchase any Workforce 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 Workforce Unit's Owner. The intent is to ensure affordability of the unit for Eligible Households.

### **Phasing**

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

### **Integration of Units**

Workforce Units are encouraged to be integrated with the rest of the development, should use a common entrance, and should provide no indications from common areas that these units are Workforce Housing Units.

### **Size and Bedroom Count**

Workforce Units need not be the same size as other units in the development but the number of bedrooms in such units, either on- or off-site, shall be ten percent (10%) of the total number of bedrooms in the development. For the purposes of this section, every 400 square feet in a market rate unit will count as a bedroom if the actual number of bedrooms in the unit is lower.

### **Interior Standards**

The design, quality, and materials of Workforce Units interiors need not be the same as market rate units. However, the Workforce Units may not be strategically designed to avoid offering basic amenities similar to what are included in the market rate units such as the following:

#### Kitchen

- Refrigerator
- Stove or separate cook top and oven
- Sink Disposal
- Cabinets
- Range Hood
- Microwave (if provided in market rate units)



Washer Dryer (if provided in market rate units)

Countertop: Minimum Counter Space not including sink and stove

Studio – 4 linear feet

1BR – 6 linear feet

2BR – 8 linear feet

3BR – 10 linear feet

#### Bathroom

Sink

Shower

Toilet

Shower Curtain Rod or Shower Door

Medicine Cabinet with Mirror or other storage space with a separate mirror

#### Flooring

All living space and storage areas shall have a finished floor. The Workforce Units should have the same or comparable floor finishes to the market rate units. However, in order to promote respiratory health, living and dining areas and at least one bedroom should have a surface other than carpet.

#### Closets

All units shall have adequate storage (including common space storage if provided to the market rate units)

All bedrooms shall have at least one closet including at least one closet for a studio

All closets shall have a shelf and pole

### **Public Funding Sources**

Projects that propose greater levels of affordability than what is required in Division 30 in terms of income levels, term of affordability, or number of units may be eligible for some financial resources through the City at the City's discretion.

### **Tax Increment Financing Eligibility**

If at least thirty-three percent (33%) of the units in a development are Workforce Units, the development is eligible to request subsidy funding through an Affordable Housing Tax Increment Financing (TIF) deal, subject to City Council approval.

### **Affordable Housing Agreement**

The buyer of each Workforce 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, this recorded covenant will limit increases in sales price according to the calculation defined by the City and the Eligible Household requirements as they relate to increases in median income. It will limit the incomes of subsequent buyers to the same income limits



initially applied. It will 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).

At the time of sale, the Workforce Unit must be the Eligible Household's primary residence. The Unit may not be rented out for short or long term periods to other households.

**Minimum Term of Affordability**

The term of affordability for the required 10% Workforce Units provided shall be defined as follows:

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

For Workforce Homeownership Units the reduced terms of affordability will apply to the minimum 10% of units required. The additional Workforce Units proposed above 10% shall be affordable at the initial sale with no restrictions placed on subsequent sales of the unit. For example, if a homeownership project proposed to develop 40 units of housing of which 10 units, or 25%, would be reserved as Workforce Units, than four (4) units would have a 30 year term of affordability while the remaining six (6) Workforce Units would be restricted only for the initial sale. Sales must be made through an arms length arrangement as discussed in greater detail under the Non-Eligibility/Disqualification section below.

**Reduction of Fees & Priority Review**

Notwithstanding any other provision of Chapter 14 or Chapter 6 of the City's Zoning Ordinance to the contrary, development fees shall be reduced by the City for an eligible project in the manner described in the chart below:

Percentage of new units that are low-income or Workforce Units	Percentage discount of development fees
5% up to but not including 10%	5% reduction
10% up to but not including 15%	10% reduction
15% up to but not including 20%	15% reduction
20% up to but not including 25%	20% reduction
25% or more	25% reduction

**Household Preference**

Preference for Workforce Units shall be given, to the extent permitted under law to Eligible Households, in the following order:



- 1) First time homebuyer
- 2) Current residents of the City who have lived in Portland as their primary residence for the past two years
- 3) Previous residents of the City who were displaced within the last 12 months prior to the Workforce Unit becoming available
- 4) Persons employed full time by the City
- 5) All others

The applicant for a Workforce Unit will be responsible for documenting their preference status under any of the above noted categories. Documentation may include voter registration, utility bills, confirmed leases, bank statements, tax returns, insurance statements, and other reasonable documents as requested by the City or Owner to demonstrate preference status. Households wishing to be considered as a preferred applicant must also have a pre-approval letter from a lending institution demonstrating their ability to qualify for any necessary loan.

Household preference does not preclude Owners from selling to non-preference applicants assuming applicants meet the necessary eligibility requirements and there are more Workforce Units available than preference applicants. Other preference categories may be added to specific projects or to the City's standards at a later date as appropriate.

### **Marketing / Selection Process**

Unless otherwise agreed to with the City, the following system will be followed. At least 30 days prior to initial marketing, the Owner shall provide written notice to the City of the expected start of marketing process and occupancy dates of the designated Workforce Units. The Owner will place an advertisement, approved by the City, in one or more newspapers designated by the City. Interested parties will be given sufficient time to request and return a preliminary application. The Owner will inform the City of any interest from Eligible Households that it receives. From the beginning of the marketing process the City will have the opportunity to list the property on its website for a minimum of 30 days to solicit interest from potential Eligible Households. The City will forward any inquiries to the Owner or their designated representative. The Owner should also reach out to local groups and non-profits who may have connections to interested Eligible Households.

The Owner shall acknowledge in writing the household income limits and max sale price restrictions on the unit to any potential buyers interested in the property prior to finalizing a Purchase and Sale Agreement. At a minimum, this shall include providing prospective buyers with the associated household income limits of 120% AMI in any listing and providing written documentation at any open house or showing stating that this unit carries with it income, maximum sale price and other restrictions.

In each instance that an Owner intends to effect a sale, transfer or disposition of the Property to a third party, prior to listing the property for sale or entering into a purchase and sale agreement, or otherwise taking any steps to consummate the sale of the property, an owner shall first give the City



written notice of such intent (the "Notice of Intent") addressed to the City's Housing and Community Development Office. The City shall make the final determination whether or not a potential buyer is qualified, selection preference guidelines have been followed, and the maximum allowable sales price as determined in accordance with the calculation parameters determined by the City.

The Owner shall collect all necessary supporting documents for the City's final approval. The City will, at a minimum, monitor the process and review buyer qualifications, but may work collaboratively with Developers and Owners on marketing, selection, qualification, and orientation. All determinations regarding eligibility and sale price are subject to review and final approval by the City.

### **First Time Homebuyers**

Eligible Households will be considered first time homebuyers if the following criteria are met:

1. None of the parties within the household have had an ownership interest in their home within the last three years;
2. A single parent who has owned a residence while married but no longer holds a financial interest in the home; or

Eligibility for First Time Homebuyer status will be limited to a one time only occurrence per household.

First time homebuyer must provide documentation showing that all relevant applicants within a household have completed a homebuyer education course prior to a Purchase and Sale agreement being signed and before the City may approve the household as being eligible to purchase the Workforce Unit. Exemptions may be made for households who can sufficiently demonstrate expertise in real estate. An example of sufficient expertise would be if a member of the Eligible Household currently works in a residential real estate related field such as a Real Estate Broker. Any exemption made must be approved by the City.

### **Enforcement**

The Owner will be required to record the AHA and conditions contained therein and shall file a copy of the recorded Agreement which copy shows the usual recording date, with the Cumberland County Registry of Deeds. In the case of off-site Workforce Units, the Owner shall record the AHA in the chain of title for both properties. No occupancy permit shall be issued until complete certified copies of the AHA with any attachment thereto with the recording date(s) noted thereon, are filed with the County and suitable evidence provided to the City.

Without limitation on any other rights of the City, in the event there is a violation of any conditions contained within the AHA, the City may take any one or combination of the following steps to ensure compliance and these enforcement provisions shall be expressly authorized by and contained within the AHA:

- Revocation or the Project's approval, Building Permit, or Certificate of Occupancy;



- Modification of the AHA;
- Injunctive relief to enforce the terms of the AHA;
- Any and all legal expenses incurred by the City or aggrieved tenant(s); and
- A cash payment, as provided for in Division 30 related to fee-in lieu payments, pro-rated to the number of required affordable units, made to the City if the Owner is unable to provide Workforce Units for occupancy as described in the AHA.
- Payment of money damages to the City in an amount at least equal to and as much as double the difference in value of the maximum allowable sale price and the actual sale price.

The Owner may request a certificate from the City stating that the Owner is in compliance with the terms and conditions of the AHA, or stating non-compliance and the actions necessary to come into compliance. The City will execute and deliver such certificate within thirty (30) business days or receipt of a written request for such a certificate.

### **Cash Payment In Lieu of Affordable Units**

All projects including ten (10) or more residential units created through new construction, substantial rehabilitation of existing structures, adaptive reuse or conversion of a non-residential use to residential use, or any combination of these elements must comply with Section 14-487 of the Code. The projects will be required to provide 10% of the total number of units as Workforce housing as defined in Section 14-485 of the Code. Developers of such units are encouraged to provide Workforce Units on-site. However, in accordance with subsection 14-487(e)4, developers may choose to make a cash contribution to Portland's Housing Trust Fund.

The payment is the same for rental and homeownership projects. The fee for Workforce Units not provided shall be \$100,000 per unit, adjusted annually in the same manner as the fee under Division 29 for Housing Replacement. For projects that are building more than one building in phases, the fee-in lieu payment shall be paid proportionally to the project's phasing. The fee is calculated up to one tenth of a fractional unit. For example, if a project is proposing 25 units and wants to pay the fee for all units it would be required to pay for 2.5 units or \$250,000 at today's rates.

All money shall be due prior to the issuance of a Certificate of Occupancy or another payment method approved by the City.

### **Off-Site Units**

A Developer may choose to satisfy the Workforce Unit requirements by providing these units off-site through the construction of new units, the restriction of existing market rate units, or the conversion of non-residential uses. In addition to the foregoing, all off-site units shall be consistent with the following provisions:

1. Be located within the same Census Block Group as the parcel from which the Project triggering the creation of Workforce Units is located or within 1,500 feet of the Project;



2. Be comparable or larger in size and bedroom count to the average units being created within the associated Project.
3. Be similar in quality to the units being created within the project and if needed, as determined by the City, shall be rehabbed to be similar in quality to a newly constructed unit.

The Developer shall determine the intent for full or partial off-site placement of Workforce Units prior to a project's approval by the City. The City shall not accept off-site units to be sufficient that are run down or show signs of substantial wear and deterioration. This includes heating systems, appliances, plumbing, roofing, siding, flooring, common areas, windows, landscaping/hardscape, electrical wiring and fixtures, kitchen/bath countertops, fixtures, and cabinets, bath/shower, or other typical elements of a unit or building that are nearing the end of their expected life cycle and may soon need replacement or maintenance. If other amenities such as air conditioning, dishwasher or washer and dryer are provided for the new market rate units than comparable amenities shall be provided for the off-site Workforce Units.

Off-site units shall be delivered safe in accordance with all federal, state and local environmental regulations pertaining to lead paint, asbestos, mold, radon, and any other hazardous conditions common to residential structures. All reasonable tests, including but not limited to lead paint tests and radon tests shall be completed prior to the sale or lease of a unit.

The total required number of Workforce Units off-site will be based on the total number of market rate units created within a project. Similar to the calculation for providing on-site Workforce Units the requirement will round down to the nearest whole number. For example, a project with 26 market rate units choosing to provide all Workforce Units off-site will be required to provide two (2) off-site units.

Developers of condominium projects providing off-site Workforce Units may choose to provide the off-site Workforce Units for rent at 100% AMI with City approval. The City will only grant approval if there is a management plan in place that provides for stable and capable long term management of the Workforce Units by the developer or agreed upon third party. These units will have the same restrictions typical of Workforce Rental Units.

### **Financing**

Workforce Units shall not have a mortgage on a unit that contains the following:

1. A pre-pay penalty or a balloon payment
2. A reverse mortgage
3. An adjustable rate mortgage (ARM)
4. A co-signer
5. An interest only loan
6. The loan to value ratio exceeds 95% of the maximum allowable purchase price



## **Appeals**

A Developer or Owner may appeal to the City Manager if they believe that City misinterpreted Division 30 or any subsequent agreements restricting the Workforce Units. All such appeals shall be made in writing and include a description of the City action which is being appealed and the grounds for the appeal.

## **Non-Eligibility/Disqualification**

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 Workforce Unit or receive any benefit related in any way to the administration or compliance with the AHA conditions contained therein.

Employees of the Planning Authority will not be eligible for a Workforce Unit in the City.

## **Waiver**

The City reserves the right to waive or amend portions of these regulations on a case by case basis where an Owner is able to sufficiently demonstrate that the need for a waiver is due to the unique circumstances of the property (e.g. in order to make Workforce Units similar in design or size to market rate units) or due to unique physical constraints of the property. The applicant shall bear the burden of presenting substantial evidence to support the grant of a waiver from any portion of these regulations.

Waivers shall not be granted that will have the effect of removing or reducing the minimum of 10% of the total units proposed as Workforce Units available, altering the income limits on eligible households, increasing the maximum allowable sale price or rental rate, or decreasing any fee owed outside of what is stipulated in the above regulations.

Waivers shall be determined by the City's Planning Authority. Owners may appeal the Planning Authority's decision regarding waivers to the City Manager. All such appeals shall be made in writing and include a description of the City action which is being appealed and the grounds for the appeal.



## **Inclusionary Zoning Implementation Guidelines for Developers of Rental Housing**

### **Applicability/Conditional Use Requirement**

Division 30, Section 14-487 of the City's Zoning Ordinance requires that development projects creating ten (10) or more new dwelling units for rent or for sale through new construction, substantial rehabilitation of existing structures, adaptive reuse or conversion of a non-residential use to residential use, or any combination of these elements set aside a portion of the project as Workforce Housing. This provision does not apply to projects that have submitted complete Master Development Plan, Level III Site Plan, or comparable applications to move forward prior to November 18, 2015.

All developments of ten (10) units or more are conditional uses subject to Planning Board review on the condition that they comply with the requirements set forth in Division 30, Section 14-487.

### **Workforce Housing Minimum**

At least ten percent (10%) of the units in the project shall meet the definition of Workforce Housing Unit for sale or for rent. The number of units required is rounded down to a whole number if the Workforce Units are provided on- or off-site. If a Developer prefers to pay a fee-in lieu of each Workforce Unit, as outlined in greater detail below, than the Workforce obligation will be calculated on a fractional value to one tenth. For example, a project creating 26 units of housing would be required to provide two (2) units of on-site as Workforce Units. If the Developer instead prefers to pay the fee-in lieu of providing Workforce Units the Developer would be required to pay 2.6 times the current rate as established by the City.

### **Household Income Limits**

In accordance with Division 30 of the City's Zoning Ordinance, the rental of Workforce Units will be restricted to households at or below 100% of the area median income (AMI). The City will reference Area Median Income figures published annually by HUD for the Portland Metropolitan Statistical Area (MSA) or other income limits as deemed reasonable by the City. The City will make available on its website a list of income limits by household size. If at a time in the future HUD no longer provides these annual figures, the City will identify another similar method of determining income guidelines for affordability.

### **Eligibility of Households for Workforce Rental Units**

At the time the lease is finalized, a tenant must be a member(s) of an Eligible Household as defined within the Background & Definition section of the City's Inclusionary Zoning Guidelines. The Household must occupy the Workforce Rental Unit (Workforce Unit) as its primary residence.



Household size/composition upon the unit’s rental should be appropriate to the size of the unit as outlined in the charts below. For the qualification of households by unit size, the head of the household and spouse/partner are assumed to share a bedroom. Two children whose ages are not excessively disparate, may share a bedroom. Legal custody is required for households including one or more minor children. A household that consists of a pregnant woman will be treated as a two people for income and household size determinations. On average there will be no fewer than one, nor more than two persons per bedroom.

The City will consider households eligible based on their adjusted gross income. The City will use a process similar to what HUD recommends for the HOME program to determine adjusted gross income or another method as deemed reasonable by the City. The Owner or their representative will collect and compile all of the relevant paperwork needed to assess a household’s eligibility. Verification will require sufficient proof of household size and income in the form of official tax statements, W-2 forms, pay stubs, credit reports, bank statements, birth certificates, and any other reasonable documents requested by the City or Owner to aid in their efforts to verify whether or not a household is eligible. The City may request additional information as needed. The City shall have the final approval of whether or not a household meets the income or size requirements of each Workforce Unit prior to the signing of the lease.

The chart below indicates the minimum household size for each unit type based on bedroom count.

	<b>Studio/One-Bed</b>	<b>Two-Bed</b>	<b>Three-Bed</b>	<b>Four-Bed</b>
<b>Minimum Household Size By Bedroom</b>	1	2	3	4

Workforce Units will also be subject to maximum household sizes based on bedroom counts. The following chart outlines the maximum persons allowable per bedroom assuming the occupants meet all other requirements related to qualifications for determining a household such as age of children sharing bedrooms.

	<b>Studio/One-Bed</b>	<b>Two-Bed</b>	<b>Three-Bed</b>	<b>Four-Bed</b>
<b>Maximum Household Size By Bedroom</b>	2	4	6	8

Eligible Households may not qualify if at the time of application any member of the household owns residential real estate.

The City reserves the right to perform an asset test to help determine a household’s income. This may include making certain assumptions about the average returns that would be reasonable to expect from certain investments including stocks, bonds, annuities, mutual funds, dividends, trusts,



money market accounts, certificates of deposit (CD's) or other financial instruments. The City may request documentation for the three most recent years to help determine a household's income.

If Owners find it difficult to rent a Workforce Unit to an Eligible Household who meets the established minimum size requirements they may ask for approval in writing from the City to rent the unit in this singular instance to an Eligible Household smaller than the minimum household size described herein. Reasonable marketing efforts to find Eligible Households of a qualified size should be taken for at least 30 days prior to the City granting a household minimum size waiver. The waiver is only for a single applicant and that household's recertification. Rent shall be calculated based on this smaller household size. Once the Workforce Unit is vacant minimum household sizes shall apply to future tenants. The City shall determine if the efforts of the owner to rent the unit to an appropriately sized household have been reasonable. Under no circumstances will households be allowed to exceed the maximum household size.

### **Primary Residence**

At the time of occupancy, the Workforce Unit must be the Eligible Household's primary residence. The Unit may not be rented out for short or long term periods to other households.

A household must notify the City if it is absent from the Workforce Unit for 30 days in any 45-day period. If the Household is absent from the Unit for a period exceeding 60 days in one consecutive 365 day period for reasons other than work obligations, health, or emergency reasons than the Household's eligibility will be terminated and their lease shall not be renewed.

Where absences in excess of the above limitation are caused by work obligations, or health reasons or other emergency, the City may require verification of the reasons for the tenants' absence. Households must comply with such requests for verification work, health, or emergency reasons or their lease will not be renewed. For the purposes of this section, incarceration does not constitute a health or other emergency justifying prolonged absence from the home.

### **Determination of Affordable Monthly Rent**

In accordance with Division 30, rental of Workforce Units will be restricted to households with income at or below 100% of the Area Median Income (AMI). When determining income eligibility, the City will reference income limits and/or in the AMI figures published annually by HUD for the Portland Metropolitan Statistical Area. The City will make available on its website a list of income limits by household size. If at a time in the future HUD no longer provides these annual figures, the City will identify another similar method of determining income guidelines for affordability.

To maintain consistency of Workforce Units within the City, rents will be based on the minimum household size per bedroom rather than the income level of a particular applicant. For example, the minimum household size for a two-bedroom Workforce Unit is two (2) persons. The income of a two (2) person household will be used to calculate the maximum allowable monthly rent but a family of four (4) would still be eligible to live in the unit assuming they meet the income restrictions for a four



(4) person household. To calculate the maximum allowable rent of a Workforce Unit the City will take 30% gross income per month of the minimum household size allowed per bedroom less utilities. By factoring utilities, the formula accounts the maximum amount an Eligible Household could afford to devote to housing related expenses. The formula to calculate maximum allowable Workforce Rents is as follows:

$$0.30 \times (\text{annual income based on minimum household size} / 12) \text{ less utilities} = \text{Workforce Rent}$$

To determine the maximum allowable rent for studio Workforce Units the City will calculate 85% of the allowable housing related expenses for an Eligible Household using the following formula:

$$0.30 \times ((\text{annual income based on minimum household size} / 12) \times 0.85) \text{ less utilities} = \text{Workforce Studio Rent}$$

Owners may choose to include some or all utilities within the total rent. Utilities that effect rent calculations include electricity, heat, hot water, cooking energy, sewer, water, and trash collection. For all utilities listed that are not included by the Owner in the rent the City shall make reasonable assumptions based on a Unit's bedroom count as to the monthly cost of each utility. To determine what is reasonable the City may utilize the figures estimated by HUD and distributed through the Portland Housing Authority annually for similar utility allowances based on a unit's bedroom count. The City shall reserve the right to determine a different metric should these figures from HUD at any point be unavailable or a better metric be determined.

The Owner may request first, last, and security deposit from applicants. These three expenses shall not exceed the value of one month of rent and together shall not exceed three months of rent.

Households may choose to pay for on-site parking but shall not be required to pay separately for this amenity. If the Owner requires a parking spot(s) be leased with the Workforce Unit and charges a separate fee than parking may be counted similarly to the utilities above and shall be subtracted from housing related expenses for calculating the maximum allowable rent.

Owners may not rent to household's utilizing other rental subsidies such as vouchers without the City's approval and never shall the total rent paid be in excess of the allowable Workforce Unit rent for a determined bedroom size.

### **Phasing**

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



### **Integration of Units**

Workforce Units are encouraged to be integrated with the rest of the development, should use a common entrance, and should provide no indications from common areas that these units are Workforce Housing Units.

### **Size and Bedroom Count**

Workforce Units need not be the same size as other units in the development but the number of bedrooms in such units, either on- or off-site, shall be ten percent (10%) of the total number of bedrooms in the development. For the purposes of this section, every 400 square feet in a market rate unit will count as a bedroom if the actual number of bedrooms in the unit is lower.

### **Interior Standards**

The design, quality, and materials of Workforce Units interiors need not be the same as market rate units. However, the Workforce Units may not be strategically designed to avoid offering basic amenities similar to what are included in the market rate units such as the following:

#### Kitchen

- Refrigerator
- Stove or separate cook top and oven
- Sink Disposal
- Cabinets
- Range Hood
- Microwave (if provided in market rate units)
- Washer Dryer (if provided in market rate units)
- Countertop: Minimum Counter Space not including sink and stove
  - Studio – 4 linear feet
  - 1BR – 6 linear feet
  - 2BR – 8 linear feet
  - 3BR – 10 linear feet

#### Bathroom

- Sink
- Shower
- Toilet
- Shower Curtain Rod or Shower Door
- Medicine Cabinet with Mirror or other storage space with a separate mirror

#### Flooring

All living space and storage areas shall have a finished floor. The Workforce Units should have the same or comparable floor finishes to the market rate units. However, in order to promote respiratory health, living and dining areas and at least one bedroom should have a surface other than carpet.



Closets

All units shall have adequate storage (including common space storage if provided to the market rate units)

All bedrooms shall have at least one closet including at least one closet for a studio  
 All closets shall have a shelf and pole

**Public Funding Sources**

Projects that propose greater levels of affordability than what is required in Division 30 in terms of income levels, term of affordability, or number of units may be eligible for some financial resources through the City at the City's discretion.

**Tax Increment Financing Eligibility**

If at least thirty-three percent (33%) of the units in a development are Workforce Units, the development is eligible to request subsidy funding through an Affordable Housing Tax Increment Financing (TIF) deal, subject to City Council approval.

**Affordable Housing Agreement**

The Owner 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 in the project's deed(s). 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, this recorded covenant will limit increases in rent according to the calculation defined by the City and the Eligible Household requirements as they relate to increases in median income. It will limit the incomes of subsequent tenants to the same income limits initially applied.

**Minimum Term of Affordability**

The term of affordability for the required 10% Workforce Units provided shall be defined as follows:

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

For Workforce Rental Units the reduced terms of affordability will apply to all proposed Workforce Units including those in excess of the required minimum 10% of units. For example, if a rental project proposed to develop 40 units of housing of which 10 units, or 25%, would be reserved as Workforce Units, than all 10 Workforce Units would have a 30 year term of affordability.



Dwelling units created or redeveloped by non-profit educational institutions for use as housing exclusively for enrolled students of educational institutions shall not be subject to the set aside requirement of Division 30. If the units are no longer used exclusively by enrolled students the building will be required to meet the workforce housing standards set forth in Division 30.

**Reduction of Fees & Priority Review**

Notwithstanding any other provision of Chapter 14 or Chapter 6 of the City's Zoning Ordinance to the contrary, development fees shall be reduced by the City for an eligible project in the manner described in the chart below:

Percentage of new units that are low-income or Workforce Units	Percentage discount of development fees
5% up to but not including 10%	5% reduction
10% up to but not including 15%	10% reduction
15% up to but not including 20%	15% reduction
20% up to but not including 25%	20% reduction
25% or more	25% reduction

**Household Preference**

Household preference for Workforce Units shall be given, to the extent permitted under law to Eligible Households, in the following order:

- 1) Current residents of the City who have lived in Portland as their primary residence for the past two years
- 2) Previous residents of the City who were displaced within the last 12 months prior to the Workforce Unit becoming available
- 3) Persons employed full time by the City
- 4) All others

The applicant for housing will be responsible for documenting their preferred status under any of the above noted categories. Documentation may include confirmed leases, bank statements, utility bills, voter registration, tax returns, insurance statements, and other reasonable documents as requested by the City or Owner to demonstrate preferred status. The City or Owner may request more than one form of documentation.

Household preference does not preclude Owners from renting to non-preferred applicants assuming applicants meet the necessary eligibility requirements and there are more Workforce Units available than eligible preferred applicants. Other preference categories may be added to specific projects or to the City's standards at a later date as appropriate.



### **Marketing / Selection Process**

In each instance that an Owner intends to rent a Workforce Unit, prior to listing the property for rent or renewing a lease, an owner shall first give the City written notice of such intent (the "Notice of Intent") addressed to the City's Housing and Community Development Office. The City shall make the final determination whether or not a potential household is qualified as well as the maximum allowable rental price as determined in accordance with the calculation parameters determined by the City.

Unless otherwise agreed to with the City, the following system will be followed. The Owner will place an advertisement, approved by the City, in one or more newspapers designated by the City. Interested parties will be given sufficient time to request and return a preliminary application. The City shall have the opportunity to list the property on its website for a minimum of 60 days for initial occupancy and 30 days for subsequent rentals during the marketing process to solicit interest from potential Eligible Households. The City will forward any inquiries to the Owner or their designated representative.

The Owner shall collect all necessary supporting documents for the City's final approval. The City will, at a minimum, monitor the process and review buyer qualifications, but may work collaboratively with Owners on marketing, selection, qualification, and orientation. All determinations regarding eligibility and rental amount are subject to review and final approval by the City.

### **Maintenance of a Waiting List**

The Owner is encouraged to maintain a waiting list of Eligible Households by preferred status who have filed an application or a letter and who meet the qualifications defined herein. Such applications should include the following in order to classify the applicant: the ages, genders, and relationships of household members, gross household income, and information related to preferred status and household eligibility. It is understood that it is the responsibility of the applicant to update information, which will affect their income, household eligibility, or preferred status, and that it is not the responsibility of the Owner to verify actual status until a unit becomes available. Final approval of Eligible Households, Workforce Units, and maximum allowable rent will be decided by the City.

### **Leases**

All leases will be a year in length with the rent consistent throughout the term of the lease. The maximum rent allowable will be determined at initial application and during any recertification process prior to the renewal of a lease. Tenant leases for Workforce Units shall include the method for updating rents set forth in these guidelines and as a condition of continued eligibility, obligate the household to report all information required by these guidelines, including providing copies of applications, recertifications, and supporting documentation used by administrators of rental subsidies and the City. The lease shall also include the method and implications of the recertification process for Workforce Units as outlined in these guidelines. Eligible Households renting workforce units will be recertified annually with final approval from the City before renewing a lease.



Tenant leases shall include the method for updating of rents set forth in these guidelines and, as a condition to continued eligibility, obligate the household to report all information required by the guidelines, including providing copies of applications, recertifications, and supporting documentation used by administrators of rental subsidies. The Owner shall enforce the lease, if necessary to the point of terminating Eligible Household status, requiring market rents, and initiating and prosecuting eviction proceedings against renters of workforce units who do not report as required or whose eligibility lapses.

### **“Floating” Workforce Units**

Prior to the Project’s approval, the Owner and City shall agree to the distribution, size, and bedroom type of the Workforce Units in order to include these details in the Affordable Housing Agreement (AHA). Owners are encouraged to distribute workforce units equally throughout the project. Designated Workforce Units within any development may be “floating” i.e. changed by substitution, that is, the designation of a unit as affordable does not necessarily stay with the same unit over the life of the development. The Project shall maintain the required number of bedrooms and Workforce Units as outlined in the AHA and may only switch which unit is reserved as a Workforce Unit with City approval following certain recertification situations as described in greater detail below.

### **Recertification of Workforce Units**

Prior to the renewal of a Workforce Unit’s lease the tenant shall recertify that their household meets the eligibility and household size requirements for the unit. The same process and documentation will occur as with the initial lease up of the Unit. Unless the Owner can substantiate claims that the tenant has violated terms of the lease or is refusing to adequately comply with the recertification process no other households may be considered to lease the Workforce Unit unless the current tenant chooses not to renew their lease. The Owner or their representative shall collect and compile the necessary recertification documentation. The City shall have the right of final approval. The Owner or their representative shall maintain records of the recertification process as described in greater detail in the Administration & Record Keeping section below.

### **Loss of Household Eligibility**

A unit shall lose its designation as a Workforce Unit when it no longer houses an Eligible Household. This will occur upon two consecutive recertifications wherein a once Eligible Household’s income is greater than the allowed AMI and is no longer considered eligible. The recertification of all applicants may be subject to final approval from the City. In this scenario, an Owner may, with 90 days’ notice, charge Market Rent. The tenant is then eligible for continued occupancy in the particular unit for one additional year following the date of the most recent recertification. After any adjustment in accordance with the above, the next available appropriate unit should be rented to an Eligible Household, so as to restore and maintain the unit size, type, and mix originally intended. The City shall have final approval that any substitute unit is appropriate for satisfying the requirements intended for Workforce Units within the Project as defined within the AHA.



If no suitable alternative unit becomes available to rent as a Workforce Unit within a year of the former Eligible Household now paying Market Rent than the Owner shall not renew the former Eligible Household's lease and shall return the unit to its use as a Workforce Unit for Eligible Households. The Owner shall cooperate with the City and with any documentation that it deems necessary to approve the substitute Workforce Unit or Eligible Household.

In the case where the tenant has been accepted as a market rate tenant, the Owner shall pay to the City's Housing Trust the cash value of the difference between the maximum allowable Workforce rent and the market rent until such time as another unit has been approved by the City as an acceptable substitute Workforce Unit and occupied by an Eligible Household. Occupancy during this transition period by an over-income household will not constitute default under the conditions set forth in the AHA.

### **Household Failure to Participate in Recertification**

A household is considered to have failed to participate in the recertification process after not sufficiently responding to three written requests by the Owner or City within a 60 day period. Tenants may not be asked to participate in a recertification process more than one time per 365 day period. The City shall have final approval in regards to whether sufficient evidence has been provided to substantiate a household's failure to participate in the recertification process.

### **Eviction**

Assuming the lease meets all federal, state, and local requirements, nothing in these guidelines are meant to restrict the right of the Owner to evict any tenant who fails to participate in the recertification process or breaches the lease with the Owner in any way. In no case shall the Owner be required to support an overall higher level of subsidy than intended by the initial distribution as outlined in the AHA. Any and all costs associated with said enforcement or eviction shall be born by the Owner.

### **Enforcement**

The Owner will be required to record the AHA and conditions contained therein and shall file a copy of the recorded Agreement which copy shows the usual recording date, with the Cumberland County Registry of Deeds. In the case of off-site Workforce housing, the Owner shall record the AHA in the chain of title for both properties. No occupancy permit shall be issued until complete certified copies of the AHA with any attachment thereto and with the recording date(s) noted thereon, are filed with the County and suitable evidence provided to the City.

Without limitation on any other rights of the City, in the event there is a violation of any conditions contained within the AHA, the City may take any one or combination of the following steps to ensure compliance and these enforcement provisions shall be expressly authorized by and contained within the AHA:



- Revocation or the Project's approval, Building Permit, or Certificate of Occupancy;
- Modification of the AHA;
- Injunctive relief to enforce the terms of the AHA;
- Payment of money damages to the City in an amount at least equal to and as much as double the required rent and the rent being charged for the period of non-compliance;
- Any and all legal expenses incurred by the City or aggrieved tenant(s); and
- A cash payment, as provided for in Division 30 related to fee-in lieu payments, pro-rated to the number of required affordable units, made to the City if the Owner is unable to provide Workforce Units for occupancy as described in the AHA.

The Owner may request a certificate from the City stating that the Owner is in compliance with the terms and conditions of the AHA, or stating non-compliance and the actions necessary to come into compliance. The City will execute and deliver such certificate within thirty (30) business days or receipt of a written request for such a certificate. Certificates of compliance shall not be required for the leasing of any Workforce Units.

#### **Administration & Record Keeping**

The Eligible Household's application, recertification forms and documentation, and any third party verifications must be maintained by the Owner throughout the Eligible Household's occupancy and for a period of at least seven (7) years thereafter. These records must be available to the City within ten (10) business days if requested. Applications and waiting lists shall also be kept on file for a period of at least seven (7) years or some other period of time if deemed reasonable by the City.

The Owner will file an annual report to the City within 60 days of the end of each calendar year providing information related to Workforce Unit vacancies, waitlists, household turnover, household size, household income, market rate rents, recertifications, and any other relevant information.

#### **Cash Payment In Lieu of Affordable Units**

All projects including ten (10) or more residential units created through new construction, substantial rehabilitation of existing structures, adaptive reuse or conversion of a non-residential use to residential use, or any combination of these elements must comply with Section 14-487 of the Code. The projects will be required to provide 10% of the total number of units as Workforce housing as defined in Section 14-485 of the Code. Developers of such units are encouraged to provide Workforce Units on-site. However, in accordance with subsection 14-487(e)4, developers may choose to make a cash contribution to Portland's Housing Trust Fund.

The payment is the same for rental and homeownership projects. The fee for Workforce Units not provided shall be \$100,000 per unit, adjusted annually in the same manner as the fee under Division 29 for Housing Replacement. For projects that are building more than one building in phases, the fee-in lieu payment shall be paid proportionally to the project's phasing. The fee is calculated up to one



tenth of a fractional unit. For example, if a project is proposing 25 units and wants to pay the fee for all units it would be required to pay for 2.5 units or \$250,000 at today's rates.

All money shall be due prior to the issuance of a Certificate of Occupancy or another payment method approved by the City.

### **Off-Site Units**

A Developer may choose to satisfy the Workforce Unit requirements by providing these units off-site through the construction of new units, the restriction of existing market rate units, or the conversion of non-residential uses. In addition to the foregoing, all off-site units shall be consistent with the following provisions:

1. Be located within the same Census Block Group as the parcel from which the Project triggering the creation of Workforce Units is located or within 1,500 feet of the Project;
2. Be comparable or larger in size and bedroom count to the average units being created within the associated Project.
3. Be similar in quality to the units being created within the project and if needed, as determined by the City, shall be rehabbed to be similar in quality to a newly constructed unit.

The Developer shall determine the intent for full or partial off-site placement of Workforce Units prior to a project's approval by the City. The City shall not accept off-site units to be sufficient that are run down or show signs of substantial wear and deterioration. This includes heating systems, appliances, plumbing, roofing, siding, flooring, common areas, windows, landscaping/hardscape, electrical wiring, and fixtures, kitchen/bath countertops, fixtures, cabinets, bath/shower, or other typical elements of a unit or building that are nearing the end of their expected life cycle and may soon need replacement or maintenance. If other amenities, such as air conditioning, dishwasher or washer and dryer are provided for the new market rate units than comparable amenities shall be provided for the off-site Workforce Units.

Off-site units shall be delivered safe in accordance with all federal, state and local environmental regulations pertaining to lead paint, asbestos, mold, radon, and any other hazardous conditions common to residential structures. All reasonable tests, including but not limited to lead paint tests and radon tests shall be completed prior to the sale or lease of a unit.

The total required number of Workforce Units off-site will be based on the total number of market rate units created within a project. Similar to the calculation for providing on-site Workforce Units the requirement will round down to the nearest whole number. For example, a project with 26 market rate units choosing to provide all Workforce Units off-site will be required to provide two (2) off-site units.



## **Appeals**

A Developer or Owner or Tenant may appeal to the City Manager if they believe that City misinterpreted Division 30 or any subsequent agreements restricting the Workforce Units. All such appeals shall be made in writing and include a description of the City action which is being appealed and the grounds for the appeal.

## **Non-Eligibility/Disqualification**

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 Workforce Unit or receive any benefit related in any way to the administration or compliance with the AHA conditions contained therein.

Employees of the Planning Authority will not be eligible for a Workforce Unit in the City.

## **Waiver**

The City reserves the right to waive or amend portions of these regulations on a case by case basis where an Owner is able to sufficiently demonstrate that the need for a waiver is due to the unique circumstances of the property (e.g. in order to make Workforce Units similar in design or size to market rate units) or due to unique physical constraints of the property. The applicant shall bear the burden of presenting substantial evidence to support the grant of a waiver from any portion of these regulations.

Waivers shall not be granted that will have the effect of removing or reducing the minimum of 10% of the total units proposed as Workforce Units available, altering the income limits on eligible households, increasing the maximum allowable sale price or rental rate, or decreasing any fee owed outside of what is stipulated in the above regulations.

Waivers shall be determined by the City's Planning Authority. Owners may appeal the Planning Authority's decision regarding waivers to the City Manager. All such appeals shall be made in writing and include a description of the City action which is being appealed and the grounds for the appeal.



## Regulations for Owners & Tenants of Workforce Rental Units

### Household Income Limits

In accordance with Division 30 of the City's Zoning Ordinance, the rental of Workforce Units will be restricted to households at or below 100% of the area median income (AMI). The City will reference Area Median Income figures published annually by HUD for the Portland Metropolitan Statistical Area (MSA) or other income limits as deemed reasonable by the City. The City will make available on its website a list of income limits by household size. If at a time in the future HUD no longer provides these annual figures, the City will identify another similar method of determining income guidelines for affordability.

### Eligibility of Households for Workforce Rental Units

At the time the lease is finalized, a tenant must be a member(s) of an Eligible Household as defined within the Background & Definition section of the City's Inclusionary Zoning Guidelines. The Household must occupy the Workforce Rental Unit (Workforce Unit) as its primary residence. Household size/composition upon the unit's rental should be appropriate to the size of the unit as outlined in the charts below. For the qualification of households by unit size, the head of the household and spouse/partner are assumed to share a bedroom. Two children whose ages are not excessively disparate, may share a bedroom. Legal custody is required for households including one or more minor children. A household that consists of a pregnant woman will be treated as a two people for income and household size determinations. On average there will be no fewer than one, nor more than two persons per bedroom.

The City will consider households eligible based on their adjusted gross income. The City will use a process similar to what HUD recommends for the HOME program to determine adjusted gross income or another method as deemed reasonable by the City. The Owner or their representative will collect and compile all of the relevant paperwork needed to assess a household's eligibility. Verification will require sufficient proof of household size and income in the form of official tax statements, W-2 forms, pay stubs, credit reports, bank statements, birth certificates, and any other reasonable documents requested by the City or Owner to aid in their efforts to verify whether or not a household is eligible. The City may request additional information as needed. The City shall have the final approval of whether or not a household meets the income or size requirements of each Workforce Unit prior to the signing of the lease.

The chart below indicates the minimum household size for each unit type based on bedroom count.



	<b>Studio/One-Bed</b>	<b>Two-Bed</b>	<b>Three-Bed</b>	<b>Four-Bed</b>
<b>Minimum Household Size By Bedroom</b>	1	2	3	4

Workforce Units will also be subject to maximum household sizes based on bedroom counts. The following chart outlines the maximum persons allowable per bedroom assuming the occupants meet all other requirements related to qualifications for determining a household such as age of children sharing bedrooms.

	<b>Studio/One-Bed</b>	<b>Two-Bed</b>	<b>Three-Bed</b>	<b>Four-Bed</b>
<b>Maximum Household Size By Bedroom</b>	2	4	6	8

Eligible Households may not qualify if at the time of application any member of the household owns residential real estate.

The City reserves the right to perform an asset test to help determine a household's income. This may include making certain assumptions about the average returns that would be reasonable to expect from certain investments including stocks, bonds, annuities, mutual funds, dividends, trusts, money market accounts, certificates of deposit (CD's) or other financial instruments. The City may request documentation for the three most recent years to help determine a household's income.

If Owners find it difficult to rent a Workforce Unit to an Eligible Household who meets the established minimum size requirements they may ask for approval in writing from the City to rent the unit in this singular instance to an Eligible Household smaller than the minimum household size described herein. Reasonable marketing efforts to find Eligible Households of a qualified size should be taken for at least 30 days prior to the City granting a household minimum size waiver. The waiver is only for a single applicant and that household's recertifications. Rent shall be calculated based on this smaller household size. Once the Workforce Unit is vacant minimum household sizes shall apply to future tenants. The City shall determine if the efforts of the owner to rent the unit to an appropriately sized household have been reasonable. Under no circumstances will households be allowed to exceed the maximum household size.



### **Primary Residence**

At the time of occupancy, the Workforce Unit must be the Eligible Household's primary residence. The Unit may not be rented out for short or long term periods to other households.

A household must notify the City if it is absent from the Workforce Unit for 30 days in any 45-day period. If the Household is absent from the Unit for a period exceeding 60 days in one consecutive 365 day period for reasons other than work obligations, health or emergency reasons then the Household's eligibility will be terminated and their lease shall not be renewed.

Where absences in excess of the above limitation are caused by work obligations, or health reasons or other emergency, the City may require verification of the reasons for the tenants' absence. Households must comply with such requests for verification of health or emergency reasons or their lease will not be renewed. For the purposes of this section, Incarceration does not constitute a health or other emergency justifying prolonged absence from the home.

### **Determination of Affordable Monthly Rent**

In accordance with Division 30, rental of Workforce Units will be restricted to households with income at or below 100% of the Area Median Income (AMI). When determining income eligibility, the City will reference income limits and/or in the AMI figures published annually by HUD for the Portland Metropolitan Statistical Area. The City will make available on its website a list of income limits by household size. If at a time in the future HUD no longer provides these annual figures, the City will identify another similar method of determining income guidelines for affordability.

To maintain consistency of Workforce Units within the City, rents will be based on the minimum household size per bedroom rather than the income level of a particular applicant. For example, the minimum household size for a two-bedroom Workforce Unit is two (2) persons. The income of a two (2) person household will be used to calculate the maximum allowable monthly rent but a family of four (4) would still be eligible to live in the unit assuming they meet the income restrictions for a four (4) person household. To calculate the maximum allowable rent of a Workforce Unit the City will take 30% gross income per month of the minimum household size allowed per bedroom less utilities. By factoring utilities, the formula accounts the maximum amount an Eligible Household could afford to devote to housing related expenses. The formula to calculate maximum allowable Workforce Rents is as follows:

*0.30 X (annual income based on minimum household size / 12) less utilities = Workforce Rent*

To determine the maximum allowable rent for studio Workforce Units the City will calculate 85% of the allowable housing related expenses for an Eligible Household using the following formula:



$0.30 X ((\text{annual income based on minimum household size} / 12) X 0.85) \text{ less utilities} = \text{Workforce Studio Rent}$

Owners may choose to include some or all utilities within the total rent. Utilities that effect rent calculations include electricity, heat, hot water, cooking energy, sewer, water, and trash collection. For all utilities listed that are not included by the Owner in the rent the City shall make reasonable assumptions based on a Unit's bedroom count as to the monthly cost of each utility. To determine what is reasonable the City may utilize the figures estimated by HUD and distributed through the Portland Housing Authority annually for similar utility allowances based on a unit's bedroom count. The City shall reserve the right to determine a different metric should these figures from HUD at any point be unavailable or a better metric be determined.

The Owner may request first, last, and security deposit from applicants. These three expenses shall not exceed the value of one month of rent and together shall not exceed three months of rent.

Households may choose to pay for on-site parking but shall not be required to pay separately for this amenity. If the Owner requires a parking spot(s) be leased with the Workforce Unit and charges a separate fee than parking may be counted similarly to the utilities above and shall be subtracted from housing related expenses for calculating the maximum allowable rent.

Owners may not rent to household's utilizing other rental subsidies such as vouchers without the City's approval and never shall the total rent paid be in excess of the allowable Workforce Unit rent for a determined bedroom size.

### **Affordable Housing Agreement**

The Owner 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 in the project's deed(s). In order to guarantee affordability, this recorded covenant will limit increases in rent according to the calculation defined by the City and the Eligible Household requirements as they relate to increases in median income. It will limit the incomes of subsequent tenants to the same income limits initially applied.

### **Household Preference**

Household preference for Workforce Units shall be given, to the extent permitted under law to Eligible Households, in the following order:

- 1) Current residents of the City who have lived in Portland as their primary residence for the past two years



- 2) Previous residents of the City who were displaced within the last 12 months prior to the Workforce Unit becoming available
- 3) Persons employed full time by the City
- 4) All others

The applicant for housing will be responsible for documenting their preferred status under any of the above noted categories. Documentation may include confirmed leases, bank statements, utility bills, voter registration, tax returns, insurance statements, and other reasonable documents as requested by the City or Owner to demonstrate preferred status. The City or Owner may request more than one form of documentation.

Household preference does not preclude Owners from renting to non-preferred applicants assuming applicants meet the necessary eligibility requirements and there are more Workforce Units available than eligible preferred applicants. Other preference categories may be added to specific projects or to the City's standards at a later date as appropriate.

### **Marketing / Selection Process**

In each instance that an Owner intends to rent a Workforce Unit, prior to listing the property for rent or renewing a lease, an owner shall first give the City written notice of such intent (the "Notice of Intent") addressed to the City's Housing and Community Development Office. The City shall make the final determination whether or not a potential household is qualified as well as the maximum allowable rental price as determined in accordance with the calculation parameters determined by the City.

Unless otherwise agreed to with the City, the following system will be followed. The Owner will place an advertisement, approved by the City, in one or more newspapers designated by the City. Interested parties will be given sufficient time to request and return a preliminary application. The City shall have the opportunity to list the property on its website for a minimum of 30 days during the marketing process to solicit interest from potential Eligible Households. The City will forward any inquiries to the Owner or their designated representative.

The Owner shall collect all necessary supporting documents for the City's final approval. The City will, at a minimum, monitor the process and review buyer qualifications, but may work collaboratively with Owners on marketing, selection, qualification, and orientation. All determinations regarding eligibility and rental amount are subject to review and final approval by the City.



### **Maintenance of a Waiting List**

The Owner is encouraged to maintain a waiting list of Eligible Households by preferred status who have filed an application or a letter and who meet the qualifications defined herein. Such applications should include the following in order to classify the applicant: the ages, genders, and relationships of household members, gross household income, and information related to preferred status and household eligibility. It is understood that it is the responsibility of the applicant to update information, which will affect their income, household eligibility, or preferred status, and that it is not the responsibility of the Owner to verify actual status until a unit becomes available. Final approval of Eligible Households, Workforce Units, and maximum allowable rent will be decided by the City.

### **Leases**

All leases will be a year in length with the rent consistent throughout the term of the lease. The maximum rent allowable will be determined at initial application and during any recertification process prior to the renewal of a lease. Tenant leases for Workforce Units shall include the method for updating rents set forth in these guidelines and as a condition of continued eligibility, obligate the household to report all information required by these guidelines, including providing copies of applications, recertifications, and supporting documentation used by administrators of rental subsidies and the City. The lease shall also include the method and implications of the recertification process for Workforce Units as outlined in these guidelines. Eligible Households renting workforce units will be recertified annually with final approval from the City before renewing a lease.

Tenant leases shall include the method for updating of rents set forth in these guidelines and, as a condition to continued eligibility, obligate the household to report all information required by the guidelines, including providing copies of applications, recertifications, and supporting documentation used by administrators of rental subsidies. The Owner shall enforce the lease, if necessary to the point of terminating Eligible Household status, requiring market rents, and initiating and prosecuting eviction proceedings against renters of workforce units who do not report as required or whose eligibility lapses.



### **“Floating” Workforce Units**

Prior to the Project’s approval, the Owner and City shall agree to the distribution, size, and bedroom type of the Workforce Units in order to include these details in the Affordable Housing Agreement (AHA). Owners are encouraged to distribute workforce units equally throughout the project. Designated Workforce Units within any development may be “floating” i.e. changed by substitution, that is, the designation of a unit as affordable does not necessarily stay with the same unit over the life of the development. The Project shall maintain the required number of bedrooms and Workforce Units as outlined in the AHA and may only switch which unit is reserved as a Workforce Unit with City approval following certain recertification situations as described in greater detail below.

### **Recertification of Workforce Units**

Prior to the renewal of a Workforce Unit’s lease the tenant shall recertify that their household meets the eligibility and household size requirements for the unit. The same process and documentation will occur as with the initial lease up of the Unit. Unless the Owner can substantiate claims that the tenant has violated terms of the lease or is refusing to adequately comply with the recertification process no other households may be considered to lease the Workforce Unit unless the current tenant chooses not to renew their lease. The Owner or their representative shall collect and compile the necessary recertification documentation. The City shall have the right of final approval. The Owner or their representative shall maintain records of the recertification process as described in greater detail in the Administration & Record Keeping section below.

### **Loss of Household Eligibility**

A unit shall lose its designation as a Workforce Unit when it no longer houses an Eligible Household. This will occur upon two consecutive recertifications wherein a once Eligible Household’s income is greater than the allowed AMI and is no longer considered eligible. The recertification of all applicants may be subject to final approval from the City. In this scenario, an Owner may, with 90 days’ notice, charge Market Rent. The tenant is then eligible for continued occupancy in the particular unit for one additional year following the date of the most recent recertification. After any adjustment in accordance with the above, the next available appropriate unit should be rented to an Eligible Household, so as to restore and maintain the unit size, type, and mix originally intended. The City shall have final approval that any substitute unit is appropriate for satisfying the requirements intended for Workforce Units within the Project as defined within the AHA.

If no suitable alternative unit becomes available to rent as a Workforce Unit within a year of the former Eligible Household now paying Market Rent than the Owner shall not renew the former Eligible Household’s lease and shall return the unit to its use as a Workforce Unit for Eligible



Households. The Owner shall cooperate with the City and provide any documentation that it deems necessary to approve the substitute Workforce Unit or Eligible Household.

In the case where the tenant has been accepted as a market rate tenant, the Owner shall pay to the City's Housing Trust the cash value of the difference between the maximum allowable Workforce rent and the market rent until such time as another unit has been approved by the City as an acceptable substitute Workforce Unit and occupied by an Eligible Household. Occupancy during this transition period by an over-income household will not constitute default under the conditions set forth in the AHA.

### **Household Failure to Participate in Recertification**

A household is considered to have failed to participate in the recertification process after not sufficiently responding to three written requests by the Owner or City within a 60 day period. Tenants may not be asked to participate in a recertification process more than one time per 365 day period. The City shall have final approval in regards to whether sufficient evidence has been provided to substantiate a household's failure to participate in the recertification process.

### **Eviction**

Assuming the lease meets all federal, state, and local requirements, nothing in these guidelines are meant to restrict the right of the Owner to evict any tenant who fails to participate in the recertification process or breaches the lease with the Owner in any way. In no case shall the Owner be required to support an overall higher level of subsidy than intended by the initial distribution as outlined in the AHA. Any and all costs associated with said enforcement or eviction shall be born by the Owner.

### **Non-Eligibility/Disqualification**

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 Workforce Unit or receive any benefit related in any way to the administration or compliance with the AHA conditions contained therein.

Employees of the Planning Department will not be eligible for a Workforce Unit in the City.

### **Enforcement**

The Owner will be required to record the AHA and conditions contained therein and shall file a copy of the recorded Agreement which copy shows the usual recording date, with the



Cumberland County Registry of Deeds. In the case of off-site Workforce housing, the Owner shall record the AHA in the chain of title for both properties. No occupancy permit shall be issued until complete certified copies of the AHA with any attachment thereto and with the recording date(s) noted thereon, are filed with the County and suitable evidence provided to the City.

Without limitation on any other rights of the City, in the event there is a violation of any conditions contained within the AHA, the City may take any one or combination of the following steps to ensure compliance and these enforcement provisions shall be expressly authorized by and contained within the AHA:

- Revocation or the Project's approval, Building Permit, or Certificate of Occupancy;
- Modification of the AHA;
- Injunctive relief to enforce the terms of the AHA;
- Payment of money damages to the City in an amount at least equal to and as much as double the required rent and the rent being charged for the period of non-compliance;
- Any and all legal expenses incurred by the City or aggrieved tenant(s); and
- A cash payment, as provided for in Division 30 related to fee-in lieu payments, pro-rated to the number of required affordable units, made to the City if the Owner is unable to provide Workforce Units for occupancy as described in the AHA.

The Owner may request a certificate from the City stating that the Owner is in compliance with the terms and conditions of the AHA, or stating non-compliance and the actions necessary to come into compliance. The City will execute and deliver such certificate within thirty (30) business days or receipt of a written request for such a certificate. Certificates of compliance shall not be required for the leasing of any Workforce Units.

### **Administration & Record Keeping**

The Eligible Household's application, recertification forms and documentation, and any third party verifications must be maintained by the Owner throughout the Eligible Household's occupancy and for a period of at least seven (7) years thereafter. These records must be available to the City within ten (10) business days if requested. Applications and waiting lists shall also be kept on file for a period of at least seven (7) years or some other period of time if deemed reasonable by the City.

The Owner will file an annual report to the City within 60 days of the end of each calendar year providing information related to Workforce Unit vacancies, waitlists, household turnover, household size, household income, market rate rents, recertifications, and any other relevant information.

**Appeals**

A Developer or Owner or Tenant may appeal to the City Manager if they believe that City misinterpreted Division 30 or any subsequent agreements restricting the Workforce Units. All such appeals shall be made in writing and include a description of the City action which is being appealed and the grounds for the appeal.

**Waiver**

The City reserves the right to waive or amend portions of these regulations on a case by case basis where an Owner is able to sufficiently demonstrate that the need for a waiver is due to the unique circumstances of the property (e.g. in order to make Workforce Units similar in design or size to market rate units) or due to unique physical constraints of the property. The applicant shall bear the burden of presenting substantial evidence to support the grant of a waiver from any portion of these regulations.

Waivers shall not be granted that will have the effect of removing or reducing the minimum of 10% of the total units proposed as Workforce Units available, altering the income limits on eligible households, increasing the maximum allowable sale price or rental rate, or decreasing any fee owed outside of what is stipulated in the above regulations.

Waivers shall be determined by the City's Planning Authority. Owners may appeal the Planning Authority's decision regarding waivers to the City Manager. All such appeals shall be made in writing and include a description of the City action which is being appealed and the grounds for the appeal.



## Regulations for Owners of Workforce Homeownership Units

### Household Income Limits

In accordance with Division 30 of the City's Zoning Ordinance, the maximum allowable sale prices for Workforce Units will be restricted to households at or below 120% of the area median income (AMI). The City will reference Area Median Income figures published annually by HUD for the Portland Metropolitan Statistical Area (MSA) or other income limits as deemed reasonable by the City. The City will make available on its website a list of income limits by household size. If at a time in the future HUD no longer provides these annual figures, the City will identify another similar method of determining income guidelines for affordability.

### Eligible Households for Workforce Homeownership Units

At the time of sale, a buyer must be a member(s) of an Eligible Household as defined within the Background and Definition section of the City's Inclusionary Zoning Guidelines. The Household must occupy the Workforce Homeownership Unit (Workforce Unit) as its principal residence. To purchase a Workforce Unit an Eligible Household must be comprised of permanent residents of the United States. The Intent is to limit the risk of a loss of the Unit's affordability restrictions due to foreclosure of a household no longer able to reside in the United States. Household size/composition upon the unit's sale should be appropriate to the size of the unit as outlined in the chart below. For the qualification of households by unit size, the head of the household and spouse/partner are assumed to share a bedroom. Two children whose ages are not excessively disparate, may share a bedroom. Legal custody is required for households including one or more minor children. There will be no fewer than one, nor more than two persons per bedroom.

The City will consider households eligible based on their adjusted gross income. The City will use a process similar to what HUD recommends for the HOME program to determine adjusted gross income or another method as deemed reasonable by the City. The Owner or their representative will collect and compile all of the relevant paperwork needed to assess a household's eligibility. Verification will require sufficient proof of household size and income in the form of mortgage pre-approval letters, official tax statements, W-2 forms, pay stubs, credit reports, bank statements, birth certificates, and any other reasonable documents requested by the City to aid in their efforts to verify whether or not a household is eligible. The City shall have the final approval of whether or not a household meets the income or size requirements of each Workforce Unit prior to closing. The City reserves the right to request proof of income for the last three years from an applicant. The City may request additional information if needed.



The chart below indicates the minimum household size for each unit type based on bedroom count.

	<b>Studio/One-Bed</b>	<b>Two-Bed</b>	<b>Three-Bed</b>	<b>Four-Bed</b>
<b>Minimum Household Size By Bedroom</b>	1	2	3	4

Workforce Units will also be subject to maximum household sizes based on bedroom counts. The following chart outlines the maximum persons allowable per bedroom assuming the occupants meet all other requirements related to qualifications for determining a household such as age of children sharing bedrooms.

	<b>Studio/One-Bed</b>	<b>Two-Bed</b>	<b>Three-Bed</b>	<b>Four-Bed</b>
<b>Maximum Household Size By Bedroom</b>	2	4	6	8

Eligible Households may not qualify if any member of the household owns other residential real estate at the time of application or sale.

The City reserves the right to perform an asset test to help determine a household's income. This may include making certain assumptions about the average returns that would be reasonable to expect from certain investments including stocks, bonds, annuities, mutual funds, dividends, trusts, money market accounts, certificates of deposit (CD's) or other financial instruments. The City may request documentation for the three most recent years to help determine a household's income.

Closing costs and a down payment of up to 20% of the sale price may be gifted to an Eligible Household as outlined in the Workforce Housing Background and Definitions Guidelines.

**Maximum Allowable Sale Price**

The calculation of the maximum allowable sales price will be determined by the City. The price will in part be based on the minimum number of bedrooms in each Workforce Unit for sale as outlined in the chart below:



	Studio/One-Bed	Two-Bed	Three-Bed	Four-Bed
<b>Max Sale Price Basis -Household Size</b>	1	2	3	4

For example, the maximum allowable sale price of a two bedroom Workforce Unit will be based on what is affordable to a two (2) person household. A larger household of four (4) persons meeting the income qualifications for their household size would still be able to purchase this unit but the maximum allowable sale price will be calculated based on a two (2) person household. It is important to be clear that this is to calculate the maximum allowable sale price of a Workforce Unit and that units may be sold at lower prices depending on the market, location, and condition of a unit.

The maximum allowable sale price at the initial sale of a Workforce Unit and for any subsequent sales will be based on the following calculation:

- 1) Begin by calculating 30% of the gross monthly income for a household earning 120% AMI as appropriate for the minimum household size for each Workforce Unit by bedroom type.
  - o  $(\text{Household's } 120\% \text{ AMI} \times 0.30) / 12 = \text{monthly income available for housing expenses.}$
- 2) Housing expenses available for studios will be calculated at 85% of the income available for a one person household using the following formula:
  - o  $((\text{Household's } 120\% \text{ AMI} \times 0.30) \times 0.85) / 12 = \text{monthly income available for housing expenses of a studio unit.}$
- 3) That portion of monthly income may be attributed to mortgage payments less other housing related expenses such as real estate taxes, mortgage insurance, condominium/HOA fees, and insurance.
  - o Mortgage insurance will be estimated similar to current rates utilized by the Federal Housing Administration (FHA) or another reasonable method as determined by the City. Currently, for 30 year mortgages of less than \$625,000 with Loan to Value (LTV) ratios equal to or less than 95%, the FHA utilizes a rate of 80 basis points on the mortgaged amount. The actual rate used in the calculation will be determined at the time the unit is marketed.
- 4) The sale price will then be based off a 30 year fixed rate mortgage with a 5% down payment.
  - o It will be allowable for qualified buyers to offer a larger down payment but a down payment larger than 5% will not increase the maximum allowable sale



price of a Workforce Unit.

- 5) Interest rates for the calculation will be the average national mortgage rate over the past thirteen years as determined by the Freddie Mac Primary Mortgage Market Survey or another source as determined reasonable by the City. The interest rate for the calculation will be determined at the time the unit is marketed.

Purchase price limits establish maximum allowable sale prices. An Eligible Household's financial situation will determine the mortgage amount that can be borrowed. This amount may be more or less than the maximum allowable sales price of a particular Workforce Unit. However, at no time shall a Workforce Unit be sold for greater than the maximum allowable sale price as determined by the City.

### **Condominium/HOA Fees**

If the Developer is setting up a new condominium trust or homeownership association (HOA), then the Developer shall present to the City a draft condominium/HOA budget and related governing documents. The City may request quotes and/or justification for costs, including replacement reserves, insurance, water and sewer, utilities, management fees, and other services. The City will have final approval of the initial condominium/HOA fee to ensure that a reasonable front-end calculation of cost in setting initial fees for a Project.

The condominium/HOA fee will be shared proportionately between units based on the City's tax assessment for the value of the units. If assessed values are not available at the time of initial sale of the units than initial sale prices will be used to determine the appropriate share of costs. Workforce Units' tax assessments by the City will take into consideration the Unit's restrictions and assess the Unit's value accordingly. Voting rights within the association will be no more or less than one vote per unit and will not be based on the value of paid fees or other metric as allowable by state law. Condominium/HOA fees for Workforce Units may not increase more than 10% in a single year or 25% in any three year period without a supermajority vote gaining 100% support of the association.

The City shall have a right of first refusal if a Workforce 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 to the Unit's affordability restrictions. The City shall also have the option of using City funds to support Workforce Units facing large special assessments that may pose a risk to the Workforce Household's ability to maintain their unit's affordability.



### **Alterations to a Workforce Unit's Floorplan**

The basic floor plan of a Workforce Unit may not be altered without the written approval of the City. Workforce Units shall not decrease in size or total number of bedrooms.

### **Right of First Refusal**

The City of Portland shall have the right of first refusal to purchase any Workforce 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 Workforce Unit's Owner. The intent is to ensure affordability of the unit for Eligible Households.

### **Resale of Workforce Units**

Once an Owner decides that they would like to sell a Workforce Unit they will need to notify the City in writing. The City will then confirm the Unit's maximum allowable sales price. The City shall have the opportunity to list the property on its website for a minimum of 30 days during the marketing process to solicit interest from potential Eligible Households. The City will forward any inquiries to the Owner or their representative.

If multiple offers are received during the marketing process the preferred households identified by the City will be given preference to purchase the Workforce Unit. The Owner and/or their agent shall keep records of all interested parties, the parties' eligibility, preference status, offers received, and any subsequent negotiations. The Owner and/or agent will provide these records to the City as requested.

In the event that the Owner is unable to find a ready, willing, and able Eligible Household for the property after reasonable efforts have been made to market the property for at least 180 days, then the Owner may notify the City in writing that it wants to market the unit to non-eligible households. The City will be given the option to purchase the Property after the 180 day period on the terms set forth below:

- 1) The Owner must establish, to the City's reasonable satisfaction that the Owner made good faith efforts to market the Property for the entire 180 day period for sale to Eligible Households at a price not in excess of the maximum allowable sales price but did not receive any reasonable offers from Eligible Households. The City shall determine if reasonable efforts have been made within ten (10) working days after the last day of the 180 day period and once the City has received to its satisfaction all relative information from the Owner related to its marketing efforts and interaction with interested parties.
- 2) Upon a determination by the City of such marketing efforts, the City has thirty (60) days



to decide if it will exercise its option to purchase the Property for the maximum allowable sales price.

- 3) If the City decides to exercise its option to purchase, it shall provide a notice of exercise of the option (the "Notice to Exercise") to the Owner. Failure to provide a Notice to Exercise within thirty (60) days of the determination that good faith efforts have been made to market the Property to Eligible Households shall cause the City's option to purchase to expire.
- 4) The City shall consummate its purchase of the Property within sixty (90) days of the date of service of the Notice to Exercise (the "City Closing Period"). The Owner shall cooperate fully with the City in the City's efforts to acquire the Property and shall take all reasonable steps necessary to clear any title defects. If the City fails to close on the Property within the City Closing Period for a reason other than liens voluntarily placed on the Property by the Owner, then the Owner shall immediately be free to sell the Property to a non-Eligible Household.

If the City decides not to exercise its option to purchase (including as a result of a failure to give a Notice of Exercise), the Owner shall be free to sell the Property to a non-Eligible Household at any such agreed sale price **provided however**, that to the extent the agreed sale price exceeds the maximum allowable sale price, as determined by the City, then any amount between the actual sale price and the maximum allowable sale price (the "Excess") shall be paid to the City at the time of the closing on the sale of the Property, and such Excess is to be paid into the City's Housing Trust. Upon payment of the Excess, if any, the Owner and the Owner's heirs, successors and assigns, shall thereafter be free to sell the Property free of the terms and conditions of the AHA, which shall be deemed terminated.

If the Owner is able and willing to sell their Workforce Unit to a non-Eligible Household the sale must be made through an arm's length arrangement. The Owner may not sell the Unit to an 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.

At the request of the Owner, and provided there has been full compliance by the Owner with the terms of the AHA, the City shall execute a written statement in recordable form acknowledging such compliance, including compliance with a sale of the Property which results in the release of the Owner and the Property from the terms of the AHA.

### **Household Preference**

Preference for Workforce Units shall be given, to the extent permitted under law to Eligible Households, in the following order:

- 1) First time homebuyer



- 2) Current residents of the City who have lived in Portland as their primary residence for the past two years
- 3) Previous residents of the City who were displaced within the last 12 months prior to the Workforce Unit becoming available
- 4) Persons employed full time by the City
- 5) All others

The applicant for a Workforce Unit will be responsible for documenting their preference status under any of the above noted categories. Documentation may include voter registration, utility bills, confirmed leases, bank statements, tax returns, insurance statements, and other reasonable documents as requested by the City or Owner to demonstrate preference status. Households wishing to be considered as a preferred applicant must also have a pre-approval letter from a lending institution demonstrating their ability to qualify for any necessary loan.

Household preference does not preclude Owners from selling to non-preference applicants assuming applicants meet the necessary eligibility requirements and there are more Workforce Units available than preference applicants. Other preference categories may be added to specific projects or to the City's standards at a later date as appropriate.

### **Marketing / Selection Process**

Unless otherwise agreed to with the City, the following system will be followed. At least 30 days prior to initial marketing, the Owner shall provide written notice to the City of the expected start of marketing process and occupancy dates of the designated Workforce Units. The Owner will place an advertisement, approved by the City, in one or more newspapers designated by the City. Interested parties will be given sufficient time to request and return a preliminary application. The Owner will inform the City of any interest from Eligible Households that it receives. From the beginning of the marketing process the City will have the opportunity to list the property on its website for a minimum of 30 days to solicit interest from potential Eligible Households. The City will forward any inquiries to the Owner or their designated representative. The Owner should also reach out to local groups and non-profits who may have connections to interested Eligible Households.

The Owner shall acknowledge in writing the household income limits and max sale price restrictions on the unit to any potential buyers interested in the property prior to finalizing a Purchase and Sale Agreement. At a minimum, this shall include providing prospective buyers with the associated household income limits of 120% AMI in any listing and providing written documentation at any open house or showing stating that this unit carries with it income, maximum sale price and other restrictions.

In each instance that an Owner intends to effect a sale, transfer or disposition of the Property to a third party, then prior to listing the property for sale or entering into a purchase and sale agreement, or otherwise taking any steps to consummate the sale of the property, an owner



shall first give the City written notice of such intent (the “Notice of Intent”) addressed to the City’s Housing and Community Development Office. The City shall make the final determination whether or not a potential buyer is qualified, selection preference guidelines have been followed, and the maximum allowable sales price as determined in accordance with the calculation parameters determined by the City.

The Owner shall collect all necessary supporting documents for the City’s final approval. The City will, at a minimum, monitor the process and review buyer qualifications, but may work collaboratively with Developers and Owners on marketing, selection, qualification, and orientation. The City will provide final approval of whether or not a household meets the eligibility requirements.

### **First Time Homebuyers**

Eligible Households will be considered first time homebuyers if the following criteria are met:

1. None of the parties within the household have had an ownership interest in their home within the last three years;
2. A single parent who has owned a residence while married but no longer holds a financial interest in the home; or

Eligibility for First Time Homebuyer status will be limited to a one time only occurrence per household.

First time homebuyer must provide documentation showing that all relevant applicants within a household have completed a homebuyer education course prior to a Purchase and Sale agreement being signed and before the City may approve the household as being eligible to purchase the Workforce Unit. Exemptions may be made for households who can sufficiently demonstrate expertise in real estate. An example of sufficient expertise would be if a member of the Eligible Household currently works in a residential real estate related field such as a Real Estate Broker. Any exemption made must be approved by the City.

### **Affordable Housing Agreement**

The buyer of each Workforce 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, this recorded covenant will limit increases in sales price according to the calculation defined by the City and the Eligible Household requirements as they relate to increases in median income. It will limit the incomes of subsequent buyers to the same income limits initially applied. It will 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).

At the time of sale, the Workforce Unit must be the Eligible Household's primary residence. The Unit may not be rented out for short or long term periods to other households.

### **Non-Eligibility/Disqualification**

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 Workforce Unit or receive any benefit related in any way to the administration or compliance with the AHA conditions contained therein.

Employees of the Planning Authority will not be eligible for a Workforce Unit in the City.

### **Financing**

Workforce Units shall not have a mortgage on a unit that contains the following:

1. A pre-pay penalty or a balloon payment
2. A reverse mortgage
3. An adjustable rate mortgage (ARM)
4. A co-signer
5. An interest only loan
6. The loan to value ratio exceeds 95% of the maximum allowable purchase price

### **Refinancing**

The Owner must get the City's approval to refinance the first mortgage or get an additional mortgage for a Workforce Unit. Refinancing must follow the same limitations outlined above for Financing. Owners may not refinance their unit for a value greater than 95% of the maximum allowable sale price at the time of refinancing as determined by the City. Under no conditions will the long term affordability or City's right of first refusal be compromised as a result of refinancing.

### **Transfer to Owner's Heirs**

If the Owner should die still owning the Workforce Unit, then upon receipt of notice from the personal representative of the decedent's estate given within ninety (90) days of the death of such Owner (or the last surviving co-owner if the Property was owned in joint tenancy), the City



shall, except for good cause shown, consent to a transfer of the Property to one or more of the following:

1. The spouse of the deceased Owner (in cases where the spouse was not a joint tenant with the Owner); or
2. The child or children of the deceased Owner; or
3. Member(s) of the deceased Owner's household who have resided in the Property for at least three years prior to the Owner's death.

Any subsequent transfer by a transferee under 1, 2, or 3, above, shall be subject to the terms of this Agreement.

### **Enforcement**

The Owner will be required to record the AHA and conditions contained therein and shall file a copy of the recorded Agreement which copy shows the usual recording date, with the Cumberland County Registry of Deeds. In the case of off-site Workforce Units, the Owner shall record the AHA in the chain of title for both properties. No occupancy permit shall be issued until complete certified copies of the AHA with any attachment thereto with the recording date(s) noted thereon, are filed with the County and suitable evidence provided to the City.

Without limitation on any other rights of the City, in the event there is a violation of any conditions contained within the AHA, the City may take any one or combination of the following steps to ensure compliance and these enforcement provisions shall be expressly authorized by and contained within the AHA:

- Revocation or the Project's approval, Building Permit, or Certificate of Occupancy;
- Modification of the AHA;
- Injunctive relief to enforce the terms of the AHA;
- Any and all legal expenses incurred by the City or aggrieved tenant(s); and
- A cash payment, as provided for in Division 30 related to fee-in lieu payments, pro-rated to the number of required affordable units, made to the City if the Owner is unable to provide Workforce Units for occupancy as described in the AHA.
- Payment of money damages to the City in an amount at least equal to and as much as double the difference in value of the maximum allowable sale price and the actual sale price.

The Owner may request a certificate from the City stating that the Owner is in compliance with the terms and conditions of the AHA, or stating non-compliance and the actions necessary to come into compliance. The City will execute and deliver such certificate within thirty (30) business days or receipt of a written request for such a certificate.



## **Appeals**

A Developer or Owner may appeal to the City Manager if they believe that City misinterpreted Division 30 or any subsequent agreements restricting the Workforce Units. All such appeals shall be made in writing and include a description of the City action which is being appealed and the grounds for the appeal.

## **Waiver**

The City reserves the right to waive or amend portions of these regulations on a case by case basis where an Owner is able to sufficiently demonstrate that the need for a waiver is due to the unique circumstances of the property (e.g. in order to make Workforce Units similar in design or size to market rate units) or due to unique physical constraints of the property. The applicant shall bear the burden of presenting substantial evidence to support the grant of a waiver from any portion of these regulations.

Waivers shall not be granted that will have the effect of removing or reducing the minimum of 10% of the total units proposed as Workforce Units available, altering the income limits on eligible households, increasing the maximum allowable sale price or rental rate, or decreasing any fee owed outside of what is stipulated in the above regulations.

Waivers shall be determined by the City's Planning Authority. Owners may appeal the Planning Authority's decision regarding waivers to the City Manager. All such appeals shall be made in writing and include a description of the City action which is being appealed and the grounds for the appeal.

DIVISION 30. AFFORDABLE HOUSING

**Sec.14-484. Purpose.**

It is in the public interest to promote an adequate supply of affordable housing for the city's residents. The purpose of this division therefore is to offer incentives to developers to include units of affordable housing within development projects, thereby mitigating the impact of market rate housing construction on the limited supply of available land for suitable housing, and helping to meet the housing needs of all economic groups within the city. The city believes that this division will assist in meeting the city's comprehensive goals for affordable housing, in the prevention of overcrowding and deterioration of the limited supply of affordable housing, and by doing so promote the health, safety and welfare of its citizens.

(Ord. No. 98-06/07, 12-4-06; Ord. 82-15/16, 10-19-2015)

**Sec. 14-485. Definitions.**

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

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

- (a) The rent is affordable to a household earning 80% or less of Area Median Income (AMI) as defined by the United States Department of Housing and Urban Development (HUD); and
- (b) Annual rent increases for that unit are limited in perpetuity by deed restriction or other legally binding agreement to the percentage increase in the U.S. Department of Housing and Urban Development moderate-income figure for metropolitan Cumberland county Maine for a household of that size.

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

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

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

*Development fees* means:

- (a) The following fees, as described in this chapter: site plan review and inspection fees; subdivision review and inspection fees; and administrative fees; and
- (b) Construction and permit fees as described in chapter 6. "Development fees" does not include any fees charged for reviews conducted by a party other than the city.

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

*Eligible project* means a development project:

- (a) That is permissible under the provisions of this chapter in the zone in which it is proposed;
- (b) That will be a multi-family dwelling ,as defined in section 14-47, and will not be located in an R-1 or R-2 zone;
- (c) That creates new dwelling units, among which is at least one low-income housing unit for rent or workforce housing for sale, through new construction, substantial rehabilitation of existing structures, adaptive reuse or conversion of a non-residential use to residential use, or any combination of these elements. Affordable housing units for sale or rent may not differ in exterior design from other units within an eligible project; and
- (d) Projects shall not be considered "eligible projects" solely because they are subject to Section 14-487 ("Ensuring Workforce Housing").

*Workforce housing unit for rent* means a dwelling unit

which:

- (a) Is affordable to a household earning less than 100% of HUD AMI; and
- (b) Annual rent increases for that unit are limited by deed restriction or other legally binding agreement to the percentage increase in the HUD Greater Portland Metropolitan Statistical Area median income figures for a household of that size.

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

- (a) The purchase price is affordable to a household at 120% of HUD AMI; and
- (b) The resale price is limited by deed restriction or other legally binding agreement for all future sales of the unit, or a lesser term as permitted in regulations, to the percentage increase in the HUD Greater Portland Metropolitan Statistical Area median income figures for a household of that size.

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

**Sec. 14-486. Reduction of fees.**

Notwithstanding any other provision of this chapter or chapter 6 to the contrary, development fees shall be reduced by the city for an eligible project in the manner described in the following table:

<b>Percentage of new units that are low-income or workforce units</b>	<b>Percentage discount of development fees</b>	<b>Cost of Work (Building Permit) Fees in lieu of Section 617 (a) 1 &amp; 3</b>
5% up to but not including 10%	5% reduction	\$10.50 per \$1,000
10% up to but not including 15%	10% reduction	\$9.90 per \$1,000
15% up to but not including 20%	15% reduction	\$9.35 per \$1,000

20% up to but not including 25%	20% reduction	\$8.80 per \$1,000
25% or more	25% reduction	\$8.25 per \$1,000

The planning and urban development department shall perform its review of an eligible project in as expedited a manner as is practical, without impairing the scope or thoroughness of the review. The planning and urban development department may adopt administrative procedures to prioritize review of eligible projects and facilitate this expedited review.

The planning board shall make its best efforts to give priority in scheduling workshops and public hearings related to any plans or applications required for an eligible project that are within the planning board's jurisdiction, without impairing the scope or thoroughness of its review. At the conclusion of these public meetings, the planning board shall promptly issue a decision on all such plans and applications before it for consideration.

(Ord. No. 98-06/07, 12-4-06; Ord. 82-15/16, 10-19-2015; Ord. No. 165-15/16, 3-7-2016; Ord. No. 196-15/16, 3-21-2016)

**Sec. 14-487. Ensuring Workforce Housing.**

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

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

(c) *All Developments of Ten Units or More Conditional Uses.* Notwithstanding any language to the contrary in Chapter 14, all

developments of ten units or more are conditional uses subject to Planning Board review on the condition that they comply with the requirements of this section, 14-487.

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

(d) Workforce Housing Minimum. At least ten percent (10%) of the units in the project shall meet the definition of workforce housing unit for sale or for rent. The number of units required is rounded down to a whole number if providing units as per (e)2. below, or shall include a fractional value in cases where a project prefers to pay a fee-in-lieu as per (e)3. below.

(e) Standards.

1. Projects shall not be segmented or phased to avoid compliance with these provisions. In cases where projects are completed in phases, affordable units shall be provided in proportion to the development of market rate units unless otherwise permitted through regulations.
2. Workforce units are encouraged to be integrated with the rest of the development, should use a common entrance and should provide no indications from common areas that these units are workforce housing units.
3. Workforce units need not be the same size as other units in the development but the number of bedrooms in such units, either on- or off-site, shall be 10 percent of the total number of bedrooms in the development. For the purposes of this section, for every 400 square feet in a market rate unit will count as a bedroom if the actual number of bedrooms in the unit is lower.
4. As an alternative to providing workforce housing units, projects may pay a fee in lieu of some or all of the units. In-lieu fees shall be paid into the Housing Trust Fund as defined in Sec. 14-489. The fee for affordable units not provided shall be \$100,000 per unit, adjusted annually in the

same way as the fee under Division 29 for Housing Replacement.

5. Workforce housing units for sale, if converted to workforce housing units for rent, shall become subject to the income limits and other requirements of such units.
6. If at least 33 percent of the units in a development are workforce units, the development is eligible for subsidy through an Affordable Housing TIF, subject to City Council approval.
7. The term of affordability for the required 10 percent workforce units provided shall be defined as follows:

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

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

1. Specific methodology for income verification;
2. Situations where less than permanent affordability might be considered; and
3. Guidelines for meeting the requirement that off-site units be "in the same neighborhood".

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

(Ord. No. 98-06/07, 12-4-06; Ord. 82-15/16, 10-19-2015)

**Sec. 14-488. Density, parking and dimensional bonuses and reductions.**

Notwithstanding any other provision of this chapter to the contrary:

- (a) *Density bonuses.* The maximum number of units that would otherwise be allowed under this chapter shall be increased for an eligible project in the manner described in the following table:

<b>Percentage of new units that are low-income or workforce units</b>	<b>Percentage increase in maximum number of units allowed</b>
5% up to but not including 10%	5% increase
10% up to but not including 15%	10% increase
15% up to but not including 20%	15% increase
20% up to but not including 25%	20% increase
25% or more	25% increase
Projects Under Section 14-487	25% increase

- (b) *Off-street parking.* Off-street parking is required as provided in Division 20 (off-street parking) of this article.
- (c) *Building height bonus.* The maximum structure height for an eligible project building:
1. That is located in a B-2 or B-2b community business zone;
  2. That contains five (5) or more dwelling units; and
  3. Of which 20% or more of new dwelling units created are affordable units for rent or sale, is an additional ten feet above the maximum structure height that would otherwise apply to the building pursuant to this chapter.

The total height of the eligible project, including any bonus received pursuant to this subsection, may

not exceed the maximum height recommended for the location of the project pursuant to a height study that has been adopted as part of the city's comprehensive plan.

(Ord. No. 98-06/07, 12-4-06; Ord No. 240-09/10, 6-21-10; Ord. 82-15/16, 10-19-2015)

DIVISION 31. HOUSING TRUST FUND

**Sec. 14-489. Housing trust fund.**

(a) *Purpose.* The purpose of enacting this section is:

1. To establish a City of Portland housing trust fund for the promotion, retention and creation of an adequate supply of housing, particularly affordable housing, for all economic groups and to limit the net loss of housing units in the City.
2. To serve as a vehicle for addressing very low, low, and median income housing needs through a combination of funds as set out in section 14-483 of this chapter.

(b) *Definitions.*

*Very low income household.* A household having an income not exceeding fifty (50%) percent 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.

*Low income household.* A household having an income not exceeding eighty (80%) percent 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.

*Moderate income household.* A household having an income not exceeding one hundred twenty (120%) percent 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.

(c) *Establishment of the housing trust fund.* The city council shall establish a special revenue account under the name "City of Portland Housing Trust Fund." Deposits into the fund shall include:



## **India Street Form-Based Code**

### **Timeline**

09.10.2015	Approved by Planning Board
02-06.2015	Public hearings
11.2013	India Street Neighborhood Advisory Committee formed

### **Summary**

The Planning Board approved the establishment of a new zone – the India Street Form-Based Code zone (IS-FBC). The intention of the Form-Based Code is to act as a pilot program providing zoning that more adequately and appropriately reflects the existing and desired built form and scale of the India Street neighborhood.

A form-based code was first proposed as part of the India Street Sustainable Neighborhood Plan (ISSNP) process. The India Street neighborhood, one of the oldest in the city, has many available development parcels. Neighborhood residents called for a neighborhood plan that included consideration of the form of development in the neighborhood following concerns that new development allowed under the conventional zoning was out of scale with the neighborhood context.

Form-based code is different from traditional Euclidean zoning in that it shifts the priority away from use and focuses on the form, dimensional, and design. The purpose of the new IS-FBC zone is to place primary emphasis on a building's physical form and its relationship to the street. As a mixed-use neighborhood, separation or regulation of uses in India Street is not desired or appropriate. The intent is to establish a district that encourages a vibrant, walkable, mixed-use, urban district; preserves and values the existing historic neighborhood fabric; and fosters and supports local businesses and residential areas. By implementing this new zoning method the City helps to create a more predictable development environment for the private sector and the public alike. Hopefully less uncertainty will translate to less perceived risk to help incentivize much needed housing projects while easing community concerns related to height and massing.

### **In this chapter**

- **Proposed India Street Form-Based Code Zone (IS-FBC)**, Planning Board report, 09.10.2015
- **Portland City Code**, Ch. 14, Div. 15.2, India Street Form-Based Code Zone (IS-FBC)
- **Building Design Standards Examples**
- **Zone Map**, Sustainable Neighborhood Plan, 09.15.2015



**PLANNING BOARD REPORT  
PORTLAND, MAINE**

**PROPOSED INDIA STREET FORM-BASED CODE ZONE (IS-FBC)  
CITY OF PORTLAND, APPLICANT**

Submitted to: Chair O'Brien and Members of the Portland Planning Board Public Hearing Date: September 15, 2015	Prepared by: Caitlin Cameron, Urban Designer Date: September 10, 2015
---	--

**I. Introduction**

The Planning & Urban Development Department is proposing the establishment of a new zone – the India Street Form-based Code zone (IS-FBC) – with related text and map amendments, and accompanying Building Design Standards. The intention of the India Street Form-Based Code is to provide zoning code that more adequately and appropriately reflects the existing and desired built form and scale of the India Street neighborhood. The IS-FBC is currently proposed for the India Street neighborhood only and would replace all existing zoning in the neighborhood.

**Why Form-based Code?**

A Form-based Code was first proposed as part of the India Street Sustainable Neighborhood Plan (ISSNP) process. The India Street neighborhood, one of the oldest in the city, has many available development parcels. Consequently, several new developments have recently been built or proposed in this neighborhood. Neighborhood residents called for a neighborhood plan that included consideration of the form of development in the neighborhood, many feeling as though the new development allowed by the current zoning was out of scale with the existing context. While the recently completed ISSNP does include development principles regarding the form of development in this neighborhood, it was determined an overhaul of the underlying zoning was appropriate to achieve the vision of the neighborhood plan document. Much of the existing zoning in this neighborhood was retroactively located and does not reflect the character of the built environment, much of which was developed before the zoning codes existed.

Form-based Code (FBC) is different from Euclidean zoning in that it shifts the priority away from use and focuses on the form, dimensional, and design components of zoning. Traditional Euclidean zoning will often have dimensional requirements but focuses on land use. The purpose of the new IS-FBC zone is to place primary emphasis on a building's physical form and its relationship to the street and to de-emphasize land use. As a mixed-use neighborhood, separation or regulation of uses in India Street is not highly desired or appropriate. The intent of the IS-FBC zone is to establish a zoning district that encourages a vibrant, walkable, mixed-use, urban district, preserves and values the existing historic neighborhood fabric, and fosters and supports local businesses and residential areas.

The Planning Board hearing includes review of a new zone, related text and map amendments, Building Design Standards, code administration, interaction with historic preservation within the India Street Form-based Code zone, and a proposal for an evaluation process of the FBC.

## **II. Public Process**

The India Street Form-based Code has been developed over several phases. In March/April 2013, as part of the Sustain Southern Maine initiative, a visual preference study and technical workshop were held to collect input from the neighborhood and other stakeholders especially on the topics of height, form, and land use. Subsequently, Richardson Associates compiled this information into an Emergent Vision Plan (found in the ISSNP) which was a guiding document in the development of the India Street Sustainable Neighborhood Plan. The ISSNP is pending Council approval and can be found here: <http://www.portlandmaine.gov/1114/India-Street>

With the formation of the India Street Neighborhood Advisory Committee in November 2013, a group of stakeholders tasked with developing the India Street Sustainable Neighborhood Plan, five Working Groups were created to develop different components of the Plan. One of these five groups is the Form-based Code/Land Development Working Group which has continued to work with staff on the development of the Form-based Code; this group is comprised of residents, business owners, developers/land owners, architects, and a member of the Planning Board. Components of the FBC have been presented throughout the neighborhood planning process to the India Street Neighborhood Advisory Committee (meetings were open to the public) for feedback and review as well as one public meeting held in the summer of 2014 to present the neighborhood plan and some of the implementation tools proposed such as the FBC and historic district. The materials were also periodically made available online on the project webpage.

Throughout the process the Working Group and Staff have sought out feedback from stakeholders and related groups – residents, business owners, real estate developers, Portland Society for Architecture, Greater Portland Landmarks, the Historic Preservation Board, and the India Street Neighborhood Association.

### Planning Board Process

**Workshop 1** – (2/24/2015) Introduction to proposed Form-based Code (FBC) content

**Workshop 2** – (3/30/2015) Site Walk + Discussion of FBC revisions, Introduction to draft Historic District

**Workshop 3** (6/06/2015) – Discussion of FBC revisions, Administration of code, Historic District interaction

**Workshop 4** (6/23/2015) – Discussion of Future evaluation of code, Administration of code, FBC and Historic preservation interaction

**Public Hearing (9/15/15)** – Final presentation of IS-FBC documents for possible recommendation to Council (It is intended that the Planning Board recommendations on the ISSNP, the IS-FBC, and the proposed Historic District will be sent to the Council together as a package.)

### **III. Conformance with the Comprehensive Plan and the India Street Sustainable Neighborhood Plan**

#### Comprehensive Plan

As an implementation tool of a neighborhood policy document, the IS-FBC conforms to the Comprehensive Plan in the following ways.

#### **From the *Downtown Vision Plan***

“Three areas with significant development and redevelopment potential have been identified in areas that are on the perimeter of the Downtown . . . These sites – Bayside, India Street, and Gorham’s Corner – each display characterizes that are colorful and truly unique. . . . Because market forces have not always produced beneficial results to both public and private interests, the City hopes to provide a design framework that would guide growth.”

“A Vision of India Street in the Year 2020: Redevelopment would focus on strengthening the vitality of the community within and establishing clearer connections to the Downtown and Munjoy Hill. India, Middle, and Congress Streets would reinforce their identities as active retail corridors, through building infill along the streetlines and through encouraging small businesses to relocate to the area. As well, infrastructure improvements and landscaping would make these corridors pedestrian-oriented spaces. It is critical to retain the residential enclaves east and west of India Street, with special attention to the upper story residential along retail corridors in order to maintain a certain level of activity. . . . Because of the large number of vacant lots, infill of buildings on all streets is needed to make India Street a more vibrant and continuous community.”

- The IS-FBC (as well as the ISSNP) is in agreement with the vision set forth in the Downtown Vision Plan for the India Street neighborhood. Regulations in the new code reflect the concentration of retail and activity on those streets identified here with the requirement of frequent entries, active storefronts. Mixed-uses and active street fronts are encouraged by not regulating or separating uses in the zone and placing surface parking to the interior of lots. New development is expected to meet the existing patterns of street walls.

#### **From *A Community Vision for Portland***

##### A City That is a Good Plan to Live

“Portland retains a small town feel with a built environment that is scaled for people, is pedestrian friendly, and is accessible to the community. Residents value and seek to enhance the safety of the community, the proximity of commercial uses near residences, and the walkable nature of the city. . . .Portland has an active and vibrant downtown both day and night due to its interwoven mix of residential, commercial, institutional, and cultural land uses.”

- The IS-FBC allows for and encourages mixed-use development and concentrates activity to specific streets. The goal of the IS-FBC is to encourage infill development that is appropriate for an urban context that is walkable. This is accomplished by maintaining smaller scale buildings, mixed uses, and frequent entries and ground floor design that provides activity on the street.

### A City That Values its Natural, Architectural, and Cultural Heritage

“Portland is a historic maritime city, which: Retains a rich historic character for both commercial and residential neighborhoods; Offers a broad spectrum of architecture and distinctive landmarks; and Maintains unifying features, such as brick buildings and sidewalks, and established and traditional neighborhoods with narrow and interconnected streets.”

- The IS-FBC guides new development towards context-sensitive designs. The regulations promulgated by the IS-FBC are derived from conditions in the existing built environment.

### ***From Portland’s Goals and Policies for the Future***

State Goal A: “To encourage orderly growth and development in appropriate areas of each community, while protecting the State’s rural character, making efficient use of public services and preventing development sprawl.”

- Like other neighborhood plans developed in Portland, the ISSNP and IS-FBC were created to promote and manage growth in an existing urban setting and using existing infrastructure. The code encourages infill development that is appropriate for the India Street community and Portland as a whole.

### ***From Housing and Population***

A Shortage of Housing: “Increasing Portland’s housing stock in developed urban areas of the city is challenging, but necessary for the long-term health of the city.”

- The IS-FBC, unlike other zones in the city, does not regulate density which allows flexibility of design and housing types that can accommodate more dwelling units.
- The code uses incentives like height bonuses for high residential density.
- The IS-FBC seeks to remove barriers like parking requirements to allow for more housing types and density to be built.

Current Impacts on Neighborhood Stability and Integrity: “Building the integrity and quality of Portland’s neighborhoods is key to encouraging the type of growth Portland needs both to support it in the future and counter regional sprawl.”

- The IS-FBC seeks to address this goal by regulating new development in a way that builds on the existing character and identity of the India Street neighborhood.

### ***From Transportation Resources***

Moving Locally: The Neighborhoods: “Balancing the realities of the motor age with the imperative of highly livable neighborhoods is at the heart of the transportation issues and policies at the neighborhood level. And it bears directly on the health of the City. If residents who live in the city by choice come to believe their neighborhoods are not safe for walking, are not protected from noisy through-traffic, don’t provide easy access to the daily necessities, don’t give their children the freedom to move about independently –then the City has lost much of its competitive advantage over the suburbs.”

- The IS-FBC promotes urban development patterns which includes design choices that create safe and walkable streets.

Neighborhood Land Use: Some neighborhoods, especially those more recently developed, lack even routine daily services within walking distance. Where such services do exist, the zoning ordinance often considers them to be non-conforming uses.”

- The IS-FBC removes land use regulation (except for a few prohibited uses) to further promote mixed-use development appropriate for an urban neighborhood.

Downtown Parking: Council Goals for Downtown Parking

- To manage the supply of on and off street parking spaces to achieve maximum and optimum use.
  - The IS-FBC specifies where parking may occur in order to promote active uses at the street and achieve maximum and optimum use of urban property at the street frontage.
- To explore the possibility of using assessments on parking to fund bicycle and pedestrian improvements, so facilities serve multiple uses.
  - The IS-FBC allows developments to take advantage of the parking fee-in-lieu which provides funding to multi-modal transportation infrastructure.

**From *Waterfront Resources***

Redevelopment of Waterfront East: Character and Impact of Development: “Development within the eastern waterfront will be compatible with the surrounding areas, neighborhoods, natural environment and maritime uses.”

- The code was developed with compatibility to the existing neighborhood and surround areas as a core goal.

Redevelopment of the Waterfront East: Mixed Use: “Development within the eastern waterfront will create a vital and active mixed use urban area that generates life and use every day of the year and all hours of the day.”

- The IS-FBC removes land use regulation (except for a few prohibited uses) to further promote mixed-use and active development appropriate for an urban neighborhood.

India Street Sustainable Neighborhood Plan

The India Street Form-based Code zone is in direct response to the goals and development principles of the India Street Sustainable Neighborhood Plan. The ISSNP was previously reviewed and recommended by the Planning Board and is pending adoption by the City Council. The IS-FBC addresses the following Goals and Development Principles:

**Goals:**

Good Quality Design

- People are attracted to neighborhoods with good quality design. This includes not only the materials and aesthetics of new development but also the street presence and longevity of a project.
- Compatibility, especially in terms of building scale, is essential in a historic and mixed-used neighborhood such as this one.
- In this neighborhood, good quality design also includes good quality rehabilitation of existing and historic buildings.

### Strong Neighborhood Identity Builds on Its Heritage

- Streetscape and building improvements (both existing and historic) as well as new development should contribute to an identity that promotes the neighborhood to prospective residents, tourists, and adjacent neighborhoods as a destination.
- The historic fabric and landmarks tell a story about this neighborhood and are critically important to its identity.

### **Development Principles:**

1. Strong Neighborhood Identity – “The India Street Neighborhood presents a human-scale, downtown-adjacent neighborhood . . . The key principle here is to bring these unique characteristics and assets into closer connection and a cohesive neighborhood identity that will permeate the built environment.”
2. Mixed-use Neighborhood – “The India Street neighborhood is today truly a mixed-use neighborhood with residences, businesses, offices, hotels, retail, and restaurants. The neighborhood plan should allow the mixed-use nature of this neighborhood to continue and expand.”
3. Retail Corridors – “The neighborhood’s vitality will be heightened with more concentrated commercial activity along India and on Congress, Commercial, and Middle streets.”
4. Guided Growth – “Due to availability and size of land, significant growth will occur on large redevelopment sites toward the waterfront. As an urban avenue, Franklin Street has valuable frontage along which new development will redefine the neighborhood’s edge and contribute to its identity as a desirable residential/mixed-use district. Smaller infill developments will be strongly encouraged as a way to expand the capacity for neighborhood growth.”
5. Form of Development – “Neighborhood growth will carefully consider form and scale, with an emphasis on “human scale” development and good quality design. Graduation of form will vary by location so that future new development is appropriate to its surrounding context. Within intact historic streets, form is modulated to approximate surrounding building forms. In larger blocks presently dominated by surface parking, new buildings will be scaled proportionately to allow larger buildings with mass and scale designed to achieve a human scale street presence, protection of street view corridors, and varied and permeable block faces. The intended outcome will be a harmonious composition of new and old buildings that fit well together to create a lively fabric of modern and traditional building forms.

The Importance of Form – The identity of a downtown adjacent neighborhood is dictated in large part by its scale and pedestrian-friendly design. Critical elements include<sup>1</sup>:

- Relatively high residential density within a relatively small district, putting many people within walking distance of many activities and, for trips outside of the district, regular and reliable bus service with bus stops;

---

<sup>1</sup> These are drawn from the India Street Neighborhood workshop discussion, the City’s design manual, and reference materials such as Ewing and Bartholomew, *Pedestrian- and Transit-Oriented Design* (2013).

- A fine-grained mix of uses – both horizontal and vertical – that invite a flow of people at different times of the day, seven days a week;
- A street pattern with pedestrian-scaled blocks. Longer blocks and larger buildings will be interrupted and made permeable by mid-block pedestrian ways, alleys, or streets;
- Continuous sidewalks designed with universal access and widths scaled to the pedestrian activity of the street, to allow two couples walking in opposite directions to comfortably pass each other;
- Strong street walls with development placed close to the property line at street frontage
- Street-oriented buildings, with commercial and mixed use buildings with “permeable” facades – front entrances and fenestration that relate to the street;
- Human-scale buildings – neither so tall as to block a pedestrian’s cone of vision at four stories, nor so horizontally large or dominated by a single use as to discourage the casual interaction between pedestrians and a mix of uses along the street.

## **I. Proposed Amendments to Chapter 14: Land Use Ordinance**

### Article III: Zoning – Text and Map amendments

The new IS-FBC zone will be added to the existing Chapter 14 Land Use Ordinance.

1. Div. 1 Sec. 14-48. Establishment of the IS-FBC India Street Form-based Code zone (Refer to Attachment 3)
2. Div. 15.2 IS-FBC India Street Form-based Code zone (Refer to Attachments 1 & 2)  
The goal of the IS-FBC is the creation and preservation of an active and human-scale public realm and the reinforcement of existing neighborhood character through good street space design.
  - i. Components of the zone
    1. Purpose and General Guiding Principles
    2. Applicability
    3. Definitions
    4. Establishment of Subdistricts
      - Urban Neighborhood (UN)
      - Urban Transitional (UT)
      - Urban Active (UA)
    5. Definitions Illustrated
    6. Regulating Plan
    7. General Development Standards
    8. Subdistrict Dimensional Requirements
    9. Dimensional Requirements Illustrated
  - ii. Revisions from the previous version (6/06/15)

1. Removed unnecessary sections: Other Provisions, Severability, Compliance with the Regulating Plan, Administration – these items are addressed in other parts of Chapter 14
2. Definitions revised or added:
  - a. GREEN ROOF – revised to reference applicable and enforceable Maine standards
  - b. MID-BLOCK PERMEABILITY – definition added for clarity
3. General Development Standards
  - a. Frontage Requirements – Additional Building Length – this section was moved from the Subdistrict Dimensional Requirements to because it applies to all subdistricts. Table format was added.
  - b. Setbacks – The 10’ exception for corners was moved from the Subdistrict Dimensional Requirements section because it applies to all subdistricts
  - c. Landscaping and Screening
    - i. Explicit requirement to screen surface parking added
    - ii. Wall/Fence dimensional requirements changed to table format
  - d. Building Additions – clarifying language added
  - e. Height Bonus – this section revised to allow height bonuses only for those properties fronting Congress Street and UT streets.
4. Subdistrict Dimensional Standards
  - a. UN
    - i. Max. Building Length changed to 30’ – to better reflect the existing context; in light of revisions to the India Street Historic District, to reinforce the existing scale of buildings and prevent aggregation of lots
    - ii. Additional Building Length only allowed with Attached Buildings – to limit new construction to building types and scales appropriate to this subdistrict
  - b. UT – formatting changes only
  - c. UA
    - i. Additional Building Length for Massing Variation no longer allowed – to limit new construction to building types and scales appropriate to this subdistrict
  - d. All Subdistricts
    - i. 75% of total building length must be built within the 1<sup>st</sup> LOT LAYER (changed from 60%)
5. Illustrations added to following sections:
  - a. Subdistrict Dimensional Requirements - Corner
  - b. Dimensional Requirements Illustrated

Article III Division 20: Off-Street Parking – Text amendments (Refer to Attachment 3)

In order to make it easier for new construction to meet the standards of the IS-FBC and to relieve building scale and form from being dictated by automobile parking, this zone will provide for several off-street parking options:

1. No off-street parking shall be required for the first three residential units
2. Any development subject to site plan review shall be eligible for the parking fee-in-lieu

#### Article V: Site Plan – Text amendments (Refer to Attachment 3)

In order to facilitate an efficient development review process, a higher Level III review threshold is proposed for project applications in the IS-FBC. Fewer projects would go to Planning Board review, theoretically shortening the review time for more applications. Two text amendments are proposed to reflect this administrative change:

1. Level II Site Plan Review: New Construction or Additions of less than 50,000 sf
2. Level III Site Plan Review: New Construction or Additions of 50,000 sf or more

## **II. Proposed Changes to the City of Portland Design Manual**

### IS-FBC Building Design Standards (BDS) (Refer to Attachment 4)

A new section is proposed to be added to the Design Manual to create design guidelines for the new IS-FBC zone. The goals and requirements of the design review are listed under three headings:

- Intent – Intent statements are provided to define goals which the guidelines and standards have been created to achieve. In circumstances where the appropriateness or applicability of a guidelines or standard is in question or under negotiation, the intent statement will provide additional direction.
- Guidelines – Design guidelines provide further considerations to promote the goals defined by the intent statements. Guidelines use the term “should” or “may” to denote they are considered relevant to achieving the stated intent, and will be pertinent to the review process but will not be required for approval. Guidelines will, however, be strongly considered when there is a request to waive a related standard.
- Standards – Design standards are objective criteria that provide specific direction based on the stated intent. Standards are used to denote issues that are considered critical to achieving the stated intent. Standards use the term “shall” to indicate that compliance is required.

The BDS is divided into the following categories of review:

1. Neighborhood Context
2. Massing & Proportion
3. Articulation & Composition
4. Fenestration
5. Building Materials
6. Building Entries
7. Roof Lines
8. Structured Parking

Waivers may be requested if an alternative is proposed that meets one or more of the following conditions:

1. The alternative better achieves the stated intent
2. The intent which the standard was created to address will not be achieved by application of the standard in this particular circumstance
3. The application of the other standards and guidelines to achieve state intents will be improved by not applying this standard
4. Unique site factors make the standard impractical or cost prohibitive

Revisions from the previous version (6/06/15)

1. Minor language revisions throughout for clarity
2. Addition of Standard 2.1 to provide guidance on the conditions for buildings using ground floor partitions to achieve additional building length.
3. Addition of Illustrations to emphasize desirable design elements in this zone

**III. Code Administration**

Application Requirements

Applicants submitting under the India Street Form-based Code shall submit required application materials defined in Article V Site Plan.

Development Review Procedures (Refer to Attachment 6)

- Staff will use an internal checklist developed to evaluate and process IS-FBC applications efficiently.
- Development review will be conducted in accordance with the procedures set forth in Article V Site Plan of the City of Portland Zoning Ordinance, and as further defined by the table below:

Type of Application	Definition	Level of Review	Reviewing Authority
Site Plan: Level I or II	<ul style="list-style-type: none"> <li>• Construction of any new structures having a total floor area of <b>less than fifty thousand (50,000) square feet</b> in the IS-FBC zone.</li> <li>• The construction of any building addition(s), cumulatively having a total floor area of <b>less fifty thousand (50,000) square feet</b> within any three-year period in the IS-FBC zone.</li> </ul>	Administrative Site Plan	Planning Staff

Site Plan: Level III	<ul style="list-style-type: none"> <li>• Construction of any new structures having a total floor area of <b>fifty thousand (50,000) square feet or more</b> in all IS-FBC subdistricts.</li> <li>• The construction of any building addition(s), cumulatively having a total floor area of <b>fifty thousand (50,000) square feet or more</b> within any three-year period in the IS-FBC zone.</li> <li>• The construction of any building addition(s) have a total floor area exceeding that of the existing building to which it is an addition.</li> </ul>	Level III Site Plan	Planning Board
Master Development Plan	The Master Development Plan option shall apply in the IS-FBC zone.	Master Development Plan	Planning Board

Design Review

- Building Design Standards (BDS) – The Building Design Standards will be adopted as part of the City of Portland Design Manual and will be the applicable design standards for the IS-FBC zone. The Design Manual may be revised by the Planning Board without City Council approval.
- Design review is mandatory for all new construction and addition projects in the IS-FBC zone.
- Process:
  - Projects will continue to have in-house design review (conducted by a committee of three Planning Division staff members including the Urban Designer).
  - Level III Site Plan design review will include Planning Board review.
- Historic District Design Review Process
  - Historic Landmarks and projects within a historic district: Alterations, Additions, and New Construction include design review by HP staff or board
  - Projects within 100’ of a historic district or historic landmark: Advisory review by Historic Preservation staff or board, Design review by Planning staff or board

**IV. IS-FBC and Historic District Interaction**

The IS-FBC zone includes an existing historic district and landmarks as well as a proposed historic district and landmarks. The following is proposed:

- Review Processes only covered by Historic Preservation  
Alteration – Building alterations do not undergo a design review under FBC.  
Demolition – Zoning/Planning does not review demolition applications.
- Existing Historic District (Eastern Waterfront Historic District)  
Where the existing historic district overlaps the FBC zone (Commercial and Franklin Streets), the current historic preservation review process will remain. The current historic preservation review process does allow heights to be reduced for compatibility reasons. No amendments are proposed to the Eastern Waterfront Historic District at this time.
- Proposed Historic District (India Street Historic District)  
Height - The following three recommendations as to height regulation are suggested for the India Street Historic District. These recommendations are a result of internal discussions, feedback from stakeholder groups, and the Historic Preservation Board process:
  1. Underlying zoning height of the IS-FBC will apply to the historic district and may not be limited by the Historic Preservation review process except in the case of a building addition which proposes to change the height of an existing building.
  2. The Historic Preservation review (board or staff) has authority to determine how the height is achieved including requirements that may reduce overall volume.
  3. Height bonuses may be applied within the historic district to properties fronting onto Congress Street only.
- 100' Rule (Site Plan Ordinance)  
Historic Preservation provides an advisory review of new construction proposed within 100' of a historic district boundary or the property line of a historic landmark. The HP review advises the Planning staff or board review of the project.

## V. **Future Evaluation of IS-FBC**

The following evaluation process for the code would become part of the Planning Office work plan:

### Upon IS-FBC Implementation

- Project data is logged for development projects subject to the IS-FBC (this data is currently kept and archived in Urban Insight and e-plan)
  - Project size, type, cost
  - Length of review
  - Checklist(s)
  - Memorandum of development review comments
  - Design drawings – evolution of design review documented
- Exit survey from development team at conclusion of project subject to the IS-FBC for feedback on the process and how the code affected the project implementation and design

### At Year 3 (2018/19)

- Planning Staff work plan includes time (1-2 months) dedicated to review of IS-FBC
- Project Data: Staff reviews and analyzes project data
- Survey – Development teams: Exit surveys are collected and analyzed
- Survey – Neighborhood stakeholders: Neighborhood residents, business owners surveyed for feedback on new projects
- Survey – Staff: Internal feedback
- Staff Recommendations: Staff prepares a report and recommendations to address any issues or feedback resulting from the evaluation
- Planning Board Review: Staff presents report with analysis and recommendations for revision to IS-FBC to Planning Board which will then determine whether to adopt revisions or explore further options
- City Council: Potential map or text amendments approved by Council

### **VI. Staff Recommendations**

Staff recommends that the Planning Board find the proposed new IS-FBC zone, related text and map amendments, and Building Design Standards to be consistent with the Comprehensive Plan and the India Street Sustainable Neighborhood Plan and recommend to the City Council adoption of the new IS-FBC zone, related text and map amendments, and Building Design Standards.

### **VII. Motions for the Board to Consider**

On the basis of the information contained in the Planning Report and testimony presented at the public hearing, the Board finds:

The proposed India Street Form-based Code zone, related text and map amendments, and Building Design Standards (are or are not) in conformance with the City of Portland Comprehensive Plan and the India Street Sustainable Neighborhood Plan and therefore (recommends or does not recommend) approval of the proposed IS-FBC zone, related text and map amendments, and the Building Design Standards to the City Council.

### **Attachments**

1. India Street Form-based Code Zone
2. India Street Form-based Code Regulating Plan
3. Chapter 14 Land Use Code Text Amendments
4. IS-FBC Building Design Standards
5. Administrative Checklist
6. Development Review Flow Charts (2)

storage shall be accomplished within enclosed containers or by one (1) or more of the following methods: raising materials above ground, separating materials, preventing stagnant water, or by some other means. Any areas used for permitted outdoor storage of materials shall be screened from view of any adjoining properties and public rights-of-way. No outdoor storage shall be permitted between the front of any building on the site and the street.

- (k) *Odor:* Uses in the B-6 zone shall adhere to the odor regulations of the IL zone.
- (l) *Smoke:* Discharges of smoke shall not exceed opacity percentage of forty (40) percent or number 2 on the ringelman chart.
- (m) *Discharge into sewers:* No discharge shall be permitted at any point into any private sewage disposal system, or surface drain, or into the ground, of any materials in such a way or of such nature or temperature as to contaminate any water supply, or the harbor, or otherwise cause the emission of dangerous or objectionable elements, except in accordance with standards approved by the health authority or by the public works authority.
- (n) *Lighting:* All lighting shall be designed and installed with cut-off fixtures to direct illumination onto the site and to prevent illumination from such fixtures on neighboring properties and as otherwise governed by the site lighting standards of the City of Portland Technical Manual.

(Ord. No. 80-04/05, 12-8-04; Ord. NO. 240-09/10, 6-21-10; ORd. No. 278-09/10, 7-19-10; Ord. 284-14/15, 6-1-2015)

#### **Sec. 14-274. Affordable Housing**

Amendments to Division 30 related to affordable housing that are enacted prior to April 1, 2016 shall apply to any site plan review application on the Portland Company (58 Fore Street) portion of this zone received after April 1, 2015.

(Ord. 284-14/15, 6-1-2015)

#### DIVISION 15.2. INDIA STREET FORM-BASED CODE ZONE (IS-FBC)

#### **Sec. 14-275.1 Purpose.**

The India Street Form-based Code is different than traditional zoning, placing the primary emphasis on a building's physical form and its relationship to the street, and de-emphasizing land use. The intent of the India Street Form-based Code Zone is to establish a zoning district that encourages a vibrant, walkable, mixed-use urban district, preserves and values the existing historic neighborhood fabric, and fosters and supports local businesses and residential areas. The components of a Form-Based Code include the Guiding Principles, REGULATING PLAN, Subdistricts, General Development Standards, Dimensional Requirements, BUILDING DESIGN STANDARDS, Diagrams, and Definitions.

The goal of the India Street Form-based Code is the creation and preservation of an active and human-scale public realm and the reinforcement of existing neighborhood character through good street space design.

(a) GENERAL GUIDING PRINCIPLES: The General Guiding Principles set forth here shall be applicable to all subdistricts within the India Street Form-based Code Zone.

1. The street is a coherent space, with consistent building and streetscape character on both sides of the street. This agreement of buildings and streetscape across the street contributes to a clear public space and district identity.
2. The street wall is visually well defined. Land should be clearly public or private. Buildings contribute to the vital and safe public space while providing a clear boundary to the private, protected realm.
3. Street walls are engaged with the street environment. Buildings are inviting places that interact with and contribute to the street vitality. Inactive edges, vehicle storage, garbage, and mechanical equipment should be kept away from the street. Shared infrastructure, to the extent practicable, including, but not limited to, service alleys, parking areas, stormwater treatment, public transportation facilities, and driveways, shall be utilized.

4. Buildings are designed for the urban environment. Buildings must be designed for the urban situation within the subdistrict which often includes mixed-uses. Buildings are positioned near the street and FACADES are oriented to the street.
5. Respect historic character. If a property is within the India Street Historic District, Article IX Historic Preservation is applicable. New construction, BUILDING ADDITIONS, or ALTERATIONS in the India Street Historic District shall reflect and complement the character defining features and elements of the existing historic development to which it is visually related.

(Ord. 83-15/16, 11-2-2015)

**Sec. 14-275.2. Applicability.**

The requirements set forth in this Division shall apply to all new development, primary and accessory structures, including BUILDING ADDITIONS within the India Street Form-based Code Zone as designated on the India Street REGULATING PLAN

(Ord. 83-15/16, 11-2-2015)

**Sec. 14-275.3. Establishment of subdistricts.**

The India Street Form-based Code Zone as shown on the REGULATING PLAN is divided into three subdistricts:

- (a) Urban Neighborhood (UN) Subdistrict;
- (b) Urban Transitional (UT) Subdistrict; and
- (c) Urban Active (UA) Subdistrict.

(Ord. 83-15/16, 11-2-2015)

**Sec. 14-275.4. Definitions.**

Terms used throughout this India Street Form-based Code Zone may be defined in Section 14-47 or elsewhere in Article III, Zoning. Terms not so defined shall be accorded their commonly accepted meanings. In the event of any conflict between the definitions in this section and those in Section 14-47, or any other sections of Article III, Zoning, the Subdivision Rules and Regulations, or any other local land use ordinances, rules or regulations, those of this India Street Form-based Code Zone shall

take precedence.

*ALTERATION* means a change or rearrangement in the structural supports, exterior appearance, or removing from or otherwise affecting the exterior appearance of a structure.

*BUILDING ADDITION* means any increase to footprint or volume of an existing structure. See Table 14.275.4c. Building - Principal & Accessory

*BUILDABLE AREA* means the area enclosed by the front, side, and rear yard setbacks and limited by lot coverage.

*BUILDING, ACCESSORY* means detached structure that is incidental and subordinate in area and extent, and/or use to the principal building(s) on the property. A lot may have more than one accessory building. See Table 14.275.4c. Building - Principal & Accessory.

*BUILDING, PRINCIPAL* means the main structure(s) on a lot having the predominant area and extent, and/or use. A lot may have more than one principal building. See Table 14.275.4c. Building - Principal & Accessory.

*BUILDINGS, ATTACHED* means two or more independent buildings that share at least one common PARTY WALL but have full building separation and independent PRINCIPAL ENTRIES; not free-standing. Attached buildings may or may not have common ownership.

*BUILDING DESIGN STANDARD (BDS)* means the basic design parameters governing building form, including intent, guidelines, and standards for architectural elements such as proportion, articulation, fenestration, entries, roof lines, and materials.

*ELEVATION* means an exterior wall of a building not along a frontage line. See FAÇADE and Table 14.275.4e. Frontage & Lot Lines.

*ENTRANCE, PRINCIPAL* means the main point of access for pedestrians into a building. A building may have more than one principal entrance.

*EXPRESSION LINE* means a line prescribed at a certain level of a building for the major part of the width of a FAÇADE, expressed by a variation in material or by a limited projection such as a molding or balcony.

*FAÇADE* means any exterior wall of a structure exposed to public view from a public right-of-way. See *ELEVATION* and Table 14.275.4e. Frontage & Lot Lines.

*FAÇADE, BLANK* means a building façade that contains expanses of wall area with no windows, no entrances, no articulation, and no other elements or features, or is otherwise undifferentiated.

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

*LOT LAYER* means a range of depth of a lot within which certain elements are permitted. See Table 14.275.4d. Lot Layers.

*MID-BLOCK PERMEABILITY* means a continuous, open-air corridor at least 20' in width that connects two streets or public rights-of-way and physically provides a break in the street wall. The corridor must be unobstructed and open to the sky for the majority of its length.

*PARTY WALL* means any partition wall common to two adjacent or attached buildings.

*REGULATING PLAN* means a zoning map that shows the boundary of the area and subdistricts subject to regulation by the India Street Form-based Code.

*STEPBACK* means a building setback of a specified distance measured from the ground floor building face that occurs at a prescribed number of stories or height above the ground and excludes the minimum necessary housing of elevators, stairways, tanks, fans, or other building operating equipment not intended for human occupancy.

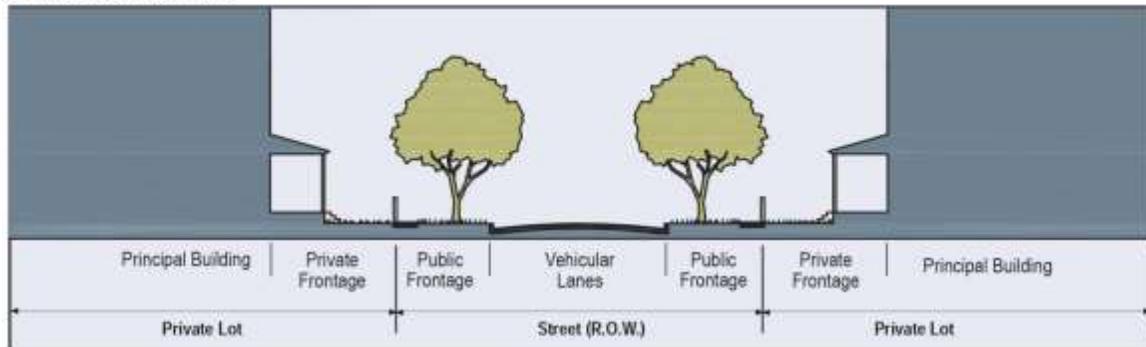
*YARD, SIDE* means a yard adjoining a side lot line extending from the front yard to the rear yard, the width of which shall be the shortest horizontal distance between the side lot line and any

structure. On corner lots, non-frontage yards shall be considered side yards. See Table 14.275.4b. Setback Designations.

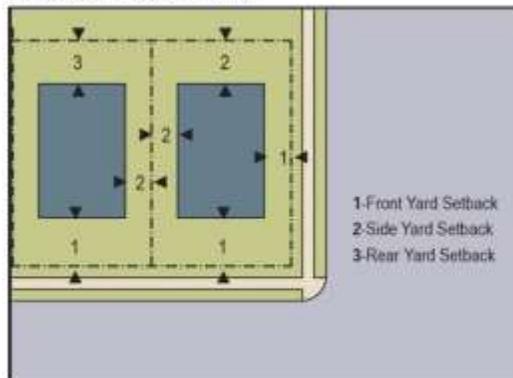
*ZERO LOT LINE* means the location of a structure on a lot such that one or more of the structure sides rests directly on a lot line. See Table 14.275.4e. Frontage & Lot Lines.

**TABLE 14.275.4 DEFINITIONS ILLUSTRATED**

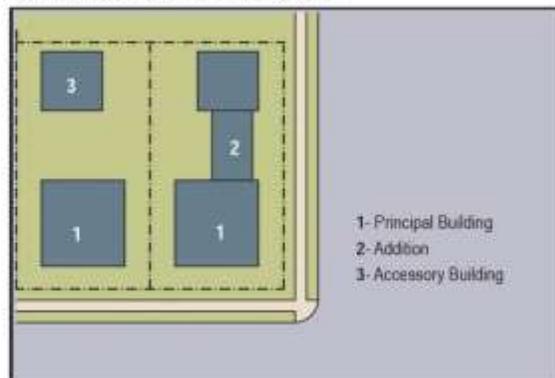
**a. STREETS & FRONTAGES**



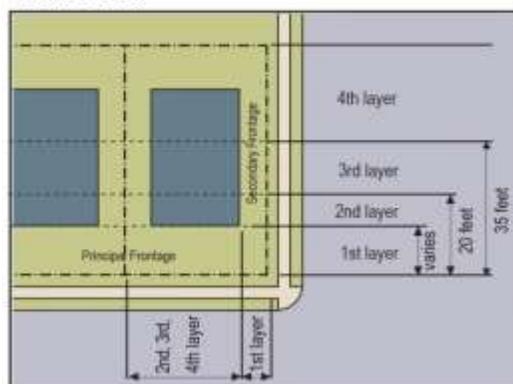
**b. SETBACK DESIGNATIONS**



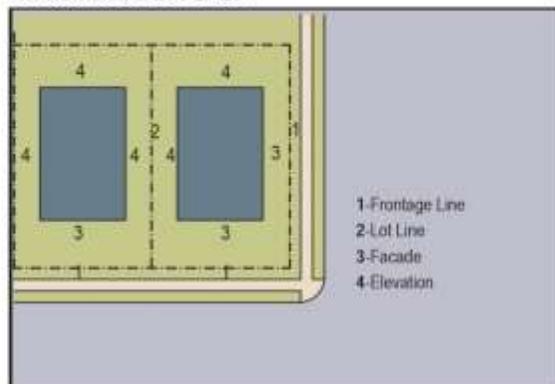
**c. BUILDING - PRINCIPAL & ACCESSORY**



**d. LOT LAYERS**



**e. FRONTAGE & LOT LINES**



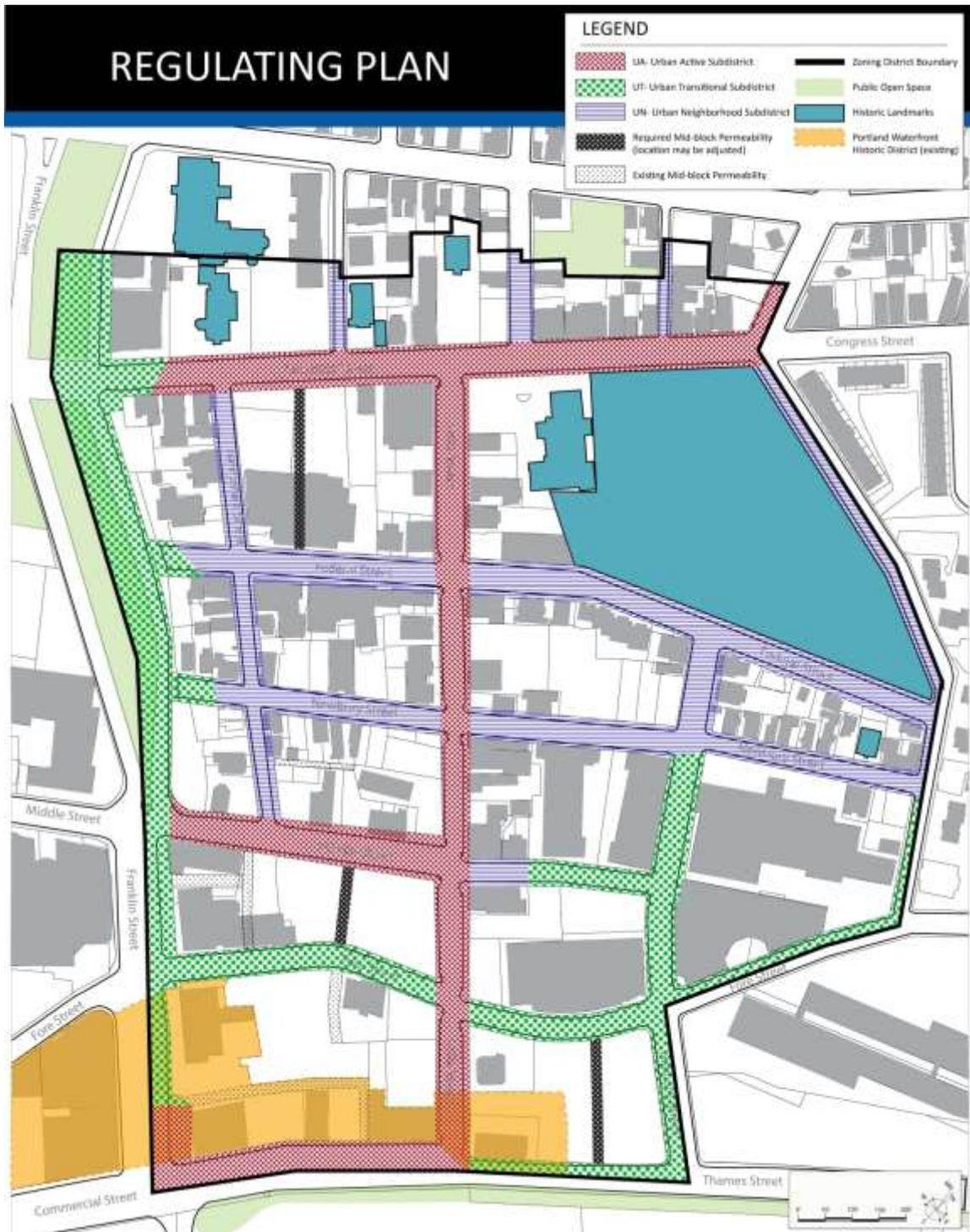
City of Portland  
Code of Ordinances  
Sec. 14-275.4

Land Use  
Chapter 14  
Rev. 11-2-2015

(Ord. 83-15/16, 11-2-2015)

**Sec. 14-275.5. Regulating Plan.**

The REGULATING PLAN shows the location of the zone boundary and subdistricts subject to regulation by the IS-FBC zone.



**Sec. 14-275.6. General development standards.**

The following standards apply to all subdistricts unless expressly stated otherwise.

(a) *Prohibited uses* - uses not to be established in the India Street Form-based Code Zone include:

1. Correctional facilities;
2. Cremation facilities;
3. Drive-through facilities;
4. High-impact industrial uses, including industrial uses that are prohibited in the IL zone, specifically Section 14-233(c), (e - y), (aa);
5. Major/minor auto-service station;
6. Truck terminals;
7. Waste related services; and
8. Storage and parking facilities for Class 1 flammable and combustible liquids (having an aggregate total of more than 100 gallons) but excluding storage that is part of a motorized vehicle or pleasure craft facility.

(b) *Siting standards.*

1. MID-BLOCK PERMEABILITY.
  - a. Lots with frontage on two streets roughly parallel to Commercial/Thames Street, for each and every 200 feet in street line length of lot, a full break between structures of at least 20 feet in width shall be provided roughly perpendicular to Commercial/Thames Street and within the middle third of the applicable street frontage. (see Table 14.275.7a. Mid-Block Permeability)

- b. Is encouraged in any location that connects existing public or private alleys, passages, or streets.
- c. Any development providing MID-BLOCK PERMEABILITY with public access between two streets is eligible for one (1) additional story of up to 12' in height (see Sec. 14-275.6(c) Height Standards). Public access shall be defined through a legal agreement such as an easement or license.
- d. Refer to REGULATING PLAN for identified required MID-BLOCK PERMEABILITY locations.

2. Frontage requirements - Additional Building Length is allowed beyond the maximum building length under the following circumstances and according to the table below:

- a. ATTACHED BUILDINGS: An unlimited number of ATTACHED BUILDINGS having up to 30' street-facing building length is allowed. A PARTY WALL condition is required at least every 30' and for the entire height of each building. (see Table 14.275.7d Additional Building Length - ATTACHED BUILDINGS).
- b. Ground Floor Partitions: Additional building length is permitted with the provision of ground floor partitions where the following conditions are met: (see Table 14.275.7f Additional Building Length - Ground Floor Partitions)
  - 1. Partitions must extend from the FAÇADE at least 2/3rds of the building depth.
  - 2. Partitions must be architecturally expressed on the building exterior.
  - 3. Each module created by partition must have at least one functional, street-facing entry.

4. Modules created by partition shall be sized to have reasonable function and proportion in relation to overall building length.
- c. Massing Variation: Additional building length is permitted where at least 30% and up to 40% of the total FACADE building length is set back to the 3<sup>rd</sup> LOT LAYER (at least 20') (see Table 14.275.7e Additional Building Length - Massing Variation).
- d. Structured Parking Exception: Additional building length for one FACADE without partition walls is allowed for the use of ground-level structured parking.

<b>Additional Building Length</b>				
<b>Subdistrict</b>	<b>ATTACHED BUILDINGS</b>	<b>Ground Floor Partitions</b>	<b>Massing Variation</b>	<b>Structured Parking Exception</b>
<b>UN</b>	unlimited run	Not allowed	Not allowed	Not allowed
<b>UT</b>	unlimited run	200' max. length; 2 modules	200' max. length	200' max. length
<b>UA</b>	unlimited run	150' max. length; 3 modules	Not allowed	150' max. length

3. Setbacks.
  - a. Side Yard Setbacks for Small Lots - Lots with street frontage of less than 35' are not required to have side yards.
  - b. Where new construction or BUILDING ADDITIONS creates a side yard of less than 5', a maintenance easement is required where a combination of the side yard and easement must be at least 5'. PARTY WALL conditions are exempt from providing a maintenance easement.
  - c. Building FACADES within 10' of a corner are exempt from setback requirements in order to allow special corner architectural treatments.

- d. ATTACHED BUILDINGS on Individual Lots - Subdivision developments consisting of horizontally attached buildings on individual lots are not required to have side yards between buildings where a PARTY WALL condition will exist, but shall be required to meet the applicable side yard requirements at the external and internal subdivision lot boundaries between buildings that are not attached to each other.

4. Landscaping and screening.

- a. Surface parking areas shall be screened from view from sidewalks, public-right-of-ways, and public open spaces using landscaping, walls, fencing, or a combination thereof.

b. Wall/Fence Dimensional Requirements

<b>Wall/Fence Dimensional Requirements</b>		
<b>LOT LAYER</b>	<b>Height</b>	<b>Visual Permeability</b>
<b>1<sup>ST</sup></b>	6' max.	Required above 2' from sidewalk grade
<b>2<sup>ND</sup> - 4<sup>TH</sup></b>	8' max.	n/a

5. BUILDING ADDITIONS.

- a. BUILDING ADDITIONS which exceed the footprint of the existing building to which it is an addition or which exceeds 50,000 square feet shall be subject to Level III Site Plan review.

- b. A BUILDING ADDITION length may match but not exceed the length of the existing building to which it is an addition. All other Subdistrict Dimensional Requirements shall apply. (See Table 14.275.7b. Addition)

- c. BUILDING ADDITIONS may match existing building in number and height of stories. All other Subdistrict Height Standards shall apply.

(c) Height standards.

- 1. Height bonus.

- a. Applicability:
  1. If principal frontage faces a UT street, UN street, or Congress Street, then the building is eligible for a height bonus.
  2. Only one height bonus may be applied per structure.
- b. One (1) additional story of up to 12 feet in height is allowed if one of the following provisions is met:
  1. For residential development with residential density equal to or greater than 150 dwelling units per acre (density may be achieved with the bonus floor);
  2. For any development providing a GREEN ROOF, where:
    - i At least 50% of the cumulative lot area is pervious; and
    - ii At least 50% of the cumulative roof area is a GREEN ROOF. GREEN ROOF area may be applied towards the 50% lot area requirement.
  3. For residential development where 20% of the units meet the definition of either "Workforce Housing Unit for Sale" or "Low-income Housing Unit for Rent" as per Section 14-485.

Sub-district	Height Bonuses						
	Max. Pre-bonus Height	MID-BLOCK PERMEABILITY (publicly accessible)	Res. Density	GREEN ROOF	Afford. Housing	Max. Height w/ Bonus	Min. Bonus Floor Stepback *
UN	45' and 4 stories	n/a	n/a	n/a	1 story Up to 12'	57' up to 5 stories	15'
UT	65' and 6 stories	1 story Up to 12'	1 story Up to 12'	1 story Up to 12'	1 story Up to 12'	77' up to 7 stories	15'
UA (Congress Street only)	50' and 4 stories	1 story Up to 12'	1 story Up to 12'	1 story Up to 12'	1 story Up to 12'	62' up to 5 stories	15'

\*measured from the ground floor building edge facing any public right-of-way

(d) Parking standards.

1. Parking shall be provided as per Division 20 Off-Street Parking of Chapter 14 Land Use Code.
2. Structured parking must meet the BDS for *Structured Parking* (see *City of Portland Design Manual*).
3. In the case of a BUILDING ADDITION, non-conforming existing surface parking may remain. In the case of new construction, surface parking must be brought into conformance with IS-FBC standards.

(Ord. 83-15/16, 11-2-2015)

**Sec. 14-275.7. Subdistrict dimensional requirements.**

(a) Urban Neighborhood (UN) subdistrict.

*Intent:* The intent of this subdistrict is to maintain and promote a small-scale, less active urban fabric. Buildings may be more private in character and have smaller footprints with building types including, but not limited to, single-family, rowhouses, duplexes, triple-deckers, and double-triples. Building frontages may be less transparent and entries may be raised above sidewalk

level with frontage types including raised, recessed doorways, porches, and stoops. The streetscape has variable setbacks and landscaping with many buildings within one block and streets tend to be narrow.

# UN

## SITING STANDARDS

Orientation - Principal Frontage	determined by applicant
Lot Coverage	90% max

### FRONTAGE REQUIREMENTS (1st LOT LAYER)

Building Length - Principal facade	50' max.
Building Length - Secondary fac.	50' max.
at least 75% of total building length must be built within 1st LOT LAYER (see Table 14.275.7 c.)	
Additional Building Length	(see also Table 14.275.7)
ATTACHED BUILDINGS	unlimited run
Ground Floor Partitions	not allowed
Massing Variation	not allowed
Structured Parking Exception	not allowed

## SETBACKS

<b>Principal Building</b>	
(a) Front Yard (1st Lot Layer)	5' max.
Setback Applicability	75% of total building length must be built within 1st LOT LAYER
(b) Side Yard*	5' min. - May be reduced to zero provided that the cumulative side yards are not less than 10'
(c) Rear Yard	10' min.
<b>Accessory Building</b>	
Side Yard	5' min.
Rear Yard	5' min.

## BUILDING ENTRIES (SEE ALSO BDS)

Frequency at frontage	at least 35'
<b>Principal Entries</b>	
Orientation	any orientation allowed
Elevated Stoop (> 1 step)	allowed

## HEIGHT STANDARDS

<b>Principal Building</b>	
Building Height Min.	25', at least 2 stories
Building Height Max.	45', up to 4 stories
Ground Story Height	n/a
<b>Accessory Building</b>	
Building Height Max.	25'

## PARKING STANDARDS

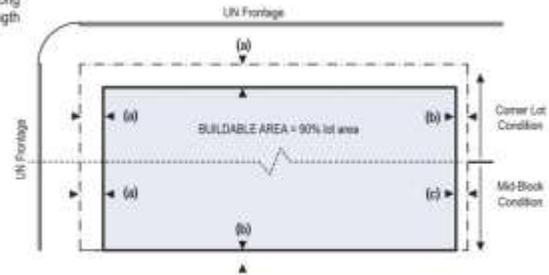
<b>Surface Parking Location</b>	
Side Yard	20' max in width per lot; may not exceed 50% of frontage length
Rear Yard	4th LOT LAYER only
<b>Garage at frontage (attached or detached)</b>	
Garage Door Setback (min)	2nd LOT LAYER
Garage Door Opening (max)	9' up to 40% of facade length
	20' max. limit

### Notes and Exceptions

\* Zero lot lines are allowed under certain conditions (see Sec. 14.275.6(b).3. Setbacks)

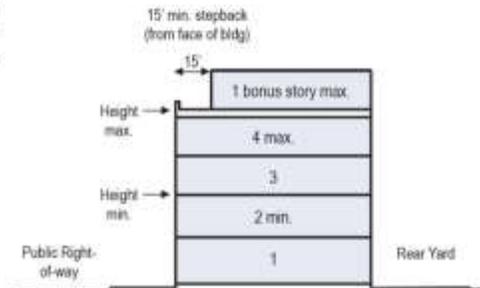
## SITING STANDARDS

- The FACADES and ELEVATIONS of Principal Buildings shall be distanced from the lot lines as shown.
- FACADES shall be built along the frontage lines to the length specified in the table.



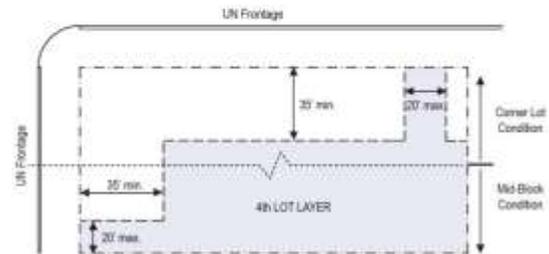
## HEIGHT STANDARDS

- Height shall be measured as specified in Sec. 14-47 Definitions "Building, height of"
- Number of Stories excludes attics and raised basements.



## PARKING STANDARDS

- Surface parking areas may be provided within the shaded area shown.



(b) Urban Transitional (UT) subdistrict.

*Intent:* The intent of this subdistrict is to encourage higher density, mixed-use building types that accommodate any use. Building frontages are a mix of activity level, have larger footprints, and the most flexibility of height and scale. Building ground floor spaces tend to accommodate flexible and changing uses with frontage types including doorways, forecourts, arcades, and storefronts. The streetscape may be less active than the UA subdistrict with wide sidewalks, street trees, and setbacks and setbacks providing relief from large building masses.

# UT

## SITING STANDARDS

Orientation - Principal Frontage	determined by applicant
Lot Coverage	90% max.
<b>FRONTAGE REQUIREMENTS (1st LOT LAYER)</b>	
Building Length	100' max.
at least 75% of total building length must be built within 1st LOT LAYER (see Table 14.275.7 c.)	
Additional Building Length	(see also Table 14.275.7)
ATTACHED BUILDINGS	unlimited run
Ground Floor Partitions	200' max., 2 modules
Massing Variation	200' max.
Structured Parking Exception	200' max.

## SETBACKS

<b>Principal Building</b>	
(a) Front Yard (1st Lot Layer)	10' max.
Setback Applicability	75% of total building length must be built within 1st LOT LAYER.
(b) Side Yard*	10' min. - May be reduced to zero provided that the cumulative side yards are not less than 20'
(c) Rear Yard	10' min.
(d) STEPBACK (adjacent to UN)	10' min. setback after 45' height
<b>Accessory Building</b>	
Side Yard	5' min.
Rear Yard	5' min.

## BUILDING ENTRIES (SEE ALSO BDS)

Frequency at frontage	at least 95'
Principal Entries	
Orientation	any allowed
Elevated Stoop (>1 step)	allowed

## HEIGHT STANDARDS

<b>Principal Building</b>	
Building Height Min.	3 stories
Building Height Max.	65', up to 6 stories
Ground Story Height	n/a
<b>Accessory Building</b>	
Building Height Max.	25'

## PARKING STANDARDS

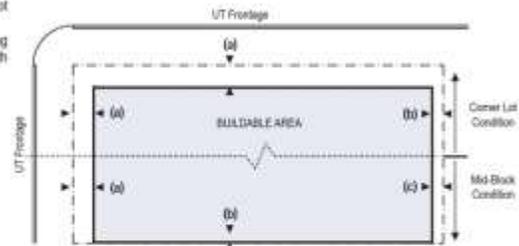
Surface Parking Location	4th LOT LAYER only
<b>Garage at frontage (attached or detached)</b>	
Garage Door Setback (min)	2nd LOT LAYER
Garage Door Opening (max)	9' up to 40% of facade length
	20' max. limit

## Notes and Exceptions

\* Zero lot lines are allowed under certain conditions (see Sec. 14.275.6(b) 3 Setbacks)

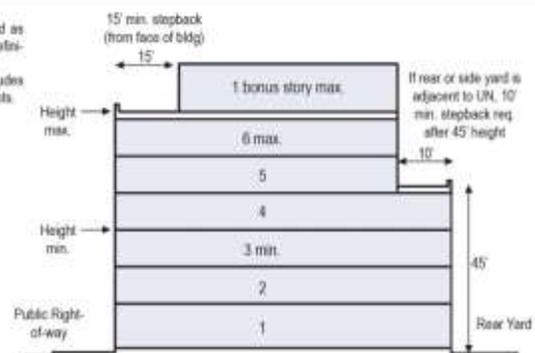
## SITING STANDARDS

- The FACADES and ELEVATIONS of Principal Structures shall be distanced from the lot lines as shown.
- FACADES shall be built along the frontage lines to the length specified in the table:



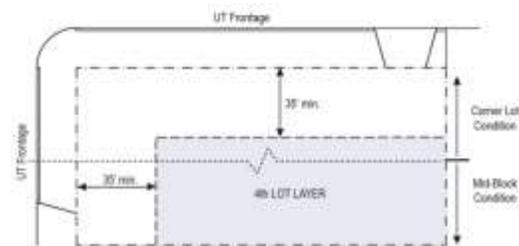
## HEIGHT STANDARDS

- Height shall be measured as specified in Sec. 14-47 Definitions "Building height of."
- Number of Stories excludes attics and raised basements.



## PARKING STANDARDS

- Surface parking areas may be provided within the 4th LOT LAYER (shaded area) as shown.



(c) Urban Active (UA) subdistrict.

*Intent:* The intent of this subdistrict is to maintain and promote a moderate-scale, diverse, mixed-use neighborhood with vibrant streets and active ground floor spaces. Buildings are more active and engage the street at the ground level. Building frontages are transparent and entries are at sidewalk level with frontage types including storefronts and recessed doorways. The streetscape has steady street planting, and buildings set close to the street providing a consistent street wall.

# UA

## SITING STANDARDS

Orientation - Principal Frontage	face a UA street
Lot Coverage	90% max
<b>FRONTAGE REQUIREMENTS (1st LOT LAYER)</b>	
Building Length	50' max.
at least 75% of total building length must be built within 1st LOT LAYER (see Table 14.275.7 c.)	
Additional Building Length	(see also Table 14.275.7)
ATTACHED BUILDINGS	unlimited run
Ground Floor Partitions	150' max., 3 modules
Massing Variation	not allowed
Structured Parking Exception	150' max.
Fenestration, ground floor	60-90% (see BDS) facade area.

## SETBACKS

<b>Principal Building</b>	
(a) Front Yard* (1st Lot Layer)	5'0" max.
Setback Applicability	75% of total building length must be built within 1st LOT LAYER
(b) Side Yard**	5' min. - May be reduced to zero provided that the cumulative side yards are not less than 10'
(c) Rear Yard	10'0" min.
<b>Accessory Building</b>	
Side Yard	5'0" min.
Rear Yard	5'0" min.

## BUILDING ENTRIES (SEE ALSO BDS)

Frequency at frontage	at least 40'
<b>Principal Entries</b>	
Orientation	at least 1 facing UA street or corner
Elevated Stoop (>1 step)	not allowed

## HEIGHT STANDARDS

<b>Principal Building</b>	
Building Height Min.	3 stories
Building Height Max.	50', up to 4 stories
Ground Story Height	12'0" min. clear
<b>Accessory Building</b>	
Building Height Max.	25'

## PARKING STANDARDS

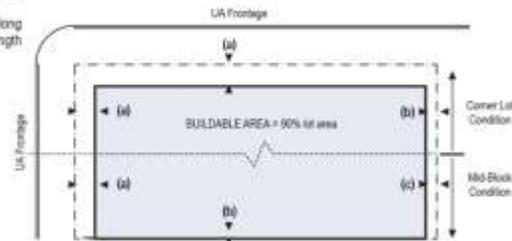
Surface Parking Location	4th LOT LAYER only
<b>Garage at frontage (attached or detached)</b>	
Garage Door Setback	3rd LOT LAYER
Garage Door Opening (max)	n/a

\* Up to 10'0" max. front yard setback is allowed if ground plane at frontage is a continuation of the accessible public right-of-way

\*\* Zero lot lines are allowed under certain conditions (see Sec. 14.275.6(b) 3. Setbacks)

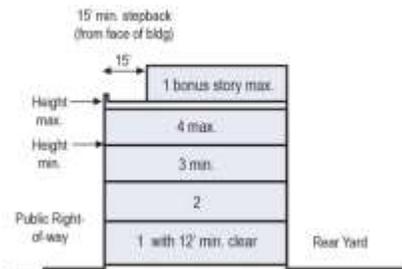
## SITING STANDARDS

- The FACADES and ELEVATIONS of Principal Buildings shall be distanced from the lot lines as shown.
- FACADES shall be built along the frontage lines to the length specified in the table.



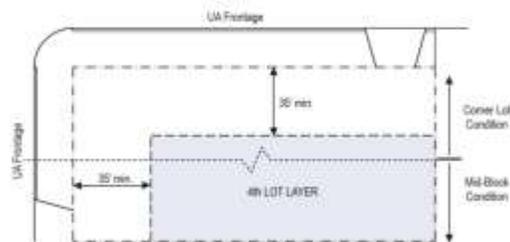
## HEIGHT STANDARDS

- Height shall be measured as specified in Sec. 14-47 Definitions "Building, height of."
- Number of Stories excludes attics and raised basements.



## PARKING STANDARDS

- Surface parking areas may be provided within the 4th LOT LAYER (shaded area) as shown.



(d) Corner conditions.

For corner lots where two subdistricts intersect at a street corner, the *Dimensional Requirements* and *Building Design Standards* of the "dominant" subdistrict shall apply from the 1<sup>st</sup> through 3<sup>rd</sup> LOT LAYER (35 feet deep into the lot measured from the dominant lot line) along its associated street frontage or public ways including required mid-block permeability. Otherwise, *Dimensional Requirements* shall be according to the subdistrict onto which the building FAÇADE faces.

# CORNER

## ORIENTATION

- Corner lots shall be treated as having street frontage on all streets regardless of building orientation
- Principal Building shall designate a Principal Frontage and Secondary Frontage\*
- In the case of a corner lot having UA frontage, the Principal Frontage must face a UA street\*

## SETBACKS

- (a) Front Yard (1st Lot Layer) | according to subdistrict
  - (b) Side Yard | according to subdistrict
- Building facades within 10' of a corner are exempt from setback requirements in order to allow special architectural treatments.

## UA INTERSECTS UT

- Dominant Subdistrict (35' deep) | UA
- Orientation - Principal Frontage | UA street
- Dominant Building Design Standards (applicable 35' deep)
  - Ground Story Height | 12' min. clear
  - Fenestration, ground floor | 60-90% (see BDS) facade area
- (measured as a percentage of the FAÇADE that is 2' above sidewalk grade)

## UA INTERSECTS UN

- Dominant Subdistrict (35' deep) | UA
- Orientation - Principal Frontage | UA street
- Building Length - UN FAÇADES | 100' max
- Dominant Building Design Standards (applicable 35' deep)
  - Ground Story Height | 12' min. clear
  - Fenestration, ground floor | 60-90% (see BDS) facade area
- (measured as a percentage of the FAÇADE that is 2' above sidewalk grade)

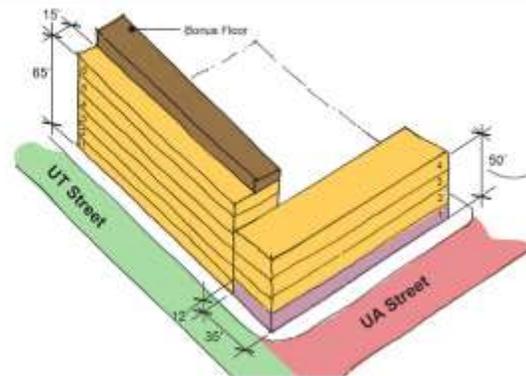
## UT INTERSECTS UN

- Dominant Subdistrict (35' deep) | UN
- Orientation - Principal Frontage | determined by applicant
- Corner lots shall be treated as having street frontage on all streets regardless of building orientation

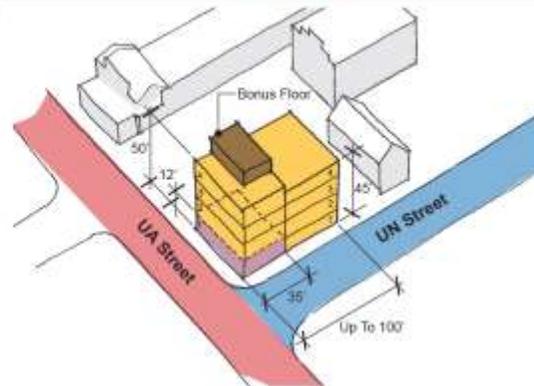
## Notes and Exceptions

\* Does not have to correspond to legal building address

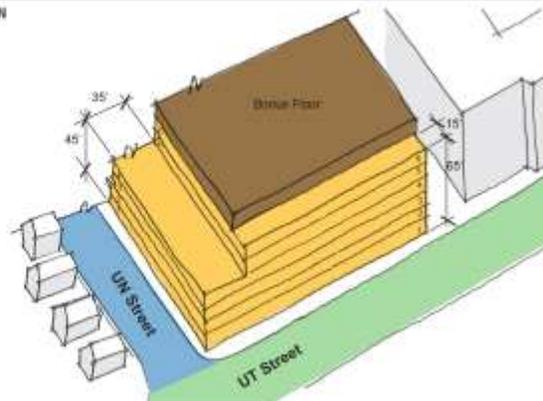
UA INTERSECTS UT  
(example only)



UA INTERSECTS UN  
(example only)

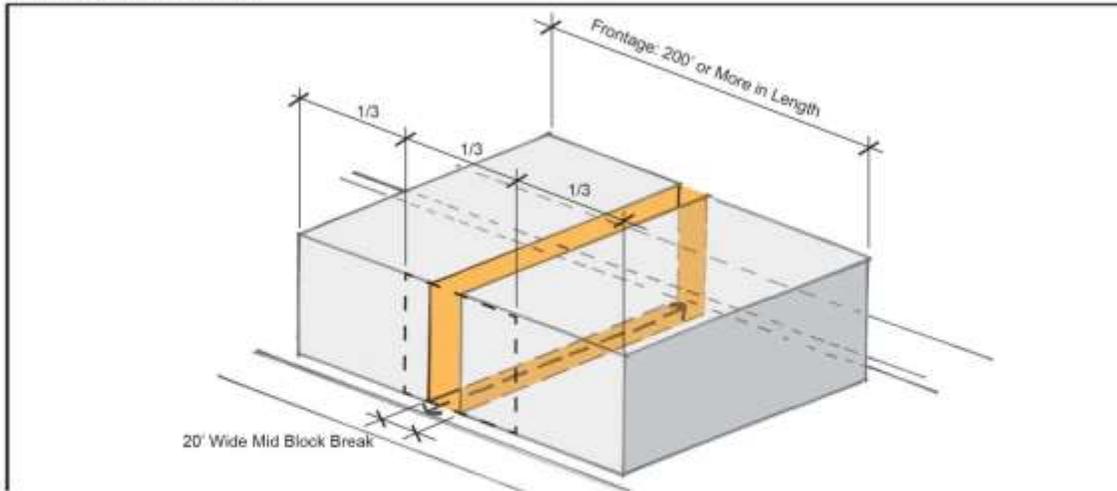


UT INTERSECTS UN  
(example only)

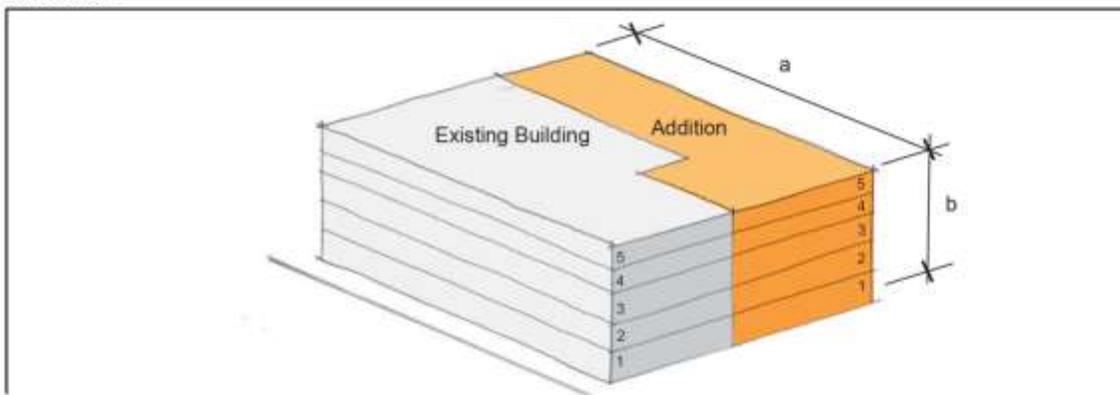


**TABLE 14.275.7 DIMENSIONAL REQUIREMENTS ILLUSTRATED**

**a. MID-BLOCK PERMEABILITY**

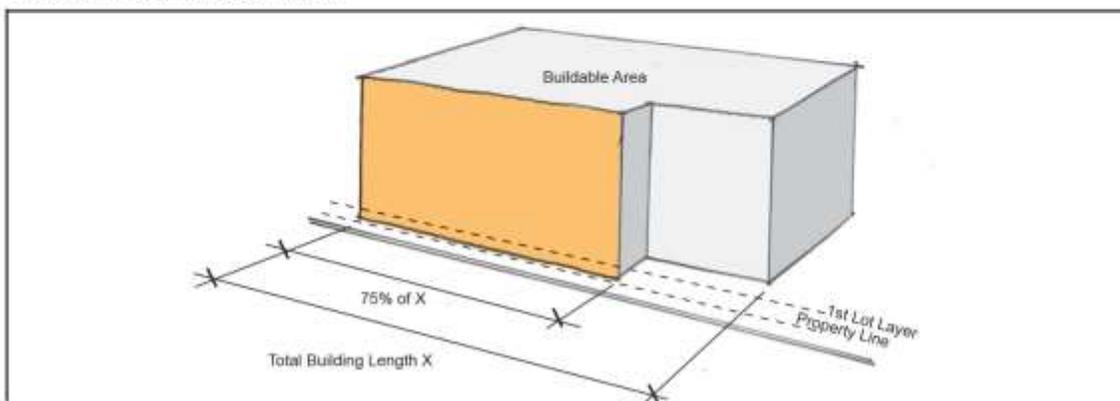


**b. ADDITION**



- a - Addition length may match but not exceed the length of existing building to which it is an addition. All other Subdistrict Dimensional Requirements apply.
- b - Addition height may match existing building in number and height of stories. All other Subdistrict Height Standards apply.

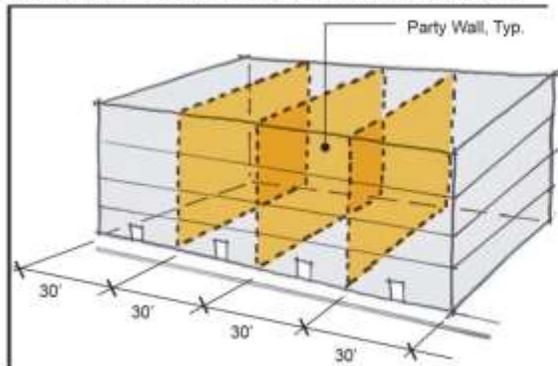
**c. BUILDING LENGTH - 1st LOT LAYER**



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

**TABLE 14.275.7 DIMENSIONAL REQUIREMENTS ILLUSTRATED (CONTINUED)**

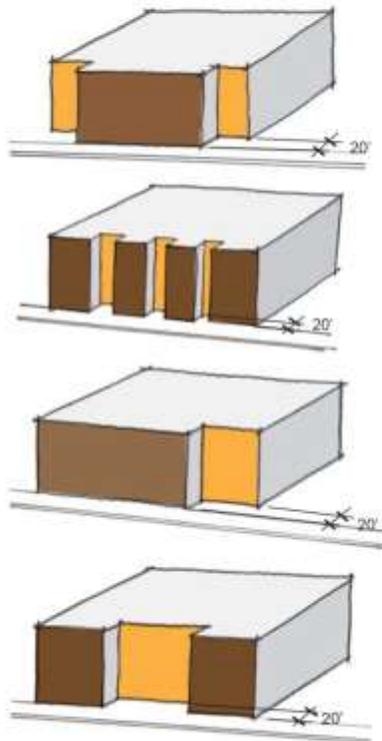
**d. ADDITIONAL BUILDING LENGTH - ATTACHED BUILDINGS**



An unlimited number of ATTACHED BUILDINGS having up to 30' street-facing building length is allowed.

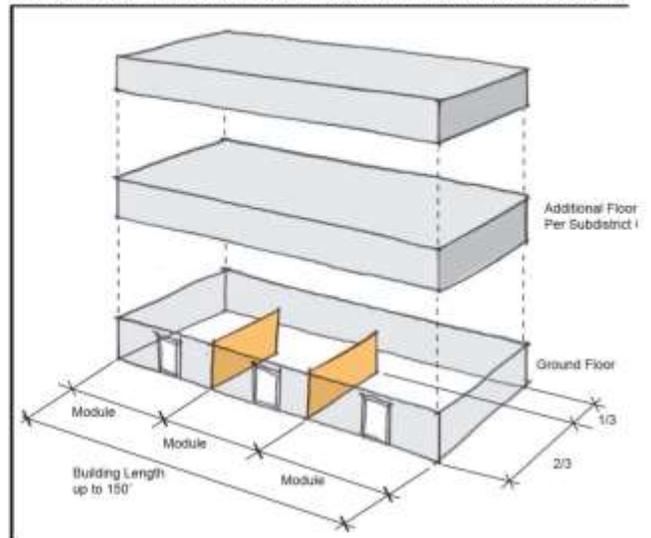
A PARTY WALL condition is required at least every 30' and for the entire height of each building.

**e. ADDITIONAL BUILDING LENGTH - MASSING VARIATION (UT)**



Additional building length is permitted where at least 30% and up to 40% of the total building length is setback to the 3rd LOT LAYER (20').

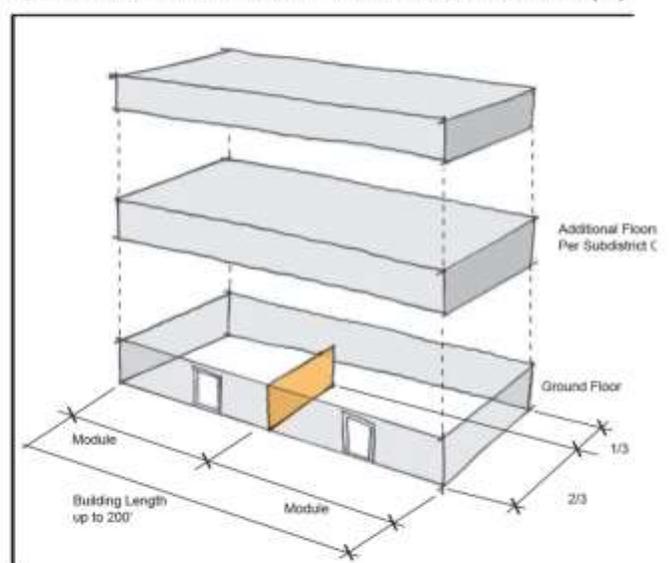
**f.1. ADDITIONAL BUILDING LENGTH - GROUND FLOOR PARTITIONS (UA)**



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

See General Development Standards and BDS for additional requirements.

**f.2. ADDITIONAL BUILDING LENGTH - GROUND FLOOR PARTITIONS (UT)**



Additional Building Length is permitted up to 200' with the provision of at least one Ground Floor Partition.

See General Development Standards and the BDS for additional requirements.

(Ord. 83-15/16, 11-2-2015)

DIVISIONS 16. WAYNFLETE SCHOOL OVERLAY ZONE\*

-----  
**Editor's note**—Ord. No. 164-97, § 9, passed Jan. 6, 1997, repealed divs. 16 and 17 of this article, which pertained to the I-4 industrial zone and the I-P industrial park zone, respectively. Formerly, such divisions consisted of substantive §§ 14-276-14-282, 14-291-14-297 and derived from 602.13B.A-602.13B.F, 602.13B.H, 602.10A.A-602.10A.E and 602.10A.H of the 1968 Code as amended by Ord. No. 536-74, § 2, adopted Aug. 19, 1974; Ord. No. 334-76, §§ 6, 7, adopted Jul. 7, 1976; Ord. No. 159-87, adopted Nov. 2, 1987; Ord. No. 235-88, adopted Feb. 1, 1988; Ord. No. 330-90, §§ 4, 5, adopted May 7, 1990; Ord. No. 15-92, §§ 20, 21, adopted Jun. 15, 1992; and Ord. No. 193A-93, § 5, adopted Feb. 17, 1993; pursuant to Order 138-09/10 passed on 1/20/10 Division 16 (Waynflete School Overlay Zone) was adopted in its entirety.  
-----

**Sec. 14-276. Purpose.**

The intention of this division is to establish an overlay zone which protects the value and integrity of established residential neighborhoods, establishes clearly defined boundaries beyond which residential conversions cannot occur and results in no net loss of dwelling units, while allowing Waynflete School, an existing private day school, to continue and reasonably augment its existing uses and programs, thereby maintaining compatible development at medium densities appropriate to the existing neighborhood patterns. As used in this division, the term "Waynflete School" includes any successor institution that operates as a private day school.

(Ord. No. 138 - 09/10, 1-20-10)

**Sec. 14-276.1. Location and applicability of Waynflete School Overlay Zone.**

The Waynflete School Overlay Zone, as shown on the zoning map, is intended to encompass and define Waynflete School's principal campus on the Portland peninsula. Properties in the Waynflete School Overlay Zone shall continue to be governed by the regulations applicable to the underlying zoning districts except as specifically modified by this division.

(Ord. No. 138-09/10, 1-20-10)

**Sec. 14-276.2. Overlay Zone sub-districts.**

The Waynflete School Overlay Zone consists of two sub-districts, as shown on the Waynflete School Overlay Zone sub-district map, incorporated herein by reference, as follows:

- (a) The Campus Core sub-district defines the interior core of

**Illustration: Private Residential Building  
Typical of the Urban Neighborhood Subdistrict (UN)**



**Exemplary Design Features**

- Building is positioned with a small front yard setback allowing for privacy and stoop but still maintaining the established street wall
- Private function of building is reinforced by raised first floor, elevated entry, and small front yard setback
- Entry is emphasized with stairs and canopy
- Bay window projections break up the building massing
- Fenestration patterns are consistent with surrounding context and function
- Building is grounded with the use of a rusticated masonry watertable at the base
- Visual interest is created with fine grain material texture, corner board and trim, cornice, and shadow lines from bay projections and slight window recess
- Cornice line is articulated with a material change and an overhang which provides a sense of enclosure at the street
- Fence and landscaping are used to maintain the street wall edge

**Illustration: Active Commercial Building**

**Typical of the Urban Active or Urban Transitional Subdistricts (UA or UT)**

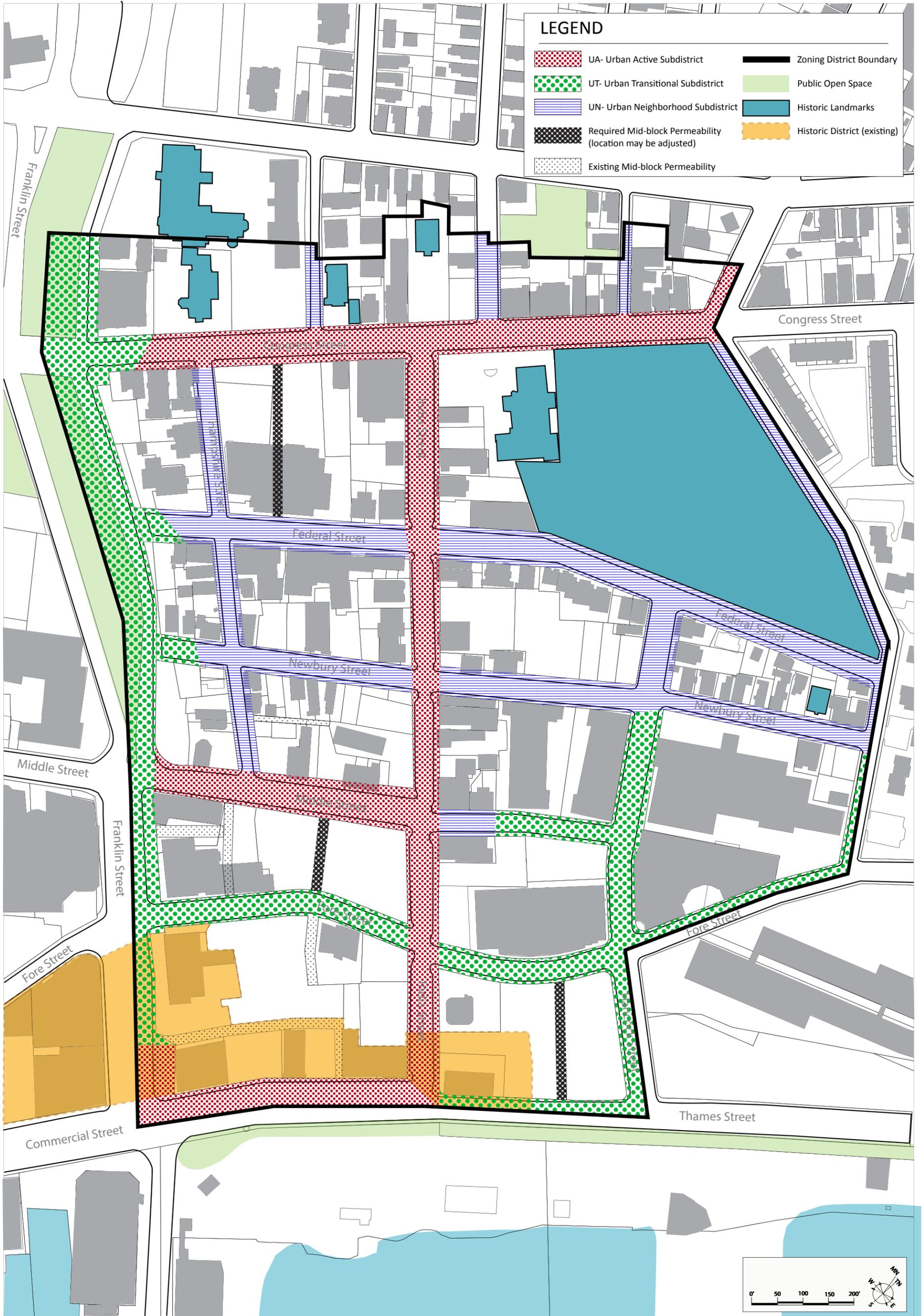


**Exemplary Design Features**

- Building is positioned at the property line creating a strong, urban street wall
- Principal Frontage is oriented to the Urban Active street
- Corner is emphasized with a chamfer and corner entrance
- Ground floor is activated with modular storefront and multiple entries
- Entries are no more than one step above the sidewalk and frequent
- Building structure is expressed with trabeation
- Upper floor fenestration pattern is frequent and consistent with building structure and function
- Visual interest is created with expression lines and material texture and patterns on upper floors, and recessed storefront creating shadow lines

# REGULATING PLAN

## Sustainable Neighborhood Plan INDIA STREET, PORTLAND MAINE





## **Peninsula Fee-in-Lieu of Parking Provision and the Sustainable Transportation Fund**

### **Timeline**

08.22.2015 Submitted to Planning Board

### **Summary**

At the request of the Housing and Community Development Committee, department staff developed a set of amendments to certain sections of Division 30, which regulates parking requirements in the City:

Changes to the peninsula fee-in-lieu of parking ordinance include eliminating annual fee adjustments, simplifying how the fee level is established, and eliminating reference to indexing according to Engineering News Record construction data.

Changes to the Sustainable Transportation Fund established include combining the funds generated by the fee-in-lieu provision and other means, eliminating distinctions in how funds can be spent, eliminating the requirement that fee-in-lieu funds be spent within the peninsula sub-district in which they are generated, and eliminating the provision requiring the funds be spent within 10 years.

### **In this chapter**

- **Proposed Sustainable Transportation Fund Amendments**, Planning Board memo, 08.22.2015
- **Portland City Code**, Ch. 14 Div. 20 Secs. 14-345 and 14-346, Peninsula Fee-in-Lieu of Parking and Sustainable Transportation Fund Established



Jeff Levine, AICP  
Director, Planning & Urban Development Department

**Memorandum**  
**Planning and Urban Development Department**  
**Transportation Division**

**To:** Stuart O'Brien, Chair, and Members of the Portland Planning Board  
**From:** Bruce Hyman, Transportation Program Manager  
**Date:** July 22, 2015  
**Re:** Proposed Sustainable Transportation Fund Amendments  
**Meeting Date:** July 28, 2015

At the request of the Housing and Community Development Committee, department staff developed a set of potential amendments to three sections of the city ordinance:

- Section 14-332, governing Uses requiring off-street parking
- Section 14-345, establishing the Peninsula fee-in-lieu of parking provision
- Section 14-346, establishing and governing the Sustainable Transportation Fund (STF).

A marked up version of the proposed amendment is provided. The HCD Committee review also included proposed changes to parking requirements unrelated to the STF. These have been adopted previously and are not before you on July 28<sup>th</sup>.

Proposed changes to Section 14-332. Uses requiring off-street parking.

The proposed changes are to:

- Require contributions to the STF in some instances even when the Planning Board reduces the off-street parking requirements as part of its approval process (section 14-332.3(c) and Section 14-332.2. (c)).

Proposed Changes to Section 14-345. Peninsula fee-in-lieu of parking.

The proposed changes are to:

- Eliminate the provision related to adjust the fee annually
- Simplify how the fee level is established, eliminating reference to indexing according to Engineering News Record construction data.

Proposed Changes to Section 14-346. Sustainable transportation fund established

The proposed changes are to:

- Combine the funds generated by the fee-in-lieu and other means, eliminating distinctions in how funds can be spent (simplifying the process)



Jeff Levine, AICP

Director, Planning &amp; Urban Development Department

- Eliminate the requirement that fee-in-lieu funds be spent within the peninsula sub-district – or adjacent district if within 250 feet of a sub-district boundary - within which they are generated (but give preference to proximity to where they are generated)
- Eliminate the provision requiring the funds to be spent within 10 years
- Allows spending of funds city-wide rather than restricted to the peninsula
- Expand the language regarding bicycle and pedestrian projects eligible for STF
- Eliminates the requirement for an expenditure plan to be approved by both the Transportation, Sustainability and Energy Committee and the City Council, instead providing for periodic updates to the TS&E Committee and their endorsement for expenditures over \$5,000.00.

In addition to the proposed amendments, staff meeting memos and meeting notes from the January 2014 HCD Committee are provided in your packet (with applicable sections highlighted).

#### Possible Change to Section 14-333/4: Remote Parking Allowances

One last possible amendment, not directly related to the STF but related to parking, has to do with the allowances for using off-site parking to satisfy parking requirements. This change is initiated by staff and was not discussed by the HCDC.

Currently off-site parking is allowed for principal uses in residential zones up to 300 feet away, and for principal uses in non-residential zones up to 100 feet away. Principal uses in non-residential zones can apply for off-site parking up to 1500 feet away under certain circumstances. Given our desire to be strategic about parking use, and to encourage shared parking and other creative parking solutions, we would like to see if there is any interest in making changes to these sections to increase these distances. For the purposes of discussion, we would initially propose increasing these distances to 500 feet and 250 feet.

- (c) The Planning Board may be substituted for the Board of Appeals only where an applicant is otherwise before the Planning Board for site plan approval.

Whenever any exception to the parking requirements under this section has been finally denied on its merits by either the Zoning Board of Appeals or the Planning Board, a second request for an exception seeking essentially the same relief, whether or not in the same form or on the same theory, shall not be brought before either body within one (1) year of such denial unless, in the opinion of the board before which it was initially brought, substantial new evidence is available or a mistake of law or fact significantly affected the prior denial.

(Code 1968, § 602.14.M; Ord. No. 541-84, 5-7-84; Ord. No. 94-99, 11-15-99)

**Sec. 14-345. Peninsula fee-in-lieu of parking.**

Any major or minor development subject to site plan review located in a non-residential zone or the IS-FBC zone on the Portland Peninsula shall either provide the required parking or pay a fee according to the provisions of (a) and (b) below.

- (a) Provide the number of off-street parking spaces according to the provisions of section 14-332 (uses requiring off-street parking) and section 14-334 (off-site parking) of this division; or,
- (b) Pay a fee-in-lieu of parking of not less than \$5,000.00 as adjusted annually per (c) below, per space not provided. Fees shall be deposited into the Sustainable Transportation Fund, as established in section 14-346 of this division.
- (c) The value of the fee shall be adjusted annually according to the Engineer's News Record construction index as published on January 1<sup>st</sup> of the current calendar year. The fee adjustment shall be calculated by taking the index amount published on January 1<sup>st</sup>, of the current year, divided by the index amount published on January 1, 2010 (8660), multiplied by (the fee amount from (b) above). The base fee, the adjustment index, or the calculation method may be otherwise amended by action of the city council from time to time.
- (d) The fee shall be paid on or before the date upon which

a certificate of occupancy is issued. Payment shall be secured by a bond at the time the amount of the fee is set.

(Ord. No. 241-09/10, 11-15-10; Ord. 83-15/16, 11-2-2015)

**Sec. 14-346. Sustainable transportation fund established.**

By act of the Portland City Council, the Sustainable Transportation Fund is hereby established.

(Ord. No. 241-09/10, 11-15-10)

**Sec. 14-346.1 Sustainable transportation fund purpose.**

The purpose of the fund is to implement those provisions of the Peninsula Transit Study Report, and Action Plan, as adopted by the Portland City Council on August 3, 2009 as a component of the city's Comprehensive Plan, which recommended creation of a Sustainable Transportation Fund. The Peninsula Transit Study Report and Action Plan establish a goal to reduce the number and impact of single occupancy vehicle trips to and from the Portland Peninsula. Achieving this goal requires transportation choice for residents, businesses, and visitors to the Portland Peninsula. This ordinance establishes a funding source for broadening transportation choice and facilitating development with lower traffic impacts and reduced parking requirements.

The mechanism and protocol for collecting fees and spending funds are consistent with state requirements for utilizing transportation related impact fees.

(Ord. No. 241-09/10, 11-15-10)

**Sec. 14-346.2. Deposits and expenditures for the Sustainable Transportation Fund.**

(a) *Deposits*

1. The city shall establish a Sustainable Transportation Fund to be set up as a separate account within the city. Deposits into the fund shall include:
  - a. 100% of the revenue generated by the fee in-lieu of parking program, as established in section n14-345 of the city Land Use Code;
  - b. Funds appropriated for deposite into the fund by vote of the city council;

- c. Voluntary contributions of money or other liquid assets to the fund; and,
  - d. Any federal, state or private grant or loan funds provided to the fund.
2. *Accounting of deposits by project and sub-district:* Funds from the fee in-lieu of parking program, as established in section 14-345 above, shall be individually collected and accounted for by project and the geographic *fee in-lieu of parking sub-district* in which it is located, as shown on the Portland Peninsula fee in-lieu of parking sub-district map on file with the Department of Planning and Urban Development.
  3. *Funds to be used within 10 years of deposit:* Funds collected under the fee in-lieu of parking ordinance shall be spent on eligible infrastructure and/or capital improvements or expenses, as outlined in (b) and (c) below, within 10 years of the date of collection. Any funds which are not so utilized and which exceed the City's actual costs of implementing the infrastructure improvement or improvements for which such fees were collected shall be refunded. Refunds shall be paid to the owner of records of the property for which the funds were collected, determined as of the date the refund is made.
  4. *Use of funds by sub-district:* Funds collected under the fee in-lieu of parking ordinance shall be spent on permitted expenditures of the fund, as outlined in (b) below, within the same geographic fee in-lieu of parking sub-district as the contributing project as depicted on the Portland Peninsula Fee In-Lieu of Parking Sub-district Map on file with the Department of Planning and Urban Development. However, for projects located within two hundred fifty (250) feet of an abutting sub-district, contributed fees can be used for eligible infrastructure projects in either abutting sub-district.

(b) *Permitted expenditures of the fund.*

The Sustainable Transportation Fund may only be

expended on the activities as described below:

1. Funds collected as fees in-lieu of parking shall be expended toward capital transportation improvements on the Portland Peninsula. Such capital improvements shall include but are not limited to the following:
  - a. Parking Infrastructure
    - i. Shared-use, publicly accessible parking facilities;
    - ii. Publicly accessible bicycle racks and bicycle parking shelters;
  - b. Transit Capital Improvements and Expenses
    - i. Bus shelters, bus turnouts, transit signage and other transit amenities;
    - ii. Buses and transit vehicles;
    - iii. Transit and transportation information systems;
    - iv. Fixed guide way and/or rail transit systems;
  - c. Pedestrian and Bicycle Infrastructure
    - i. Multi-use trails, and non-vehicular transportation corridors;
    - ii. Pedestrian infrastructure and amenities located on publicly accessible rights of way including, but not limited to cross walks, signalization, landscaping, street furniture, wayfinding signage, traffic calming, and lighting;
    - iii. New public sidealks and new bicycle lanes along publicly accessible rights of way or corridors where such facilities are not previously provided;
  - d. Other such improvements intended to enhance

transportation choice and promote transit and non-automotive transport on the Portland Peninsula.

2. Funds collected or appropriated by means other than from a fee in-lieu of parking may be used for any of the capital transportation improvements listed above in (b) (1), and for any of the following uses:
  - a. Transportation Demand Management Program administration;
  - b. On or off-peninsula transit and/or non-automotive transportation capital or operating expenses;
  - c. Transit and/or non-automotive transportation promotion and education material; and
  - d. Other such programs or improvements intended to enhance transportation choice and promote transit and non-automotive transport for the City of Portland.

(c) *Annual Sustainable Transportation Plan and Appropriations Schedule:*

Annually, the city manager shall submit to the city council a recommended sustainable transportation plan and appropriations schedule, utilizing the revenues of the Sustainable Transportation Fund. The Transportation Committee of the city council or such other committee as the council shall designate shall recommend and refer the plan and appropriations schedule to the city council for action.

(Ord. No. 241-09/10, 11-15-10)

-----  
**\*Editor's Note**—The effect of Section 14-346.2(a) (iv) above is to establish the western boundary of the central sub-district as State Street, no High Street.  
-----

**Sec. 14-347. - Sec. 14-350 Reserved.**

DIVISION 21. OFF-STREET LOADING



## **R-6 Zoning Text Amendments**

### **Timeline**

01.25.2015 Submitted to Planning Board  
06-08.2014 Public hearings

### **Summary**

Several changes were made to the R-6 Residential Zone. The objective of these changes was to allow for a pattern of development that provides for greater housing opportunities, enable infill development on small parcels, and have standards in place that make it possible for new construction to be consistent with the historic pattern of development prevalent in the neighborhoods where R-6 is prevalent.

As the dominant on-peninsula residential zone, R-6 encompasses the majority of Munjoy Hill, Parkside, the West End, and portions of other neighborhoods. These neighborhoods embody successful pre-war development patterns. It is hoped that these changes bring Portland's zoning closer into alignment with desirable patterns of development, as well as offer greater flexibility to existing and future property owners.

The purpose of the R-6 residential zone is two-fold:

- To set aside areas on the peninsula for housing characterized primarily by multifamily dwellings at a high density, providing a wide range of housing for differing types of households, and to conserve the existing housing stock and residential character of neighborhoods by controlling the scale and external impacts of professional offices and other nonresidential uses; and,
- In cases of qualifying small, vacant, underutilized lots located in the urban residential and business zone, to encourage new housing development consistent with the compact lot development pattern typically found on the peninsula.

The changes have attempted to produce R-6 standards more closely aligned with the R-6 purpose statement than previous standards.

### **In this chapter**

- **R-6 Text Amendments**, Planning Board memo, 01.25.2015
- **R-6 Text Amendments**, Planning Board memo, 11.25.2014
- **Parking Demand Assessment**, memo, Gorrill-Palmer Consulting Engineers, 03.26.2014
- **Portland City Code**, Ch. 14 Div. 7, R-6 and R-6a Residential Zones



**Memorandum**  
**Planning and Urban Development Department**  
**Planning Division**

---

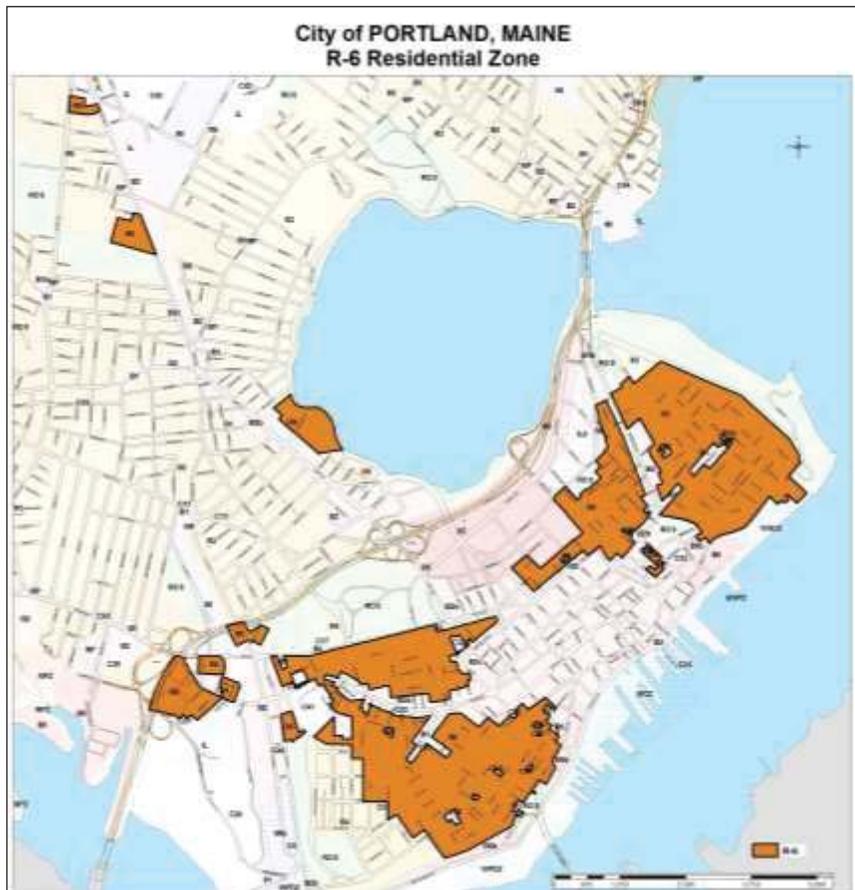
**To:** Chair O'Brien and Members of the Portland Planning Board  
**From:** Christine Grimando, Senior Planner  
**Date:** November 21, 2014  
**Re:** R-6 Text Amendments  
**Meeting Date:** November 25, 2014

---

## I. Introduction

The Planning and Urban Development Department is proposing text amendments to the R-6 Residential Zone. These changes are primarily concerned with the dimensional requirements of the zone and parking standards. The provision for *small residential lot development*, enacted in 2005, is also proposed for elimination. An important aspect of the changes is to convert the dimensional requirements from a descriptive listing to a table format, shortening and simplifying the overall text of the ordinance. A summary of all proposed changes is included in **V.**, below.

The objective of these changes is to allow for a pattern of development that provides for greater housing opportunities, enables infill development on small parcels, and to have standards in place that make it possible for new construction to be consistent with the historic pattern of development prevalent in the neighborhoods where R-6 is prevalent.



**Figure 1**

In Spring of 2014 the Planning Department proposed an extent of East Bayside be rezoned from R-6 to R-7, in response to repeated feedback that R-6 was not conducive to most new construction proposals. Staff at the time felt that rather than keep responding to R-7 rezoning requests, that R-7 could be more widely implemented in certain areas to preempt some applications for zone changes. Staff also discussed the fact that they were also looking into changes to the R-6 zone to make it a more viable zone to work within. After hearing much neighborhood concern about a widely expanded R-7, the Board endorsed a more circumscribed area of R-7. Feedback at that same meeting urged amending the R-6 before applying the R-7 with a broad brush. That feedback also led to the changes currently being reviewed. The R-6 zone as proposed allows greater flexibility and higher density than the existing zoning, but is still substantially more restrictive than the R-7 zone in terms of frontage, density, lot coverage (0 frontage requirement, 435 square feet of land area/dwelling unit, and 100% in the R-7 zone). These revisions to the R-6 zone are the results of that R-7 discussion.

As the dominant on-peninsula residential zone, R-6 encompasses the majority of Munjoy Hill, Parkside, the West End, and portions of other neighborhoods. These neighborhoods, varied though they are, embody successful pre-war development patterns – patterns that are not mirrored in the current dimensional requirements of the R-6 zone. Though the pattern of the peninsula’s built environment is largely established, incremental changes to that pattern are ongoing, and the parameters of current zoning affect urban character today and into the future. It is hoped that these changes bring Portland’s zoning closer into alignment with desirable patterns of development than is currently the case, as well as offering greater flexibility to existing and future property owners. As an example of the disparity between development patterns and zoning requirements, the current minimum lot size of 4,500 square feet renders 71% of existing parcels non-conforming. Similarly, the current minimum front setback of ten feet does not reflect the predominant pattern of Portland’s residential neighborhoods, and if met or exceeded would produce a place of a significantly different urban character from the historic and much loved pattern there today. A minimum lot size of 2,000 square feet results in 86% of existing R-6 lots being conforming in the category of minimum lot size.

## **II. Purpose Statement for the R-6 and Land Use Policies**

The purpose of the R-6 residential zone is: (a) To set aside areas on the peninsula for housing characterized primarily by multifamily dwellings at a high density providing a wide range of housing for differing types of households; and to conserve the existing housing stock and residential character of neighborhoods by controlling the scale and external impacts of professional offices and other nonresidential uses, and (b) In cases of qualifying small, vacant, underutilized lots located in the urban residential and business zone, to encourage new housing development consistent with the compact lot development pattern typically found on the peninsula.

This amendment will produce R-6 standards of greater consistency with the R-6 purpose statement than the current regulations.

## **III. Comprehensive Plan Policies**

Numerous recommendations in Housing: Sustaining Portland’s Future, support these text changes. Policy 1 indicates zoning should encourage all types of high quality and compatible housing to enhance neighborhoods, encourages high density, small lot infill, and allowing for a range of housing types. Policy 3 (Maintain and enhance the livability of Portland’s neighborhoods as the city grows and evolves through careful land use regulation, design and public participation that respects neighborhood integrity) recommends updating codes to encourage new residential development that: Offer diverse and quality living options; Encourages traditional neighborhood elements, Promotes a walkable city; Are Compatible with Portland’s existing neighborhoods. It also recommends ensuring the integrity and economic value of Portland’s neighborhoods, working to find productive uses for vacant and underutilized lots, and increasing density where appropriate to achieve

neighborhood diversity.

**IV. City Council Goals.**

These amendments are consistent with the City Council Common Goals and Objectives for 2014, which calls for zoning ordinance to allow for greater housing opportunities. A specific housing objective states: *Complete draft rewrites of the R-6, R-7 and B-2 portions of the zoning ordinance to allow for greater housing opportunities and present to Planning Board and Housing and Community Development Committee for review and recommendations to City Council.*

**V. Proposed Text Amendments**

Table 1 includes all proposed dimensional changes, with brief discussion of other proposed text amendments to follow.

**Table 1**

<b>R-6 Existing and Proposed</b>		
<i>Dimensional Requirements</i>	<i>Existing</i>	<i>Proposed</i>
<b>Minimum Lot Size</b>	Residential Uses: 4,500 sf	Residential Uses: 2,000 sf
	Long-term and extended care facilities: Ten thousand (10,000) square feet for the first nine (9) residents plus seven hundred fifty (750) square feet for each additional resident, up to a total of two (2) acres.	Long-term and extended care facilities: Ten thousand (10,000) square feet for the first nine (9) residents plus seven hundred fifty (750) square feet for each additional resident, up to a total of two (2) acres.
	Intermediate care facility: One (1) acre.	Intermediate care facility: One (1) acre.
	School: Thirty thousand (30,000) square feet.	School: Thirty thousand (30,000) square feet.
	Places of assembly: Large, 30,000 sf; Medium, 15,000 sf; Small, 7,500 sf.	Places of assembly: Large, 15,000 sf; Medium, 10,000 sf; Small, 5,000 sf.
	Municipal Use: 4,500 sf	Municipal Use: 2,000 sf
	Hospital: Two (2) acres	Hospital: Two (2) acres
	Lodging house: Four thousand five hundred (4,500) square feet.	Lodging house: Two thousand five hundred (2,500) s.f.
	All other uses: Forty-five hundred (4,500) square feet.	All other uses: Two thousand five hundred (2,000) s.f.

<b>Min. Lot Area/Dwelling Unit</b>	<i>Minimum land area per dwelling unit:</i> One thousand (1,000) square feet per dwelling unit; and in the case of building additions and new construction, one thousand two hundred (1,200) square feet for each dwelling unit after the first three (3) units. This requirement may be reduced by up to twenty (20) percent for a special needs independent living unit.	725 s.f.
<b>Minimum Lot Area/Lodging House Rooming Unit</b>	250 s.f	250 s.f (Combine Lodging House Rooming Unit and Intermediate Care Facility Resident requirement)
<b>Minimum land area per intermediate care facility resident</b>	Eight thousand (8,000) square feet for the first thirty-five (35) residents, plus three hundred fifty (350) square feet for each additional resident.	see above
<b>Street Frontage</b>	40 feet	20 feet
<b>Minimum Front Yard Setback for Principal and Accessory Structures</b>	Principal or accessory structures: Ten (10) feet. A front yard need not exceed the average depth of front yards on either side of the lot. A lot of record existing as of June 5, 1957, and less than one hundred (100) feet deep need not be deeper than twenty (20) percent of the depth of the lot.	5 feet, or no more than average depths of adjacent front yards.
<b>Minimum Rear Yard Setback for Principal and Accessory Structures</b>	i. Principal and attached accessory structures with ground coverage greater than one hundred (100) square feet: Twenty (20) feet.	10 feet, except that accessory structures with a ground coverage of one hundred and forty-four (144) square feet or less: Five (5) feet.
	ii. Detached accessory structures with a ground coverage of one hundred and forty-four (144) square feet or less: Five (5) feet.	Setbacks for swimming pools shall be as provided for in section 14 432 (swimming pools) of this article
	iii. Setbacks for swimming pools shall be as provided for in section 14-432 (swimming pools) of this article.	
<b>Minimum Side Yard Setback for Principal and Accessory Structures</b>	i. Principal and attached accessory structures with ground coverage greater than one hundred (100) square feet: Twenty (20) feet.	5 feet, except that lots under common ownership may have a minimum of 0 feet on one side yard structures, provided a cumulative of 10 feet of side yard setbacks is provided.
	ii. Detached accessory structures with a ground coverage of one hundred and forty-four (144) square feet or less: Five (5) feet.	ii. Setbacks for swimming pools shall be as provided for in section 14-432 (swimming pools) of this article.
	iii. Setbacks for swimming pools shall be as provided for in section 14-432 (swimming pools) of this article.	
	i. Principal and attached accessory structures with ground coverage greater than one hundred (100) square feet:	
	<i>Height of Structure Required Side Yard</i>	

	1 story . . . . . 10 feet	
	2 stories . . . . . 10 feet	
	3 stories . . . . . 10 feet	
	4 stories . . . . . 12 feet	
	5 stories . . . . . 15 feet	
	The width of one (1) side yard may be reduced one (1) foot for every foot that the other side yard is correspondingly increased, but no side yard shall be less than ten (10) feet. In the case of a lot of record existing as of June 5, 1957, and held under separate and distinct ownership from adjacent lots, the required side yard may be reduced in order to provide a buildable width of up to twenty-four (24) feet, but in no case shall the resulting side yards be less than ten (10) feet.	
	ii. Detached accessory structures with ground coverage of one hundred and forty-four(144) square feet or less: Five (5) feet.	
	iii. Setbacks for swimming pools shall be as provided for in section 14-432 (swimming pools) of this article.	
<b>Side Yard on Side Street</b>	10 feet	0 feet
<b>Structure Stepbacks</b>		Portions of a structure above 35 ft shall be no closer than 10 ft from the side property line and no closer than 15 feet from the rear property line when such property line abuts a residential zone. <i>Does not apply to side yards on side streets.</i>
<b>Maximum Lot Coverage</b>	Forty (40) percent of lot area for lots which contain twenty (20) or more dwelling units; fifty (50) percent for lots which contain fewer than twenty (20) dwelling units.	60%
<b>Minimum Lot Width</b>	50 feet	20 feet
<b>Maximum Height</b>	Principal and attached accessory structure: Forty-five (45) feet.	Principal and attached accessory structure: Forty-five (45) feet.
	Accessory detached structure: Eighteen (18) feet.	Detached accessory structure: Eighteen (18) feet.
<b>Landscaped Open Space</b>	<i>Uses other than bed and breakfast.</i> Twenty (20) percent for those lots which contain fewer than twenty (20) dwelling units; thirty (30) percent for those lots which contain twenty (20) or more dwelling units. This area shall not include parking areas or other impervious surfaces as defined in section 14-47.	20%

	<i>Bed and breakfasts.</i> A bed and breakfast that is located on a lot that has at least twenty (20) percent open space on the date of filing of the application for site plan shall not reduce the open space on the lot below twenty (20) percent of the lot area. A bed and breakfast located on a lot that does not have at least twenty (20) percent open space on the date of filing of the application for site plan review, and that is legally nonconforming as to the open space requirement of this section, shall not reduce the open space on the lot below the level in existence on the date of the application for site plan review. Open space areas shall not include parking areas or other impervious surface areas as defined in section 14-47.	
<b>Minimum gross floor area for bed and breakfasts</b>	Two thousand (2,000) square feet of gross floor area for the first three (3) guest rooms and five hundred (500) square feet of floor area for each additional guest room.	Two thousand (2,000) square feet of gross floor area for the first three (3) guest rooms and five hundred (500) square feet of floor area for each additional guest room.
<b>Maximum floor area for places of Assembly</b>	<i>On a collector or arterial road:</i>	<i>On a collector or arterial road:</i>
	Large: Not limited	Large: Not limited
	Medium: 4,500 sf	Medium: 4,500 sf
	Small: 2,250 sf	Small: 2,250 sf
	<i>Not on a collector or arterial road:</i>	<i>Not on a collector or arterial road:</i>
	Large: 4,500 sf	Large: 4,500 sf
	Medium: 2,250 sf	Medium: 2,250 sf
	Small: 1,125 sf	Small: 1,125 sf
<b>Maximum Garage Opening</b>		Garage openings on front façade shall not exceed the greater of nine (9) feet or forty (40) percent of the front façade.

The changes are meant to simplify the ordinance, provide opportunities for additional housing construction, and allow for greater flexibility on lots. To that end the density standard, currently a variable 1,000 sf per dwelling unit for the first three units, and 1,200 sf per dwelling unit thereafter (36 units per acre) is being proposed to be changed to 725 sf per dwelling unit (60 units per acre). Table 2 illustrates the implications of the proposed change to the density standard on three lot sizes. Minimum lot size is proposed to change from 4,500 sf to 2,000 sf, better matching the dense, small lot fabric of residential neighborhoods on the peninsula. Setbacks are reduced to also better match traditional building patterns, reducing the front setback from 10 feet to 5 feet. Side and rear setbacks are similarly reduced. The changes to lot

<b>Table 2</b>	<b>Current R-6 Density (1000-1200 sf/du)</b>	<b>Proposed R-6 Density (725 sf/du)</b>
2000 sf lot	2 units	2 units
3000 sf lot	3 units	4 units
4500 sf lot	4 units	6 units

coverage and setback standards have implications for existing as well as future homeowners and property developers, allowing small additions, decks, or accessory structures to be built where they currently are not allowed, allowing greater flexibility for existing properties, and also allowing for the possibility of existing neighborhood patterns to be replicated.

Other significant changes include:

- A provision to allow townhouse style, horizontally attached dwelling units to occur through the elimination of the side setback (Sec. 14-139.b).
- The Small Residential Lot Development (current Sec. 14-139.2) is proposed to be eliminated. This standard is in place to allow for small, non-conforming lots to be developed, as the current minimum lot size renders so many small lots unbuildable. It is the goal of these changes to have a lot size sufficiently small as to eliminate the need for this provision.
- A maximum portion of the front façade has been set to 9 feet or 40 percent, so as not to have residential facades be disproportionately dominated by vehicle storage.
- Staff is proposing that the on-peninsula residential parking requirement be eliminated for the first three dwelling units. A duplex would have no parking requirement and a six unit building would be required to provide three spaces, for example. This change will better enable small lot development, allowing 1-4 unit structures such as the traditional triple decker on small lots (a well-distributed housing type in the R-6 neighborhoods), and greater viability for small scale, non-professional homebuilders.

There have been several minor changes since the October workshop:

- Recently enacted R-6A changes have been incorporated into the current draft amendment.
- The October draft amendment included variable side yard setbacks. These have been removed for a constant 5 foot side yard setback.
- There is a current provision in the R-6 use standards that requires existing residential structures to maintain a minimum size of 1,000 square feet of floor area when creating new units and also that a new unit in the structure not be less than 600 square feet of floor area. This has been moved from the use standards, Sec. 14-136, to the dimensional standards, 14-139, and has been substantively amended in two ways – 1) it currently applies only to multi-family residential, and is being proposed to also apply to single- and two-family residential, and 2) The applicability date of structures in existence as of 1987 (when the provision was first implemented) is being proposed to be updated to date of enactment of these changes.
- The Townhouse/horizontally attached dwelling unit language has been clarified. The intent is for this form of construction to be able to occur, which requires superseding side yard setbacks, and for them to be able to occur for individually owned units. The standard applies to subdivisions, which would begin under common ownership, and then be sold to individuals after approval.

## **VI. Public Process**

Over the course of several months, staff met with each impacted neighborhood organization to discuss the proposed changes, on the following dates:

- June 11. West End Neighborhood Association
- June 16. Western Promenade Neighborhood Association
- July 7. St. John Valley Neighborhood Association
- July 14. Libbytown Neighborhood Association
- July 16. Parkside Neighborhood Association
- August 5. Bayside Neighborhood Association
- August 11. Munjoy Hill Neighborhood Association
- August 19. East Bayside Neighborhood Association

Though some of these standards have changed since their initial conception, the below summary of changes that were being considered was presented at each meeting (Table 3). The same table was distributed at each meeting so that every neighborhood organization had an opportunity to respond to a common proposal, with the caveat that some of the dimensions and details of the proposal were likely to alter. Planning staff also met with the Southern Maine Landlord Association, and numerous individuals who requested meetings on the topic.

**Table 3**

<b>Potential R-6 Amendments to Dimensional Requirements</b>		
<b>Residential Dimensional Requirements</b>	<b>Existing</b>	<b>Proposed</b>
Lot Size	4,500 sf	2,500 sf
Min. Lot Area/Dwelling Unit	1,000-1,200 sf	725 sf
Lot Area/Lodging House Rooming Unit	250 s.f	250 s.f
Street Frontage	40 feet	30 feet
Front Yard Setback	10 feet, or no more than average depths of adjacent front yards	5 feet, or no more than average depths of adjacent front yards
Rear Yard Setback	20 feet	10 feet
Side Yard Setback	10-15 feet, variable by height	5 feet
Side Yard on Side Street	10 feet	0 feet
Maximum Lot Coverage	40-50%, variable by # of dwelling units/lot	60%
Minimum Lot Width	40 feet	30 feet
Maximum Height	45 feet	45 feet
Landscaped Open Space	20-30%, variable by # of dwelling units/lot	20%
Parking	1 space/unit	1 space/unit, except none required for first 3 units

At these meetings, staff made a brief presentation on the reasons for rezoning, how the changes related to existing neighborhood contexts, and implications for future development. A sample of one of the packets distributed for the East Bayside Neighborhood Association meeting was included at the October workshop. The packet included examples of nonconforming parcels, with sketches demonstrating the results of existing and proposed setbacks (see example in Figure 2) to illustrate the limitations in incongruity of existing dimensional requirements.



**Figure 2**

The feedback we received was lively and varied, and much of it was supportive. The overall goals of zoning standards that better align with historic and desired patterns of development, the need to allow for greater housing production, and greater flexibility for property owners on small lots were received well. Feedback on the details of the proposal was far from uniform or entirely positive, though, and there were several recurrent themes that emerged:

- *That five foot minimum side setbacks combined with a 45 foot height limit will create light and air impacts for adjacent properties.* In response, the text amendments were changed to include stepbacks of an additional five feet beyond rear and side yard requirements for portions of building above 35 feet.
- *That allowing higher densities in residential zones will hasten a loss of larger housing units and families that occupy them, including the conversion of single family homes and multi-bedroom apartments to 1-bedrooms and efficiencies.* There is an existing zoning provision that speaks to this concern, placing size limits on the conversion of existing buildings into additional dwelling units. Sec. 14-136.2 requires that the creation of new multifamily dwellings originating from the alteration of an existing residential structure not result in the creation of any new dwelling unit of less than 600 square feet of floor area, and shall not result in any existing dwelling unit being reduced in size to less than one thousand (1,000) square feet of floor area. This does not prohibit division of existing units, but it does aid in the retention of a varied housing stock.
- *That the proposed parking exemption for the first three units will have negative impacts on the livability of the impacted neighborhoods.* This has been by far the most contentious aspect of the proposed changes. It should be noted there has been some genuine support for this proposal, as well as some qualified support, but also, and in greater numbers, opposition. A number of the people we've met with were skeptical but constructively engaged with the topic, offering possible alternatives such as allowing this exemption for small developments/small parcels only, or requiring that one parking space be mandatory and the next three exempted to insure that a driveway, and other informal uses of that space for off-street parking, were made possible (this last would also allow for the possibility of more than one car parking in

tandem in a driveway – City regulations do not give credit to tandem parking spaces, but in practice driveways often hold multiple cars). Staff does not believe this to be a drastic proposal, and it offers flexibility and the potential for reduced costs for small lot housing production. Any property developer feeling the need for more parking spaces would still have the option of providing them – this is not a prohibition on providing parking for the first three spaces. Nevertheless it is a topic of great import for the community member we've met with, and deserves careful consideration.

Additional feedback has been received since the October workshop, and written comment is attached. Some issues/questions raised in the last month:

- Parking standards remain a concern.
- *What is the relationship of these changes to affordable housing?* These text amendments don't make any specific affordability proposals. By allowing for more housing to be constructed, both in overall allowed density, and in allowing for small lots to be built upon, the overall supply, and diversity of the housing supply will be added to.
- *Have these changes been brought forward at the request of developers?* These amendments are not at the request of a private developer, and will benefit individual property owners, and small, non-professional property developers as much as developers of larger scale projects.
- *How these changes will benefit, or not benefit a recent application for Sumner Court?* These amendments are not being influenced by that application, or future proposals for that property (substantive discussion of a specific application should be discussed at an advertised meeting for that application). Generally, the elimination of the Small Residential Lot provision adds greater predictability to development going forward. But introducing smaller minimum lot sizes and other reduced dimensional standards zone-wide, the need for the Small Residential Lot standard is eliminated and with it some very relaxed standards, such as no minimum lot size, and critically, no minimum street frontage requirement.
- Concern with the impact on neighborhood character of garage doors as part of a front façade. Staff's concern with this is why a maximum percentage of the front façade dedicated to garage doors is proposed. Without this standard, garage doors could dominate first floor frontages. Simultaneously, allowing some garage presence seems reasonable, and not detrimental if not the dominant street-level use.

## **VII. Non-conforming lot mergers**

Staff indicated changes to these standards would be brought forward in November. They are not being brought forward just yet, though we are actively engaged in drafting alternatives to the current standards. These standards affect lots beyond the R-6 zone, and are complex enough to be considered as their own, freestanding amendment. The R-6 text amendments also do not require changes to the non-conforming lot merger provisions to be functional, positive changes to the current, ill-sized dimensional standards. Planning staff will present these changes in the near future as amendments brought forward in conjunction with the R-6 zone, or as a freestanding amendment, according to Board feedback and direction.

## **VIII. Next Steps**

- Staff to revise R-6 amendments according to Planning Board comments.
- Schedule a date for a follow-up workshop or public hearing, as needed.

**IX.** At the November 25<sup>th</sup> meeting there'll be a selection of accompanying visuals presented.

## **X. Attachments**

1. Proposed Text Amendments to Portland Land Use Code, Div. 7, R-6 Residential Zone
2. Proposed Text Amendments to Portland Land Use Code, Sections 14-332, and 14-433.

### 3. Table of Existing and Proposed Dimensional requirements

#### Public Comment

PC1, B. Vestal

PC2, A. Pringle

PC3, J. McManamy

PC4, Jack/Platt

PC5, PHA

PC6, K. Snyder

PC7, R. Yarnold

PC8, L. Davey

PC9, L. Parsons

PC10, JD Cowie

PC11, Z. Barowitz

PC12, B. Burwell

PC13, Z. Barowitz

PC14, JD. Cowie

PC14, G. Kuhlthau



**Memorandum  
Planning and Urban Development Department  
Planning Division**

---

**To:** Chair O'Brien and Members of the Portland Planning Board  
**From:** Christine Grimando, Senior Planner  
**Date:** January 16, 2015  
**Re:** R-6 Text Amendments  
**Meeting Date:** January 20, 2015

---

## **I. Introduction**

The Planning and Urban Development Department is proposing text amendments to the R-6 Residential Zone. These changes are primarily concerned with the dimensional requirements of the zone and parking standards. The provision for *small residential lot development*, enacted in 2005, is proposed for elimination. Changes are also proposed to clarify standards for lots of record. Finally, an important aspect of the changes is to convert the dimensional requirements from a descriptive listing to a table format, shortening and simplifying the overall text of the ordinance. The Planning Board has held two previous workshops on this topic, on October 28<sup>th</sup> and November 25<sup>th</sup>. Both memos and their attachments are included as Attachment 4 & 5, for reference, as well as a complete draft of the proposed changes in Attachment 1. The bulk of this memo focuses on areas of change since the November workshop.

## **II. Comprehensive Plan Policies**

Numerous recommendations in Housing: Sustaining Portland's Future, support these text changes. Policy 1 indicates zoning should encourage all types of high quality and compatible housing to enhance neighborhoods, encourages high density, small lot infill, and allowing for a range of housing types. Policy 3 (Maintain and enhance the livability of Portland's neighborhoods as the city grows and evolves through careful land use regulation, design and public participation that respects neighborhood integrity) recommends updating codes to encourage new residential development that: Offer diverse and quality living options; Encourages traditional neighborhood elements, Promotes a walkable city; Are Compatible with Portland's existing neighborhoods. It also recommends ensuring the integrity and economic value of Portland's neighborhoods, working to find productive uses for vacant and underutilized lots, and increasing density where appropriate to achieve neighborhood diversity.

## **III. Changes to the Text Amendments since November**

- a. Cumulative Side Setbacks.

Five foot side setbacks are proposed for the R-6 zone. The dimensional standards proposed are made with the needs and viability of small lots in mind. Comments were made at previous meetings, by the public and by the Board, regarding the need for flexibility if small lots were to accommodate both a building and a driveway. Existing residential patterns in the R-6 zone show a preponderance of houses hugging one property line, and a driveway along the other (Figure 1, a sketch to illustrate existing and proposed setbacks, shows this common existing non-conforming condition of a lot on Spring Street).



Figure 1

To make this configuration a possibility in the future, the amendment now includes the following side setback requirement: *5 ft, except that a side yard in the R-6 zone may be reduced to zero, provided that the cumulative side yard setbacks are not less than 10 ft. A permanent maintenance easement a minimum of 5 ft. in width shall be provided on the parcel adjacent to the lot line with the reduced side setback.*

b. Lodging House Minimum Lot Size

Currently the minimum lot size for a Lodging House is 4,500 square feet, the same minimum lot size as permitted for residential uses. When the initial draft amendment for a reduction of residential lot sizes was put forward, this number was made correspondingly smaller to maintain consistency between the Lodging House and the Residential use standard. In the previous month, the reduction in Lodging House lot size has been brought to staff’s attention as a source of concern in several neighborhoods, and the standard has been adjusted back to the current 4,500 square feet.

c. Parking Standards

Planning Board and staff has received a great deal of public input and concern (in addition to some support) in regard to the proposed changes to the residential parking standards, which would exempt the first three residential units from providing parking. This is not a proposal for a prohibition on providing off-street parking, and we expect that a majority of proposals for new residential development will continue to incorporate off-street parking where feasible. The proposal is made in the hope it grants some flexibility for small lots that might otherwise be challenged to make lot dimensions work for a new structure and a new parking spaces, both. In light of the recent feedback received, an alternative proposal for amended parking standards is included (Attachment 2). Instead of the exemption from the first three spaces, the alternate standard states that *Where creation of a new driveway opening would result in the loss of on-street parking, no off-street parking is required for the first dwelling unit.*

Currently, a single dwelling unit in the R-6 zone is required to provide one parking space. New curb cuts can impact one, and sometimes more, on-street space (depending on the

location of the curb cut in relation to the spacing of existing on-street parking spaces). This alternative parking language is an exemption for the first required space where it would require a new driveway, and would not create a net gain in new parking. It is not a prohibition on new driveways or off-street parking, and grants some flexibility for small lots and new single family homes should they wish to take advantage of this exemption, with no net loss of parking.

In addition to this alternate parking amendment, Planning staff is proposing a change to the City Technical Manual, discussed in **III**, below. The two provisions in combination offer substantial flexibility in meeting required parking amounts. This will hopefully quell some of the public's concerns that a full exemption for the first three required parking spaces will dramatically and negatively impact on-street parking supply on the peninsula.

These two parking provisions – exemption from the first unit where a new driveway opening is required, and the exemption of the first three spaces - are for discussion at the January 20<sup>th</sup> workshop. If one is preferable to the Board, that version would be posted with rest of the R-6 amendments for the subsequent meeting.

d. Lot Mergers/Lots of Record

Changes to the definition of Lot, as well as to 14-433, *Lots of Record and accessory structure setbacks for existing buildings* are attached. Organizational, structural changes to the section are included, in addition to substantive changes to the section. These changes maintain minimum standards for existing non-conforming lots, both for contiguous lots under common ownership and individual lots, while granting them relief from meeting all current dimensional standards.

Under current zoning, contiguous lots of record under common ownership are interpreted as a single tract of land. By changing the dimensional standards to include smaller lot sizes and reduced setbacks, many of these previously unbuildable small lots will return to the pool of buildable property. To account for the inability of many existing lots to meet all dimensional standards - a lot that contains an existing building that does not meet existing setbacks, for instance, would not qualify as meeting all dimensional requirements, and would still merge with an adjacent lot under common ownership – such contiguous lots are only required to meet minimum lot size and frontage requirements to maintain their separate, buildable status. The changes to 14-433 states that *Contiguous lots of record under common ownership shall be deemed to be separate lots, provided that they either meet the minimum lot area and minimum frontage of the zone in which they are located, or the minimum applicable standards of 14-433 (a-d)*. In the R-6 this would mean contiguous lots under common ownership would need to be a minimum of 2,000 square feet in lot size, and have a minimum street frontage of 20 feet. Maintaining a basic standard of a small minimum lot size and minimum street frontage allows for small, nonconforming lots of record to function as buildable lots, without disqualifying them for the other possible dimensional non-conformities that may exist, such as existing buildings at lot lines.

#### **IV. Technical Standards**

In addition to this alternative, we are proposing an amendment to the City's Technical Manual for the addition of a Tandem Parking standard as a legitimate means to meet parking requirements. Tandem

parking is the placement of two or more vehicles in a row directly behind one another. Off-street parking often occurs in this way, with two or more parking spaces parked in tandem in a driveway. Recognizing tandem parking as a way to satisfy, in part or in whole, a residential parking requirement would grant additional parking flexibility, free up valuable land area, and potentially reduce construction costs. Many cities allow some measure of tandem parking to meet residential requirements, often with limits and conditions in regard to total number, dimensions, and qualifying zones. A sampling of places with tandem parking provisions in their codes includes: Berkeley, Boston, Burlington, Hoboken, Mankato, Miami, Nantucket, Phoenix, Providence, Salt Lake City, among others.

An amendment to the Technical Manual requires a dedicated public hearing by the Planning Board, distinct from the R-6 amendments. As this is a new topic, and an outgrowth of the R-6 amendment process, staff will bring a Technical Manual forward at the next available agenda to allow for up to three tandem parking spaces in a residential driveway, accompanied by minimum dimensional requirements. This will be a practical, valuable change, as well as one that respects existing development patterns and the constraints of small, urban lots.

V. Other Issues

a. Life Safety Codes

At the previous workshop it was asked if these reduced setbacks are consistent with Life Safety requirements. Zoning and building codes are distinct standards new development has to satisfy, and among possible others, depending on the location and extent of the change. Specifically, the question arose whether it was possible to have residential construction as close as the amendment would allow, and by extension whether a possible contradiction in requirements was being established. The applicable building codes allow for very close, as well as joined, residential construction. As buildings get closer together, the construction standards change in response to that proximity. A sample of standards from what is a large and complex set of building codes is below:

Maximum Area of Exterior Wall Openings Based on Fire Separation Distance and Degree of Opening Protection (Sample)		
Exterior Wall Distance	Degree of Protection	Allowable Area for Openings
0-3 ft	Unprotected, Non-Sprinklered	None
	Unprotected, Sprinklered	None
	Protected	None
5-10 ft	Unprotected, Non-Sprinklered	10%
	Unprotected, Sprinklered	25%
	Protected	25%
15-20 ft	Unprotected, Non-Sprinklered	25%
	Unprotected, Sprinklered	75%
	Protected	75%
25-30 ft	Unprotected, Non-Sprinklered	70%
	Unprotected, Sprinklered	No Limit
	Protected	No Limit
<i>Source: 2009 International Building Code</i>		

Construction materials, sprinkling requirements, and allowable openings (windows and doors) on exterior walls, alter according to distance between buildings.

b. Affordable Housing.

The question of the relationship of the proposed zoning changes to affordable housing has been asked at recent workshops. To clarify this point, as it may come up at future meetings on the R-6 amendments, these text amendments don't include affordability requirements, or requirements that any housing be kept at specified affordability levels in perpetuity. The City recently had a housing study completed (<http://www.portlandmaine.gov/AgendaCenter/ViewFile/Item/1369?fileID=5581>), evaluating a range of tools and strategies to consider towards fostering greater housing affordability. Changing the requirements of the R-6 zone is one tool among many, and these changes do encourage housing affordability in allowing greater numbers of housing units to be created than is currently permitted, and by proposing to reduce parking requirements which impact affordability in both lowering total construction costs and in allowing more land to be dedicated to housing. By lowering the minimum lot size the possibility for small increments of development increases, and with it the potential for owner-occupied duplexes and triplexes. These changes support a diversity of housing choices, and with them the potential to add to the housing supply in a context that is consistent with the existing neighborhood patterns that would be impossible to replicate under the current zoning standards.

c. Parking Impacts

There is no comprehensive city-wide or peninsula-wide parking assessment of total usage of on-street spaces, or total parking need. In addition to supporting reducing parking requirements as one tool to assist in creating more affordable housing, the housing study recently completed by the Greater Portland Council of Governments also cites United States census data that shows that the percentage of households on-peninsula with 0-1 vehicles (77%) is far greater than the national average of 44%. Further insight into current trends can be found in several recent assessments for specific development proposals which have assessed the average need of the peninsula to be .48 spaces per apartment. Attachment 6 is an excerpt of traffic and parking analysis conducted by Gorrill-Palmer Consulting Engineers for a recently approved Avesta Housing project on Washington Avenue. It cites five other parking assessments done for the City. A similar question was raised for the Bayside Anchor project in East Bayside during its review in the summer of 2014, and similar conclusions were reached. Though parking space demand will vary across households, this assessment has been affirmed, and peer reviewed, in several recent studies that have accompanied development proposals to the Planning Board.

Support for reduced parking requirements extends to housing affordability considerations, but also to the topics of walkable communities, transit, sustainability and urban design. Below is a cursory sample listing of the many publications on this issue, from a variety of sources and disciplines, each emphasizing the value of reducing minimum parking requirements.

- Developing Parking Policies to Support Smart Growth in Local Jurisdictions: Best Practices. Wilbur Smith Associates, et al. [http://www.mtc.ca.gov/planning/smart\\_growth/parking/parking\\_study/April07/bestpractice\\_042307.pdf](http://www.mtc.ca.gov/planning/smart_growth/parking/parking_study/April07/bestpractice_042307.pdf)
- Parking Management Best Practices. Todd Litman (Book)
- Parking Requirement Impacts on Housing Affordability. Todd Litman, Victoria Transport Policy Institute. <http://www.vtppi.org/park-hou.pdf>

- Parking Spaces/Community Places: Finding the Balance through Smart Growth Solutions. US. Environmental Protection Agency.  
<http://www.epa.gov/smartgrowth/pdf/EPAParkingSpaces06.pdf>
- Smart Growth Alternatives to Minimum Parking Requirements. Christopher V. Forinash, Adam Millard-Ball, Charlotte Dougherty and Jeffrey Tumlin (Book)
- Walkable City. Jeff Speck (Book)

d. Visuals of Proposed Changes

Tuesday's workshop will include a slideshow of the following visuals as they pertain to the R-6 zone: vacant lots, vacant lots 2,000 sf+, total non-conforming lots (according to minimum lot size) under current zoning and proposed, a density map, and analysis of the zoning changes as they relate to a section of Parkside.

## **VI. Next Steps**

The January 20<sup>th</sup> workshop will be the third on the R-6 and related changes. We hope the Board feels this has been sufficient time dedicated to this topic, and that a public hearing can be scheduled on the proposed amendments.

## **VII. Attachments**

1. Proposed Text Amendments to Portland Land Use Code, Div. 7, R-6 Residential Zone, 14-47, 14-332, 14-433.
2. Alternate Parking Text Amendment
3. Table of Existing and Proposed Dimensional requirements
4. October 28<sup>th</sup> Planning Board Memo
5. November 25<sup>th</sup> Planning Board Memo
6. Gorrill-Palmer Parking Analysis (excerpt from prior application)
7. Public Comment
  - PC1
  - PC2

Mr. Robert Metcalf  
March 26, 2014  
Page 3 of 4

on the safety of this intersection due to its low trip generation and the majority of the traffic will park off site.

### Parking Assessment

The City ordinance suggests one parking space per housing unit which would result in the Applicant needing to provide a total of 18 spaces. Providing more parking than needed results in loss of open space and increases stormwater impacts, and underutilization of valuable urban land. At the same time, providing too little parking would have adverse impacts on residents and the surrounding neighborhood. The applicant's goal through the parking demand analysis process is to find the appropriate ratio of parking spaces. Our office has data suggesting actual parking demand will be well below one space per unit for affordable housing. To estimate the parking demand for the proposed project, Gorrill-Palmer Consulting Engineers, Inc. reviewed our files for relevant parking studies we have completed and determined that two were relevant to this project and are summarized below:

- Island View Apartments in Portland: This inventory was performed on July 12, 2004 from 6:00 to 9:00 PM. Island View Apartments is a 70-unit apartment building on the corner of Walnut and North Streets in Portland. It contains a total of 84 parking spaces, 29 of which are designated visitor parking only, and 2 of which are handicap. In the peak half-hour period, a maximum of 49 parking spaces were occupied. This translates to a demand of 0.70 parking spaces per dwelling unit.
- As part of studies for similar projects in the past, our office examined the parking occupancy of apartment buildings in downtown Portland with dedicated parking lots, either behind or within the building as part of another application. Our office completed parking occupancy counts from 10-11 PM (within the peak period, based on ITE and ULI data) at 53 Danforth Street, 645 Congress Street, and Walker Terrace (at the corner of Congress and Walker Street) on Tuesday, October 26, 2010. See summary below.
- In addition, we referenced the parking supply for Franklin Towers and Oak Street Lofts. Franklin Towers has 200 units, and based upon aerial data, a parking supply of 56 spaces. Oak Street Lofts has 37 units, and 16 parking spaces, although it should be noted that half of these spaces (eight) are for motorcycles. For the purposes of this letter, it is assumed that peak demand at both of these facilities is at 100 percent occupancy.

Based on the occupancy counts, the following parking demand was determined:

53 Danforth:	43 units, 29 spaces occupied	=	0.67 spaces/unit
645 Congress:	56 units, 28 spaces occupied	=	0.50 spaces/unit
Walker Terrace:	40 units, 20 spaces occupied	=	0.50 spaces/unit
Oak Street Lofts:	37 units, 16 spaces occupied*	=	0.43 spaces/unit
Franklin Towers:	200 units, 58 spaces occupied**	=	0.29 spaces/unit
		AVERAGE:	0.48spaces/unit

\*Assumes 100% occupancy at Oak Street.

Mr. Robert Metcalf  
March 26, 2014  
Page 4 of 4

**\*\* Assumes 58 spaces based upon aerial imagery, and 100% occupancy at Franklin Towers.**

This information indicates an average need for 0.48 spaces per apartment within the Portland Peninsula.

Based on the level of demand at the above referenced studies, it is the opinion of Gorrill Palmer that appropriate parking demand for the proposed 134 Washington Avenue Efficiencies is 0.70 spaces per unit, translating to a demand for 13 spaces. Of these 13 spaces, 2 would be provided on site and 11 off site through the City's in lieu fee process.

Our office completed an on street parking assessment within a 360 foot radius of the project on Monday March 24, 2014 at 11:30 PM. This radius is within a 2 minute walk to the site. This information showed there are 73 spaces available and 24 were occupied at that time, presumably by residents.

Closing

Please contact this office with any questions.

Sincerely,

Gorrill-Palmer Consulting Engineers, Inc.



Thomas L Gorrill, PE, PTOE  
Principal

(c) *Storage of vehicles:* Only one (1) unregistered motor vehicle may be stored outside on the premises for a period not exceeding thirty (30) days.

(Ord. No. 537-84, 5-7-84; Ord. No. 15-92, § 10, 6-15-92)

**Sec. 14-132. Reserved.**

**Sec. 14-133. Reserved.**

**Sec. 14-134. Reserved.**

DIVISION 7. R-6 AND R-6A RESIDENTIAL ZONES\*

-----  
**\*Editor's note--**Ord. No. 538-84, adopted May 7, 1984, repealed Div. 7, §§ 14-131--14-134, and enacted a new Div. 9, §§ 14-135--14-139, 14-145. However, in order to avoid duplication of division numbers and in consultation with the city, the provision has been included as Div. 7.  
-----

**Sec. 14-135. Purpose.**

The purpose of the R-6 residential zone is:

(a) To set aside areas on the peninsula for housing characterized primarily by multifamily dwellings at a high density providing a wide range of housing for differing types of households; and to conserve the existing housing stock and residential character of neighborhoods by controlling the scale and external impacts of professional offices and other nonresidential uses.

(b) In cases of qualifying small, vacant, underutilized lots located in the urban residential and business zone, to encourage new housing development consistent with the compact lot development pattern typically found on the peninsula.

The purpose of the R-6A residential zone is:

(c) To encourage neighborhood livability with higher density multi-family housing on large parcels located off the peninsula. The zone is appropriate in areas that are along major public transportation routes, near service areas, and in redevelopment (underutilized) or infill areas.

(Ord. No. 538-84, 5-7-84; Ord. No. 78-03/04, 10-20-03; Ord. No. 73-14/15, 10-20-2014)

**Sec. 14-136. Permitted uses.**

The following uses are permitted in the R-6 and R-6A

residential zones:

(a) *Residential:*

1. Single- and two-family dwellings. No building reviewed as a two-family dwelling in accordance with section article V (site plan) of this chapter shall be altered to include any additional dwelling unit within five (5) years from the date of issuance of the building permit. Any building reviewed as a two-family dwelling in accordance with article V (site plan) of this chapter or not reviewed under article V, which is altered or enlarged to include any additional dwelling unit after this five-year period, shall be reviewed as a pursuant to article V of this chapter.
2. Multifamily dwellings.
  - a. Parking shall be provided as required by division 20 of this article;
  - b. No open outside stairways or fire escapes above the ground floor shall be constructed;
  - c. A below-grade dwelling unit shall be permitted only if access is provided directly to the outside of the building;
  - d. Such development shall be subject to article V (site plan) of this chapter for site plan review and approval.
3. Handicapped family unit, as defined in section 14-47 (definitions) of this article, for handicapped persons plus staff.
4. Single-family, multiple-component manufactured housing, as defined in section 14-47 (definitions) of this article, except in a National Register Historic District.
5. Single-family, single-component manufactured housing, as defined in section 14-47 (definitions) of this article, on individual lots under separate and distinct ownership, except in a National

Register Historic District, provided that each unit meets the performance standards listed below:

- a. More than half of the roof area of each unit shall be a double pitched Class C rated shingled roof with a minimum pitch of 3/12.
- b. Each unit shall be installed on a full foundation or a concrete frost wall in accordance with all applicable codes and regulations. Any hitch or tow bar shall be removed from the unit after it is placed on its foundation or frost wall. In the case of a frost wall, vermin proof skirting shall be installed on all sides of the unit. The skirting may consist of either (a) concrete or masonry block or (b) manufactured skirting. If concrete or masonry block skirting is installed, either the exterior siding of the unit shall extend within one (1) foot of grade or decorative masonry siding shall be applied. If manufactured skirting material is installed, the color shall be identical to or compatible with the exterior siding of the unit.
- c. Each unit shall have exterior siding that is residential in appearance, including but not limited to natural materials such as wood clapboards or shakes, or exterior materials which simulate wood. Clapboards or simulated clapboards shall have less than eight (8) inches of exposure and sheet metal type siding shall not be permitted.
- d. Each unit shall have the long side of the unit parallel to the street line where the required street frontage is met.
- e. Each unit shall be provided with at least two (2) trees meeting the city's arboricultural specifications and which are clearly visible from the street line and are located so as to visually widen the narrow dimension or proportion of the unit.

- f. Each unit shall have all fuel oil supply systems constructed and installed within the foundation wall or underground in accordance with all applicable codes and regulations.
- g. No unit shall be horizontally or vertically attached to any other unit or other structure, provided however, that this provision shall not be deemed to prohibit building additions, such as porches, garages, room additions or solar greenhouses.

(b) *Other:*

- 1. Lodging house;
- 2. Cemeteries;
- 3. Parks, and other active and passive noncommercial recreation spaces;
- 4. Accessory uses customarily incidental and subordinate to the location, function, and operation of principal uses, subject to the provisions of section 14-404 (accessory use) of this article;
- 5. Home occupation subject to the provisions of section 14-410 (home occupation) of this article;
- 6. Municipal uses, excluding those specifically set forth in section 14-137 of this division;
- 7. Special needs independent living units, provided that a building housing special needs independent living units shall not house other types of residential or other permitted uses. The owner of a special needs independent living unit building shall file in the Cumberland County Registry of Deeds a statement under oath that the building is a special needs independent living unit building and that any future change of use to a permitted residential use shall require a change in use review by the City of Portland and a decrease in the number of units in the building in accordance with the Portland City Code, chapter 14. The owner

shall file proof of such recording with the building inspections division prior to the issuance of any certificates of occupancy for the new uses.

8. Conversion of a structure existing on March 3, 1997, into a bed and breakfast with up to four (4) guest rooms, subject to the standards of article V (site plan).
9. Hostels, provided the applicant submits a site plan and operations plan demonstrating compliance with the following conditions:
  - a. No more than ten (10) overnight transient guests shall be permitted in the facility at any one time.
  - b. All applicable provisions of Article V of this chapter shall be met.
  - c. Parking shall be provided in compliance with Division 20 of this Article.
  - d. No unaccompanied minors under the age of eighteen (18) shall be permitted in the facility.
  - e. The length of stay for transient guests shall not exceed fifteen (15) days out of any sixty-day period.
  - f. An owner, manager or operator shall live in the building as a permanent resident.
  - g. The building shall meet the applicable occupant load requirements as defined by the International Building Code and the NFPA Life Safety Code, as such codes are amended or adopted by the city.
10. Wind energy systems, as defined and allowed in Article X, Alternative Energy.

(Ord. No. 538-84, 5-7-84; Ord. No. 267-84, § 1, 12-17-84; Ord. No. 67-87, § 4, 11-2-87; Ord. No. 85-88, §§ 1, 2, 7-19-88; Ord. No. 86A-89, § 7, 8-21-89; Ord. No. 95-89, § 2, 9-6-89; Ord. No. 279-90, § 2, 3-19-90; Ord. No. 33-91, § 8, 1-23-91; Ord. No. 33A-91, § 6, 4-17-91; Ord. No. 125-97, § 2, 3-3-97; Ord. No. 278-09/10, 7-19-10; Ord. No. 279-09/10, 6-6-11; Ord. No. 33-11/12, 1-18-12; Ord.

No. 73-14/15, 10-20-2014; Ord. 209-14/15, 5/4/2015)

-----

**\*Editor's note--**Ord. No. 85-88, §§ 1, 2, adopted July 19, 1988, amended § 14-136 to read as herein set out. See also the editor's note to Art. III of this chapter for additional provisions relative to Ord. No. 85-88. Ord. No. 95-89, § 2, adopted Sept. 6, 1989, amended subsection (1)a of § 14-136 to read as set out and, as amended, further ordained "that the prohibition upon unit additions contained in this ordinance shall not apply where a building permit has been issued. Additions proposed to such buildings shall require major site plan review and all other reviews required by this chapter."  
-----

### **Sec. 14-137. Conditional uses.**

The following uses shall be permitted only upon the issuance of a conditional use permit, subject to the provisions of section 14-474 (conditional uses) of this article and any special provisions, standards or requirements specified below:

(a) *Residential:*

1. Reserved.
2. Sheltered care group homes, as defined in section 14-47 of this article, for up to twelve (12) individuals, plus staff, and serving a primary population which is not handicapped persons, parolees, persons involved in correctional prerelease programs, or current illegal drug users, provided that:
  - a. A sheltered care group home shall not be located within five hundred (500) feet of another, as measured along street lines to the respective property lines.
  - b. There shall be no open outside stairways or fire escapes above the ground floor.
  - c. The facility shall make provision for adequate on-site staffing and supervision of residents in accordance with applicable state licensing requirements. If a facility is not licensed by the state, there shall be a minimum of one (1) staff person for every ten (10) residents or fraction thereof.

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

3. Conversion of a structure existing on March 3, 1997, into a bed and breakfast with five (5) to nine (9) guest rooms.
- (b) *Institutional*: Any of the following conditional uses provided that, notwithstanding section 14-474(a) (conditional uses) of this article or any other provision of this Code, the Planning Board shall be substituted for the board of appeals as the reviewing authority:
1. Elementary, middle, and secondary school except as otherwise provided in section 14-276.10;
  2.
    - a. Long-term and extended care facilities;
    - b. Intermediate care facility for thirteen (13) or more persons;
  3. Intermediate care facility;
  4. Places of assembly;
  5. Hospital;
  6. College, university, trade school.

Such uses shall be subject to the following conditions and standards in addition to the provisions of section 14-474:

- a. In the case of expansion onto land of existing such uses other than the lot on which the principal use is located, it shall be

demonstrated that the proposed use cannot reasonably be accommodated on the existing site through more efficient utilization of land or buildings, and will not cause significant physical encroachment into established residential areas; and

- b. The proposed use will not cause significant displacement or conversion of residential uses existing as of June 1, 1983, or thereafter; and
- c. In the case of a use or use expansion which constitutes a combination of the above-listed uses with capacity for concurrent operations, the applicable minimum lot sizes shall be cumulative; and
- d. Article V (site plan) sections 14-522 and 14-523 notwithstanding, in the case of places of assembly the proposed use shall be subject to the requirements of article V (site plan) of this chapter; and
- e. In the case of community halls:
  - i. The structure was in existence as of January 4, 2010.
  - ii. The structure was built for institutional or other non-residential uses;
  - iii. The structure is operated by, or operated subject to the control of, a not-for-profit entity in accordance with its not-for-profit purposes; and
  - iv. A parking management plan is submitted for review and approval by the planning board; and
- f. In the case of private club or fraternal organizations: any such establishment serving alcoholic beverages or in possession of a license for serving alcoholic beverages shall

be located on a large lot, as specified in the minimum lot size provisions of this section.

(c) *Other:*

1. Utility substations, such as water and sewage pumping stations and standpipes, electric power substations, transformer stations, and telephone electronic equipment enclosures and other similar structures, provided that such uses are suitably screened and landscaped so as to ensure compatibility with the surrounding neighborhood;
2. Professional offices of a member of a recognized profession maintained for the conduct of that profession. Professional office uses exclude personal services, retail services, and veterinarians.

The illustrative examples that follow indicate the type of professional offices permitted: health care practitioner, attorney, social worker, engineer, architect, accountant, real estate agent, insurance agent.

Professional office uses shall meet the following standards in addition to provisions of section 14-474, except that subsections a., b., c. and d. of this section 14-137(c)2 shall not apply to the use of any building not designed or constructed for residential use, which was not in actual use as a residence on April 18, 1984, or thereafter.

- a. A professional office shall not be located within five hundred (500) feet of another as measured along the street line to the respective property lines.
- b. A building with one (1) or more professional offices shall have at least fifty (50) percent of the total floor area of the building devoted to residential uses.
- c. The total number of individuals working in a building of professional offices shall not exceed the equivalent of four (4) full-time

employees.

- d. Any additions or exterior alterations shall be compatible with the architecture of the building and maintain the residential appearance of the building. Construction of a new building shall be compatible with the architectural character of the surrounding area.
- e. The scale and surface area of parking, driveways, and paved areas shall be arranged and landscaped to be compatible in size and scale with neighboring properties in the area and to properly screen vehicles from adjacent properties and streets.
- f. Off-street parking is required as provided in division 20 (off-street parking) of this article.

3. Chancellery.

4. Nursery school and kindergarten.

5. Off-street parking for passenger cars for uses permitted in the R-6 zone.

6. Day care facilities or home babysitting services not permitted as a home occupation under section 14-410, subject to the following conditions:

- a. The facility shall be located in a structure in which there is one (1) or more occupied residential units or in an existing accessory structure, unless the facility is located in a principal structure that has not been used as a residence in whole or in part within the five (5) years immediately preceding the application for a day care or home babysitting use or in a nonresidential structure accessory to the principal nonresidential use.
- b. The maximum capacity shall be twelve (12) children for facilities located in residential or existing structures accessory thereto,

unless the additional standards in subsection v. are met. There shall be no maximum limit on the number of children in a facility located in a principal structure that has not been used as a residence in whole or in part within the five (5) years immediately preceding the application for a day care or home babysitting use, or in a nonresidential structure accessory thereto, provided that any such structure that serves more than twelve (12) children shall be subject to review under article V of this chapter.

- c. Outdoor play areas shall be screened and buffered from surrounding residences with landscaping and/or fencing to minimize visual and noise impacts.
- d. Solid waste shall be stored in covered containers. Such containers shall be screened on all four (4) sides.
- e. Day care facilities, nursery schools and kindergartens located either in structures that have been in residential use within the past five (5) years or in existing accessory structures and that serve between thirteen (13) and twenty-four (24) children shall meet the following additional standards:
  - i. The facility shall provide a minimum of seventy-five (75) square feet of outdoor play area per child;
  - ii. The play area shall be located in the side and rear yards only and shall not be located in front yards;
  - iii. Outside play areas shall be separated from abutting properties by a fence at least forty-eight (48) inches in height;
  - iv. A ten-foot wide landscaped buffer shall be required outside of the fenced play area, and shall be established in accordance with the landscaping standards

of the City's Technical Standards and Guidelines;

- v. The minimum lot size for a day care facility located in a residential or existing accessory structure and serving more than twelve (12) children shall be twenty thousand (20,000) square feet;
  - vi. *Off-street parking*: Off-street parking is required as provided in division 20 (off-street parking) of this article.
  - vii. The maximum number of children in a day care facility located in a residential or existing accessory structure shall be twenty-four (24); and
  - viii. Any additions or exterior alterations such as facade materials, building form, roof pitch, and exterior doors shall be designed to be compatible with the architectural style of the building and preserve the residential appearance of the building.
7. Temporary wind anemometer towers, as defined in Sec 14-47, are permitted provided the following standards are met in addition to Sec 14-430:
- a. Towers may be installed for the purpose of wind data collection for no more than two (2) years after the issuance of a Certificate of Occupancy for the tower. At the conclusion of the aforementioned two (2) years, the tower must be dismantled and removed from the site within sixty (60) days; and
  - b. Towers shall be constructed according to plans and specifications stamped by a licensed professional engineer, which shall be provided to the Board of Appeals with the application; and

- c. Towers shall be set back from habitable buildings by a distance equal to 1.1 times the tower height; and
  - d. The applicant shall provide a safety report prepared and stamped by a licensed professional engineer to the Board of Appeals with their application for conditional use, which demonstrates how the proposed temporary wind anemometer tower is safe in terms of strength, stability, security, grounding, icing impacts and maintenance; and
  - e. The applicant shall provide evidence of commercial general liability insurance, such insurance to be satisfactory to Corporation Counsel and cover damage or injury resulting from construction, operation or dismantling of any part of the temporary wind anemometer tower; and
  - f. Towers and associated guy wires shall be sited to minimize their prominence from and impacts on public ways (including pedestrian ways); and
  - g. Towers shall be used for installing anemometers and similar devices at a range of heights from the ground to measure wind characteristics (speed, direction, frequency) and related meteorological data, but shall not be used for any other purpose; and
  - h. A performance guarantee shall be required for the cost of removal of the tower, guy wires and anchors. This requirement may be satisfied by surety bond, letter of credit, escrow account or by evidence, acceptable to the City, or the financial and technical ability and commitment of the applicant or its agents to remove the facility at the end of the use period.
8. Hostels, provided the applicant submits a site plan

and operations plan demonstrating compliance with the following conditions:

- a. No more than twenty (20) overnight transient guests shall be permitted in the facility at any one time.
- b. All applicable provisions of Article V of this chapter shall be met.
- c. Parking shall be provided in compliance with Division 20 of this Article.
- d. No unaccompanied minors under the age of eighteen (18) shall be permitted in the facility.
- e. The length of stay for transient guests shall not exceed fifteen (15) days out of any sixty-day period.
- f. An owner, manager or operator shall live in the building as a permanent resident.
- g. The building shall meet the applicable occupant load requirements as defined by the International Building Code and the NFPA Life Safety Code, as such codes are amended or adopted by the city.

9. Wind energy systems, as defined and allowed in Article X, Alternative Energy.

(Ord. No. 538-84, 5-7-84; Ord. No. 267-84, § 2, 12-17-84; Ord. No. 76-85, § 8, 7-1-85; Ord. No. 85-88, § 3, 7-19-88; Ord. No. 235-91, § 13, 2-4-91; Ord. No. 118-93, § 11, 10-18-93; Ord. No. 133-96, § 7, 11-18-96; ; Ord. No. 154-96, § 11, 12-16-96; Ord. No. 125-97, § 3, 3-3-97; Ord. No. 232-99, §2, 3-15-99; Ord. No. 77-02/03, § 2, 10-21-02; Ord. No. 29-09/10, 8-3-09 emergency passage; Ord. No. 127-09/10, 1-4-10 emergency passage; Ord. No. 138-09/10, 1-20-10; Ord. No. 240-09/10, 6-21-10; Ord. No. 9 10/11, 8-2-10; Ord. No. 149-10/11, 3-7-11; Ord. No. 279-09/10, 6-6-11; Ord. No. 33-11/12, 1-18-12)

**Sec. 14-138. Prohibited uses.**

Uses that are not expressly enumerated herein as either permitted uses or conditional uses are prohibited.

(Ord. No. 538-84, 5-7-84)

**Sec. 14-139. Dimensional requirements.**

(a) In addition to the provisions of division 25 (space and bulk regulations and exceptions) of this article, lots in the R-6 and R-6A zones shall meet or exceed the following minimum requirements:

<b>R-6 Dimensional Requirements</b>	
<b>Minimum Lot Size</b>	Residential Uses: 2,000 sf, except that in R-6A the min. residential lot size is four (4) acres.
	Long-term and extended care facilities: Ten thousand (10,000) square feet for the first nine (9) residents plus seven hundred fifty (750) square feet for each additional resident, up to a total of two (2) acres.
	Intermediate care facility: One (1) acre.
	School: Thirty thousand (30,000) square feet.
	Places of assembly: Large, 15,000 sf; Medium, 10,000 sf; Small, 5,000 sf.
	Hospital: Two (2) acres
	All other uses: 2,000 sf
<b>Min. Lot Area/Dwelling Unit</b>	725 s.f.
<b>Minimum Lot Area/Lodging House Rooming Unit</b>	250 s.f
<b>Minimum land area per intermediate care facility resident</b>	250 s.f
<b>Minimum land area per permitted hostel guest when maximum permitted guests is greater than 10</b>	250 s.f
<b>Street Frontage</b>	20 feet
<b>Minimum Front Yard Setback for Principal and Accessory Structures</b>	5 ft, or the average depths of adjacent front yards.

<b>Minimum Rear Yard Setback for Principal and Accessory Structures</b>	10 feet, except that accessory structures with a ground coverage of one hundred and forty-four (144) square feet or less: Five (5) feet.
	All setbacks for swimming pools shall be as provided for in section 14-432, Swimming pools, of this article.
<b>Minimum Side Yard Setback for Principal and Accessory Structures</b>	5 ft, except that a side yard in the R-6 zone may be reduced to zero, provided that the cumulative side yard setbacks are not less than 10 ft. A permanent maintenance easement a minimum of 5 ft. in width shall be provided on the parcel adjacent to the lot line with the reduced side setback.
	Side yards in R-6A shall be 10 ft. for principal structures up to 45 ft. in height and 15 ft. for principal structures greater than 45 ft.in height.
<b>Side Yard on Side Street</b>	None
<b>Structure Stepbacks</b>	Portions of a structure above 35 ft shall be no closer than 10 ft from the side property line and no closer than 15 feet from the rear property line when such property line abuts a residential zone. <i>Does not apply to side yards on side streets.</i>
<b>Maximum Lot Coverage</b>	60%
<b>Minimum Lot Width</b>	20 feet
<b>Maximum Height</b>	Principal and attached accessory structure: 45 ft
	Detached accessory structure: 18 ft
	In R-6A the maximum principal and attached accessory structure height shall be 65 ft.
<b>Landscaped Open Space</b>	20%. This area shall not include parking areas or other impervious surfaces as defined in section 14-47.

<b>Minimum gross floor area for bed and breakfasts</b>	Two thousand (2,000) square feet of gross floor area for the first three (3) guest rooms and five hundred (500) square feet of floor area for each additional guest room.
<b>Maximum floor area for places of Assembly</b>	<i>On a collector or arterial road:</i>
	Large: Not limited
	Medium: 4,500 s.f.
	Small: 2,250 s.f.
	<i>Not on a collector or arterial road:</i>
	Large: 4,500 s.f.
	Medium: 2,250 s.f. Small: 1,125 s.f.
<b>Maximum Garage Opening</b>	Garage openings on front façades shall not exceed the greater of nine (9) feet or forty (40) percent of the front façade, and in no case shall a garage opening on a front façade exceed 20 feet.

(b) Townhouse Subdivisions.

Subdivisions consisting of horizontally attached dwellings on individual lots are not required to have side yards between such dwellings where a party wall condition will exist. Horizontally attached dwellings located within a single lot shall be required to meet the applicable side yard requirements at the external lot boundaries of the subdivision and internal lot boundaries between such dwellings that are not attached to each other. No minimum lot size width shall be required for individual lots underlying townhouse (horizontally attached) dwelling types. The applicable minimum lot area per dwelling shall apply to each lot.

(c) Alterations to Single-family, two-family, and multi-family dwellings in existence as of June 15, 2015 shall not result in the creation of any additional dwelling unit of less than six hundred (600) square feet of floor area, exclusive of common hallways and storage in basement and attic; and Shall not result in any existing dwelling unit being reduced in size to less than one thousand (1,000) square feet of floor area, exclusive of common areas and storage in basement and attic.

(Ord. No. 538-84, 5-7-84; Ord. No. 634-86, § 1, 7-7-86; Ord. No. 264-87, § 1, 3-16-87; Ord. No. 85-88, § 4, 7-19-88; Ord. No. 230-90, § 1, 3-5-90; Ord. No. 33-91, § 9, 1-23-91; Ord. No. 235-91, § 14, 2-4-91; Ord. No. 33A-91, 4-17-91; Ord. No. 118-93, § 12, 10-18-93; Ord. No. 154-96, § 12, 12-16-96; Ord. No. 125-97, § 4, 3-3-97; Ord. No. 245-97, §§ 1, 2, 4-9-97; Ord. No. 232-99; §3, 3-15-99; Ord. No. 78-03/04, 10-20-03; Ord. No. 21-04/05, 8-2-04, Ord. No. 145-04/05, 2-23-05; Ord. No. 254-05/06, 6-5-06; Ord. No. 131-08/09, 12-15-08; Ord. No. 127-09/10, 1-4-10 emergency passage; Ord. No. 65-10/11, 10-18-10; Ord. No. 73-14/15, 10-20-2014; Ord. 209-14/15, 5/4/2015)

-----  
**\*Editor's note--**Ord. No. 85-88, § 4, adopted July 19, 1988, amended § 14-139 to read as herein set out. See also the editor's note to Art. III of this chapter for additional provisions relative to Ord. No. 85-88.  
-----

**Sec. 14-140. Other requirements.**

(a) *Off-street parking:* Off-street parking is required as provided in division 20 (off-street parking) of this article.

(b) *Storage of vehicles:* Only one (1) unregistered motor vehicle may be stored outside on the premises for a period not exceeding thirty (30) days.

(c) *Shoreland and flood plain management regulations:* Any lot or portion of a lot located in a shoreland zone as identified on the city shoreland zoning map or in a flood hazard zone shall be subject to the requirements of division 26 and/or division 26.5.

(Ord. No. 538-84, 5-7-84; Ord. No. 85-88, § 5, 7-19-88; Ord. No. 15-92, § 11, 6-15-92; Ord. No. 37-98, § 1, 5-4-98; formerly §14-145--renumbered per Ord. No. 122, 12-20-99; Ord. No. 78-03/04, 10-20-03; Ord. No. 254-05/06, 6-5-06; Ord. No. 240-09/10, 6-21-10; Ord. 209-14/15, 5/4/2015)

-----  
**\*Editor's note--**Ord. No. 85-88, § 5, adopted July 19, 1988, amended § 14-145(a) to read as herein set out. See also the editor's note to Art. III of this chapter for additional provisions relative to Ord. No. 85-88.  
-----

DIVISION 7.01. R-7 COMPACT URBAN RESIDENTIAL OVERLAY ZONE

**Section 14-141. Purpose.**

The purpose of the R-7 Compact Urban Residential Overlay Zone is to encourage and accommodate compact residential development on appropriate locations on the Portland peninsula, pursuant to the New Vision for Bayside element of the comprehensive plan and housing plans of the City of Portland. Sites suitable for in-city



## **Housing: Sustaining Portland's Future**

### **Timeline**

11.18.2002      Adopted by City Council  
12.2001        Public hearings

### **Summary**

In the early 2000s, Portland was in the midst of a housing shortage. Similar to today, rents and purchase prices were escalating. Residents were struggling with their housing costs and many households chose or were forced to move to other municipalities. At the same time, public dissatisfaction with proposed housing developments led to harsh criticism of Portland's housing policies. In response to these issues, former Mayor Cheryl Leeman appointed 27 citizens to the Housing Comprehensive Plan Advisory Committee, which was co-chaired by Councilors Nicholas Mavodones, Jr. and Nathan Smith. The Committee was charged with developing a new plan that addresses Portland's housing issues.

The process began with three community forums; meetings were held on Peaks Island, the peninsula, and off-peninsula. In a round table format, the participants at each forum were asked a series of questions designed to envision Portland's future and to identify housing issues and opportunities.

The primary theme of the plan is to encourage and manage growth over the next 10 to 20 years with the goal of preserving and enhancing Portland's quality of life. The plan contains a community-wide vision, which identifies attributes of Portland to value, preserve, and build upon; it further offers goals for a future direction.

The draft plan was presented at six community meetings in December 2001: a meeting in each of the five Council Districts and one on Peaks Island. The Committee has incorporated revisions to the plan to reflect public comments. The final component of the plan is an implementation plan intended to guide the sequence of recommended actions to achieve the housing policies. The City Council adopted the final report as the housing element of the Comprehensive Plan on November 18, 2002.

### **In this chapter**

- **Housing: Sustaining Portland's Future**, report, Housing Comprehensive Plan Committee, 11.18.2002

# **Housing: Sustaining Portland's Future**



## **Housing Component of the Comprehensive Plan City of Portland, Maine**

**Prepared by:** Housing Comprehensive Plan Committee  
**Co-Chairs:** Councilor Nicholas Mavodones and  
Councilor Nathan Smith

**Adopted November 18, 2002**

## Table of Contents

	Page
<b><u>Housing Comprehensive Plan Committee</u></b> .....	
<b><u>Introduction</u></b> .....	5
<b><u>Shaping a Community Vision for Portland</u></b> .....	7
<b><u>Housing Goal</u></b> .....	11
<b><u>Executive Summary of Housing Policies</u></b> .....	13
<b><u>Current Conditions and Housing Policies</u></b> .....	23
<i>Portland Today: A Shortage of Housing</i> .....	26
<b><u>Policy #1: Ensure an Adequate and Diverse Supply of Housing For All</u></b> .....	29
<i>Portland Today: An Aging Housing Stock Worth Preserving</i> .....	36
<b><u>Policy #2: Preserve a Quality Housing Stock</u></b> .....	37
<i>Portland Today: Current Impacts on Neighborhood Stability and Integrity</i> .....	42
<b><u>Policy #3: Build on Neighborhood Stability and Integrity</u></b> .....	43
<i>Portland Today: Affordable Housing is a Regional Issue</i> .....	48
<b><u>Policy #4: Housing is a Regional Issue</u></b> .....	49
<i>Portland Today: Sustaining Portland as a Healthy Community</i> .....	52
<b><u>Policy #5: Sustainable Development</u></b> .....	53
<i>Portland Today: Equal Access in Housing</i> .....	58
<b><u>Policy #6: Freedom of Choice</u></b> .....	59

**Housing: Sustaining Portland's Future**



**Housing Component of the Comprehensive Plan for Portland Maine  
Adopted November 18, 2002**

**Prepared by: Housing Comprehensive Plan Committee  
Co-Chairs: Councilor Nicholas Mavodones and  
Councilor Nathan Smith**

**City Council**

Karen Geraghty, Mayor  
James Cloutier  
Philip Jack Dawson

Jill Duson  
Jay Hibbard  
Cheryl A. Leeman

Nick Mavodones, Jr.  
Peter O'Donnell  
Nathan Smith

**Committee Members**

Deborah Cole  
William Dobrowolski  
Joe Delaney  
Carlene Goldman  
Larry Gross  
Tom Hanson  
Don Harden  
Wendy Harmon

Jim Harnden  
Tony Holt  
Peter Howe  
Rose Marasco  
Christine McDuffie  
Joseph McNeill  
Betsy Sawyer-Manter  
Ethan Strimling

Ed Suslovic  
Mark Swann  
Thomas Toye  
Matthew Ward  
Father Donald Webster  
Jamie Whalen  
Carleton Winslow  
Michael Yandell

**Interested Citizens**

Judy Barnett  
Kirk Goodhue  
Robert Hains

Deb Keenan  
Jean McManamy  
Pierrot Rugaba

Steven Scharf  
Jessica Tomlinson  
Alfred Waxler

**City Staff**

Joseph E. Gray Jr., City Manager  
Lee Urban, Director, Planning and Development Department  
Mark Adelson, Division Director, Neighborhood and Community Services  
Alexander Jaegerman, Division Director, Planning  
Barbara Barhydt, Senior Planner  
Wendy Cherubini, HCD Program Manager  
Aaron Shapiro, Housing Program Manager

Gina DiFazio, Administrative Assistant

**Assistance from Greater Portland Council of Governments:**

Karen Martin, Senior Analyst

# **Housing: Sustaining Portland's Future** **Housing Element to the Comprehensive Plan**

## **Introduction and Acknowledgments**

Portland is in the midst of a housing shortage. Rents and purchase prices are escalating. Residents are struggling with their housing costs and many households have chosen or been forced to move to other municipalities. At the same time, public dissatisfaction with proposed housing developments has led to harsh criticism of Portland's housing policies. In response to these issues, former Mayor Cheryl Leeman appointed 27 citizens to the Housing Comprehensive Plan Advisory Committee, which was co-chaired by Councilors Nicholas Mavodones, Jr. and Nathan Smith. The Committee was charged with developing a new plan that addresses Portland's housing issues. The Committee and the City are pleased to present Housing: Sustaining Portland's Future as a new element of Portland's Comprehensive Plan.

Housing: Sustaining Portland's Future is the result of an intensive one year planning effort. The process began with three community forums, which were held on Peaks Island, the peninsula, and off-peninsula. In a round table format, the participants at each forum were asked a series of questions designed to envision Portland's future and to identify housing issues and opportunities. The Committee developed a draft plan based on input received at these forums and from technical information and Census data presented at subsequent Committee meetings.

As public and Committee discussion on the plan evolved, it became clear that the primary theme of the plan is to encourage and manage growth over the next 10 to 20 years that will preserve and enhance Portland's quality of life. First, the plan contains a community-wide vision, which identifies attributes of Portland to value, preserve and build upon and then offers goals for a future direction. An overarching housing goal sets a policy direction for the city for the next decade. Six broad housing policies with accompanying objectives and actions were then created to achieve Portland's community vision and housing goal.

The draft plan was presented at six community meetings in December 2001: a meeting in each of the five Council Districts and one on Peaks Island. The meetings were well attended and residents provided additional guidance on the contents of the plan. The Committee has incorporated revisions to the plan to reflect public comments. The final component of the plan is an implementation plan intended to guide the sequence of recommended actions to achieve the housing policies. The City Council adopted Housing: Sustaining Portland's Future as the housing element of the Comprehensive Plan on November 18, 2002.

The Housing Comprehensive Plan Advisory Committee members are commended for their dedication, insightfulness, and thoroughness under the wise direction of Councilors Mavodones and Smith. The Committee also received excellent technical assistance from Karen Martin, Senior Analyst, GPCOG, which was essential to this planning process. A special thanks is given to the Brackett Memorial Church on Peaks Island and the Portland School District for opening their facilities for neighborhood meetings.



**Housing:**  
**Sustaining Portland's Future**

**Community Vision**

**and**

**Housing Goal For Portland**



*Aerial of Rosemont Neighborhood*

# SHAPING A COMMUNITY VISION FOR PORTLAND

## DISTINCTIVE FEATURES OF PORTLAND TO VALUE, PRESERVE & BUILD UPON

**Portland is an intimate city, small in scale but big in urban amenities and a high quality of life, which is situated around a scenic Maine coastal peninsula. Portland is a city of neighborhoods around a vibrant downtown, which make up the building blocks to the community as a whole.**

### **I. A City that Provides for People**

- Portland is the largest city in Maine and is the **economic and service center** for the region.
- Portland continues to attract people of workforce age due to **diverse job opportunities** (particularly in business and technology), quality employment, and a stable economy.
- Portland has a **vital working waterfront** with diverse coastal commerce activities and water dependent uses.
- Portland is the center for many **regional service institutions**, which offer high quality medical care, an extensive range of social services for those in need, and numerous higher education opportunities.

### **II. A City that is a Good Place to Live**

- Portland retains a **small town feel** with a built environment that is scaled for people, is pedestrian friendly, and is accessible to the community. Residents value and seek to enhance the safety of the community, the proximity of commercial uses near residences, and the walkable nature of the city.
- Portland enjoys a personable and congenial atmosphere that makes it a **welcoming place to work, live and visit**.
- Portland offers the **amenities and services** of a big city. Throughout Portland there are diverse arts, cultural and educational offerings, assorted shopping opportunities, numerous scenic parks and active athletic facilities, and high quality municipal services and infrastructure.
- Portland has an **active and vibrant downtown** both day and night due to its interwoven mix of residential, commercial, institutional, and cultural land uses.
- Portland is the **visual and performing arts center** of Maine.
- Portland is a **city of neighborhoods** with a range of residential neighborhood types, such as high-density areas on the peninsula, early 20<sup>th</sup> century neighborhoods off the peninsula, suburban neighborhoods, and the more rural areas of the Islands.
- Portland is a great place for families with **good neighborhood schools** that serve families throughout their life cycle.

### **III. A City that Values Its Natural, Architectural, and Cultural Heritage**

- Portland is a **coastal community** that is geographically varied and dynamic with:
  - Spectacular views of Casco Bay and the Islands, Back Cove, and Maine's Mountains from the City's promontories; and
  - Three meandering rivers with significant saltwater estuaries and streams that flow through neighborhoods;
  - Significant wildlife and fisheries resources; and
  - Access to our natural features through the City's trails, parks and scenic viewpoints.
- Portland is a **culturally and ethnically diverse community** that values its shared history, is proud of its cultural diversity and is working together for a cohesive community.
- Portland is a **historic maritime city**, which
  - Retains a rich historic character for both commercial and residential neighborhoods,
  - Offers a broad spectrum of architecture and distinctive landmarks, and
  - Maintains unifying features: such as brick buildings and sidewalks, and established and traditional neighborhoods with narrow and interconnected streets.

# SHAPING A COMMUNITY VISION FOR PORTLAND

## FUTURE DIRECTIONS FOR PORTLAND

Portland is Maine's principal city, the **center of employment, housing, and services** for the region. In the future Portland will evolve as an extension, continuation and enhancement of the best qualities and characteristics of Portland today. Progress and prosperity will result from both incremental growth and bold initiatives tempered by careful consideration and foresight in planning. Portland's future will:

### **I. Build a Vibrant Small City**

- Build upon the distinctive fabric of Portland's built environment by **rehabilitating historic resources** and by **developing new buildings that respect the scale and character of traditional development patterns**. New development shall be pedestrian oriented and accessible.
- Strive for innovation and bold initiatives that increase the livability and quality of life in Portland.
- Support a **dynamic downtown** that embraces an intertwining of uses, including residential, business, retail, institutional, service, and arts and cultural uses.
- **Promote, support and celebrate the arts and cultural community** that enriches the lives of our citizens.
- **Capitalize on Portland's economic assets** and develop a strong economy based upon traditional industries, a strong retail and office center, and emergent opportunities in industry, business, and coastal commerce.

### **II. Serve the People**

- **Provide compassionate services** for the City's vulnerable citizens, while leading regional approaches to share the responsibility of caring for citizens in need.
- Foster **expanded opportunities, innovative solutions** and **exemplary services** from Portland's institutions for higher education, health care, and community services.
- **Achieve and operate excellent neighborhood schools** with state of the art facilities, which serve the educational needs of all students. Establish wide recognition that Portland schools meet or exceed the educational performance of any other public school system in the region.
- Support and encourage the creation and preservation of an **adequate supply of quality housing** for all.

### **III. Provide High Quality Leadership**

- Create a **sustainable community** with vital neighborhoods, high quality infrastructure, a strong economy, and a healthy environment, while keeping municipal taxes affordable.
- Encourage **excellence in City government and comprehensive planning** through increased civic involvement, responsive local government, accountable decision making, and creative and adaptive local and regional planning. Innovative thinking and leadership will preserve those attributes of Portland that we value.
- **Incorporate environmental, economic and neighborhood considerations** in municipal decision-making.
- Take the lead in developing **clear standards and rules and ensure adherence** thereto.

### **IV. Protect Our Community Attributes**

- **Protect the natural environment and historic resources.**
- **Preserve and enhance the park system** with its trails, active recreation facilities and natural areas.
- **Strengthen alternative transportation options** to create an accessible city that promotes ease of movement for all citizens, serving neighborhood needs, pedestrians, handicapped persons, bicyclists, and vehicles.
- **Listen to, embrace, empower and support our diverse citizenry.**



## **Housing Goal for Portland**

Portland, as Maine's largest city, will strive to provide a sufficient supply of quality housing commensurate with a manageable level of growth to sustain the City as a healthy urban center in which to live and work, and its position as a growing regional economic and service center.

Housing in the city will be varied and affordable to accommodate Portland's socially and economically diverse population.

The existing housing stock will be enhanced and preserved, and a wide variety of new housing will be designed and created to support Portland's continued economic development, insure the safety of its citizens, and maintain its vibrant and stable neighborhoods.

When seeking solutions to Portland's housing needs and issues, the City will strive for innovation and creativity in the areas of urban design, expenditure of its financial resources, and the use and reuse of land and buildings to ensure that residential development fits within Portland's unique living environment.



**Housing:**  
**Sustaining Portland's Future**

**Executive Summary**

**of**

**Housing Policies**



*Planned Residential Unit Development off Allen Avenue*



## Ensure an Adequate and Diverse Supply of Housing for All

**Policy #1: Ensure that an adequate supply of housing is available to meet the needs, preferences, and financial capabilities of all Portland households, now and in the future.**

*Ensure the construction of a diverse mix of housing types that offers a continuum of options across all income levels, which are both renter and owner-occupied.*

Zoning: Encourage all types of high quality and compatible housing to enhance neighborhoods.

Building Code: Flexible provisions to encourage a variety of quality housing types.

Incentives: Develop financial incentives, partnerships, and zoning incentives to increase the diversity of housing.

Neighborhood Plans: Encourage neighborhood plans to address a diverse mix of housing and city needs.

*A variety of housing choices should be available such that no one should have to spend more than 30% of their income for housing.*

20% Target for Subsidized Housing: Maintain Portland's current proportion of subsidized units. Establish a target of at least 20% of the total number of new housing units will be subsidized for households earning 80% or less of the region's median income.

Portland Housing Authority: Encourage and support PHA to become active in development of more housing.

Creative collaborations: Seek incentives and partnerships to increase affordable housing options for moderate-income households.

Legislation: Support state and federal legislation for new incentives to develop housing, such as tax increment financing, employer assisted housing and housing trust funds.

Financial Incentives: Employ a range of financial incentives to create housing.

Annual HUD Funding: Significantly increase share of City's annual HUD funding used for affordable housing. Support programs that assist with land acquisition, construction, mortgages, infrastructure, and conversion of non-residential buildings to housing.

Non-profit Developers: Use a portion of HUD funding to build capacity of non-profit developers to build and manage housing.

PILOT: Establish a policy on paying taxes or a PILOT (Payment in Lieu of Taxes) Program for non-profit housing developers.

*Encourage higher density housing located near services, such as schools, businesses, institutions, employers, and public transportation.*

Higher Density Housing: Encourage higher density multi-family developments and mixed-use projects with housing, along major public transportation routes, near service areas, and in redevelopment or infill areas.

Small Lot Subdivisions: Support development of higher density

subdivisions with smaller lots and a variety of housing types.

Housing Downtown: Encourage varied housing options downtown by updating zoning.

Parking: Encourage innovative approaches to address residential parking needs.

Housing in Business zones: Combine housing and economic development strategies to create high-density housing and mixed-use developments in business zones.

*Increase Portland's rental housing stock to maintain a reasonable balance between supply and demand yielding consumer choice, affordable rents, and reasonable return to landlords.*

Implement Bayside Plan: Create 300 units within 5 years and 500 additional units in 25 years, a significant portion of which will be rental units.

Rental & Accessory Units: Remove zoning barriers to rental housing and accessory units in single-family homes & accessory structures, where compatible with existing neighborhood character.

Large Units: Encourage construction of 3 or more bedroom units for large families.

Fair Market Rents: Monitor FMR's and seek exception rents from HUD when needed.

Senior Citizen Rental Options: Support a variety of affordable rental options for senior citizens.

***Increase home ownership opportunities for all types of households and all income levels.***

Implement Bayside Plan: Create 300 units within 5 years and 500 additional units in 25 years, a significant portion of which will be owner-occupied units.

200 Home Ownership Units: Facilitate development of 200 affordable owner-occupied units in Portland, with an emphasis on starter homes for families with children.

Move-up Market: Encourage the development of units for those moving up in the real estate market, so Portland can remain competitive with suburban communities.

Affordable Home Ownership: Strengthen and expand opportunities for home ownership assistance through City programs, such as New Neighbors and Homeport.

Senior Citizen Housing: Support affordable home ownership options for senior citizens.

***Ensure that a continuum of housing is available for people with special needs and circumstances ranging from emergency shelters and transitional housing to permanent housing (rental and homeownership), which offer appropriate supportive services.***

Supportive Housing: Increase quantity of supportive housing for persons with special needs who desire and need to live in an urban area where services are available.

10% Handicapped Accessible: Ensure in total, at least ten percent (10%) of all new housing will be designed as handicapped accessible units. Encourage universal design standards for handicapped accessibility in new housing.

Beds for the Homeless: Create enough beds to ensure that no one is forced to sleep outside due to a lack of beds in emergency shelters.

Supportive Housing: Support funding proposals for new supportive housing facilities.

Senior Citizen Options: Promote creation of assisted and congregate living facilities for low-income senior citizens.

Transitional Housing: Ensure an adequate supply of transitional housing facilities.

Transition to Permanent Housing: Encourage proposals to transition homeless families and individuals out of emergency shelters and transitional facilities into permanent housing, including single room occupancy (SRO) units.

***Identify vacant land and redevelopment opportunities throughout the City to facilitate the construction of new housing.***

Real Estate Inventory: Coordinate with Land Bank Commission to create a real estate inventory where housing can be developed in each neighborhood.

Property Disposition: Develop disposition policy for City-owned and tax-acquired property that is in keeping with the City's adopted housing plan.

Pilot Projects: Develop a pilot housing project with a neighborhood, a developer and the City as partners, which utilizes City property and other incentives (i.e. Unity Village).

***Promote Portland as a Pro-Housing Community.***

One Stop Housing Office: Create a "one stop housing office" to assist developers.

- Integrate neighborhood based planning and neighborhood interaction
- Information about City's development review rules and procedures
- Financial Resources, Land Inventory, and Demographic Data

Workforce Housing: Assist new or expanding businesses to create or locate housing for new employees.

Public Relations: Develop a campaign to promote the benefits of living in Portland for the public and real estate industry.

Public Education: Develop an educational campaign to inform the public of housing needs and de-stigmatize perceptions about affordable housing.

## Preserve a Quality Housing Stock

**Policy #2: Maintain, rehabilitate, and restore the existing housing stock as a safe and important physical, economic and architectural resource for the community.**

*Assist with the restoration and rehabilitation of architecturally significant residential properties within and outside Portland's historic districts.*

Building Codes: Update local codes to allow historically accurate and sensitive rehabilitation/maintenance of residential properties. Create a balance in codes between accurate restoration and the need for compatible but affordable preservation alternatives.

Financial Incentives: Provide incentives to rehabilitate and restore historic and architecturally significant homes without using resources designated for creation of new low and moderate-income housing.

Historic Districts: Evaluate where historic districts should be expanded or created.

Public Education: Develop brochures to answer frequently asked questions regarding minor repairs and the options to sensitively restore and rehabilitate older homes.

Tax Credits: Evaluate option of a local tax credit for historic preservation properties.

*Foster safe and high quality housing through appropriate building codes and financial assistance.*

Safe Codes: Update housing codes to adequately protect the health and safety of residents in existing buildings.

Enforcement: Ensure adequate staffing to aggressively enforce local code inspections of multi-family housing at least once every five years for safe housing and consider incentives and disincentives to improve compliance.

Code Education: Increase public education efforts to improve overall code compliance.

Rehabilitation: Use HUD funds for rehabilitation of all types of housing units, including energy conservation:

Collaborations: Create partnerships for joint rehabilitation projects.

Remain in Homes: Assist elderly and disabled homeowners to stay in their homes with HUD funds for rehabilitation and handicapped accessibility improvements.

Public Education: Provide educational programs on topics such as:

- Landlord and Tenant Education, Homebuyer Training, and Condominium and Homeowner Association Information

*Target vacant buildings for maintenance, rehabilitation and reuse.*

Inventory: Inventory vacant and underutilized buildings suitable for more housing.

Inspect Vacant Buildings: Inspect all vacant residential buildings at least annually.

Maintenance: Require owners to repair vacant residential buildings with structural problems.

Reuse: Seek creative and architecturally compatible reuse of buildings for housing or mixed-use projects with housing using financial incentives and partnerships.

*Improve the safety of Portland's housing stock by eliminating public health hazards from single and multi-family residential properties.*

Lead Paint: Use HUD funds to help eliminate lead paint from housing, with a priority for households with young children.

Education: Offer preventive actions and outreach to protect against health hazards found in housing through public health programs.

*Establish a standard of "no net loss of housing" for all proposed development.*

Replacement Housing: Amend zoning to encourage or require a one for one replacement of any housing units lost as part of a development proposal.

Housing Linkage Fund: Evaluate creating a housing linkage fund, so developers can contribute funding for housing, rather than replace demolished units on their own.

Preserve Housing: Find alternatives to the proposed demolition of housing.

## **Neighborhood Stability and Integrity**

**Policy #3: Maintain and enhance the livability of Portland’s neighborhoods as the city grows and evolves through careful land use regulation, design and public participation that respects neighborhood integrity.**

*While accommodating needed services and facilities, protect the stability of Portland’s residential neighborhoods from excessive encroachment by inappropriately scaled and obtrusive commercial, institutional, governmental, and other non-residential uses.*

Housing Along Arterials: Maintain residential zoning along arterials and encourage increased residential densities and mixed uses within business zones.

Demolition: Discourage demolition or conversion of residential properties for non-residential uses.

Compatible Development: Encourage well-planned developments and uses to enhance compatibility between residential and non-residential uses.

Student Housing: Encourage construction of affordable student housing to meet current and future needs.

*Support Portland’s livable neighborhoods by encouraging a mix of uses that provide needed goods and services, within walking distance of most residents.*

Neighborhood Livability: Promote through City policies a mix of housing types, retail and service businesses, community services, and open space/recreation opportunities of appropriate size, scale and type within neighborhoods.

Uphold Zoning: Enforce approved density regulations in the Zoning Ordinance.

*Encourage innovative new housing development, which is designed to be compatible with the scale, character, and traditional development patterns of the City’s residential neighborhoods.*

Municipal Regulations: Update codes to encourage new residential development that:

- Offers diverse and quality living options.
- Encourages traditional neighborhood elements.
- Promotes a walkable city.
- Are compatible with Portland’s existing neighborhoods.

Design Guidelines: Adopt design guidelines for new housing and rehabilitation that are compatible with the character and patterns of development in each neighborhood.

*Encourage new housing development in proximity to neighborhood assets such as open space, schools, community services and public transportation.*

Assets: Inventory neighborhood assets, such as open space, recreation facilities, schools, services and public transportation.

Suitable Housing Sites: Use asset inventories and agreed upon neighborhood priorities to select potential housing sites as part of the Neighborhood Based Planning Process.

Walkable neighborhoods: Give preference to projects that are located within a walkable distance to neighborhood assets, particularly when seeking City funds.

*Ensure the integrity and economic value of Portland’s neighborhoods.*

Enforcement: Aggressively enforce codes that require owners to maintain properties.

Maintain Property: Ensure all properties are kept clear of debris and derelict vehicles.

Redevelopment: Work to find productive uses for vacant and underutilized lots.

Public Improvements: Ensure neighborhood improvements are safe, attractive and well maintained.

Public Safety: The Portland Police Department will continue to work with neighborhoods on community policing, crime watch and other public safety programs to ensure neighborhoods remain safe for residents and visitors.

Traffic: Work with neighborhoods to address traffic issues and enforce traffic laws.

Public Parks: Preserve public amenities, such as trails, athletic fields, and parks.

Open Space: Work with neighborhoods to update, “Green Spaces/Blue Edges”.

*Encourage Portland's neighborhoods to address the City's housing issues through the Neighborhood Based Planning Process.*

Housing Solutions: Involve each neighborhood in creating housing solutions.

Public Education: Support outreach efforts to discuss the benefits, issues, and potential design solutions for increased densities in residential neighborhoods.

*Encourage neighborhood populations that are economically, socially, culturally and ethnically diverse.*

Mix of Housing: Encourage a mix of housing types for all ages, household sizes, and incomes, so neighborhoods are socially, culturally, ethnically, and economically diverse.

Displacement: Discourage displacement through enforcement of municipal ordinances, and adoption of long-term affordability restrictions on City assisted housing.

Housing Programs: Obtain resources and implement programs to enable residents to remain in their neighborhoods, such as rental housing vouchers.

Retain Assisted Housing: Preserve Portland's existing affordable housing units as assisted developments.

Higher Density: Increase density where appropriate to achieve neighborhood diversity.

## **Housing is a Regional Issue**

**Policy #4: Seek opportunities for economic and social integration throughout the Greater Portland region by encouraging the development of a range of housing options that are available and affordable to all income levels in the region.**

*Educate the public, neighboring municipalities, the State legislature, and our Congressional delegation on the need for affordable housing throughout the Greater Portland area.*

Public Education: Work with regional organizations to develop a public education campaign on the need for affordable housing throughout the region.

Leadership: Portland will be a leader within the region and State to change policies that limit an adequate supply of affordable housing.

*Initiate the development of a regional housing plan.*

Regional Housing Plan: Initiate and lead efforts with municipalities and regional organizations to develop a regional housing strategy that will strive to create a wide range of affordable housing options in each municipality.

*Seek innovative solutions and collaborations with municipalities, regional organizations, housing authorities and developers to implement the regional housing plan.*

Regional Housing Administration: Create regional cooperation agreements for the planning and administration of housing development programs.

Regional Funding Consortium: Investigate establishing a consortium of municipalities to apply for and administer state and federal funding for affordable housing development.

Regional Cooperation: Support developer and municipal proposals to obtain resources and develop affordable housing throughout Greater Portland.

Housing and Transportation: With efforts to develop more affordable housing, create viable public transportation options.

## Sustainable Development

**Policy #5:** **Portland's Comprehensive Plan encourages a manageable level of growth that will sustain the city as a healthy urban center in which to live and work and to achieve our shared vision for Portland. Portland should encourage sustainable development patterns and opportunities within the city by promoting efficient land use, conservation of natural resources, and easy access to public transportation, services, and public amenities.**

*Encourage growth in Portland that strives for a dynamic balance of the essential elements of the city, such as excellent schools, diverse housing choices, proximity to services and employment, increased public transit usage, expanded economic base, high quality services, and an affordable tax rate.*

Target to grow: Achieve and maintain a 25% share of Cumberland County's population.

Public relations: Analyze and promote the public benefits of growth.

Incentives: Integrate housing and economic development incentives to encourage growth and take advantage of the City's capacity to accommodate more people.

Monitor: Assess the impacts of growth on infrastructure and adjust policies accordingly.

*Maximize development where public infrastructure and amenities, such as schools, parks, public/alternative transportation, sewer lines, and roads, exist or may be expanded at minimal costs.*

Transit Oriented Development: Locate new housing along or within walking distance of major transportation corridors to increase use of METRO and encourage alternative modes of transportation.

Infill Development: Encourage development on vacant lots along accepted city streets.

Proximity to Services: Encourage housing near schools, parks and athletic facilities.

Denser Development: Encourage higher density housing along arterial and in or near downtown, particularly the redevelopment of Bayside according to the Bayside Plan.

*Create new housing to support Portland as an employment center and to achieve an improved balance between jobs and housing.*

Work Force Housing: Encourage major institutions and employers to invest in housing in proximity to work places.

Incentives for Mixed-Use: Combine housing and economic development initiatives for mixed-use developments near employment centers.

Build Streets: Explore building streets to encourage infill housing near existing infrastructure and neighborhood centers.

*Encourage neighborhood business centers throughout the city to reduce dependence on the car and to make neighborhood life without a car more practical.*

Neighborhood Centers: Build neighborhood centers with small-scale retail and service businesses at appropriate locations within neighborhoods.

Pedestrian Links: Encourage pedestrian links between residential and business areas.

Innovative Development: Encourage higher density development, which incorporates housing above businesses through flexible reviews and shared parking options.

Redevelopment: Encourage redevelopment of underutilized land, such as surface parking lots, to more efficiently use available land.

*Locate and design housing to reduce impacts on environmentally sensitive areas.*

Open Space: Support Land Bank Commission's work to preserve sensitive natural areas.

Environmentally Sensitive Development: Encourage development that minimizes environmental impacts and encourages stormwater

management through natural means.  
Environmentally Sensitive Zoning:  
Explore zoning and regulatory tools for environmentally friendly development.

*Design housing to use new technologies and materials that reduce costs and increase energy efficiency.*

Public Education: Collaborate with construction industry and environmental organizations to develop educational outreach efforts to encourage the design, construction, and rehabilitation of energy efficient homes.

Energy Efficient: Encourage energy efficient rehabilitation & construction for City assisted housing.

Update Codes: Periodically review codes to minimize conflicts for emerging or new cost efficient technology.

## Freedom of Choice

**Policy #6: Strive to ensure freedom of choice in housing type, tenure, and neighborhood for all, regardless of race, color, age, gender, familial status, sexual orientation, religion, national origin, source of income or disability.**

*Increase and ensure equal access to housing opportunities for minorities, low-income people and persons with disabilities and special needs.*

Development: Create programs and resources to increase housing opportunities for minorities, low-income people and persons with disabilities and special needs.

Financial: Encourage equitable lending.

Homeownership: Foster partnerships and programs with financial institutions that enable low and moderate-income households to become homeowners.

*Work to prohibit discrimination in selling and renting of all types of housing.*

Lending practices: Monitor mortgage lending practices to ensure equal opportunity.

Education: Educate public on housing discrimination and process for filing a complaint.

Fair Housing Report: Update the HUD report "Analysis of Impediments to Fair Housing".

*Ensure that an adequate supply of new and existing housing is accessible to persons with physical disabilities.*

Accessible Design: Develop designs, rules and procedures for the construction of accessible housing.

Building Codes: Ensure local codes are consistent with federal laws governing handicapped accessible construction.

Remain home: Develop strategies to enable people with physical limitations and disabilities to remain and/or age in place.

*Work to educate the public about housing laws and opportunities.*

Homebuyer Education: Create and maintain homebuyer education programs.

Landlord Education: Encourage landlord education classes on fair housing laws and practices for managing rental property.

Tenant Services: Evaluate the need for a tenant services office to assist in mediating and resolving conflicts between landlords and tenants.

Public Education: Develop brochures and public service announcements on their rights and obligations under local, state and federal fair housing laws



# Housing: Sustaining Portland's Future

## Current Conditions

and

## Housing Policies



*Single family construction in North Deering*



*Example of infill development*



## **Policy #1**

**Ensure an Adequate and Diverse Supply  
of Housing for All**

## **Portland Today: A Shortage of Housing**

### **Introduction**

Portland is experiencing a significant shortage of all types of housing and thus, current housing demands are unmet. Changes in the city's demographics and the limited amount of housing created over the past decade all contribute to the shortage. Portland seeks to encourage construction of new housing units through land use regulations and financial incentives. Increasing Portland's housing stock in developed urban areas of the city is challenging, but necessary for the long-term health of the city. The Housing Plan sets out policy and provides incentives to decrease barriers to new construction and increase the supply of housing for both renters and owners citywide.

***Condition One: Portland has a shortage of housing units because nearly two households were formed for every new housing unit created since 1990.***

### **Facts (Between 1990 and 2000)**

#### **Portland Data**

- Added 1,560 new households
- Added 854 new housing units
- Added less than 92 new residents
- Vacancy rate 2.3%
- Average household size decreased by 6%

#### **Cumberland County Data**

- Added 13,477 households
- Added 12,710 new housing units
- Added 22,477 residents
- Vacancy rate 1.7%

The number of people living in Portland is essentially the same as in 1990. However, during this period, the demand for housing increased significantly due to a change in the average number of people living in each housing unit. Each occupied housing unit is referred to as a household. The number of households increased by 1,560, but only 854 housing units were built. Because the number of new households exceeded the number of new units built, the supply of vacant units decreased to an unusually low number. This limited supply affects all types of housing units and all income levels. In addition, the demand for housing for persons with disabilities continues to grow. Many persons with disabilities seek to live in the city to be in proximity to employment, public transportation, medical services, and support services.

***Condition Two: Lack of housing supply causes price increases for both renters and owners.***

### **Facts (In 2000)**

#### **Rental Statistics**

- 57.5% of Portland households are renters
- 47.6% of all renters in Cumberland County live in Portland
- Rental rates increased 70% over last ten years.

#### **Home Ownership Statistics**

- Sales prices increased 44% in Portland and 39% in the County between 1992 and 2000.
- 43% of Portland residents own their home
- 67% of County residents and 72% of Maine residents own their home.

Portland is home to 24% of Cumberland County's population (a decrease since 1960 when we were 40% of the County's population) and nearly 50% of all renters in the county. While the homeownership rate in Portland is lower than the County's overall rate, it is higher than many other comparable cities. The low vacancy rate in rental housing has increased rent levels and put it out of reach of many Portland residents; particularly those employed in lower wage jobs or on a fixed income. In 1990, 48.5% of Portland's population earned 80% or less of the median income for the Portland MSA. Current estimates indicate this income breakdown has remained constant. Also, 25% of the households under 80% of the median pay more than 30% of their income for

housing costs.<sup>1</sup> Paying a disproportionate share of household income for housing increases the risk of homelessness. Portland's emergency shelters reached an all time high for bed-nights provided in 2000/01.

***Condition Three: Portland has limited vacant land suitable for new development, thus infill sites and redevelopment options are the primary opportunities for creating new housing.***

As a developed urban center, Portland has limited vacant land available for new housing. In this regard, Portland differs from most municipalities in Cumberland County, which have large open areas suitable for residential construction. Thus, in-fill development and redevelopment are the primary opportunities for creating housing within our established neighborhoods.

The Housing Plan recommends higher residential densities to address Portland's housing needs and encourage efficient use of infrastructure and land resources. The objective states, "Encourage higher density housing for both rental and home ownership opportunities, particularly located near services, such as schools, businesses, institutions, employers, and public transportation." This objective is balanced by housing policies to preserve the existing housing stock, to maintain and enhance the livability of Portland's neighborhoods, and to encourage a manageable level of growth that will sustain Portland as a healthy urban center in which to live, work, and achieve our shared community vision.

What is housing density? Housing density is defined as the number of housing units per acre. In Portland, housing density varies among its neighborhoods. The peninsula neighborhoods have the highest housing densities; which include some of the city's most attractive housing. Typical densities range between 20 and 40 units per acre with higher densities over 60 units per acre in Parkside and Downtown. While these areas have dense housing patterns, the neighborhood population has remained level or declined due to the population trend toward smaller household size. Many of the Census Block Groups located within the inner ring of suburbs, such as Oakdale and Deering Center, have densities between 5 and 20 units per acre. North Deering, Riverton, and Nason's Corner typically have housing densities near 5 units per acre, with lower densities (close to 1 unit per acre) in Stroudwater. Exceptions to these figures exist in all neighborhoods where housing densities for specific census blocks exceed or are well below typical patterns of development.

What do these recommendations mean for Portland? In some neighborhoods, the existing pattern of development and residential density cannot be replicated under current zoning regulations. One objective is to promote residential densities that are consistent with past development patterns, such as permitting smaller single-family lot subdivisions, modifying lot setbacks and/or encouraging accessory apartments. Locations along arterials, near services, or adjoining public amenities may be appropriate for a medium or high-rise apartment building given appropriate controls, high quality design and neighborhood compatibility. The intent is to identify areas suitable for higher density housing without adversely impacting the character of Portland's neighborhoods.

---

<sup>1</sup> 2000-2005 Consolidated Housing and Community Development Plan, May 15, 2000, City of Portland Housing and Neighborhood Services Division, Portland Maine

## Examples of Housing Density in Portland

**1-5  
units/  
acre**



**5-10 units/  
acre**



**10-20  
units/  
acre**



**20-30  
units /  
acre**



**30-40  
units/  
acre**



**50-60 units**



**Portland's Future: Ensure an Adequate and Diverse Supply of Housing for All**

**Policy #1: Ensure that an adequate supply of housing is available to meet the needs, preferences, and financial capabilities of all Portland households, now and in the future.**

**OBJECTIVES FOR POLICY #1**

**Objective 1.a:** Ensure the construction of a diverse mix of housing types that offers a continuum of options across all income levels for both renter and owner-occupied, including but not limited to the following:

- i. Affordable housing<sup>2</sup>, including starter homes;
- ii. Housing units for decreasing household sizes, such as young professionals, empty nesters, single-parent households, and senior citizens;
- iii. Medium and high priced options for the “move-up” market;
- iv. Housing for special markets, such as Single Room Occupancy (SRO) units, student or dormitory housing, group homes, and artist housing including live/work opportunities;
- v. Higher density housing, such as row houses, small lots, reuse of non-residential buildings, and mixed use buildings;
- vi. Rental units for large families with children;
- vii. Housing development that encourages community, such as co-op housing;
- viii. Housing with a range of services and medical support for the elderly and special needs population, including assisted living, congregate care, group homes and nursing homes; and
- ix. Emergency Shelters for the homeless and transitional housing for individuals and families striving for independence.

**Actions:**

- 1.a.1. Evaluate and update current zoning to incorporate flexible provisions and incentives to encourage all types of housing. Establish zoning provisions that enhance neighborhoods with compatible and high quality housing developments.
- 1.a.2. Evaluate and update, as needed, the building code with reasonable and flexible provisions to encourage a variety of housing types that are well built and safe.
- 1.a.3. Develop financial incentives, partnerships, zoning incentives<sup>3</sup> and non-regulatory options to increase the diversity of Portland's housing stock.
- 1.a.4. Encourage all neighborhood based planning efforts to include within neighborhood plans the development of a diverse mix of housing types to aid in addressing the city's need for both rental and home ownership opportunities.

---

<sup>2</sup> Affordable Housing: Housing that costs 30% or less of a household's gross income. The term is generally used in this plan to refer to housing that is affordable to households earning less than 80% of the median for the Portland MSA (Metropolitan Statistical Area).

<sup>3</sup> Zoning incentives may include, but are not limited to, density bonuses for public benefits such as handicapped accessibility (universal design), long-term affordable housing, quality design, open space, and other desired community amenities.

**Objective 1.b:** A variety of housing choices should be available such that no one should have to spend more than 30% of their income for housing.

**Actions:**

- 1.b.1. Maintain Portland's current proportion of subsidized<sup>4</sup> units to its total housing stock. Establish a target of at least 20% of the total number of new housing units will be subsidized for households earning 80% or less of the region's median income.
- 1.b.2. Encourage the Portland Housing Authority to become active in the development of more housing and support them in their efforts.
- 1.b.3. Seek financial incentives and partnerships that increase the affordable housing options for households earning less than 120% of the Portland MSA's median income.
- 1.b.4. Support state and federal legislation that would provide new incentives for development of both rental and home ownership housing, such as tax increment financing, employer assisted housing and housing trust funds.
- 1.b.5. Evaluate financial incentives that could be employed by the City to create housing, including TIF program, the assessment of impact fees and linkage fees, and other incentives.
- 1.b.6. Significantly increase the percentage of Portland's annual HUD funding allocated for the creation of affordable housing, including rental, home-ownership and supportive housing options. Support financing programs that assist with land acquisition, new construction, mortgage assistance, new infrastructure, and conversion of non-residential structures to housing.
- 1.b.7. Allocate a portion of Portland's annual HUD funding to build the capacity of non-profit community development corporations to build and manage rental and/or home ownership housing.
- 1.b.8. Establish a consistent City policy regarding the payment of taxes or a PILOT (Payment in Lieu of Taxes) Program for non-profit housing developers.

**Objective 1.c:** Encourage higher density housing for both rental and home ownership opportunities, particularly located near services, such as schools, businesses, institutions, employers, and public transportation.

**Actions:**

- 1.c.1. Evaluate and update current zoning, as needed, to encourage higher density multi-family developments and mixed use projects that incorporate housing, particularly along major public transportation routes, near service areas, and in redevelopment or infill areas, where appropriate.
- 1.c.2. Evaluate land use patterns and update current zoning, as needed, to support development of higher density subdivisions with smaller lots and a variety of housing types, where appropriate, to increase Portland's attractiveness to new markets of home buyers and address changing demographic trends, including:

---

<sup>4</sup> Subsidized Housing: Housing that has received financial or other forms of government assistance, e.g. density bonuses and other mechanisms to offset costs and to achieve the goal for more affordable housing.

- Affordable starter homes for families with children;
  - Affordable retirement homes;
  - Townhouse style homes; and
  - New condominiums.
- 1.c.3. Encourage housing within and adjacent to the downtown. Evaluate and update current zoning and building codes, as needed, to facilitate new housing and redevelopment opportunities, including:
- Condominiums;
  - Townhouses;
  - 2 to 4 unit buildings;
  - Live/work options; and
  - High-density multi-family housing.
- 1.c.4. Seek and encourage implementation of innovative approaches to addressing residential parking needs by the city and private developers, such as the shared use of commercial parking lots, overnight use of parking garages and other off-site solutions.
- 1.c.5. Seek and encourage implementation of options to combine economic development strategies and public/private partnerships with housing policies to create higher density housing and mixed-use developments in business zones.

**Objective 1.d:** Increase Portland’s rental housing stock to maintain a reasonable balance between supply and demand yielding consumer choice, affordable rents, and reasonable return to landlords.

**Actions:**

- 1.d.1. Implement the existing Bayside Plan, which has the stated goal of creating 300 units in the Bayside area over the next five years and an additional 500 units in the next 25 years; a significant portion of which will be rental units.
- 1.d.2. Evaluate and update current zoning, as needed, to eliminate barriers to the creation of rental housing and facilitate development of accessory rental units within existing single-family dwellings and accessory structures where compatible with existing neighborhood character.
- 1.d.3. Encourage all developers, especially those seeking City funds, to build rental units of three or more bedrooms to accommodate larger families.
- 1.d.4. Monitor fair market rent levels and work with the Portland Housing Authority to request exception rents from HUD when needed.
- 1.d.5. Support a variety of affordable rental options for senior citizens.

**Objective 1.e:** Increase home ownership opportunities for all types of households and all income levels.

**Actions:**

- 1.e.1. Implement the existing Bayside Plan, which has the stated goal of creating 300 units in the Bayside area over the next five years and an additional 500 units in the next 25 years; a significant portion of which will be owner-occupied.
- 1.e.2. Facilitate the development of 200 affordable owner occupied units throughout the remainder of Portland, with an emphasis on starter homes for families with children.
- 1.e.3. Encourage opportunities for the development of homes that are attractive to those households moving up in the real estate market, whether in traditional settings, or other innovative developments, so Portland can remain competitive with surrounding suburban communities.
- 1.e.4. Maintain, strengthen, and expand opportunities for home ownership assistance through City programs, such as New Neighbors and Homeport.
- 1.e.5. Support affordable home ownership options for senior citizens.



*Traditional neighborhood with small cape style homes off Ocean Avenue*

**Objective: 1.f:** Ensure that a continuum of housing is available for people with special needs and circumstances ranging from emergency shelters and transitional housing to permanent housing (rental and homeownership), which offers appropriate supportive services.

**Actions:**

- 1.f.1. Increase the amount of supportive housing for persons with disabilities, the frail elderly, homeless families and individuals, and person with other special needs that desire and need to live in an urban area where services are available.
- 1.f.2. Ensure in total, at least ten percent (10%) of all new housing will be designed as handicapped accessible units for both young adults and senior citizens. Encourage universal design standards for handicapped accessibility in new housing.
- 1.f.3. Create enough shelter beds to ensure that no one is forced to sleep outside due to a lack of beds in emergency shelters.
- 1.f.4. Support funding applications to state and federal agencies from non-profit developers for new supportive housing facilities.
- 1.f.5. Promote proposals for the creation of new assisted-living<sup>5</sup> and congregate living facilities for frail low-income senior citizens who require supportive housing.

---

<sup>5</sup> Assisted-living: Housing that offers a range of services for elderly or special needs residents.

- 1.f.6. Encourage proposals from developers that will transition homeless families and individuals out of emergency shelters and transitional facilities into permanent housing, including single room occupancy (SRO) units.
- 1.f.7. Ensure an adequate supply of transitional housing facilities.

**Objective 1.g:** Identify vacant land and redevelopment opportunities throughout the city to facilitate the construction of new housing.

**Actions:**

- 1.g.1. Coordinate with the Land Bank Commission to create a real estate inventory, including vacant land and potential redevelopment opportunities, where new housing can be developed in each neighborhood.
- 1.g.2. Develop a disposition policy for City-owned and tax-acquired property that is in keeping with the City’s adopted Housing Plan.
- 1.g.3. Continue to develop housing projects as pilot ventures with a neighborhood, a developer and the City as partners, which utilizes City-owned or tax acquired property and other incentives (i.e. Unity Village model).



*Example of a Vacant Lot*

**Objective 1.h:** Promote Portland as a Pro-Housing Community.

**Actions:**

- 1.h.1. Create a “one stop shopping” housing office in the City to assist developers who are proposing new housing projects in Portland. Provide assistance and information in the following areas as needed:
  - Integrate neighborhood based planning and neighborhood interaction;
  - Information about the City’s development review rules and procedures;
  - Financial resources;
  - Available real estate; and
  - Demographic data.
- 1.h.2. The City’s Planning and Development Department should assist existing businesses and new businesses seeking to expand or locate in Portland with creating and locating housing opportunities for new employees.

- 1.h.3. Develop an educational and public relations campaign to educate the public and the real estate industry on the benefits of living in the City of Portland, including services, accessibility, trails/open space /recreation opportunities, educational opportunities, cultural life, and other attributes, so that the home buying market is well informed about the qualities of Portland.
- 1.h.4. Develop an educational and public relations campaign about Portland's housing needs to destigmatize public perceptions about affordable housing.

## **Policy #2**

# **Preserve a Quality Housing Stock**

## Portland Today: An Aging Housing Stock Worth Preserving



### Introduction

As with any older American city, it is important to make maximum use of Portland's existing housing stock by preventing deterioration, minimizing demolition, and encouraging rehabilitation and code enforcement.

*Condition One: Portland has a wealth of historic structures that contribute to its distinctive community character.*

### **Facts (in 2000)**

- Portland has approximately 1,500 structures in 7 Historic Districts
- Portland has 73 Individual Landmarks (buildings listed on the National Historic Register)

Portland is frequently cited for its rich historic character. Commercial and residential neighborhoods boast an impressive array of architectural styles reflecting over 250 years of development. The City uses a Historic Preservation regulatory program to preserve these historic resources. Portland has also been instrumental in facilitating the adaptive

reuse of many non-residential historic buildings, such as former school buildings. Attention to historic assets and innovative approaches to redevelopment, which honor and preserve the city's history, contribute to the quality and character of the community.

*Condition Two: Portland's many older residential structures necessitate ongoing City efforts to address safety and substandard conditions*

### **Facts (in 2000)**

- Our housing stock is old with 50% of the housing stock built prior to 1939
- 10-20 units per year are lost to demolition
- An estimated 80% of housing units have lead based paint.

A significant percentage of Portland's housing stock was built prior to 1939. While much of it has been renovated and rehabilitated over the years, preserving this stock is an ongoing responsibility. Safety is a concern with an older housing stock, which may need to be upgraded to address lead based paint and fire safety hazards. At the same time, concerns have been raised about institutional expansions, which have converted or demolished housing or purchased residential structures only to neglect them until they are a blight in the neighborhood. Housing is a critical component of the city's infrastructure. Any redevelopment initiatives, commercial or residential, should result in a no "net loss" of housing for the city as a whole.



*House in need of repair*

**Portland's Future: Preserve a Quality Housing Stock**

**Policy #2: Maintain, rehabilitate, and restore the existing housing stock as a safe and important physical, economic and architectural resource for the community.**

**OBJECTIVES FOR POLICY # 2**

**Objective 2.a:** Assist with the restoration and rehabilitation of architecturally significant residential properties within and outside of Portland's historic districts.

**Actions:**

- 2.a.1. Evaluate and update Portland's existing housing and building codes, as needed, to allow for the historically accurate and sensitive restoration, rehabilitation and maintenance of historic and architecturally significant residential properties. Create a balance in local regulations between accurate restoration and the need for compatible, but affordable preservation alternatives.
- 2.a.2. Provide financial incentives for rehabilitation and restoration of historic and architecturally significant homes without using resources designated for creation of new low and moderate-income housing.
- 2.a.3. Evaluate areas of the city where an historic district should be expanded or created to facilitate the restoration of historic and architecturally significant homes.
- 2.a.4. Develop educational brochures that answer frequently asked questions regarding minor repairs and present the options available to sensitively restore and rehabilitate older homes.
- 2.a.5. Evaluate the need to enact a local option tax credit for historic preservation of properties.

**Objective 2.b:** Foster safe and high quality housing through appropriate building codes and financial assistance.

**Actions:**

- 2.b.1. Evaluate and update, as needed, Portland's housing and building codes to ensure they adequately protect the health and safety of Portland residents in existing buildings.
- 2.b.2. Ensure adequate staffing to aggressively enforce the housing and building codes, including inspections of all multi-family housing at least once every five years, to ensure all Portland residents live in safe housing. Consider incorporating rewards for excellent compliance and disincentives, such as penalties and re-inspection charges, to improve compliance.
- 2.b.3. Increase public education techniques and efforts to improve overall understanding of code compliance.

- 2.b.4. Continue to use HUD funding to assist income eligible owners and tenants with housing rehabilitation, including energy conservation. Current rehabilitation programs to be extended include:
  - Single family grants and loans;
  - Multi-family grants and loans;
  - Lead based paint hazard control grants and loans; and
  - Special needs housing grants and loans.
- 2.b.5. Create collaborative partnerships with other organizations for joint rehabilitation projects.
- 2.b.6. Assist the elderly and disabled homeowners to stay in their homes by using HUD funds for rehabilitation and handicapped accessibility improvements.
- 2.b.7. Provide educational programs that present housing information and expertise on topics such as:
  - Landlord and tenant education;
  - Homebuyer training;
  - Condominium and homeowner association information; and
  - Safety and housing code regulations.

**Objective 2.c:** Target vacant buildings for maintenance, rehabilitation and reuse.

**Actions:**

- 2.c.1. Create an inventory of all vacant and underutilized residential and non-residential buildings in Portland that can accommodate more housing.
- 2.c.2. Amend the City's Housing Code to require that all vacant residential buildings be inspected at least annually.
- 2.c.3. Minimize the deterioration and demolition of vacant residential buildings by amending the Housing Code to require the repair of all vacant residential buildings with structural problems that are contributing to deterioration be paid for by the owner.
- 2.c.4. Seek creative and architecturally compatible reuse of vacant non-residential buildings for housing or for mixed-use projects that incorporate housing by using creative financial incentives and partnerships.

**Objective 2.d:** Improve the safety of Portland's housing stock by eliminating public health hazards from single and multi-family residential properties.

**Actions:**

- 2.d.1. Utilize HUD funds to help eliminate lead paint hazards from single-family homes and multi-family buildings, with a priority for households with young children.
- 2.d.2. Offer preventive actions and educational outreach to protect residents from health hazards found in housing through the Portland Public Health Program and the State of Maine's public health programs.

**Objective 2.e:** Establish a standard of “no net loss of housing” for all proposed development.

**Actions:**

- 2.e.1. Amend the zoning ordinance to encourage or require one for one replacement of any housing units proposed for demolition or conversion for non-residential reuse as part of a new development proposal.
- 2.e.2. Evaluate the creation of a housing linkage fund, administered by the City, so that developers can contribute funding for housing, rather than replace demolished housing units on their own.
- 2.e.3. Work with developers and institutions to find alternatives to demolition of existing housing within proposed developments.



## **Policy #3**

# **Neighborhood Stability and Integrity**

## **Portland Today: Current Impacts on Neighborhood Stability and Integrity**

### **Introduction**

Portland's neighborhoods are diverse in character and design offering a broad spectrum of housing choices for residents, from dense urban neighborhoods to island communities. Citizens maintain a strong sense of community in each neighborhood. This creates a common bond throughout the city's eighteen (18) neighborhoods. Building on the integrity and quality of Portland's neighborhoods is key to encouraging the type of growth Portland needs both to support itself in the future and counter regional sprawl.

***Condition One: Since 1990, the number of people in Portland has not really changed, but within neighborhoods the population has shifted.***

### **Facts (Between 1990 and 2000)**

<u>Gained 5% or more</u>		<u>Stable Neighborhoods</u>		<u>Lost 5% or more</u>	
West Bayside	15%	Westend	+1%	East End	(-10%)
Islands	14%	Ocean Ave	0%	Libbytown	(-10%)
Riverton	13%	Rosemont	(-2%)	Nason's Corner	(-6%)
Stroudwater	12%	Oakdale	(-2%)	Deering Center	(-5%)
Parkside	9%	Valley Street	(-2%)	East Deering	(-5%)
North Deering	5%	East Bayside	(-4%)		
		Downtown	(-4%)		

Portland's total population has remained relatively stable since 1990, but population shifts have occurred between neighborhoods. Six neighborhoods gained population, with Riverton adding 600 new residents. Seven (7) neighborhoods remained relatively constant, while five (5) neighborhoods lost more than 5% of their population. East End (Munjoy Hill) lost the most, decreasing by 541 residents. The number of households increased while the population declined due to a 10% drop in the average number of people living in each household. The change in distribution of the city's population is reflected in school enrollment. Some schools are over-crowded and others are losing students.

***Condition Two: There are more jobs than residents in the City of Portland and the city is the central service center for the region.***

### **Facts (in 2000)**

- Residents in the City of Portland in April 2000: 64,249
- % of Cumberland County 24.2%
- Jobs in the City of Portland in April 2000: 70,144
- % of Cumberland County 43.0%
- Ratio of Jobs to Residents over 18: 1.34

Portland continues to be the employment center for Cumberland County, but the city's share of the overall county population has dropped from 40% in 1960 to 24.2 % today. Meanwhile, other communities in the county have grown in a traditional urban sprawl pattern. According to a national study, Greater Portland is one of the fastest urbanizing metropolitan areas in the U.S.<sup>6</sup> Development in the region negatively impacts Portland and its neighborhoods as commuter traffic congestion increases and the demand for many municipal services rises without a commensurate growth in the city's tax base.

***Condition Three: Portland is the central service center for the region with large institutions, such as medical and higher educational facilities.***

### **Facts (in 2000)**

- Higher education enrollment: 12,250
- Medical institution employment: 10,000

Portland is home to the region's major institutions, which provide numerous employment opportunities and create a demand for housing for employees and students. These benefits can be offset by increased traffic, parking and housing demands that may adversely impact neighborhoods. Residents express concern about the transitory nature of student tenants, shortage of parking, and upkeep of residential buildings. The City will continue to work on balancing neighborhood stability with the needs of institutions to expand and provide required services.

<sup>6</sup> "Who Sprawls Most? How Growth Patterns Differ Across the U.S.", William Fulton, Rolf Pendall, Maie Nguyen, and Alicia Harrison, *The Brookings Institutions Survey Series*, July 2001.

**Portland's Future: Building on Neighborhood Stability and Integrity**

**Policy #3: Maintain and enhance the livability of Portland's neighborhoods as the City grows and evolves through careful land use regulation, design and public participation that respects neighborhood integrity.**

**OBJECTIVES FOR POLICY # 3**

**Objective 3.a:** While accommodating needed services and facilities, protect the stability of Portland residential neighborhoods from excessive encroachment by inappropriately scaled and obtrusive commercial, institutional, governmental, and other non-residential uses.

**Actions:**

- 3.a.1. Maintain residential zoning along arterials where it currently exists and encourage increased residential densities and mixed uses within the business zones in the downtown and throughout the community.
- 3.a.2: Evaluate and update, as needed, the current residential zoning to discourage the demolition or conversion of residential properties for non-residential uses.
- 3.a.3. Encourage well-planned developments and uses to enhance compatibility between residential and non-residential uses.



*Example of commercial uses on first floor and residential units above.*

- 3.a.4. The City should work with its colleges and universities to assure new construction of affordable student housing, to meet the current and future needs created by their long-term goals for expansion.

**Objective 3.b:** Support Portland's livable neighborhoods by encouraging a mix of needed uses and services within walking distance of most residents.

**Actions:**

- 3.b.1. Promote a mix of housing types, small retail and service businesses, community services, and open space/recreation opportunities of appropriate size, scale and type within each neighborhood through City policies and programs such as zoning for mixed use

neighborhood centers, housing pilot projects, Land Bank Commission efforts and parks planning.

- 3.b.2 Protect safety and stability of Portland neighborhoods by enforcing the approved density regulations as prescribed in the Portland Zoning Ordinance.



*Mix of uses along Stevens Avenue*

**Objective 3.c:** Encourage innovative new housing development, which is designed to be compatible with the scale, character, and traditional development patterns of each individual residential neighborhood.

**Actions:**

3.c.1. Evaluate and update, as needed, the current zoning and subdivision codes to encourage new residential development that:

- Offers diverse and quality living options;
- Provides traditional neighborhood elements;
- Promotes a walkable city; and
- Is compatible with Portland's existing neighborhoods.

3.c.2. Adopt neighborhood design guidelines as part of Portland's land use code for new housing and substantial rehabilitation that are compatible with the character and patterns of development found within each neighborhood.

**Portland Neighborhoods**



**Objective 3.d:** Encourage new housing development in proximity to neighborhood assets such as open space, schools, community services and public transportation.

**Actions:**

3.d.1. Create neighborhood inventories of assets such as open space, recreation facilities, schools, services and public transportation.

- 3.d.2. Use neighborhood asset inventories to identify housing sites for new development as part of the neighborhood based planning process. Establish priorities for selecting properties for housing development.
- 3.d.3. When projects seek City funds, give preference to projects seeking City funds that are located within a walkable distance to neighborhood assets.

**Objective 3.e:** Ensure the integrity and economic value of Portland’s neighborhoods.

**Actions:**

- 3.e.1. Aggressively enforce the City’s housing and health codes that require owners to maintain their properties.
- 3.e.2. Ensure that all properties are kept clear of debris and derelict vehicles.
- 3.e.3. Work with owners and developers to find productive uses for vacant and underutilized lots.
- 3.e.4. The Departments of Public Works and Parks and Recreation will continue to work together to ensure neighborhood public improvements are safe, attractive and well maintained.
- 3.e.5. The Portland Police Department will continue to increase public safety by working with neighborhoods on community policing, crime watch and other public safety programs to ensure neighborhoods remain safe for residents and visitors.
- 3.e.6. The Department of Public Works and Portland Police Department will continue to work with neighborhoods to address traffic issues and enforce traffic laws.
- 3.e.7. The City will preserve publicly owned neighborhood amenities, such as trails, athletic fields, and parks.
- 3.e.8. The Departments of Planning and Development and Parks and Recreation will work with neighborhoods to update the City’s open space plan, “Green Spaces Blue Edges”.

**Objective 3.f:** Encourage Portland’s neighborhoods to address the City’s housing issues through the neighborhood based planning process.

**Actions:**

- 3.f.1. Involve Portland’s neighborhoods in creating and supporting innovative housing solutions in each neighborhood.
- 3.f.2. Support educational outreach efforts to discuss and illustrate the benefits, issues, and potential design solutions associated with increased densities in residential neighborhoods.

**Objective 3.g:** Encourage neighborhood populations that are economically, socially, culturally and ethnically diverse.

**Actions:**

- 3.g.1. Encourage a mix of housing types for all ages, household sizes, and incomes throughout the city.
- 3.g.2. Discourage displacement of long-term neighborhood residents through enforcement of the City's ordinances, such as the condominium conversion ordinance, and the adoption of long-term affordability restrictions on City assisted housing developments.
- 3.g.3. Work with local, state and federal housing agencies and organizations to obtain resources and implement housing programs that enable residents to remain in their neighborhoods, such as rental housing vouchers.
- 3.g.4. Work with local, state and federal housing agencies and housing developers to preserve Portland's existing affordable housing units as assisted developments.
- 3.g.5. Increase density where appropriate in order to achieve neighborhood diversity.

## **Policy #4**

# **Housing is a Regional Issue**

## **Portland Today: Affordable Housing is a Regional Issue**

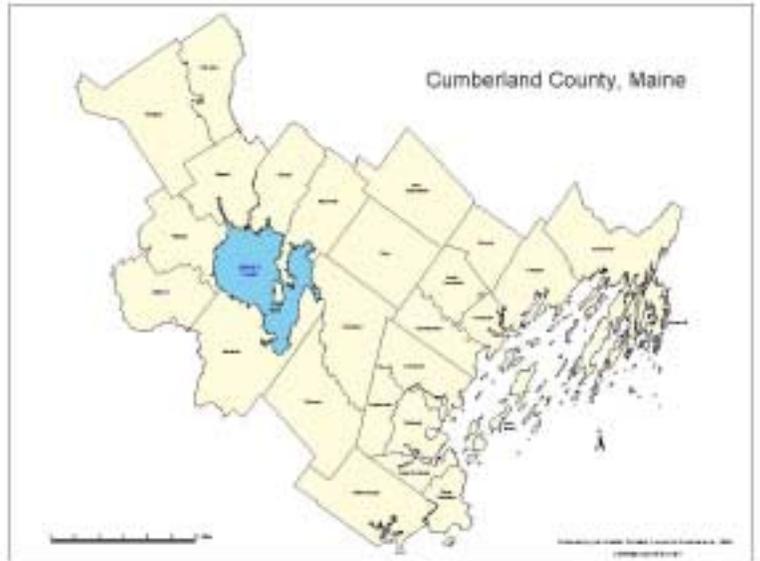
### **Introduction**

Housing issues do not follow municipal boundaries and housing affordable to all income levels is needed throughout Cumberland County. Portland needs partners to address the growing demand for reasonably priced units. Portland citizens seek strong City leadership to address housing through regional collaborations, organizations and solutions.

***Condition One: Portland provides a significant amount of housing affordable to households earning 80% or less than the county's median income.***

### **Facts (in 2000)**

- Portland has over 3,168 subsidized units
- Portland Housing Authority provides Section 8 housing assistance to 1,900 households
- The subsidized units represent 15% of all occupied housing units



Portland offers financially assisted housing for over 5,000 households, which includes subsidized units and rental assistance certificates available for use in the private market. Thus, at least 15% of Portland's total occupied housing units are subsidized and this estimate does not include group homes and other assisted-living arrangements. There are special needs housing options for the homeless, victims of domestic abuse, youth, persons with substance abuse or mental health issues, AIDS/HIV, and others. While there is a range of subsidized housing options in Portland, there is not enough housing to meet the demand. Lower income persons are hurt the most in a tight housing market and are often forced to move due to escalating rents.

***Condition Two: There is an insufficient supply of affordable housing opportunities throughout Cumberland County.***

### **Facts (in 1990 and 2000)**

- 22% of home owners are paying 30% or more of the income toward housing costs in Portland (1990 Census)
- 21% of home owners are paying more than 30% of their income for housing in Cumberland County (1990 Census)
- 43% of Portland renters pay 30% or more of their income toward housing costs
- 39% of County renters pay 30% or more of their income toward housing costs
- 53% of all renters in the County paying 30% or more of their income to housing costs live in Portland.

Housing is one area that would benefit from strong regional leadership that encourages collaboration among municipalities. Every community in Cumberland County must grapple with affordable housing needs. A growing percentage of the county's residents are spending more for their housing. The housing issue must be addressed regionally and solutions must be sought that increase the supply of affordable rental and home ownership options throughout the region.

**Portland's Future: Housing is a Regional Issue**

**Policy #4: Seek opportunities for economic and social integration throughout the Greater Portland region by encouraging the development of a range of housing options that are available and affordable to all income levels in the region.**

**OBJECTIVES FOR POLICY #4**

**Objective 4.a:** Educate the public, neighboring municipalities, the State legislature, and our Congressional delegation on the need for affordable housing throughout the Greater Portland area.

**Actions:**

- 4.a.1. Work with existing regional organizations, such as Greater Portland Council of Governments, Cumberland County, PROP, Greater Portland Chamber of Commerce, and the Southern Maine Affordable Rental Housing Coalition, to develop and implement a public education campaign on the need for more affordable housing throughout the region.
- 4.a.2. Portland will be a leader within the region and the State to change policies that limit the construction of an adequate supply of affordable housing.

**Objective 4.b:** Initiate the development of a regional housing plan.

**Actions:**

- 4.b.1. Initiate and lead efforts with other municipalities and regional organizations to develop a regional housing strategy that will strive to create a wide range of housing options in each municipality that are available and affordable to all income levels in the Greater Portland area.

**Objective 4.c:** Seek innovative solutions and collaborations with municipalities, regional organizations, housing authorities and developers to implement the regional housing plan.

**Actions:**

- 4.c.1. Create regional cooperation agreements between municipalities and regional organizations for the planning and administration of housing development programs in Greater Portland, such as the merger of currently independent Housing Authorities.
- 4.c.2. Investigate the advantages of establishing a regional consortium of municipalities that could apply for, receive and administer state and federal funding for affordable housing development.
- 4.c.3. Support the efforts and proposals of other municipalities and developers to obtain resources for the development of affordable housing for low and moderate households throughout Greater Portland.
- 4.c.4. In conjunction with efforts to develop more affordable housing in the region, additional efforts must be taken to expand and/or create viable public transportation options in the Greater Portland region.



## **Policy #5**

# **Sustainable Development**

## **Portland Today: Sustaining Portland as a Healthy City**

### **Introduction**

Growth is a part of sustaining Portland as a healthy city and maintaining its role as the economic, cultural, and residential center for the region. Appropriate growth is needed to provide housing near employment centers, support public transportation, attract families with children, expand the tax base, and stabilize neighborhoods. Portland needs to grow along with Cumberland County and maintain a 25% share of the County's population. Portland must grow to remain an attractive urban center in which to live and work and to achieve its shared vision for the future.

***Condition One: Portland's share of the County and State's population is declining.***

### **Facts (Between 1960 and 2000, Portland's population as a share of the County)**

<u>Year</u>	<u>Portland Pop</u>	<u>Cumberland Pop</u>	<u>Portland Share of County Population</u>
• 1960	72,376	182,202	40%
• 1970	64,926	195,029	33%
• 1980	61,382	215,789	28%
• 1990	64,358	243,135	26%
• 2000	64,249	265,000	24%

Cumberland County's population has grown over the past decades, whereas Portland's population has declined and then stabilized. The City's share of the county population has dropped to its current level of 24%. A declining share of the County's population could result in a smaller legislative delegation, less influence in the region, a declining tax base, and underutilized public infrastructure. Portland's prominence as the central city is threatened by these trends.

***Condition Two: Families are leaving Portland and school enrollment is declining.***

### **Facts (In 2000, Portland's population & age distribution compared to Cumberland County)**

<u>Total Population</u>	24% of County	<u>Residents 45 to 54</u>	22% of County
<u>Residents under 5</u>	21% of County	<u>Residents 55 to 64</u>	20% of County
<u>Residents 5 to 19</u>	19% of County	<u>Residents 65 to 74</u>	23% of County
<u>Residents 20 to 34</u>	34% of County	<u>Residents 75 to 84</u>	26% of County
<u>Residents 35 to 44</u>	23% of County	<u>Residents 85 &amp; over</u>	31% of County

- Total enrollment in Portland schools has decreased by 500 students since 1996.
- In 1995, there were 823 children born to Portland residents. Only 533 of these children were enrolled in Portland kindergarten classes in 2000.

Compared to other Cumberland County municipalities, Portland has the largest percentage of young adults, the lowest percentage of population between 30 and 65, and the highest percentage of population over 75. This age distribution, combined with the declining school enrollments, suggests that families with children are leaving Portland. The movement of families out of the city is also indicated by the declining percentage of children born to Portland residents actually entering the school system. In the early 1990's, the number of children entering kindergarten equaled the number of children born to Portland parents five years earlier. By 2000, only 65% of the children born to Portland parents entered the public school system.

***Condition Three: Cumberland County has one of the highest conversion rates of rural to urbanized land. The low-density development consumes increasingly more land than past patterns of development.***

### **Facts (Between 1982 and 1997)**

- Developed land in the County increased by 108%
- Population increased in the county by 17.4%
- Population density in the County decreased by 47%

The expanding development of the region results in some of Portland's public investments and infrastructure being underutilized, such as public transportation, schools and sewers, while the City's roads are congested with commuter traffic. The Brookings Institute Study\* identified Greater Portland as one of the fastest urbanizing metropolitan areas (measured by the percent change of rural to urbanized land). These expanding development patterns do not support higher density housing and mixed use projects that are within walking distance of employment centers, parks, schools, and public transit lines. In Portland, new development is desired that is efficient, well designed and created at a manageable rate for the community.

---

\* "Who Sprawls Most? How Growth Patterns Differ Across the U.S.", William Fulton, Rolf Pendall, Maie Nguyen, and Alicia Harrison, *The Brookings Institutions Survey Series*, July 2001.

## Portland's Future: Sustainable Development

**Policy #5: Portland's Comprehensive Plan encourages a manageable level of growth that will sustain the City as a healthy urban center in which to live and work and to achieve a shared vision for Portland. Portland should encourage sustainable development patterns and opportunities within the City by promoting efficient land use, conservation of natural resources, and easy access to public transportation, services, and public amenities.**

### OBJECTIVES FOR POLICY # 5:

**Objective 5a:** Encourage growth in Portland that strives for a dynamic balance of the essential elements of the city, such as excellent schools, diverse housing choices, proximity to services and employment, increased public transit usage, expanded economic base, high quality services, and an affordable tax rate.

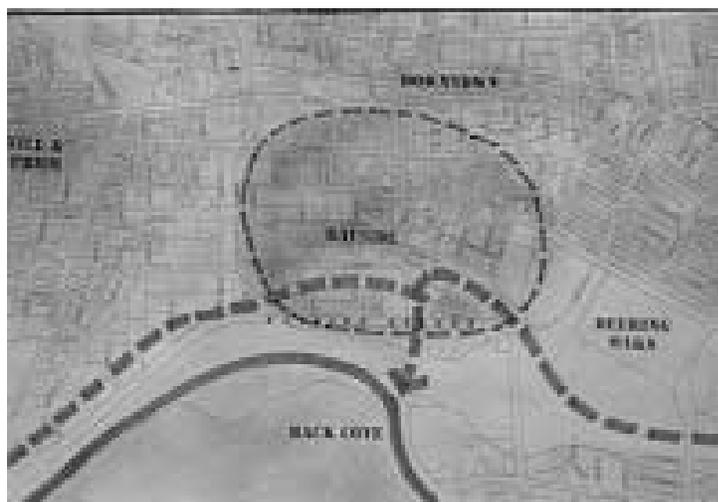
#### **Actions:**

- 5.a.1. Target Portland to achieve and maintain a 25% share of Cumberland County's population.
- 5.a.2. Analyze and promote the public benefits of growth for Portland as the County's urban center.
- 5.a.3. Integrate Portland's housing and economic development incentives to encourage growth and take advantage of the city's capacity to accommodate more people.
- 5.a.4. Monitor and assess the impacts of growth on the City's infrastructure and adjust policies accordingly.

**Objective 5 b:** Maximize development where public infrastructure and amenities, such as schools, parks, public/alternative transportation, sewer lines, and roads exist or may be expanded at minimal costs.

#### **Actions:**

- 5.b.1. Locate new housing along or within walking distance of major transportation corridors to increase use of METRO and encourage alternative modes of transportation.
- 5.b.2. Encourage infill development on vacant lots along accepted city streets.
- 5.b.3. Encourage new housing near neighborhood schools and in proximity of public parks and athletic facilities throughout the city. *Concept of Bayside for neighborhood redevelopment plan.*
- 5.b.4. Encourage higher density housing along arterials and in and near the downtown, with particular attention to the redevelopment of Bayside according to the adopted Bayside Plan.



**Objective 5.c.:** Create new housing to support Portland as an employment center and to achieve an improved balance between jobs and housing.

**Actions:**

- 5.c.1. Encourage major institutions and employers to invest in housing in proximity to work places.
- 5.c.2. Explore opportunities to combine housing and economic development initiatives for more integrated mixed-use developments near employment centers.
- 5.c.3. Explore the potential of Portland constructing streets within undeveloped right-of-ways to encourage infill housing near existing infrastructure and neighborhood centers.

**Objective 5.d.:** Encourage neighborhood business centers throughout the city to reduce dependence on the car and to make neighborhood life without a car more practical.

**Actions:**

- 5.d.1. Encourage and build neighborhood centers with small-scale retail and service businesses at appropriate areas within neighborhoods.
- 5.d.2. Encourage strong pedestrian links between residential areas and business areas.
- 5.d.3. Encourage innovative development and redevelopment proposals that increase density and incorporate residential housing above first floor businesses by facilitating the review process and considering flexible shared parking options.
- 5.d.4. Encourage redevelopment of underdeveloped land such as surface parking lots, where appropriate; to more efficiently utilize available land.



*Neighborhood businesses in Rosemont*

**Objective 5.e:** Locate and design housing to reduce impacts on environmentally sensitive areas.

**Actions:**

- 5.e.1. Support the efforts of Portland's Land Bank Commission to preserve the most sensitive and important natural areas within the city.
- 5.e.2. Encourage sensitive land development designs and construction methods that minimize impacts on the environment and investigate innovative solutions and collaborative approaches to address stormwater separation and management through natural means.
- 5.e.3. Explore ways to use zoning and other regulatory tools to encourage environmentally friendly development.

**Objective 5.f:** Design housing using new technologies and materials that reduce costs and increase energy efficiency.

**Actions:**

- 5.f.1. Collaborate with the construction industry and environmental organizations to develop educational materials and public outreach efforts to encourage the design, construction, and rehabilitation of energy efficient homes.
- 5.f.2. Encourage energy efficient rehabilitation and new construction for City assisted housing.
- 5.f.3. Periodically review City codes to minimize conflicts between existing codes, and emerging or new cost-efficient technology.



## **Policy #6**

# **Freedom of Choice**

## **Portland Today: Equal Access in Housing**

### **Introduction**

In the 1980's, Portland was designated a Refugee Resettlement community. The religious, cultural and ethnic diversity of Portland has increased significantly since then. As Portland becomes more diverse, we need to ensure that housing is equally available to all residents.

***Condition One: Incidents of housing discrimination have occurred in Portland, particularly against large families with children, people of color who are recent immigrants, and people with disabilities.***

### **Facts (in 2000)**

- 8.7% of Portland residents are People of Color
- 14.4% of all of Maine's People of Color live in Portland
- 49.6% of all of Cumberland County's People of Color live in Portland.
- International In-migration is a significant factor in city and county Population

As a Refugee Resettlement Community, Portland has over 40 languages spoken in its public schools with most of the recent immigrants coming from Cambodia, Vietnam, Eastern Europe, Africa and Islamic nations. "Analysis of Impediments to Fair Housing" completed by the City of Portland in November 1996, concluded that the principle form of housing discrimination encountered in the city was against people of low income. The rental market has tightened since 1996 and Portland is now facing a scarcity of multi-family units and escalating rental rates. Most of the recent calls received by the Fair Housing Office are tenant/landlord complaints and difficulties with rising rents. The 1996 survey data did reveal incidents of discrimination against protected classes, particularly large families with children, people of color who are recent immigrants, and people with disabilities.



## Portland's Future: Freedom of Housing Choice

**Policy #6: Strive to ensure freedom of choice in housing type, tenure, and neighborhood for all, regardless of race, color, age, gender, familial status, sexual orientation, religion, national origin, source of income or disability.**

### **OBJECTIVES FOR POLICY #6**

**Objective 6.a:** Increase and ensure equal access to housing opportunities for minorities, low-income people and persons with disabilities and special needs.

**Actions:**

- 6.a.1. Work with housing providers and developers to create programs and secure resources to increase housing opportunities, both rental and homeownership, for minorities, low-income people and persons with disabilities and special needs.
- 6.a.2. Encourage equitable lending by financial institutions in all city neighborhoods by monitoring their community reinvestment act ratings and performance.
- 6.a.3. Foster partnerships and programs with financial institutions that enable low and moderate-income households to become homeowners.

**Objective 6.b:** Work to prohibit discrimination in selling and renting of all types of housing.

**Actions:**

- 6.b.1. Monitor mortgage lending practices to ensure equal opportunity in Portland.
- 6.b.2. Educate and assist the public on what constitutes housing discrimination and the process for filing a complaint in collaboration with the Maine Human Rights Commission.
- 6.b.3. Update the report "Analysis of Impediments to Fair Housing" as required by HUD.

**Objective 6.c:** Ensure that an adequate supply of new and existing housing is accessible to persons with physical disabilities.



**Actions:**

- 6.c.1. Work with organizations that provide services to persons with disabilities to develop designs, rules and procedures for the construction of accessible housing.

*Handicapped ramp at Longfellow Commons*

- 6.c.2. Review building codes to ensure they are consistent with federal laws governing handicapped accessible construction, and revise as needed.
- 6.c.3. Develop strategies to enable people with physical limitations and disabilities to remain and/or age in place.

**Objective 6.d:** Work to educate the public about housing laws and opportunities.

**Actions:**

- 6.d.1. Create and maintain homebuyer education programs in partnership with local, state and federal housing finance and service providers for all potential new homebuyers including first time buyers, immigrants and persons with disabilities.
- 6.d.2. Encourage the provision of landlord education classes to inform rental property owners and managers of fair housing laws and practices for managing rental property.
- 6.d.3. Evaluate the need for a tenant services office to assist in mediating and resolving conflicts between landlords and tenants.
- 6.d.4. Produce an educational program informing the public of their rights and obligations under local, state and federal fair housing laws, including brochures and public service announcements.

# **Housing:** **Sustaining Portland's Future**

## **Implementation Strategy**



*Unity Village on Stone Street and Cumberland Avenue*



# Housing: Sustaining Portland's Future

## Appendix



*Congress Street on Munjoy Hill*



## **HUD Comprehensive Housing Market Analysis**

### **Timeline**

10.01.2015 Report published

### **Summary**

In 2015, the U.S. Department of Housing and Urban Development published a report on the state of Portland's regional housing market. The report covered economic trends and housing market indicators to capture what is happening in the greater Portland market.

Economic conditions in the Portland-South Portland housing market area (HMA) continue to improve, building on a trend that began in 2011. During the 12 months ending September 2015, nonfarm payrolls increased by 3,100 jobs, or 1.6 percent, compared with a year earlier. Nonfarm payrolls increased or were stable in 9 of the 10 private employment sectors, led by the education and health services sector, which is the largest sector in the HMA. Total nonfarm payrolls are expected to increase by an average of 1,250 jobs, or 0.6 percent, annually during the next 3 years.

The sales housing market in the HMA is balanced, with an estimated vacancy rate of 1.4 percent, down from 1.9 percent in April 2010. Sales of existing single-family homes increased 11 percent during the 12 months ending September 2015 compared with the previous 12 months. During the next 3 years, demand is expected for 4,000 new homes. The 850 homes currently under construction and a portion of the estimated 42,200 other vacant units in the HMA that may reenter the sales market will satisfy some of the forecast demand.

The rental housing market in the HMA is slightly tight. The estimated rental vacancy rate is currently 5.5 percent, down from 8.3 percent in April 2010. The apartment market in the HMA is tight, with a vacancy rate of 2.9 percent during the third quarter of 2015 (Axiometrics, Inc.). During the next 3 years, demand is expected for 2,000 new market-rate rental units. The 450 apartments currently under construction will satisfy some of the forecast demand.

For additional details, please refer to the attached study.

### **In this chapter**

- **Portland-South Portland Comprehensive Housing Market Analysis**, report, U.S. Dept. of Housing and Urban Development, Office of Policy Development and Research, 10.01.2015

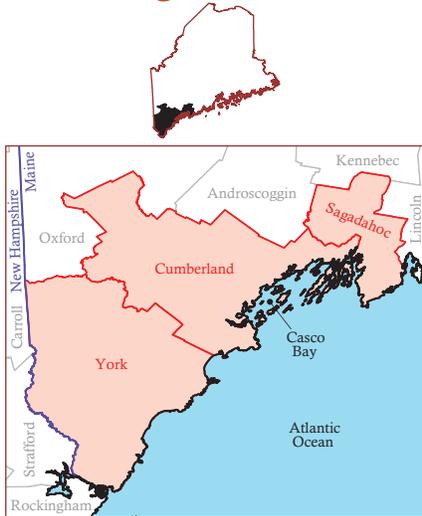


# Portland-South Portland, Maine

U.S. Department of Housing and Urban Development | Office of Policy Development and Research | As of October 1, 2015



## Housing Market Area



The Portland-South Portland Housing Market Area (HMA) in southern Maine, along the Atlantic Coast, is coterminous with the Portland-South Portland, ME Metropolitan Statistical Area (MSA), the most populous MSA in northern New England. The HMA comprises Cumberland, Sagadahoc, and York Counties and includes the city of Portland, the most populous city in the state. The Portland-South Portland HMA is a regional center for health care and retail and is renowned for a working waterfront in the city of Portland.

## Market Details

- Economic Conditions ..... 2
- Population and Households ..... 6
- Housing Market Trends ..... 7
- Data Profile ..... 12

## Summary

### Economy

Economic conditions in the Portland-South Portland HMA continue to improve, building on a trend that began in 2011. During the 12 months ending September 2015, nonfarm payrolls increased by 3,100 jobs, or 1.6 percent, compared with a year earlier. Nonfarm payrolls increased or were stable in 9 of the 10 private employment sectors, led by the education and health services sector, which is the largest sector in the HMA. Total nonfarm payrolls are expected to increase by an average of 1,250 jobs, or 0.6 percent, annually during the next 3 years.

### Sales Market

The sales housing market in the HMA is balanced, with an estimated vacancy rate of 1.4 percent, down from 1.9 percent in April 2010. Sales of existing single-family homes increased 11 percent during the 12 months ending September 2015 compared with the previous 12 months. During the next 3 years, demand is expected for 4,000 new homes (Table 1). The 850 homes currently under construction and a portion of the estimated 42,200 other vacant units in the HMA that may reenter the sales market will satisfy some of the forecast demand.

### Rental Market

The rental housing market in the HMA is slightly tight. The estimated rental vacancy rate is currently 5.5 percent, down from 8.3 percent in April 2010. The apartment market in the HMA is tight, with a vacancy rate of 2.9 percent during the third quarter of 2015 (Axiometrics, Inc.). During the next 3 years, demand is expected for 2,000 new market-rate rental units (Table 1). The 450 apartments currently under construction will satisfy some of the forecast demand.

**Table 1. Housing Demand in the Portland-South Portland HMA During the Forecast Period**

	Portland-South Portland HMA	
	Sales Units	Rental Units
Total demand	4,000	2,000
Under construction	850	450

*Notes: Total demand represents estimated production necessary to achieve a balanced market at the end of the forecast period. Units under construction as of October 1, 2015. A portion of the estimated 42,200 other vacant units in the HMA will likely satisfy some of the forecast demand. The forecast period is October 1, 2015, to October 1, 2018.*

*Source: Estimates by analyst*

# Economic Conditions

The Portland-South Portland, ME Metropolitan New England City and Town Area (hereafter, the Portland NECTA) has a similar geography to the Portland-South Portland HMA and contains most of the major employment and population centers that are in the HMA. The Portland NECTA is used in the discussion of nonfarm payroll jobs because the data are readily available for NECTAs from the U.S. Bureau of Labor Statistics. All other data in this report relate to the HMA.

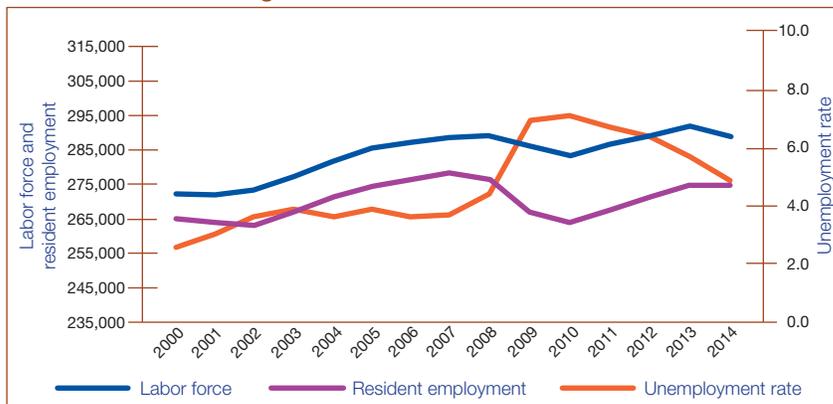
The economy of the Portland NECTA is expanding, continuing a period of growth that began in 2011. From 2011 through the current date, nonfarm payrolls increased by an average of 2,100 jobs, or 1.1 percent, annually. This was slightly lower than the rate of growth in the early 2000s when, from 2001 through 2004, nonfarm payrolls increased by an average of 2,400 jobs, or 1.3 percent, annually. Payrolls continued to expand from 2005 through 2007, albeit at a lower rate of 1,100 jobs, or 0.6 percent a year. The slowdown in growth stemmed primarily from fewer job additions in the education and health services sector and from job losses in the mining, logging, and construction sector.

Nonetheless, the economy of the Portland NECTA expanded during the 2000-to-2007 period, extending a long period of growth that had been under way since the early 1990s. The average annual unemployment rate was less than 4.0 percent every year from 2000 through 2007 (Figure 1).

After nonfarm payrolls peaked in 2007, economic conditions in the HMA weakened partially because of the effects of the national recession that lasted from December 2007 to June 2009. From 2008 through 2010, nonfarm payrolls in the Portland NECTA declined by an average of 2,300 jobs, or 1.2 percent, annually. A large portion of the decline came from the wholesale and retail trade sector, which declined by 1,000 jobs, or 2.9 percent, annually. L.L. Bean, Inc., a mail-order and retail company based in the town of Freeport and currently the fourth largest employer in the Portland-South Portland HMA, reduced its workforce by about 200 jobs during 2009. In addition, low levels of single-family and multifamily construction activity from 2008 through 2010 contributed to a decline in the mining, logging, and construction sector by an average of 600 jobs, or 6.1 percent, annually. The average annual unemployment rate peaked at 7.1 percent in 2010.

Following the economic downturn, the number of nonfarm payroll jobs in the Portland NECTA began to increase in 2011 and surpassed the 2007 peak in 2014. The three largest nonfarm payroll sectors (education and health services, professional and business services, and wholesale and retail trade) have accounted for more than 80 percent of net jobs added in the Portland NECTA since 2011. During the 12 months ending September 2015, nonfarm payrolls increased by 3,100 jobs, or 1.6 percent (Table 2),

**Figure 1.** Trends in Labor Force, Resident Employment, and Unemployment Rate in the Portland-South Portland HMA, 2000 Through 2014



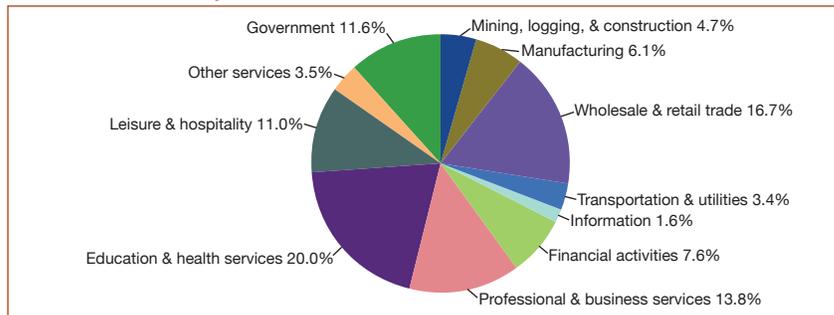
Source: U.S. Bureau of Labor Statistics

**Table 2.** 12-Month Average Nonfarm Payroll Jobs in the Portland-South Portland HMA, by Sector

	12 Months Ending		Absolute Change	Percent Change
	September 2014	September 2015		
Total nonfarm payroll jobs	194,300	197,400	3,100	1.6
Goods-producing sectors	21,100	21,400	300	1.4
Mining, logging, & construction	8,900	9,200	300	3.4
Manufacturing	12,200	12,100	-100	-0.8
Service-providing sectors	173,200	176,100	2,900	1.7
Wholesale & retail trade	32,800	33,000	200	0.6
Transportation & utilities	6,400	6,800	400	6.3
Information	3,100	3,100	0	0.0
Financial activities	14,800	15,000	200	1.4
Professional & business services	26,900	27,300	400	1.5
Education & health services	37,900	39,500	1,600	4.2
Leisure & hospitality	21,700	21,700	0	0.0
Other services	6,600	6,900	300	4.5
Government	22,900	22,800	-100	-0.4

Notes: Numbers may not add to totals because of rounding. Based on 12-month averages through September 2014 and September 2015. Nonfarm payroll jobs data are for the Portland-South Portland, ME Metropolitan New England City and Town Area.

Source: U.S. Bureau of Labor Statistics

**Figure 2.** Current Nonfarm Payroll Jobs in the Portland-South Portland HMA, by Sector

Notes: Based on 12-month averages through September 2015. Nonfarm payroll jobs data are for the Portland-South Portland, ME Metropolitan New England City and Town Area.

Source: U.S. Bureau of Labor Statistics

**Table 3.** Major Employers in the Portland-South Portland HMA

Name of Employer	Nonfarm Payroll Sector	Number of Employees
MaineHealth	Education & health services	6,501 to 7,000
General Dynamics Bath Iron Works	Manufacturing	5,001 to 5,500
Portsmouth Naval Shipyard	Government	5,250
L.L. Bean, Inc.	Wholesale & retail trade	3,501 to 4,000
Hannaford Brothers Company	Wholesale & retail trade	3,001 to 3,500
Unum Group	Financial activities	3,001 to 3,500
Mercy Hospital	Education & health services	1,501 to 2,000
Wal-Mart Stores, Inc.	Wholesale & retail trade	1,501 to 2,000
Webber Hospital Association	Education & health services	1,501 to 2,000
TD Bank	Financial activities	1,001 to 1,500

Notes: Excludes local school districts. Employees at Portsmouth Naval Shipyard are civilian employees as of the current date. For all other employers, employees are as of the second quarter of 2015.

Sources: Maine Department of Labor; Portsmouth Naval Shipyard Public Affairs Office

compared with a gain of 900 jobs, or 0.4 percent, during the previous 12 months. The 12-month average unemployment rate has declined since 2011 and was 4.0 percent during the 12 months ending September 2015, down from 5.0 percent during the previous 12 months.

Education and health services is the largest sector in the Portland NECTA, accounting for 20.0 percent of current nonfarm payroll jobs (Figure 2). MaineHealth is the largest employer in the HMA and the third largest in the state of Maine (Table 3). At Maine Medical Center, a member of MaineHealth in the city of Portland with approximately 6,500 employees, the construction of a new \$40 million surgery wing is expected to be complete in October 2015. (A precise figure for the number of jobs this expansion added to the sector is not available.) The University of New England, a private university with two campuses in the HMA and an enrollment of 7,800 students, added 60 faculty and staff during the past year.

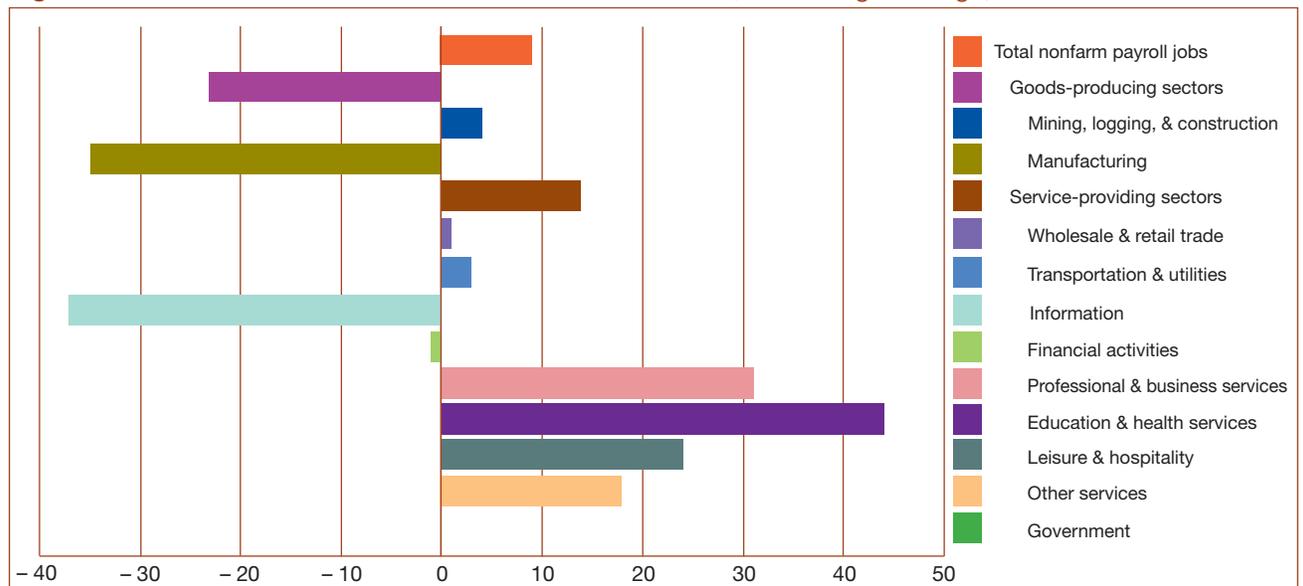
Pathways of Maine, a service provider for individuals with disabilities, added about 60 jobs to the education and health services sector in late 2014 upon opening a school for autistic children at a repurposed military base—Naval Air Station (NAS) Brunswick—in the town of Brunswick.

The closure of NAS Brunswick in May 2011 marked the end of the transfer of approximately 5,000 military and civilian personnel to NAS Jacksonville in Jacksonville, Florida, based on the recommendation of the 2005 Base Closure and Realignment Commission, or BRAC. Since then, more than \$225 million has been invested and 800 jobs have been created through redevelopment initiatives at the former military base. SaviLinx, a call center, opened on the site in July 2013, expanded in 2015, and added approximately 120 jobs to the professional and business services sector during the past year (*Portland Press Herald*). Since 2000, jobs in the professional and business services sector have increased 31 percent, representing the second largest

sector gains during the period, trailing only the 44-percent gain in the education and health services sector (Figure 3).

The International Marine Terminal in the city of Portland is a main component of the Port of Portland and the working waterfront. In broad terms, a working waterfront is an area of land abutting water that provides access to water-dependent commercial activities such as fishing, marine transportation, and freight importing and exporting. The value of goods imported through the Port of Portland totaled \$2.53 billion during the 12 months ending September 2015, down 28 percent from the total during the previous 12 months (U.S. Census Bureau). Oil accounted for two-thirds of the total imported value of goods, however, and the decrease in oil prices during the past year was a significant cause of the overall decline. The total value of goods exported through the Port of Portland was \$228.5 million during the 12 months ending September 2015, up 40 percent from the value during

**Figure 3. Sector Growth in the Portland-South Portland HMA, Percentage Change, 2000 to Current**



Notes: Current is based on 12-month averages through September 2015. During this period, employment in the government sector showed no net change. Nonfarm payroll jobs data are for the Portland-South Portland, ME Metropolitan New England City and Town Area.

Source: U.S. Bureau of Labor Statistics

the previous 12 months. Eimskip, an Icelandic shipping company, began operations at the International Marine Terminal in 2013 and has contributed to the increase in exports. Americold Logistics LLC plans to build a 150,000-square-foot refrigerated warehouse on land next to the International Marine Terminal. The warehouse, which is anticipated to be complete in mid-2017, is expected to create 200 jobs in the construction subsector, 30 jobs in the transportation and utilities sector, and additional jobs in industries related to food production and processing.

The city of Portland is a port of call for several large cruise lines that bring thousands of passengers annually. An estimated 140,000 passengers and crewmembers will disembark at the Port of Portland during 2015, with most visits occurring in September and October (<http://www.cruiseportlandmaine.com>). In addition, a ferry service between the Port of Portland and the province of Nova Scotia, Canada, was reestablished in 2014 after a 5-year hiatus, serving approximately 60,000 passengers annually, mostly during July and August. Spending by daytime and overnight visitors contributes to job growth in the wholesale and retail trade and the leisure and hospitality sectors in the Portland-South Portland HMA. Retail sales at restaurants and lodging establishments in the HMA totaled \$1.76 billion during the 12 months ending September 2015, up 8 percent from the total during the previous 12 months (Maine State Data Center).

Major employers located outside the NECTA but within the HMA include General Dynamics Bath Iron Works, Portsmouth Naval Shipyard, and Pratt & Whitney Aircraft

Group. General Dynamics Bath Iron Works, located primarily in the city of Bath, designs, fabricates, and assembles ships for the U.S. Navy. Ships currently under way include three Zumwalt-class destroyers, each of which takes more than 3 years to build, and five Arleigh Burke-class destroyers. Portsmouth Naval Shipyard, located at the southern tip of Maine, with 5,250 civilian employees, overhauls and modernizes submarines for the U.S. Navy. Approximately 820 civilian employees were added at Portsmouth Naval Shipyard during the 12 months ending September 2015 because of a backlog of maintenance needs. Pratt & Whitney Aircraft Group, with about 1,000 employees, manufactures parts for military and commercial jet engines.

During the forecast period, nonfarm payrolls are expected to increase by an average of 1,250 jobs, or 0.6 percent, annually. This forecast is modest compared with nonfarm payroll growth since 2011 and, in part, depends on the size of the working-age population and the availability of workers to fill new job openings. The working-age population is defined in this report as the population ages 18 to 64 and is examined in the Population and Households section. The greatest number of job additions is expected during the second year of the forecast period, coinciding with the completion of the refrigerated warehouse at the Port of Portland. The direct employment effect of the warehouse is limited because port operations are highly mechanized, and, although the warehouse may affect job growth in other sectors, the size of that effect is unknown. The education and health services and the professional and business services sectors are expected to lead growth during the forecast period.

# Population and Households

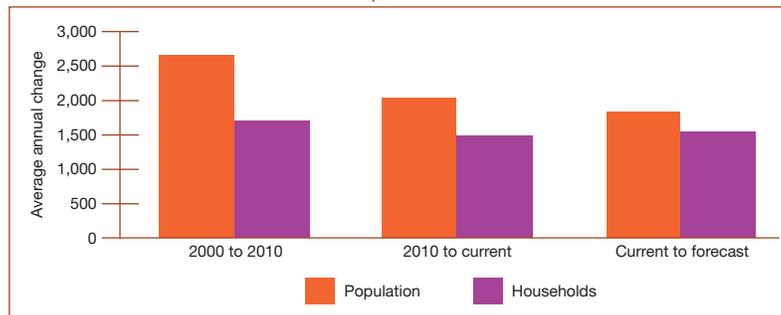
The population of the Portland-South Portland HMA is estimated at 525,200 as of October 1, 2015. Since 2000, population growth was strongest from 2000 through 2004, averaging 4,900 people, or 1.0 percent, annually, because of strong economic growth (Census Bureau decennial census counts and population estimates, as of July 1). Net in-migration averaged 3,650 people annually, accounting for 75 percent of population growth. From 2004 to 2008, population growth slowed to an average of 1,450 people, or 0.3 percent, annually, because of slower job growth and a steep increase in home sales prices in the early 2000s. Annual net in-migration fell to an average of 300 people during this period

as households moved more often to counties surrounding the HMA, where homes were relatively less expensive. From 2008 to 2010, the population remained relatively unchanged, partially because of a declining number of births in the HMA, but mostly because of a net out-migration of 950 people annually. The out-migration was a consequence of the transition of military and civilian personnel from NAS Brunswick to NAS Jacksonville in 2009 and a decline in nonfarm payrolls in the Portland NECTA from 2008 through 2010.

From 2010 to the current date, the population of the Portland-South Portland HMA increased by an average of 2,025, or 0.4 percent (Figure 4). Because of the return of job growth and more modest increases in housing prices, net migration returned to an average annual net gain of 1,650 people, accounting for more than 80 percent of population growth (Figure 5). Approximately 20 percent of migration into the HMA is from other metropolitan areas in Maine, 10 percent is from rural counties in Maine, and 25 percent is from other states in New England (2009–2013 American Community Survey [ACS] 5-year data).

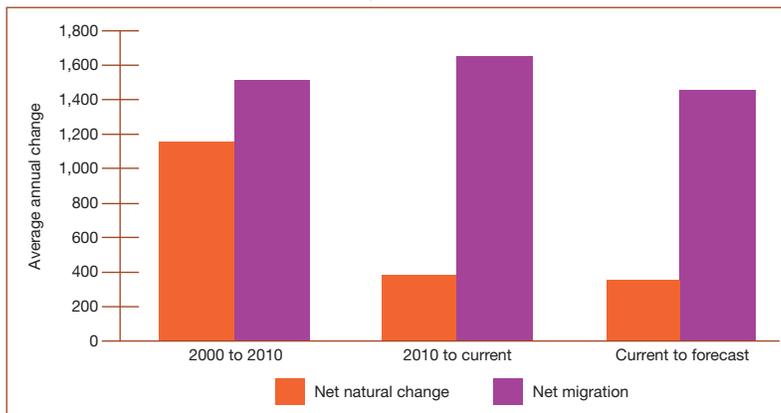
The increase in the population of residents ages 65 and older has accounted for the majority of overall population growth since 2010. From 2000 to 2010, people ages 18 to 64 accounted for 68 percent of growth in the population ages 18 and older. Since 2010, however, 18- to 64-year-olds accounted for only 6 percent of growth in the population ages 18 and older. Conversely, people ages 65 and older accounted for 32 percent of growth in the population 18 years and older from 2000 to 2010 but 94 percent since 2010. This

**Figure 4. Population and Household Growth in the Portland-South Portland HMA, 2000 to Forecast**



Notes: The current date is October 1, 2015. The forecast date is October 1, 2018.  
Sources: 2000 and 2010–2000 Census and 2010 Census; current and forecast—estimates by analyst

**Figure 5. Components of Population Change in the Portland-South Portland HMA, 2000 to Forecast**



Notes: The current date is October 1, 2015. The forecast date is October 1, 2018.  
Sources: 2000 and 2010–2000 Census and 2010 Census; current and forecast—estimates by analyst

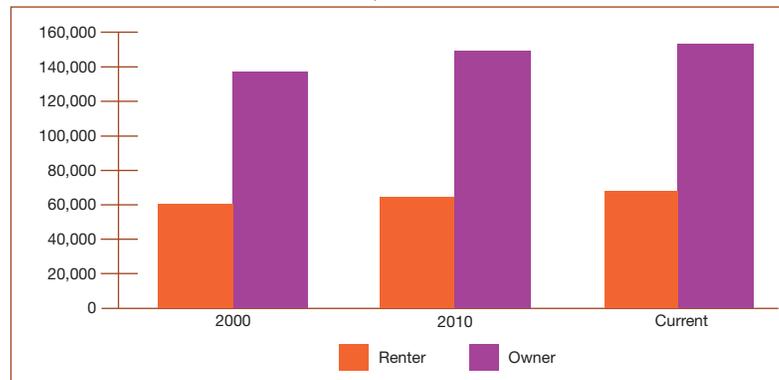
growth, caused in part by residents aging in place and the in-migration of retirees, is contributing to the increase in multifamily construction activity in the HMA, as older householders downsize from larger, single-family homes to reduce maintenance and utility costs. The population ages 18 and younger has been declining since 2002, and several schools that have closed partially as a result of this decline have been converted recently to apartments and condominiums.

An estimated 221,550 households currently reside in the Portland-South

Portland HMA, reflecting an average annual gain of 1,475 households, or 0.7 percent, since 2010. Approximately 69.1 percent of households are homeowners (Figure 6). Homeownership rates vary widely, however, by location and degree of urbanization within the HMA. In many rural, noncoastal towns, more than 85 percent of households are homeowners (2010–2014 ACS 5-year data). In the cities of Portland and Biddeford, where a combined 34 percent of renter households in the HMA reside, homeownership rates are below 50 percent.

During the next 3 years, population growth is expected to average 1,800, or 0.3 percent, annually. The population 65 years and older is expected to comprise more than 90 percent of population growth in the HMA (University of Southern Maine Center for Business and Economic Research projections). Overall net in-migration is expected to average 1,450 people, accounting for 80 percent of population growth. Household growth is anticipated at an average of 1,525, or 0.7 percent, annually.

**Figure 6.** Number of Households by Tenure in the Portland-South Portland HMA, 2000 to Current



Note: The current date is October 1, 2015.

Sources: 2000 and 2010–2000 Census and 2010 Census; current—estimates by analyst

## Housing Market Trends

### Sales Market

The sales housing market in the Portland-South Portland HMA is balanced. Increasing home sales and limited homebuilding activity in the HMA contributed to a decline in the sales vacancy rate from 1.9 percent as of April 2010 to a current estimate of 1.4 percent (Table DP-1 at the end of this report).

Sales of existing single-family homes have been increasing since 2012 after declining in most years from 2005 through 2011. In 2001, 5,550 existing single-family homes sold in the HMA (Maine Association of Realtors®). From 2002 through 2004, sales increased an average of 6 percent annually, to 6,600 homes sold during 2004. This

## Housing Market Trends

### Sales Market *Continued*

increase coincided with an unsustainable rise in sales prices and, as net in-migration slowed, sales declined an average of 5 percent annually from 2005 through 2011; 4,425 existing homes sold during 2011. With the return of job and population growth, sales of existing homes increased an average of 14 percent annually from 2012 through 2014. During the 12 months ending September 2015, 7,200 existing homes sold in the HMA, up 11 percent from the number sold during the previous 12 months. Sales in Cumberland County, which typically account for 55 percent of existing homes sold in the HMA, increased 16 percent and were 15 percent more than the prerecession peak sales total in 2005. Sales in York County, where about 17 percent of housing units are for seasonal use only, increased 6 percent during the 12 months ending September 2015, but the total was 1 percent less than the prerecession peak sales total in 2004. In Sagadahoc County, existing home sales increased 2 percent during the past year, and the total was 7 percent less than the prerecession peak sales total in 2004.

Median existing home sales prices are available only by county and in this discussion are listed from highest to lowest in the following order: Cumberland County, York County, and Sagadahoc County. Median sales prices for existing homes sold during 2001 were \$157,200, \$150,000, and \$121,000 (Maine Association of Realtors®). From 2002 through 2005, the increase in median price was rapid in each county, ranging from 12 to 13 percent annually. Median existing sales prices in 2005 were \$250,000, \$245,000, and \$194,000. The rise in sales prices contributed to less in-migration to the HMA and more in-migration in

nearby counties where homes were increasingly more affordable. For example, median sales prices in Androscoggin and Kennebec Counties, to the north of the HMA, were \$62,600 and \$70,200 less, respectively, than the median in Cumberland County in 2001, but they were \$95,000 and \$110,000 less by 2005.

From 2006 through 2011, median sales prices declined in the range of 2 to 3 percent annually, to \$224,750, \$207,000, and \$162,800. Moderate sales price growth has prevailed in the HMA in recent years. Median existing sales prices increased 1 to 3 percent annually from 2012 through 2014. Median sales prices for existing homes sold during the 3 months ending September 2015 were \$256,800, \$230,000, and \$196,500, increases of 5, 2, and 1 percent from the medians during the same period in 2014.

An increase in the number of bank-repossessed homes sold in the HMA has affected home price growth. Approximately 7 percent of existing home sales in the HMA during the past year were sales of real estate owned (REO) properties (CoreLogic, Inc., with adjustments by the analyst). By comparison, REO sales were less than 1 percent of existing home sales during 2006 and 2007. The increased share of REO sales hampered home price growth in recent years because average sales prices for REO homes are typically 40 percent less than sales prices of nondistressed existing homes. The judicial foreclosure requirement in Maine has slowed the foreclosure process and the return of these homes to the sales market in the HMA. The percentage of home loans that were 90 or more days delinquent, were in foreclosure, or had transitioned into

REO status in the HMA peaked at 7.1 percent in March 2013, more than 3 years after the national peak of 9.2 percent in early 2010 (Black Knight Financial Services, Inc.). The percentage in the HMA has declined since March 2013, however, and was 4.5 percent as of September 2015, slightly higher than the national rate of 4.2 percent.

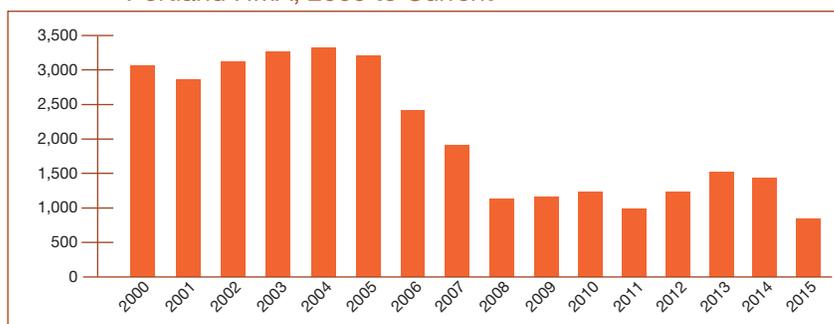
Homebuilding activity in the HMA, as measured by the number of single-family homes permitted, was relatively high from 2000 through 2005, when an average of 3,125 homes were permitted annually (Figure 7). As a consequence of the decline in home sales, homebuilding slowed by an average of 370 homes, or 18 percent, annually, from 2006 through 2011. With population growth and improving economic conditions, homebuilding activity increased by an average of 260 homes, or 25 percent, annually from 2012 through 2013. Single-family permitting declined slightly by 70 homes, or 4 percent, during 2014. During the 12 months ending September 2015, 1,075 homes were permitted, down 16 percent from the number permitted during the previous 12 months (preliminary

data). Homebuilding activity during this period was slowed in part by severe winter weather in early 2015.

Dunstan Crossing is a subdivision of 249 single-family homes, townhomes, and duplex condominiums under construction in the town of Scarborough. Since construction began in 2007, 70 homes have been sold. Phase 3 of Dunstan Crossing, with a total of 41 single-family homes and duplex condominiums ranging from \$350,000 to \$450,000, is currently under way and is expected to be complete in 2016. Munjoy Heights is a community of 29 luxury townhome units under construction in the city of Portland that is expected to be complete in late 2016. Since breaking ground in mid-2014, 13 townhomes at Munjoy Heights have sold for between \$599,900 and \$799,900. Condominiums currently under construction include Meetinghouse Lofts, an adaptive reuse of a former elementary school in the city of South Portland. The 19 one- and two-bedroom units at Meetinghouse Lofts start at \$294,500 and \$389,900, respectively, and are expected to be complete in early 2016.

During the next 3 years, demand is estimated for 4,000 new homes in the HMA (Table 1). The 850 single-family homes under construction will satisfy some of the demand. In addition, a portion of the 42,200 other vacant units, most of which are second homes for seasonal use only, may reenter the market and satisfy additional demand. Sales prices for new homes are expected to start at \$150,000, and more than one-third of the demand is expected to be for homes between \$300,000 and \$399,999 (Table 4).

**Figure 7.** Single-Family Homes Permitted in the Portland-South Portland HMA, 2000 to Current



Notes: Includes townhomes. Current includes data through September 2015.

Sources: U.S. Census Bureau, Building Permits Survey; estimates by analyst

**Table 4.** Estimated Demand for New Market-Rate Sales Housing in the Portland-South Portland HMA During the Forecast Period

Price Range (\$)		Units of Demand	Percent of Total
From	To		
150,000	199,999	400	10.0
200,000	299,999	1,200	30.0
300,000	399,999	1,400	35.0
400,000	499,999	600	15.0
500,000	and higher	400	10.0

*Notes: The 850 homes currently under construction and a portion of the estimated 42,200 other vacant units in the HMA will likely satisfy some of the forecast demand. The forecast period is October 1, 2015, to October 1, 2018.*

*Source: Estimates by analyst*

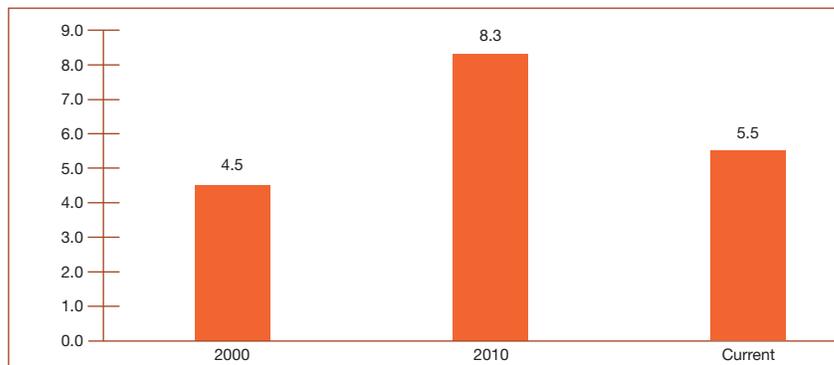
## Rental Market

The rental housing market in the Portland-South Portland HMA is slightly tight. The overall rental vacancy rate, including single-family homes and mobile homes which constitute about 30 percent of all rental units (2010–2014 ACS 5-year data), is estimated at 5.5 percent currently, down from 8.3 percent from April 2010 (Figure 8). Rental housing markets in the cities of Portland and South Portland are tighter than in the HMA as a whole, with overall rental vacancy rates of 3.5 and 3.0 percent, respectively (2010–2014 ACS 5-year data). The rental housing markets in Portland and South Portland are tight partially because the labor markets in these cities are relatively stronger than in other parts of Maine and because

quality-of-life attributes attract movers to the HMA from other parts of New England and elsewhere.

The apartment market in the HMA is currently tight. From the third quarter of 2010 through the third quarter of 2014, the apartment market was slightly tight, with a vacancy rate ranging from 3.2 percent to 4.4 percent and a 5-percent average annual increase in the effective market rent (Axiometrics, Inc.). The apartment market has since further tightened, however. From the third quarter of 2014 through the third quarter of 2015, the apartment vacancy rate declined from 3.6 to 2.9 percent, and the effective market rent increased nearly 8 percent, to \$1,314. Rents increased at a higher rate because many existing, older apartment properties were upgraded during the past year. Research indicates that rental affordability in the Maine State Housing Authority (MaineHousing)-defined Portland-South Portland market area declined from 2010 through 2014 (the most recent data available) because of increasing rents and declining median renter household incomes (MaineHousing). In 2014, 64 percent of renter households in the area were unable to afford the cost of an average two-bedroom apartment (including utilities) using no more than 30 percent of gross income.

**Figure 8.** Rental Vacancy Rates in the Portland-South Portland HMA, 2000 to Current



*Note: The current date is October 1, 2015.*

*Sources: 2000 and 2010–2000 Census and 2010 Census; current—estimates by analyst*

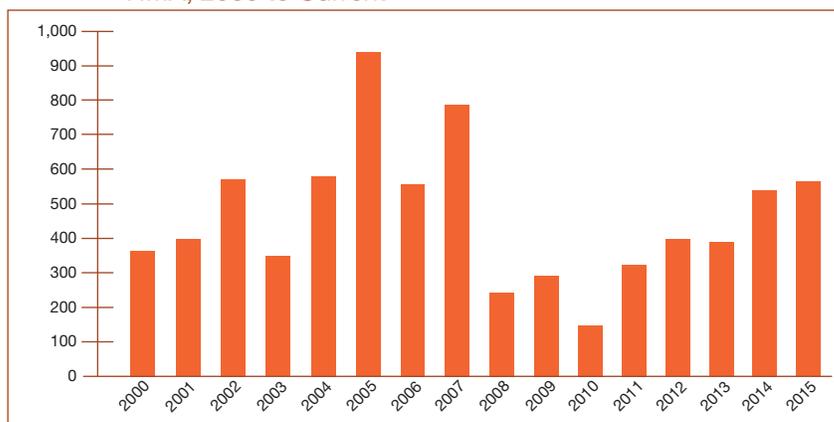
Multifamily construction activity, as measured by the number of multifamily units permitted, has increased in the years since the economic downturn. From 2000 through 2007, during a period of population growth and economic expansion in the HMA, an average of 570 multifamily units were permitted annually in the HMA (Figure 9). With the onset of net out-migration and economic contraction, multifamily production fell to an average of 220 units annually from 2008 through 2010. Multifamily construction subsequently increased by an average of 100 units, or 39 percent, annually, from 2011 through 2014. Approximately 17 percent of multifamily units permitted since 2000 were condominiums. Condominiums permitted during the past year include 113 Newbury, with 37 units in the city of Portland, which is expected to be complete in mid-2016.

During the 12 months ending September 2015, 450 multifamily units were permitted in the Portland-South Portland HMA, up by 90 units, or 25 percent, from the number permitted during the previous 12 months (preliminary data). Units permitted during the past year include 28 income- and age-restricted units at Young Street Apartments in the town of South

Berwick. Young Street Apartments, funded in part through low-income housing tax credits, is expected to open in December 2015, with rents starting at \$790 and \$947 for one- and two-bedroom apartments, respectively. Of all apartments built in the Portland-South Portland HMA since 2000, approximately 59 percent were subsidized through federal and state programs. Nathan Clifford Residences, itself partially funded through a state-based tax credit program for the rehabilitation of historic structures, opened in May 2015, with 22 market-rate apartments in the city of Portland. Rents for one- and two-bedroom units at the former elementary school start at \$1,025 and \$1,500, respectively, and all units were leased before the development opened (*Portland Press Herald*).

West End Place, with 39 luxury apartments, was completed in January 2015 in the city of Portland. Rents are higher than most other newly constructed units in the HMA, in part because of its advantageous location directly between two large hospitals and on the peninsula, a historic portion of the city bounded by Interstate 295, the Fore River, and Casco Bay. Rents for one- and two-bedroom units start at \$1,420 and \$1,725, respectively. All units at West End Place were leased within 8 months of opening. Another high-end development, Pepperell Mill Campus Phase 3, opened in the city of Biddeford in July 2015, with rents starting at \$1,400 and \$1,650 for one- and two-bedroom units, respectively; all 19 units were leased before completion. In addition, all 82 apartments built within the former textile mills at Pepperell Mill Campus have been 100-percent occupied since first becoming available in 2007. The demand for apartments at Pepperell Mill Campus bred similar rehabilitation efforts within

**Figure 9.** Multifamily Units Permitted in the Portland-South Portland HMA, 2000 to Current



Notes: Excludes townhomes. Current includes data through September 2015.

Sources: U.S. Census Bureau, Building Permits Survey; estimates by analyst

## Housing Market Trends

### Rental Market *Continued*

very close proximity. The conversion of two other textile mills in the city of Biddeford, which include a total of 176 market-rate and income-restricted apartments and other nonresidential uses, began in mid-2015, with availability expected in mid-2016. Across the Saco River in the city of Saco, the conversion of a textile mill to 150 market-rate apartments is expected to begin by the end of 2015.

During the next 3 years, demand is expected for 2,000 new market-rate units in the Portland-South Portland HMA (Table 1). Demand is expected to range from 600 to 700 units a year and to be concentrated within or near the cities of Portland and South Portland. The 450 apartments under construction will satisfy nearly 25 percent of the demand. The most significant apartment development in planning is MiDTOWN, a proposed rental community in the city of Portland that will have 445 studio, one-bedroom, and two-bedroom apartments, 90,000 square feet of retail space, and a parking garage. MiDTOWN is expected to begin construction in early 2016 and to add at least 150 units during the forecast period. Table 5 illustrates the demand for new market-rate rental housing by number of bedrooms and rent level.

**Table 5.** Estimated Demand for New Market-Rate Rental Housing in the Portland-South Portland HMA During the Forecast Period

One Bedroom		Two Bedrooms		Three or More Bedrooms	
Monthly Gross Rent (\$)	Units of Demand	Monthly Gross Rent (\$)	Units of Demand	Monthly Gross Rent (\$)	Units of Demand
950 to 1,149	400	1,100 to 1,299	300	1,500 to 1,699	20
1,150 to 1,349	240	1,300 to 1,499	300	1,700 to 1,899	40
1,350 or more	160	1,500 to 1,699	200	1,900 to 2,099	80
		1,700 or more	200	2,100 or more	60
<b>Total</b>	<b>800</b>	<b>Total</b>	<b>1,000</b>	<b>Total</b>	<b>200</b>

*Notes: Numbers may not add to totals because of rounding. Monthly rent does not include utilities or concessions. The 450 units currently under construction will likely satisfy some of the estimated demand. The forecast period is October 1, 2015, to October 1, 2018.*

*Source: Estimates by analyst*

## Data Profile

**Table DP-1.** Portland-South Portland HMA Data Profile, 2000 to Current

	2000	2010	Current	Average Annual Change (%)	
				2000 to 2010	2010 to Current
Total resident employment	265,372	263,669	275,300	-0.1	0.9
Unemployment rate	2.6%	7.1%	4.0%		
Nonfarm payroll jobs	181,500	187,500	197,000	0.3	1.0
Total population	487,568	514,098	525,200	0.5	0.4
Total households	196,669	213,436	221,550	0.8	0.7
Owner households	136,424	149,343	153,200	0.9	0.5
Percent owner	69.4%	70.0%	69.1%		
Renter households	60,245	64,093	68,350	0.6	1.2
Percent renter	30.6%	30.0%	30.9%		
Total housing units	233,323	262,718	269,900	1.2	0.5
Owner vacancy rate	0.8%	1.9%	1.4%		
Rental vacancy rate	4.5%	8.3%	5.5%		
Median Family Income	NA	\$67,359	\$75,435	NA	2.3

NA = data not available.

*Notes: Numbers may not add to totals because of rounding. Employment data represent annual averages for 2000, 2010, and the 12 months through September 2015. Nonfarm payroll jobs data are for the Portland-South Portland, ME Metropolitan New England City and Town Area. Median Family Incomes are for 2009 and 2014. The current date is October 1, 2015.*

*Sources: U.S. Census Bureau; U.S. Department of Housing and Urban Development; estimates by analyst*

## Data Definitions and Sources

2000: 4/1/2000—U.S. Decennial Census  
 2010: 4/1/2010—U.S. Decennial Census  
 Current date: 10/1/2015—Analyst’s estimates  
 Forecast period: 10/1/2015–10/1/2018—  
 Analyst’s estimates

The metropolitan statistical area and New England City and Town Area definitions in this report are based on the delineations established by the Office of Management and Budget (OMB) in the OMB Bulletin dated February 28, 2013.

**Demand:** The demand estimates in the analysis are not a forecast of building activity. They are the estimates of the total housing production needed to achieve a balanced market at the end of the 3-year forecast period given conditions on the as-of date of the analysis, growth, losses, and excess vacancies. The estimates do not account for units currently under construction or units in the development pipeline.

**Other Vacant Units:** In the U.S. Department of Housing and Urban Development’s (HUD’s) analysis, other vacant units include all vacant units that are not available for sale or for rent. The term therefore includes units rented or sold but not occupied; held for seasonal, recreational, or occasional use; used by migrant workers; and the category specified as “other” vacant by the Census Bureau.

**Building Permits:** Building permits do not necessarily reflect all residential building activity that occurs in an HMA. Some units are constructed or created without a building permit or are issued a different type of building permit. For example, some units classified as commercial structures

are not reflected in the residential building permits. As a result, the analyst, through diligent fieldwork, makes an estimate of this additional construction activity. Some of these estimates are included in the discussions of single-family and multifamily building permits.

For additional data pertaining to the housing market for this HMA, go to [huduser.gov/publications/pdf/CMARtables\\_Portland-SouthPortlandME\\_16.pdf](http://huduser.gov/publications/pdf/CMARtables_Portland-SouthPortlandME_16.pdf).

## Contact Information

Benjamin B. Houck, Economist  
 Philadelphia HUD Regional Office  
 215-430-6678  
[benjamin.b.houck@hud.gov](mailto:benjamin.b.houck@hud.gov)

This analysis has been prepared for the assistance and guidance of HUD in its operations. The factual information, findings, and conclusions may also be useful to builders, mortgagees, and others concerned with local housing market conditions and trends. The analysis does not purport to make determinations regarding the acceptability of any mortgage insurance proposals that may be under consideration by the Department.

The factual framework for this analysis follows the guidelines and methods developed by HUD’s Economic and Market Analysis Division. The analysis and findings are as thorough and current as possible based on information available on the as-of date from local and national sources. As such, findings or conclusions may be modified by subsequent developments. HUD expresses its appreciation to those industry sources and state and local government officials who provided data and information on local economic and housing market conditions.

For additional reports on other market areas, please go to [huduser.gov/portal/ushmc/chma\\_archive.html](http://huduser.gov/portal/ushmc/chma_archive.html).



## **Portland 2030 Workforce Housing Demand Report**

### **Timeline**

01.09.2015 Report published

### **Summary**

In 2002, the City of Portland adopted a housing plan with a policy goal to ensure an adequate supply of housing to meet the needs, preferences, and financial capabilities of all Portland households. In order to reach this goal, the City established a target of maintaining Portland's current proportion of subsidized units at 20% of the housing stock. Since the plan's adoption, over 2,000 housing units have been permitted in the city for the construction of apartments, condominiums, and single-family homes.

In August of 2014, the City of Portland contacted the Greater Portland Council of Governments to discuss the design of a study to assess progress in meeting the city's housing production goals. Staff conducted a literature review of studies used in other states and presented these approaches to the city for consideration.

- **Massachusetts Approach:** This approach is based on the goals articulated in a municipality's comprehensive plan. In the future, Portland will capture a certain percentage of the region's population growth. Demand can be projected by the current distribution of housing units by tenure and affordability.
- **California Approach:** This approach is based on the philosophy that the construction of market-rate units attracts high income households. Through the purchase of goods and services, these households support low-paid service jobs, which in turn support lesser income households whose needs might best be met by living near where they work.

Sixty-two percent of Portland households earn less than the county's median income, including 38% of homeowners and 81% of renters. Over the last decade, the number of households earning less than median income has increased 10%. While rising incomes have narrowed the affordability of existing homes and apartments, new construction is well beyond the means of the middle class. From 2010 to 2014, 1,130 housing units were permitted and/or built in Portland, including apartments, condominiums and single-family homes. Just 29% were offered at a rent or sales price affordable to a household earning the median income. If robust growth continues, Portland will continue to lose the affordability of its housing stock.

The report demonstrated a 24%–33% gap between future demand for workforce housing and supply.

### **In this chapter**

- **Portland 2030 Workforce Housing Demand**, report, Greater Portland Council of Governments, 01.09.2015

# Portland

## 2030 Workforce Housing Demand



Greater Portland Council of Governments  
970 Baxter Boulevard, Suite 201  
Portland, Maine 04103

## ACKNOWLEDGEMENTS

This report was produced under a fee-for-service contract with the City of Portland. The substance and findings of the work are dedicated to the public. The publisher is solely responsible for the accuracy of the statements and interpretations contained in this publication. Such interpretations do not necessarily reflect the views of the City.

### **GPCOG**

Neal W. Allen, Executive Director

Caroline Paras, Economic and Community Planner

Ben Lake, Energy & Transit Program Analyst

Maddy Adams, Executive Program Assistant

### **City of Portland**

Jeff Levine, Director of Planning and Urban Development

Mary Davis, Housing and Community Development Director

## EXECUTIVE SUMMARY

### Purpose

In 2002, the City of Portland adopted a Housing Plan with a policy goal to ensure an adequate supply of housing to meet the needs, preferences, and financial capabilities of all Portland households. In order to reach this goal, the City established a target of maintaining Portland's current proportion of subsidized units at 20% of the housing stock. Since the plan's adoption, over 2,000 housing units have been permitted in the city for the construction of apartments, condominiums, and single-family homes. This study examines recent trends in the Portland housing market in order to help policymakers determine what gaps, if any, may exist between what is currently being provided in the market and the city's housing needs.

### Methodology

In August of 2014, the City of Portland contacted the Greater Portland Council of Governments to discuss the design of a study to assess progress in meeting the city's housing production goals. Staff conducted a literature review of studies used in other states and presented these approaches to the city for consideration.

- *Massachusetts Approach:* This method, so named for its prevalence amongst cities and towns in the Commonwealth, is based on the goals articulated in a municipality's comprehensive plan. In the future, Portland will capture a certain percentage of the region's population growth. People form households, whose demand can be projected by the current distribution of housing units by tenure and affordability.
- *California Approach:* This technique has been piloted in cities throughout California by the consulting firm of Keyser Marston Associates, Inc. The underlying philosophy is that the construction of market-rate units attracts high income households. Through the purchase of goods and services, these households support low-paid service jobs, which in turn support lesser income households whose needs might best be met by living near where they work.

For purposes of this analysis, "affordable" and "workforce" are used interchangeably to refer to housing units that a household earning 100% of the county's median income can afford, assuming they spend no more than 30% of their income for housing. The term "subsidized," which is also confused with "affordable," generally refers to public investment to make housing affordable to households earning up to 80% of the county's median income.

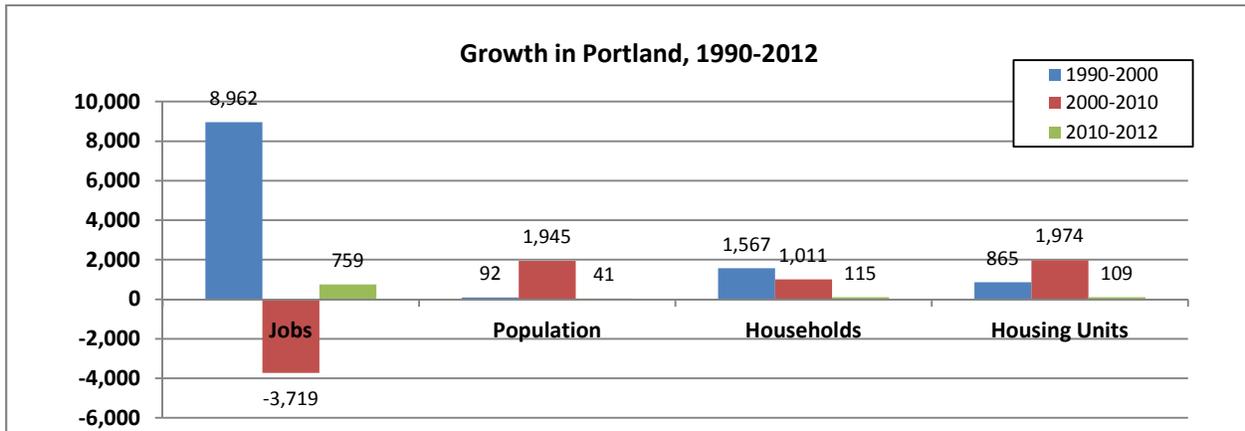
### Findings

Sixty-two percent of Portland households earn less than the county's median income, including 38% of homeowners and 81% of renters. Over the last decade, the number of households earning less than median income has increased 10%. While rising incomes have narrowed the affordability of existing homes and apartments, new construction is well beyond the means of the middle class. From 2010 to 2014, 1,130 housing units were permitted and/or built in Portland, including apartments, condominiums and single-family homes. Just 29% were offered at a rent or sales price affordable to a household earning the median income. If robust growth continues, Portland will continue to lose the affordability of its housing stock.

Two approaches were deployed to help policymakers determine what percentage of new construction should be made affordable by policy to increase diversity in the city's housing stock.

- Under the Massachusetts approach, the gap between future demand for workforce housing units and potential supply is 33%.
- Under the California approach, the gap between future demand for workforce housing units and potential supply is 24%.

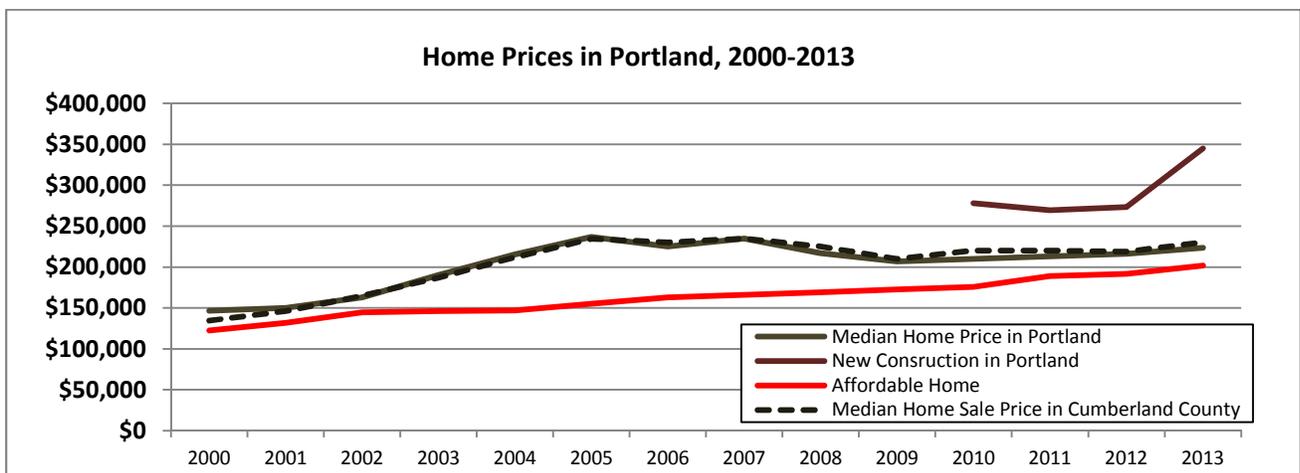
## HOUSING MARKET TRENDS



Source: Maine Department of Labor, American Community Survey

The economic recession of 1991 ushered in an era of slow growth throughout the nation. In just twelve months, the unemployment rate in Cumberland County soared from 3.7% to a decade high of 7.4%. The sluggish economy led to a lag in home construction. Driven by the dramatic increase in single people living alone, the formation of new households in Portland outstripped the construction of housing units by almost a 2:1 margin. By the late 1990's, the economy rebounded with the "dot com" revolution. Job growth and rising incomes created a pent-up demand for housing that set the stage for the boom of the 2000's.

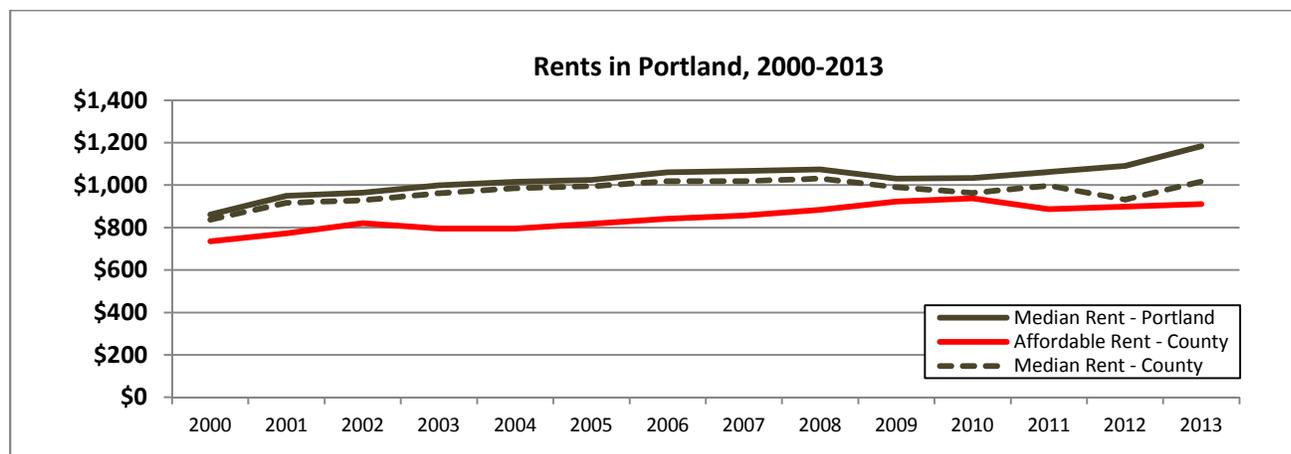
In 2000, the "dot com" bubble burst, triggering another economic downturn. With its relatively small technology sector, Greater Portland weathered the recession better than the rest of New England and the nation. Fueled by the lowest interest rates in 40 years, real estate proved to be a lucrative investment. In Portland, new housing construction outpaced the formation of new households by almost a 2:1 margin. Without real job growth, however, the boom could not be sustained. In 2008, the collapse of the credit market ushered in the greatest economic recession since the Great Depression.



Source: Maine Housing, Portland Assessing Office

Home prices in the region peaked at \$235,000 before dropping 12% in 2009. Since then, rising incomes and low interest rates have improved affordability. In 2013, a household in Cumberland County earning the median income of \$58,500 could afford a home price of \$202,000, while the median home was \$223,500. In 2005, the gap

between the median and affordable home price was \$68,985. By 2013, the gap had narrowed to \$21,500. New construction, however, remains out of reach for all but the wealthiest households. From 2000 to 2014, 282 new condominiums and single-family homes were sold in Portland posting a median price of \$313,000, 55% over the affordable price. For example, in 2013, 85 condominiums at the Bay House in Portland’s India Street neighborhood sold for a median of \$366,350, 64% above the median home price and 81% above the affordable home price.



Source: *Maine Housing, Portland Assessing Office*

Rents in Portland continue to outpace incomes. In 2013, a household earning the median renter income of \$36,438 could afford a rent of \$911. The median rent in Portland, however, is \$1,183, 30% more than what is affordable. Market rents associated with new construction are even higher. West End Place, a new 39-unit apartment complex at the corner of Brackett and Pine streets, is courting rents at \$1,300 to \$2,500, 43% to 170% higher than what is affordable.

## MASSACHUSETTS APPROACH

Portland’s Housing Plan established as a goal to maintain the city’s 25% share of the county’s population. In order to create enough affordable housing for the future, this share can be applied to the county’s future growth projections. The following is a breakdown of the methodology.

### 1. Establish a long range population forecast at the county level

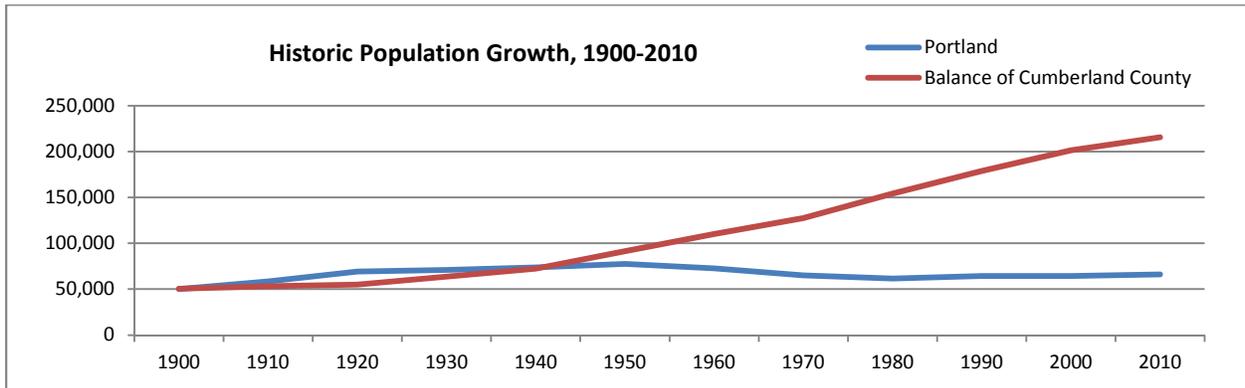
In Maine, there are two sources for population projections at the county level:

**State Office of Policy and Management:** In 2013, Maine’s Economist released the State’s 2030 Forecast. These projections assume that fertility of the current population is the primary driver of growth. Future growth is expected to be much slower than the past because Maine has a higher proportion of Baby Boomers, who are past their child-bearing years, along with a high proportion of non-Hispanic Whites, who have the lowest birth rates of any racial or ethnic group. From 2010 to 2030, the State projects that Cumberland County will grow by just 8,427 people, an increase of 1.5% per decade. This data comprises the “Low Growth” forecast.

**Center for Business and Economic Research:** In 2009, the University of Southern Maine’s Muskie School of Public Service prepared a 2035 forecast for the Portland Area Comprehensive Transportation System (PACTS), the Metropolitan Planning Organization for the Portland, Maine Urbanized Area. This forecast, generated through Regional Economic Models, Inc. (REMI), assumes that the economy will drive population growth. From 2010 to 2030, Muskie projects that Cumberland County will grow by 79,924 people, an increase of 14% per decade. This data comprises the “High Growth” forecast.

The “Medium Growth” forecast is the average of the Low and High forecasts. Under this scenario, Cumberland County would grow by 44,176, people, an increase of 8% per decade.

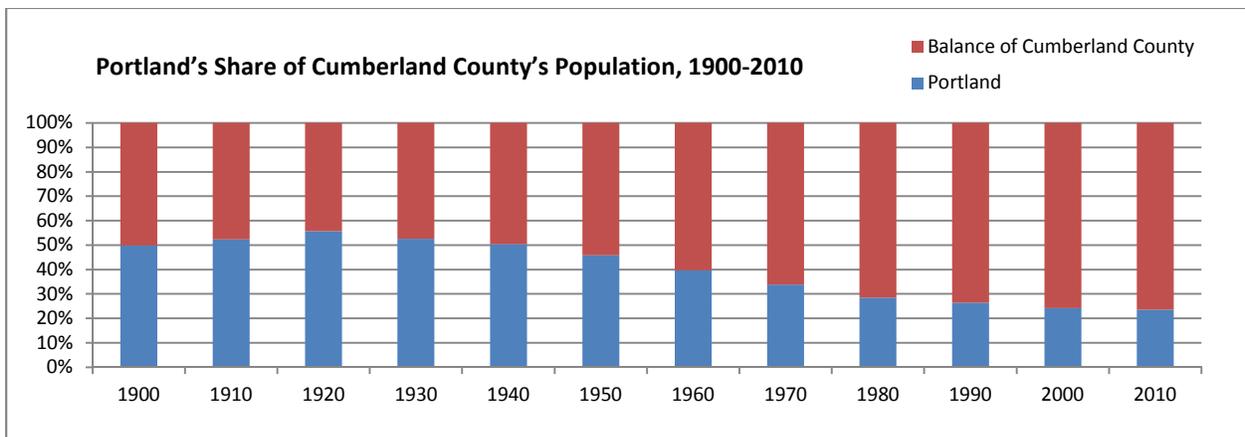
Over the last century, the county’s decennial growth rate has ranged from a high of 16% during the 1940’s to a low of 5% during the 1960’s. Therefore, the Low forecast, at 3% growth, represents a rate lower than in any decade of the last century, while the High forecast, at 14%, is only slightly higher than the pattern of the 1990’s. At 8%, the Medium forecast reflects the average growth rate per decade of the past century.



Source: U.S. Census Bureau

## 2. Assign Portland a 25% share of the county’s 2030 population growth

Portland’s goal of maintaining a 25% share of the county’s population is paramount to its vitality and its influence over state and regional politics. As the largest city in one of the nation’s smallest states, Portland exerts an extraordinary influence over Maine’s economy out of proportion with its actual size. Indeed, the number of jobs in the city now outstrips population, making Portland the engine of the largest labor market in Northern New England. Over the last century, Portland’s share of the county’s population has declined from a peak of 56% in 1920 to 24% in 2010. While this share is on a definite downward trajectory, Portland did not yield any ground during the 2000’s.



Source: U.S. Census Bureau

**Low Growth:** To claim a 25% share of the county’s population, Portland would need to grow by 6,331 people, or 317 people per year, a growth rate of 4.8% per decade. In order to reach this 25% share, which in 2010 slipped to 24%, Portland would need to claim 75% of the county’s future growth. Although this would represent a reversal of the sprawling choices made by residents during the 1970’s, 80’s and 90’s, this trend has already begun in the 2000’s. In order to accommodate new residents, Portland would need to build 4,188 housing units, or 210 units

per year over a 20-year period. This modest housing growth is in line with the development patterns of the 2000's, which resulted in the construction of approximately 1,974 units, or 198 units per year.

**Medium Growth:** To claim a 25% share of the county's population, Portland would need to grow by 15,268 people, or 764 people per year, a growth rate of 11.5% per decade.. This would bring Portland's population to 81,462 people, just past its 1950 peak. In order to reach this 25% share, Portland would need to claim 35% of the county's future growth. In order to accommodate new residents, Portland would need to build 8,636 housing units, or 432 units per year over a 20-year period. This robust growth would be double that witnessed in the 2000's and five times the growth of the 1990's.

**High Growth:** To claim a 25% share of the county's population, Portland would need to grow by 24,206 people, or 1,211 people per year, a growth rate of 18.3% per decade. In order to reach this 25% share, Portland would need to claim 30% of the county's future growth. In order to accommodate new residents, Portland would need to build 13,084 housing units, or 654 units per year over a 20-year period. In terms of new construction, this represents three times the growth of the 2000's and eight times the growth of the 1990's.

2030 Housing Forecast for Portland								
	2010		2030					
	Total	Change	Low Growth		Medium Growth		High Growth	
			Total	Change	Total	Change	Total	Change
<b>Population of Cumberland County</b>	<b>281,674</b>	<b>24%</b>	<b>290,101</b>	<b>8,427</b>	<b>325,850</b>	<b>44,176</b>	<b>361,598</b>	<b>79,924</b>
<b>Population of Portland</b>	<b>66,194</b>	<b>100.0%</b>	<b>72,525</b>	<b>6,331</b>	<b>81,462</b>	<b>15,268</b>	<b>90,400</b>	<b>24,206</b>
Population in ownership units	30,317	45.8%	33,217	45.8%	37,310	45.8%	41,403	45.8%
Population in rental units	33,264	50.3%	36,446	50.3%	40,937	50.3%	45,428	50.3%
Population in group quarters	2,613	3.9%	2,863	3.9%	3,216	3.9%	3,569	3.9%
<b>Households</b>	<b>30,725</b>		<b>34,945</b>	<b>4,220</b>	<b>39,252</b>	<b>8,527</b>	<b>43,558</b>	<b>12,833</b>
Population in households	63,581	96.1%	69,662	96.1%	78,247	96.1%	86,831	96.1%
Average household size	2.07		1.99		1.99		1.99	
Ownership	2.31		2.23		2.23		2.23	
Rental	1.89		1.82		1.82		1.82	
<b>Housing Units</b>	<b>31,908</b>		<b>36,096</b>	<b>4,188</b>	<b>40,544</b>	<b>8,636</b>	<b>44,992</b>	<b>13,084</b>
<b>Ownership</b>	<b>13,321</b>	<b>41.7%</b>	<b>15,077</b>	<b>1,756</b>	<b>16,935</b>	<b>3,614</b>	<b>18,792</b>	<b>5,472</b>
Occupied	13,124	98.5%	14,927	99.0%	16,767	99.0%	18,606	99.0%
Vacant	197	1.5%	149	1.0%	168	1.0%	186	1.0%

Source: Prepared by the Greater Portland Council of Governments based on the 2010 Census and County Population Forecasts from the State Office of Policy and Management and the Center for Business and Economic Research

### 3. Breakout Portland Forecast by Household Income and Tenure

**Owners:** As of 2011, 38% of Portland's 13,845 homeowners earned less than the county's median income. This is unchanged from the 2000 Census. Approximately 28% of homeowners are considered to be of low to moderate income because they earn 80% or less of the county's median income. This is slightly lower than in 2000. The U.S. Department of Housing and Urban Development classifies households earning less than 80% as follows:

- Less than 30%: *Very low income*
- 30%-50%: *Low income*
- 50%-80%: *Moderate income*

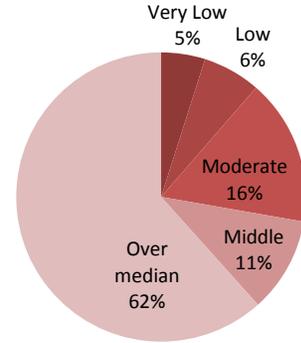
For this analysis, middle income refers to those households earning from 80%-100% of median income. From 2000-2011, the greatest change was in the number of these middle income households, which increased by 52%.

**Income of Owners in Portland, 2000-2011**

	2000		2011		Net	%
	Households	%	Households	%		
Very Low	605	5%	680	5%	75	12%
Low	1,020	8%	895	6%	-125	-12%
Moderate	2,240	18%	2,265	16%	25	1%
Middle	970	8%	1,470	11%	500	52%
Over Median	7,865	62%	8,535	62%	670	9%
<b>Total</b>	<b>12,605</b>	<b>100%</b>	<b>13,845</b>	<b>100%</b>	<b>1,240</b>	<b>10%</b>
Low to Moderate	3,865	31%	3,840	28%	-25	-1%
Under Median	4,835	38%	5,310	38%	475	10%

Source: Special tabulation by the U.S. Department of Housing and Urban Development based on the 2007-2011 American Community Survey

**Income of Portland Homeowners (2011)**



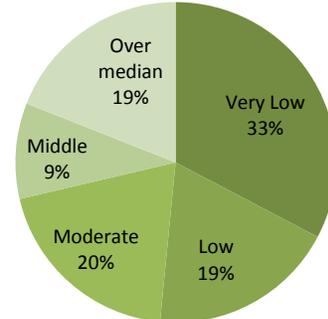
**Renters:** As of 2011, 81% of Portland’s 17,260 renters earned less than the county’s median income. Approximately 71% of renters are considered to be of low to moderate income. From 2000-2011, the greatest change was in the number of very low income households, which increased by 30%.

**Income of Renters in Portland, 2000-2011**

	2000		2011		Net	%
	Households	%	Households	%		
Very Low	4,330	26%	5,630	33%	1,300	30%
Low	2,755	17%	3,260	19%	505	18%
Moderate	4,165	25%	3,415	20%	-750	-18%
Middle	1,415	9%	1,665	10%	250	18%
Over Median	3,700	23%	3,290	19%	-410	-11%
<b>Total</b>	<b>16,365</b>	<b>100%</b>	<b>17,260</b>	<b>100%</b>	<b>895</b>	<b>5%</b>
Low to Moderate	11,250	69%	12,305	71%	1,055	9%
Under Median	12,665	77%	13,970	81%	1,305	10%

Source: Special tabulation by the U.S. Department of Housing and Urban Development based on the 2007-2011 American Community Survey

**Income of Portland Renters (2011)**



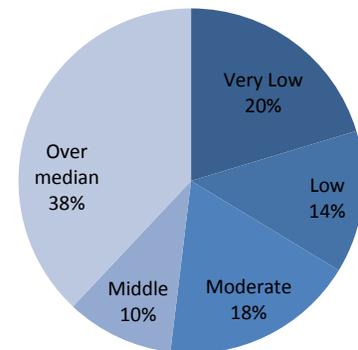
**All households.** As of 2011, 62% of Portland’s 31,105 households earned less than the county’s median income. Approximately 52% of all households are considered to be of low to moderate income. From 2000-2011, the greatest change was in the number of very low income households, which increased by 28%.

**Income of All Households in Portland, 2000-2011**

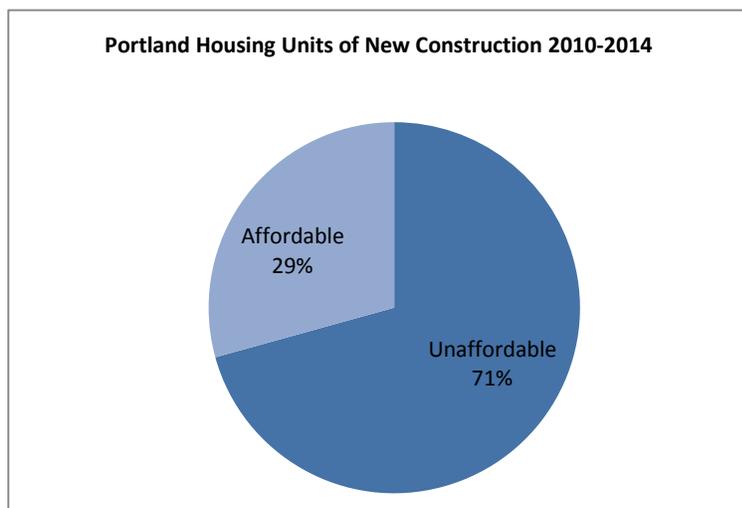
	2000		2011		Net	%
	Households	%	Households	%		
Very Low	4,935	17%	6,310	20%	1,375	28%
Low	3,775	13%	4,155	13%	380	10%
Moderate	6,405	22%	5,680	18%	-725	-11%
Middle	2,385	8%	3,135	10%	750	31%
Over Medium	11,565	40%	11,825	38%	260	2%
<b>Total</b>	<b>29,065</b>	<b>100%</b>	<b>31,105</b>	<b>100%</b>	<b>2,040</b>	<b>7%</b>
Low to Moderate	15,115	52%	16,145	52%	1,030	7%
Under median	17,500	60%	19,280	62%	1,780	10%

Source: Special tabulation by the U.S. Department of Housing and Urban Development based on the 2007-2011 American Community Survey

**Income of All Households in Portland (2011)**



#### 4. Calculate Gap between Current Production Trends and Future Demand



While the median price of new construction is beyond the reach of the middle class, some proportion of new homes is affordable. From 2010-2014, 384 new condominiums and single-family homes were permitted in Portland. The percentage of units sold or marketed for sale at an affordable price was 7%. During the same period, 746 new rental units were permitted. The percentage of units marketed for rent at an affordable price was 41%. Overall, 29% of new housing units permitted from 2010-2014 were offered to the market at a price affordable to a household earning 100% of median income.

Approximately 62% of Portland households earn less than the county’s median income. If recent construction trends hold, the market, without compulsion, will build affordable units to meet 29% of demand. This leaves a gap between supply and demand of 33%.

#### Supply and Demand for Housing Affordable to Households at 100% of Median Income

		Low Growth	Medium Growth	High Growth
<b>Housing Units</b>	<b>Percent of Market</b>	<b>4,188</b>	<b>8,636</b>	<b>13,084</b>
Projected 2030 Demand	62%	2,597	5,354	8,112
Projected 2030 Supply	29%	1,215	2,504	3,794
<b>Gap</b>	<b>33%</b>	<b>1,382</b>	<b>2,850</b>	<b>4,318</b>

### CALIFORNIA APPROACH

This method is based on the underlying theory that the construction of market-rate units attracts high income households. Through the purchase of goods and services, these households support low-paid service jobs, which in turn support lesser income households whose needs might best be met by living near where they work. The following is a breakdown of the methodology.

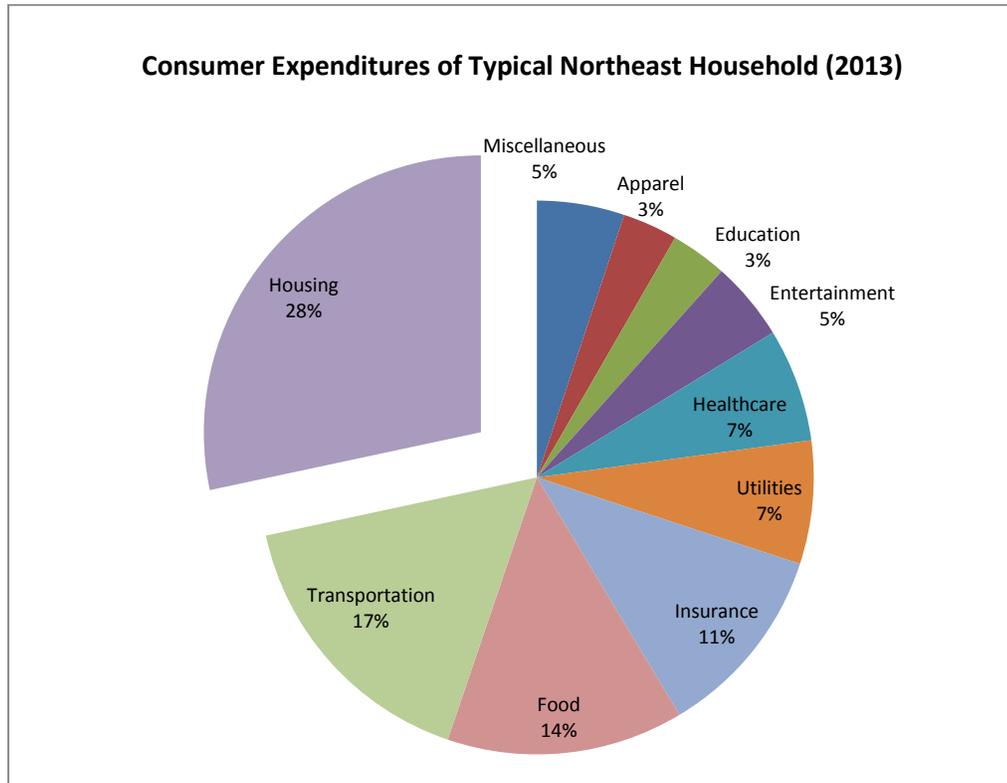
#### 1. Calculate the income of market-rate households

A household must earn approximately \$90,000 to afford the market price of a newly constructed home (\$313,000) or rental unit (\$2,500 per month), presuming it spends no more than 30% of its income for housing. This percentage is consistent with mortgage underwriting practice, traditional credit analysis, and housing policy.

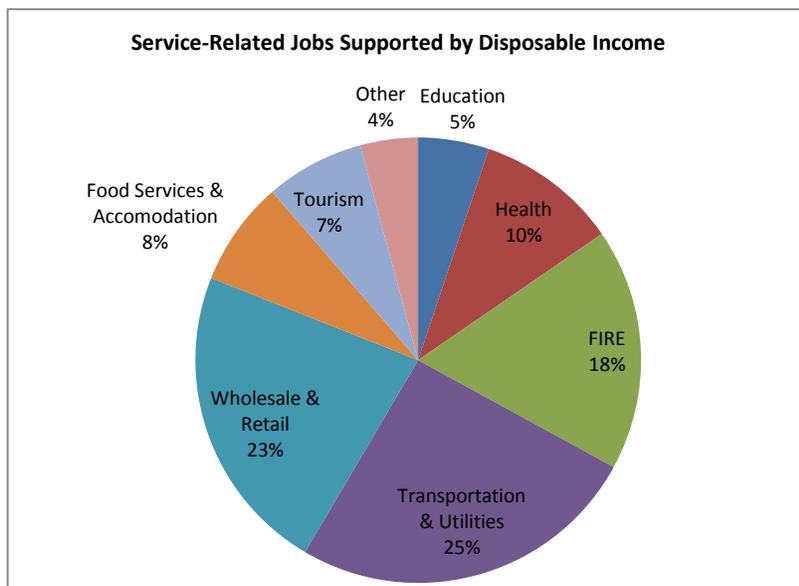
#### 2. Quantify the collective purchasing power of market-rate households

The National Consumer Expenditure Survey was used to calculate the disposable income of market rate households. A typical household in the Northeast spends the largest chunk of its income, 28%, on housing, including mortgage, insurance, and property taxes as well as home maintenance and furnishings. At 17%, the second largest category is transportation, including vehicle payments, registration, maintenance, and fuel. The third largest expenditure, 14%, is food, which includes meals eaten at restaurants as well as produce, meat, dairy, and other products purchased at supermarkets and eaten at home. Other categories include insurance, utilities,

health care, entertainment, education, and apparel. Once taxes and housing costs are eliminated, the market-rate household has \$45,900 in disposable income accounting for 51% of gross household income. One hundred market-rate households would have a collective purchasing power of \$4,590,000.



### 3. Translate collecting purchasing power to jobs



Estimates were made to correlate household spending by category with service jobs by industry sector. Jobs generated by mortgage and rent payments were excluded from analysis. The goods-producing sector, which includes jobs in agriculture, fisheries, forestry, mining, construction, and manufacturing, was also excluded. Thus, while food purchased at the supermarket may be grown in the field and processed in a factory, only the retail jobs supported by household spending are counted. Food eaten at home, for example, was assigned to the Wholesale and Retail sector, while meals eaten away from home were assigned to the Accommodation and Food Services sector. Similarly, income paid to utilities was assigned to Transportation and Utilities.

#### 4. Calculate the economic impact of job creation

The disposable income of 100 households purchasing market-rate homes in Portland would generate an economic impact of 121 jobs, \$4.8 million wages, \$13.4 million in GDP, and \$20.9 million in total output, which is broken down on the following chart. Each job has an average income of \$40,020.

**Economic Impact of 100 Households Purchasing Market Rate Ownership Units**

	Employment	Earnings	GDP	Output
Direct	80	\$3,336,816	\$9,984,358	\$15,617,667
Indirect + Induced	41	\$1,505,576	\$3,382,239	\$5,309,542
<b>Total</b>	<b>121</b>	<b>\$4,842,392</b>	<b>\$13,366,597</b>	<b>\$20,927,209</b>

Outputs were generated from the 2011 version of the *Connect Northern New England Economic Scenario Model* developed by Vital Economy and FairPoint Communications. Outputs were adjusted for inflation to 2014 dollars. The model is designed to provide order of magnitude estimates of economic impact resulting from the gain or loss of jobs, including the following:

- **Direct Employment:** Employment attributed to a particular business, activity or industry.
- **Indirect Employment:** Employment in down-stream industries that supply or provide services to the direct business, activity or industry.
- **Induced Employment:** Employment generated because of expenditures made by individuals employed directly or indirectly by the particular business, activity or industry.
- **Earnings:** Sum of wage and salary disbursements, supplements, and proprietors' income.
- **GDP:** Total market value of all final goods and services produced in the region.
- **Output:** Total economic output of a firm, industry, or economy without deducting intermediate inputs such as goods and services consumed by industries in the production of other final goods and services.

The Economic Scenario Model derives its data from the U.S. Bureau of Economic Analysis (BEA), which produces detailed data on economic activity by region and state. In order to calculate the indirect and induced effects on employment, earnings, output, and GDP, the Model uses BEA RIMS II multipliers, which are based on estimates of local area personal income and on the national input-output accounts.

#### 5. Calculate the number of median households supported by new jobs

Cumberland County's labor force is comprised of 167,365 workers age 16 and over. In the 2010 Census, 117,339 households were recorded in the county. Thus, there are 1.43 households for every job in the region. The disposable income from 100 new market rate households generates 121 jobs in the local economy, which can support 85 workforce households. The number of workforce households is multiplied by 62%, which is the percentage of Portland households earning less than the county's median income. The result, 53%, is the percentage of workforce housing demand generated by these 100 market-rate units. If the market, in keeping with current production patterns, supplies 29 affordable units for every 100 built, there would still be an unmet gap for 24 affordable units.

**Median Housing Demand Generated by Market Rate Households**

Jobs per Household	1.43
Median income households in Portland	62%
Total jobs generated by 100 market-rate households	121
Households supported by jobs	85
Affordable housing demand generated per job	53%
Potential market supply of affordable units	29%
<b>Gap</b>	<b>24%</b>

## AFFORDABILITY OF CURRENT HOUSING STOCK

### Rental Units

While recent trends demonstrate that new construction is increasingly unaffordable, there are still thousands of existing housing units in Portland that are affordable due to condition, size, turnover and other factors. Thanks to a special Census tabulation prepared by HUD, the chart below outlines the income of households who were living in these affordable units in 2011. In 2011, the HUD Area Median Family Income (HAMFI) for the Portland area was \$72,300. HUD's basic affordability assumption is that rent should consume no more than 30% of a household's gross income.

There are several important issues left answered by the data. Because respondents to the households are the renters themselves and not the landlords, it is impossible to determine the following: 1) which units are located in a housing project where rents are subsidized; 2) whether the rent reported is the actual rent charged to the tenant or the rent paid by a tenant minus a Section 8 voucher; and 3) what the rent would be if the unit were available to the marketplace. For example, certain housing units might be rented by family members of the landlord, who would charge a higher rent to the general public. Also, many landlords purposefully keep rents low for longtime tenants in order to avoid turnover. Turnover often commands higher rents, particularly if renovations occur during the vacancy.

Of the city's 17,585 rental units, 90%, or 15,800, are offered at rents affordable to households earning up to 80% of the region's median income. At first glance, these numbers seem to indicate that there is no affordable housing problem in the rental market. The reality, however, is that there is a mismatch between income and availability because renters do not seek to maximize their incomes on rent. While many households seek to buy "more house" than they need, renters tend to seek out the best bargain for their preferred location and/or the smallest unit that they can squeeze into. Some renters want to spend as little as possible so that they can save money for a home. Other renters may not compete well for housing in the private market against higher income renters with more stable jobs, incomes, and credit ratings. Another problem is size. Virtually half of the city's affordable rental units are studios, efficiencies, and one-bedroom apartments. Families are hard pressed to find large units at rents they can afford.

**Rent Affordable to Very Low Income Households Earning  $\leq$  30% of Median Income** - These are units with a gross rent affordable to households at or below 30% HAMFI. Of the 3,390 rental units offered at this rent level, 92% are occupied by households earning up to 100% HAMFI. Judging by the vacancy rate, competition is stiffest for units with three or more bedrooms.

**Rent Affordable to Low Income Households Earning  $>30$  to  $\leq 50\%$  of Median Income** - These are units with a gross rent affordable to households earning 30% to 50% of HAMFI. Of the 2,490 rental units offered at this level, 86% are occupied by households earning up to 100% HAMFI. Judging by the vacancy rate of 0%, competition is stiffest for units with three or more bedrooms.

**Rent Affordable to Moderate Income Households Earning  $>50$  to  $\leq 80\%$  of Median Income** - These are units with a gross rent affordable to households earning 50% to 80% of HAMFI. Of the 9,145 rental units offered at this price range, 74% are occupied by households earning up to 100% of HAMFI. Vacancy is tightest in this price range.

**Rent Affordable to Households Earning  $>80\%$  of Median Income** - These are units with a gross rent affordable to households with incomes above 80% of HAMFI. Of the 1,790 units offered at this rent level, 47% are occupied by households earning up to 100% of HAMFI. At 12.1%, the vacancy rate is highest amongst 3-bedroom units.

Name of Jurisdiction: Portland, Maine	Source of Data: 2007-2011 CHAS databook			
	Rental Units by # of bedrooms			
Rental Units by Affordability	0-1	2	3+	Total
<b>Units with gross rent affordable to a household earning 30% HAMFI</b>				
Household income 30% or less	1,320	480	425	2,225
Household income 30.1%-50%	365	100	205	670
Household income 50.1%-80%	80	65	60	205
Household income 80.1%-100%	15	0	0	15
Household income over 100%	10	10	95	110
Total occupied units	1,790	655	785	3,225
Vacant for Rent	80	60	25	165
Vacancy Rate	4.3%	8.4%	3.1%	4.9%
<b>Units with gross rent affordable to 50% HAMFI</b>				
Household income 30% or less	470	155	75	700
Household income 30.1%-50%	350	385	150	885
Household income 50.1%-80%	300	305	80	680
Household income 80.1%-100%	165	55	0	225
Household income over 100%	85	170	45	295
Total occupied units	1,370	1,070	350	2,790
Vacant for Rent	90	25	0	115
Vacancy Rate	6.2%	2.3%	0.0%	4.0%
<b>Units with gross rent affordable to 80% HAMFI</b>				
Household income 30% or less	1,270	695	410	2,375
Household income 30.1%-50%	660	600	115	1,375
Household income 50.1%-80%	915	945	310	2,165
Household income 80.1%-100%	530	405	220	1,155
Household income over 100%	720	920	435	2,075
Total occupied units	4,095	3,565	1,490	9,145
Vacant for Rent	170	135	55	360
Vacancy Rate	4.0%	3.6%	3.6%	3.8%
<b>Units with gross rent affordable to household earning over 80% HAMFI</b>				
Household income 30% or less	85	120	25	230
Household income 30.1%-50%	50	45	70	170
Household income 50.1%-80%	75	140	50	265
Household income 80.1%-100%	80	70	35	185
Household income over 100%	190	280	330	800
Total occupied units	480	655	510	1,650
Vacant for Rent	25	50	70	140
Vacancy Rate	5.0%	7.1%	12.1%	7.8%
<b>Total Occupied</b>	<b>7,735</b>	<b>5,945</b>	<b>3,135</b>	<b>16,805</b>
<b>Number vacant for rent</b>	<b>365</b>	<b>270</b>	<b>150</b>	<b>780</b>
<b>Vacancy Rate</b>	<b>4.5%</b>	<b>4.3%</b>	<b>4.6%</b>	<b>4.4%</b>
<b>Units affordable to households earning up to 80% of AMI</b>	<b>7,595</b>	<b>5,510</b>	<b>2,705</b>	<b>15,800</b>
<b>Percent of housing stock that is affordable</b>	<b>94%</b>	<b>89%</b>	<b>82%</b>	<b>90%</b>

## Home Ownership Units

In 2011, 66% of existing homes, or 6,895 units, were affordable to households earning 100% of the region's median household income. Thanks to a special tabulation of the American Community Survey, the chart on the next page illustrates the income of households who were living in these affordable units in 2011.

The data should be used with caution. Unlike rents which can rise and fall with the economy, most homeowners lock themselves into a 30-year mortgage with a fixed interest rate. Except for fluctuations in taxes and insurance, they make the same monthly mortgage for the life of the loan. The Census asks homeowners to estimate what they think their home is worth. Some homeowners may consult their tax bill while others find out the selling prices earned by neighbors. Still others simply make a guess. Because this value does not necessarily align with the price the home would sell for if it was listed on the market, it is substantially different from the market data used earlier in this report, which was provided by Maine Housing and the City Assessor based on actual sales of new and existing homes. While it may be unreliable, particularly in light of the boom and bust of the housing market, it is the best source of data for determining who lives in the region's affordable ownership stock, including condominiums, ranches, capes and bungalows. Mobile homes, boats, and recreational vehicles are not included in the data.

Another caution is that the data is not indicative of cost burden. For example, in 2011, there were 555 homes with a value affordable to households earning over 100% of median income that were occupied by households earning 50% or less of median income. This does not mean that the home is unaffordable to them. Certainly a large percentage of homeowners have owned their homes for a very long time: while initially the mortgage payment may have been more than 30% of their income, as wages rise, mortgage payments gradually decline as a percentage of household income. Some low income owners, such as senior citizens, have paid off their mortgage completely, leaving them "house-rich" but "cash-poor."

To determine the maximum home value affordable to households by income, HUD utilized a series of assumptions: a 31% monthly payment standard, a 4.5% down payment, a 5.5% interest rate, a 1.75% upfront insurance premium, a .55% annual insurance premium, and 2% for annual taxes and insurance. Based on these assumptions, HUD's estimated value to income ratio for an affordable home is 3.36, i.e., a household can afford a home costing no more than 3.36 times its income. In 2011, the HUD Area Median Family Income (HAMFI) for the Portland area was \$72,300. A household earning this median income could afford a home price up to \$242,928, which is 22% than Maine Housing's estimate for the same base year. The reason for this discrepancy is a different definition of median income. HAMFI, the reference point for the HUD data, is scaled to a family of four. Maine Housing's estimate, however, encompasses for all households, including single people living alone. Thus, while the HAMFI for the Portland area was \$72,300, Maine Housing's estimate for the same year was \$54,944, and for the American Community Survey, it was \$57,267.

**Value Affordable to Low Income Households Earning 50% of Median Income** – The value of these homes are less than or equal to the maximum amount that would be affordable to a household earning 50% of median family income, or \$36,150. Under HUD's financing assumptions, such a family could afford a home of no more than \$122,000. There were 540 occupied units with a value in this range: 75% were occupied by households earning 100% or less of median income. There were 100 vacant homes at this value accounting for a vacancy rate of 15.6%. Such a high rate is indicative of foreclosure and/or deferred maintenance.

**Value Affordable to Moderate Income Households 80% of Median Income** - A household earning 50.1-80% HAMFI, or \$36,151-\$57,840, could afford a home of \$122,000-\$194,000. There were 3,080 occupied units with a value in this range: 54% were occupied by households earning up to 100% HAMFI. While homes in this price range might be small, suffer from deferred maintenance, and/or be located in high traffic areas, the tight vacancy rate of 0.5% indicates they are in high demand.

**Value Affordable to Households Earning 100% of Median Income** - A household earning 80.1%-100% of median income, or \$57,841-\$72,300, could afford a home of \$194,000-\$243,000. There were 3,125 occupied units with a

value in this range: 39% were occupied by households earning up to 100% HAMFI. These homes might in good condition and in desirable neighborhoods, but lack high value amenities, such as a water view, two-car garage, and/or historic character. Vacancy is lowest among homes with 0-2 bedrooms.

**Value Affordable to Households Earning over 100% of Median Income** – These homes, worth over \$243,000, exceed affordability for a household earning 100% of HAMFI, or \$72,300. There are 7,005 occupied units with a value in this range: 28% are occupied by households earning up to 100% HAMFI. At 3.9%, the vacancy rate is highest among homes with 0-1 bedrooms, which are probably condominiums.

Name of Jurisdiction: Portland, Maine	Source of Data: 2007-2011 CHAS databook								
	With a mortgage				Without a mortgage				
Homes by Affordability	Homes by # of bedrooms				Homes by # of bedrooms				
Occupancy by Income	0-1	2	3+	Total	0-1	2	3+	Total	Total
<b>Units with a value less than \$122,000 (affordable to a household earning 50% area median family income)</b>									
Household income 30% or less	0	15	4	20	0	10	40	55	75
Household income 30.1%-50%	0	0	35	35	0	20	20	40	75
Household income 50.1%-80%	0	10	55	65	0	25	50	75	140
Household income 80.1%-100%	0	10	90	100	0	0	15	15	115
Household income over 100%	0	0	80	80	0	0	50	50	130
Total occupied units	0	35	264	305	0	55	175	235	540
Vacant for Sale	25	45	25	100					
Vacancy Rate	100.0%	33.3%	5.4%	15.6%					
<b>Units worth \$122,000-\$194,000 (affordable to a household earning 50.1-80% of area median family income)</b>									
Household income 30% or less	0	95	25	120	0	0	55	55	175
Household income 30.1%-50%	0	50	115	165	10	100	50	160	325
Household income 50.1%-80%	20	105	245	370	0	115	190	300	670
Household income 80.1%-100%	0	175	235	405	0	40	65	110	515
Household income over 100%	40	250	810	1,100	0	65	225	290	1,390
Total occupied units	60	675	1,430	2,165	10	320	585	915	3,080
Vacant for Sale	0	15	0	15					
Vacancy Rate	0.0%	1.5%	0.0%	0.5%					
<b>Units worth \$194,000-\$243,000 (affordable to a household earning 80.1-100% of area median family income)</b>									
Household income 30% or less	0	10	105	115	10	10	50	70	185
Household income 30.1%-50%	25	0	75	100	0	0	70	70	170
Household income 50.1%-80%	0	125	320	440	0	4	75	80	520
Household income 80.1%-100%	0	40	135	175	0	65	110	170	345
Household income over 100%	45	250	1,390	1,685	0	35	180	215	1,900
Total occupied units	70	425	2,025	2,520	10	114	485	605	3,125
Vacant for Sale	0	0	35	35					
Vacancy Rate	0.0%	0.0%	1.4%	1.1%					
<b>Units worth over \$243,000 (affordable to a household earning over 100% of area median family income)</b>									
Household income 30% or less	30	70	25	130	30	60	25	115	245
Household income 30.1%-50%	60	20	75	155	0	70	85	155	310
Household income 50.1%-80%	115	295	215	620	15	90	170	280	900
Household income 80.1%-100%	30	125	190	350	0	50	90	140	490
Household income over 100%	125	1,100	2,730	3,960	85	335	680	1,100	5,060
Total occupied units	360	1,610	3,235	5,215	130	605	1,050	1,790	7,005
Vacant for Sale	20	0	35	55					
Vacancy Rate	3.9%	0.0%	0.8%	0.8%					
<b>Total Occupied</b>	<b>490</b>	<b>2,745</b>	<b>6,954</b>	<b>10,200</b>	<b>150</b>	<b>1,094</b>	<b>2,295</b>	<b>3,545</b>	<b>13,745</b>
<b>Number vacant for sale</b>	<b>45</b>	<b>60</b>	<b>95</b>	<b>205</b>					
<b>Vacancy Rate</b>	<b>6.6%</b>	<b>1.5%</b>	<b>1.0%</b>	<b>1.5%</b>					
<b>Units affordable to households up to 100% of AMI</b>	<b>175</b>	<b>1,684</b>	<b>5,024</b>	<b>6,895</b>					
<b>Percent of housing stock that is affordable</b>	<b>33%</b>	<b>60%</b>	<b>71%</b>	<b>66%</b>					

## TOOLS TO INCREASE HOUSING AFFORDABILITY

The Great Recession of 2008 ushered in a market correction that has increased the affordability of Portland's existing housing stock. At the same time, however, the recovery, has generated a certain bullishness to create new housing at the high end of the market. Without incentive or control, new construction remains out of reach of the middle class. The following tools may inform the development of policy to balance access to the newest housing boom.

**Density Bonus:** This tool grants an increase in the number of units allowed by right in order to provide an incentive for the construction of affordable housing. While the incentive can work as a stand alone tool, it is typically incorporated into a contract zone, overlay district, or cluster subdivision. A model ordinance developed by the American Planning Association posits 20% as a reasonable target for affordable housing. The Town of Brunswick, Maine has incorporated a density bonus into their zoning ordinance, complemented by a provision for the reduction of fees, including building permits, stormwater, solid waste, recreation and traffic impacts.

<https://www.planning.org/research/smartgrowth/pdf/section44.pdf>

<http://www.brunswickme.org/wp-content/uploads/2012/04/Web.Version.Zoning.Ordinance.pdf>

**Inclusionary Zoning:** This tool requires that a certain percentage of units in a new development be set aside as affordable, with or without an increase in density. Inclusionary zoning is widely used by cities throughout the states of California, Massachusetts, New Jersey, Virginia, and Maryland. In Burlington, Vermont, the mandatory set-aside ranges from 15%-25%, depending on the market price of the rest of the units. The Town of Cape Elizabeth, Maine requires that 10% of the units in a subdivision be set aside for moderate income households, or 5% for low income.

[http://www.nhc.org/media/documents/IZ\\_lessons\\_in\\_MA.pdf](http://www.nhc.org/media/documents/IZ_lessons_in_MA.pdf)

<http://www.burlingtonvt.gov/CEDO/Inclusionary-Zoning>

[http://www.capeelizabeth.com/government/rules\\_regs/ordinances/zoning/zoning.pdf](http://www.capeelizabeth.com/government/rules_regs/ordinances/zoning/zoning.pdf)

**Reduction in Parking:** This tool reduces the number of parking spaces that must be constructed to support each housing unit. Eliminating the typical suburban requirement of two spaces per unit can not only slash housing construction costs by 25%, but free up land that can be used to increase density. Concentrating homes, jobs, services, and stores increases the likelihood that people will walk, bike or take the bus to get from one place to another. On the Portland peninsula for example, 77% of households own just 0-1 vehicles, compared with 43% in the U.S. as a whole. The City of Portland, Oregon has reduced or eliminated parking requirements for new development based on the proximity of transit services.

<http://www.vtpi.org/park-hou.pdf>

<http://www.portlandonline.com/shared/cfm/image.cfm?id=53320>

**Rent control:** This tool establishes a ceiling on rent increases permitted in the public and private rental market. Los Angeles, San Francisco, New York City, and Cambridge, Massachusetts have previously adopted rent control policies. While rent control can act as a temporary "breather" from soaring prices, it has the potential to create housing shortages in the long run by discouraging new construction.

<http://www.nycrgb.org/html/resources/faq/rentcontrol.html>

**Do Nothing:** At first glance, the construction of luxury housing in any downtown would be considered a boon, not a burden. In the long run, however, neighboring property owners will follow suit, running up sales prices and rents unsustainable by real growth in wages, incomes, jobs, or property improvements. For workers, the consequence is longer commutes from suburbs and rural areas. Others will establish themselves in less expensive urban markets, such as Biddeford, Lewiston, Gardiner, and Bath. Absent a correction by regulation or the market, these forces

could take shape, first as a collection of individual choices which then swell into an undeniable movement. And they did happen during the 2000's.

## CONCLUSION

Portland's vitality depends on the availability of a diverse array of housing options, particularly apartments, which are often the first and only choice for working professionals, immigrants, and families. Over the last five years, a number of trends have solidified:

- 62% of Portland households earn less than the county's median income, including 38% of homeowners and 81% of renters. Over the last decade, the number of households earning less than median income has increased 10%.
- The Great Recession of 2008 was a market correction that increased the affordability of existing housing – by giving wages a chance to catch up while stalling home sales and rents.
- Current housing production is not meeting the needs of households earning 80%-100% of median income. If recent trends continue, there will be a gap between supply and demand of workforce housing units ranging from 24%-33%.
- While the Portland housing market contains units in a variety of price ranges, the reality is that those with higher incomes, stable jobs, and good credit ratings are in a better position to compete for affordable units that are subsidized and unsubsidized. This creates a glut of affordable units at the low end of the range that may be in rough condition, with deferred maintenance issues.
- The rental market is extremely tight for 3-bedroom units that can accommodate working families.
- Based on the vacancy rate, the inventory of one-bedroom condos targeting households earning over the median income is reaching a point of saturation.

Well into the recovery, the region is on the pathway to another boom marked by a rise in new construction, low vacancy rates, and increasing rents and home prices. But the recovery also represents an opportunity for balance. By increasing the diversity of housing through incentive and regulation, the region can forestall the possibility of another crash due to soaring prices unsustainable by real job growth. Trend or choice? It is up to us.



## **Transforming Forest Avenue**

### **Timeline**

06.04.2012    Approved by City Council  
05-06.2011    Public hearings

### **Summary**

Forest Avenue serves as one of the Portland region's most critical transportation corridors, linking the highly urbanized peninsula to Interstate-295 and suburban communities to the northwest. The City of Portland recognizes that Forest Avenue has many assets, including its existing commercial activity, its access to USM, its historic neighborhood nodes with capacity for mixed-use development, its frequent transit service, and its infill opportunities. It is also widely recognized that years of auto-oriented development have created challenges for Forest Avenue.

In this light, the City of Portland, in conjunction with the Portland Area Comprehensive Transportation System, initiated *Transforming Forest Avenue*, an integrated transportation and land use plan for the Forest Avenue corridor.

*Transforming Forest Avenue* included an intensive five-month examination of the portion of Forest Avenue from Park Avenue north through Woodfords Corner. The study developed land use, transportation, and streetscape alternatives based on public involvement and best practices, analyzed these against transit-supportive development and complete streets principles, and culminated in a concept plan for the corridor as a whole. The process involved two Public Advisory Committee meetings and two public meetings, as well as a study website.

Ultimately, *Transforming Forest Avenue* resulted a wide range of land use, streetscape, and transportation-related recommendations, all designed to encourage transit-supportive development and the evolution of Forest Avenue as a complete street.

The City of Portland recognizes that Forest Avenue will not change overnight, and that it will take a concerted effort on the part of residents, business-owners, the city, and the region to make these plans a reality. However, by taking the steps outlined here and building on the street's existing assets, eventually Forest Avenue can be a more complete street, one that works for businesses and homes, bicyclists and pedestrians, transit-riders and drivers. The final outcome? A truly transformed Forest Avenue; an attractive and walkable neighborhood destination.

### **In this chapter**

- **Transforming Forest Avenue**, report, IBI Group, Inc., Gorrill-Palmer Consulting Engineers, Inc., and Barton & Gingold, 06.04.2012



# Transforming Forest Avenue

By IBI Group Inc. with Gorrill-Palmer Consulting Engineers, Inc. and Barton & Gingold

Adopted by Portland City Council June 4, 2012







# FACTS

Portland Area Comprehensive Transportation System

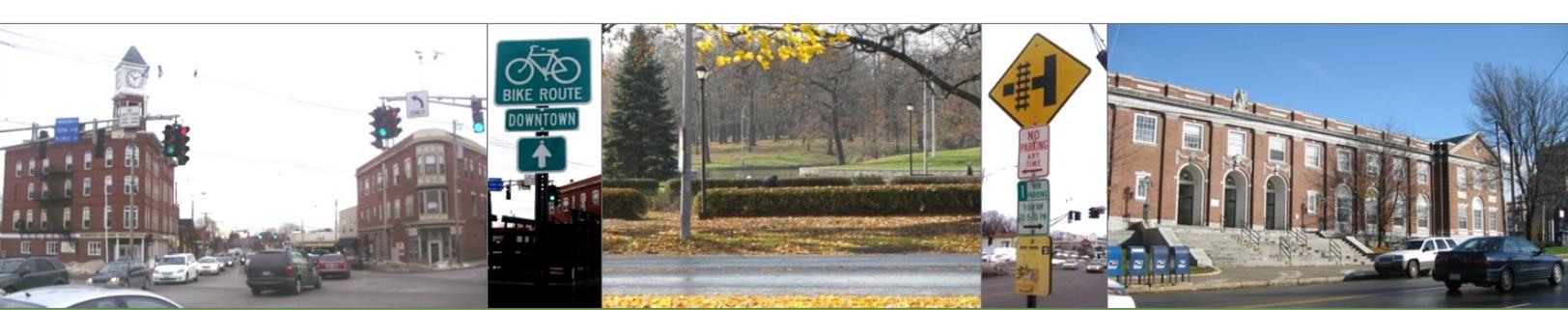
---



**GP** Gorrill-Palmer Consulting Engineers, Inc.  
*Engineering Excellence Since 1998*

 **BARTON  
& GINGOLD**  
A division of POWER Engineers





## Acknowledgements

### Public Advisory Committee

Bill Hall (Co-Chair)  
Lee Lowry (Co-Chair)  
John Bennett  
Stuart Collins  
Keith Cunningham  
Martha Elkus  
Peter Eyerman  
Hallie Gilman  
Alex Landry  
Naomi Mermin  
Tom Ridge  
John Spritz  
Will Watman  
Craig Hutchinson  
John Colton  
Sarah Cushman  
David Evans  
Frank Gallagher  
Alan Kuniholm  
David Libby  
Pat Muzzy  
Drew Sigfridson  
John Sundling  
Bill Welch

### Staff Members

*City of Portland*  
Mark Rees, City Manager  
Jeff Levine, Planning and Urban Development Director  
Alex Jaegerman, Planning Division Director  
Molly Casto, Senior Planner & Project Manager  
Rick Knowland, Senior Planner  
Kirsten Stray-Gundersen, Planning Intern  
Katherine Earley, Engineering Services Manager  
Bruce Hyman, Bicycle and Pedestrian Program Coordinator

### *Greater Portland Council of Governments*

John Duncan, PACTS Representative  
Carl Eppich, PACTS Transportation Planner  
Paul Niehoff, PACTS Senior Transportation Planner  
Stephanie Carver, GPCOG Transportation and Land Use Planner

### Planning Board

Carol Morrissette, Chair  
Stuart O'Brien, Vice Chair  
Timothy Dean  
Bill Hall  
Joe Lewis  
David Silk

### City Council

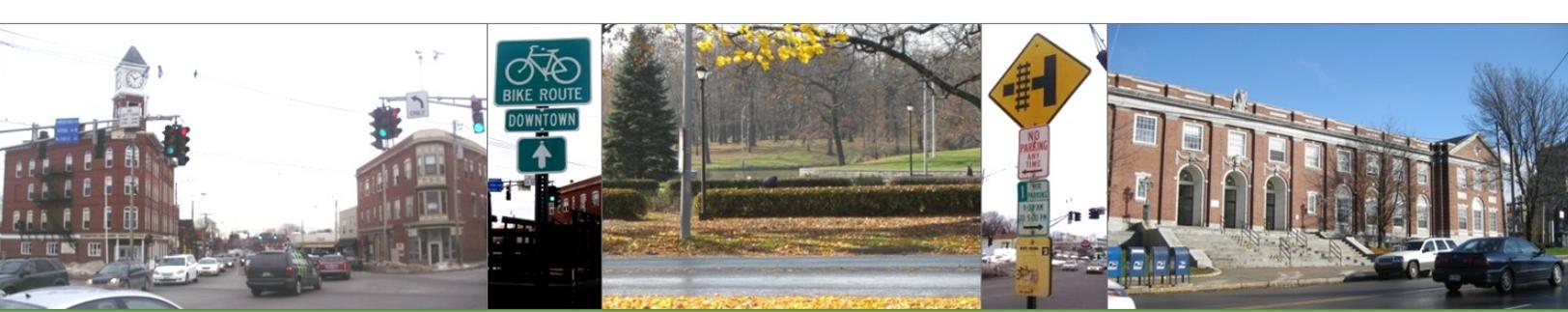
Mayor Michael F. Brennan  
John M. Anton  
John R. Coyne  
Kevin J. Donoghue  
Jill C. Duson  
Cheryl A. Leeman  
David A. Marshall  
Nicholas M. Mavodones, Jr.  
Edward J. Suslovic

### Project Consultants

Martin Hull, IBI Group  
Tegin Teich, IBI Group  
Tom Gorrill, Gorrill-Plamer Consulting Engineers  
Tobey Williamson, Barton & Gingold  
Connie Gemmer, Barton & Gingold

**Order 209-A adopted by the Portland City Council on June 4, 2012 as an element of the City's Comprehensive Plan.**

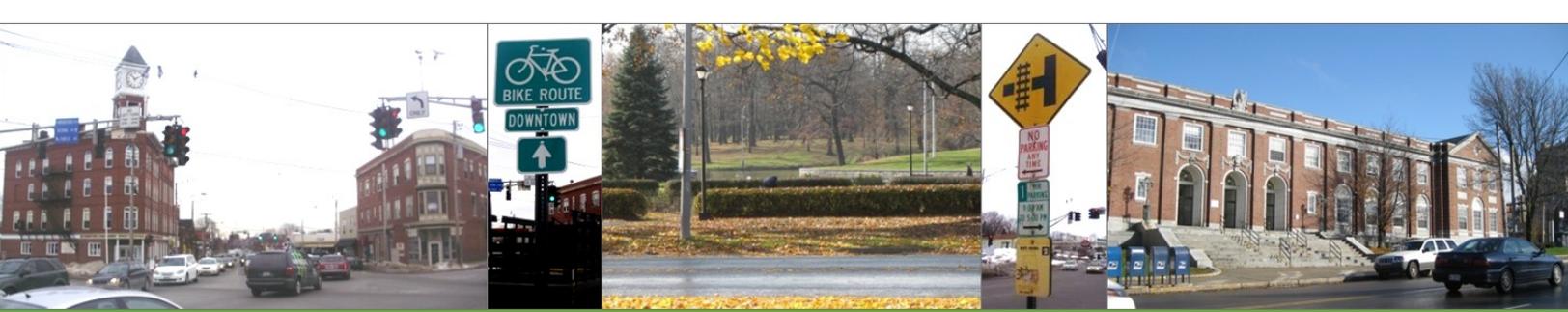




# Table of Contents

<b>Executive Summary</b>	i
<b>I. Transforming Forest Avenue Concept Plan</b>	
1. Introduction	I-1
2. Process	I-1
3. Land Use and Zoning Concept Plan	I-3
4. Transportation and Streetscape Concept Plan	I-11
5. Further Analysis	I-27
<b>II. Principles, Codes and Guidelines</b>	
1. Transit-Support Development Principles	II-1
2. Examples of Applications of Form-Based Code and Design Guidelines	II-3
3. Complete Streets Principles	II-4
<b>III. Final Concept Plan Visualizations</b>	
1. Segment A - Deering Oaks Park	
i. Transportation and Streetscape Concept Plan	
ii. Transportation and Streetscape Concept Plan: Street Section	
iii. Lane Configuration Concept: I-295	
iv. Visualization of Improvements at I-295	
2. Segment B - Central Forest Avenue	
i. Transportation and Streetscape Concept Plan	
ii. Transportation and Streetscape Concept Plan: Street Section	
3. Segment C - Woodfords Corner	
i. Transportation and Streetscape Concept Plan	
ii. Transportation and Streetscape Concept Plan: Street Section	
iii. Lane Configuration Concept: Woodfords Corner	
iv. Visualization of Improvements at Woodfords Corner	





# Executive Summary



## Executive Summary

Forest Avenue serves as one of the Portland region’s most critical transportation corridors, linking the highly urbanized peninsula to Interstate 295 and suburban communities to the northwest. Along its course, Forest Avenue passes established residential neighborhoods, historically dense commercial districts, large employers, post-WWII shopping plazas, and school and community centers. The City of Portland recognizes that Forest Avenue has many assets – its existing commercial activity, its access to USM, its historic neighborhood nodes with capacity for mixed-use development, its frequent transit service, and its infill opportunities. It is also widely recognized that years of auto-oriented development have created challenges for Forest Avenue. In this light, the City of Portland, in conjunction with the Portland Area Comprehensive Transportation Study (PACTS), initiated *Transforming Forest Avenue*, an integrated transportation and land use plan for the Forest Avenue corridor.

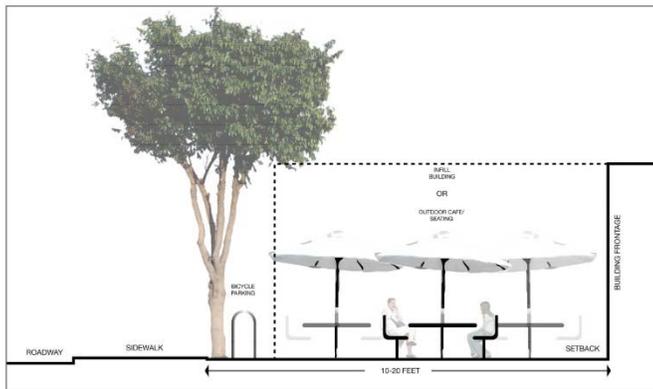
*Transforming Forest Avenue* included an intensive five-month examination of the portion of Forest Avenue from Park Avenue north through Woodfords Corner. The study developed land use, transportation, and streetscape alternatives based on public involvement and best practices,



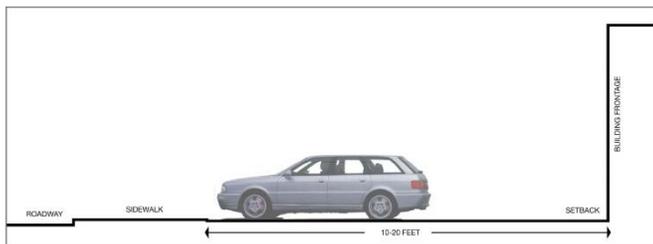
analyzed these against transit-supportive development and complete streets principles, and culminated in a concept plan for the corridor as a whole. The process involved two Public Advisory Committee meetings and two public meetings, as well as a study website.

Ultimately, *Transforming Forest Avenue* resulted a wide range of land use, streetscape, and transportation-related recommendations, all designed to encourage transit-supportive development and the evolution of Forest Avenue as a complete street. The plan suggests:

- Installing high-quality and consistent street furniture, lighting, and landscaping to brand Forest Avenue as a place;
- Upgrading sidewalks, ramps, and crosswalks to provide universal access and using techniques such as asphalt stamping to create a more pedestrian-oriented atmosphere;
- Designating shared bicycle lanes and providing additional bike parking;
- Introducing off-peak shuttle service and providing bus stop amenities, including benches and shelters, at key locations;



Possible Infill Strategies

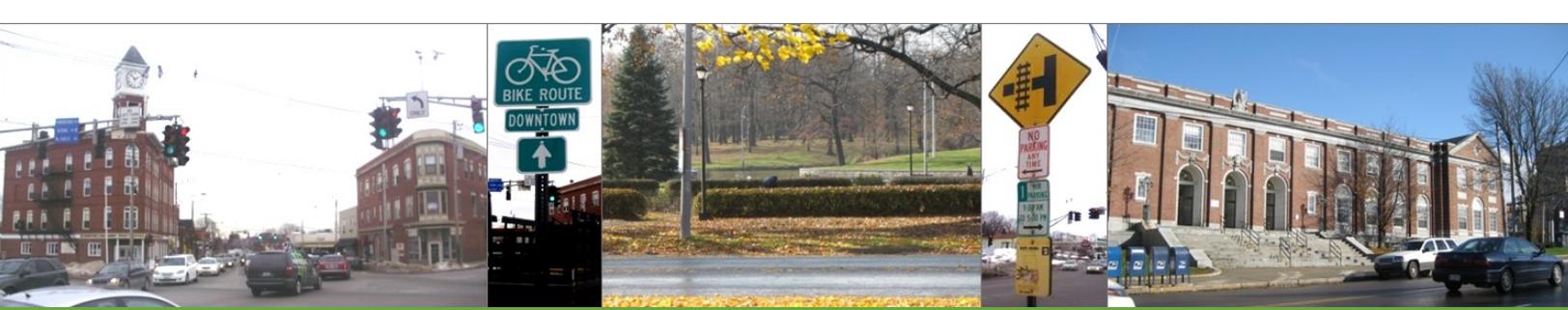


Existing Front Yard Configurations

- Creating a gateway to downtown by:
  - Widening and landscaping the median at the southerly end of the corridor;
  - Reducing the number of travel lanes between High Street and Park Avenue to allow more space for bicycle facilities; and
  - Installing bulb-outs at Park Avenue/Portland Street;
- Enhancing bicycle and pedestrian safety and character from Marginal Way through the I-295 underpass by:
  - Installing bollard lighting under the bridge;
  - Establishing an off-street multi-use path on both sides of Forest Avenue;
  - Creating shared bicycle lanes for more experienced riders; and
  - Coordinating with MaineDOT to provide bicycle and pedestrian safety enhancements at the ramp crossings;
- Encouraging access to businesses in the central portion of the corridor by completing the pedestrian crossing at Preble Street and calming traffic on side streets;
- Enhancing the existing node at Woodfords Corner by:
  - Improving traffic flow with parking and turning restrictions;
  - Installing a bulb-outs where warranted;
  - Adding planters, asphalt stamping, and street furniture;
  - Enhancing crosswalks; and
  - Improving lane markings and directional signage; and
- Pursuing further study of existing land use policy, wayfinding, bus stop placement, parking policy, and stormwater management on the corridor



The City of Portland recognizes that Forest Avenue will not change overnight, and that it will take a concerted effort on the part of residents, business-owners, the city, and the region to make these plans a reality. However, by taking the steps outlined here and building on the street's existing assets, eventually Forest Avenue can be a more complete street, one that works for businesses and homes, bicyclists and pedestrians, transit-riders and drivers. The final outcome? A truly transformed Forest Avenue, an attractive and walkable neighborhood destination.



# Chapter I. Transforming Forest Avenue Concept Plan

<b>1. Introduction</b>	<b>I-1</b>
<b>2. Process</b>	<b>I-1</b>
<b>3. Land Use and Zoning Concept Plan</b>	<b>I-3</b>
<b>4. Transportation and Streetscape Concept Plan</b>	<b>I-11</b>
<b>5. Further Analysis and Future Studies</b>	<b>I-27</b>



## 1. Introduction

IBI Group Incorporated, Gorrill-Palmer Consulting Engineers Incorporated, and Barton and Gingold Communications Management were retained by the Portland Area Comprehensive Transportation Committee (PACTS) and the City of Portland to “develop an integrated transportation and land use plan that will leverage transportation and other public investments to stimulate private redevelopment and infill of underutilized properties.”<sup>1</sup> The Transforming Forest Avenue Concept Plan evolved from a process of assessing existing conditions and evaluating alternatives based on feedback in the public process. This Concept Plan is a combination of land use and zoning, as well as transportation and streetscape plans. Together they are meant to represent a possible vision for the corridor’s future development.

The Land Use and Zoning component of the Concept Plan is described generally for the entire corridor. The Transportation and Streetscape component of the Concept Plan is presented as a set of improvements for the whole corridor, and an application of the Plan in each of the three segments (A, B, and C) of the study corridor shown in **Error! Reference source not found.**

The Land Use and Zoning component is described at a higher level, in a more goal-oriented perspective. The Transportation and Streetscape component is illustrated through a variety of transportation and streetscape improvements that have been proposed and vetted for basic feasibility based on the existing conditions analysis, and the future traffic analysis carried out for this report. This set of possible improvements has been further narrowed down based on public feedback. Future studies should determine the full extent to which many of these improvements can be carried out.

## 2. Process

The Transforming Forest Avenue Concept Plan is based on the five-month Transforming Forest Avenue Study. The goal of the study was to determine a land use and transportation plan for a portion of Forest Avenue from Park Avenue/Portland Street to the railroad crossing north of Woodfords Corner. The Concept is based on a context sensitive approach and was developed in accordance with Complete Streets, and Transit-Supportive Development (TSD) principles. The following tasks were carried out in the Transforming Forest Avenue study:

- The development of TSD and Complete Streets principles
- The assessment of existing conditions for both land use and transportation with separate deliverables
- The analysis of existing traffic conditions, including Level of Service assessment
- The analysis of the corridor’s streetscape, including the creation of three street sections of existing conditions
- The development of three land use and zoning alternatives
- The development of three transportation and streetscape alternatives
- The analysis of future traffic conditions for the year 2035
- The development and application of evaluation tables for the land use and zoning alternatives and the transportation and streetscape alternatives

---

<sup>1</sup> From *The Portland Area Comprehensive Transportation System (PACTS) Request for Proposals for a Portland -Forest Avenue Integrated Transportation and Land Use Plan*, November 2, 2010.

- The development of draft alternative for the Concept Plan from feedback on alternatives
- The development of a concept plan
- The Enhanced Project Scoping (EPS) for two locations on the corridor (I-295 and Woodfords Corner)

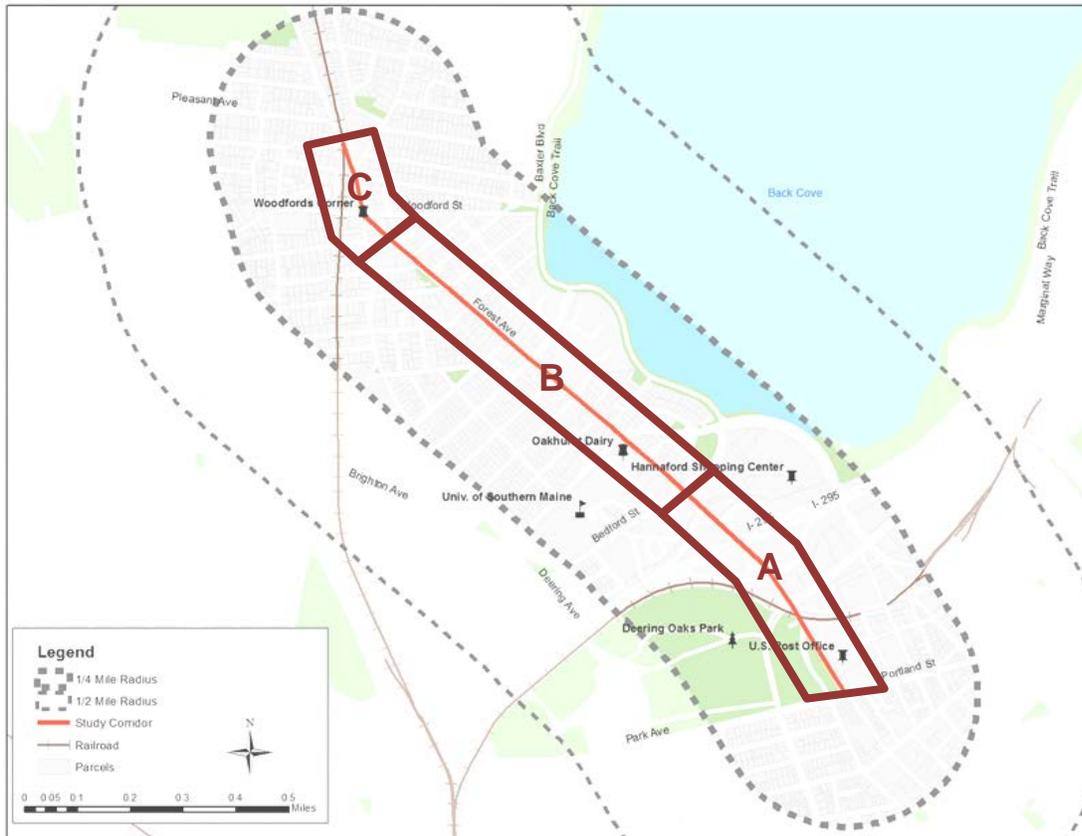


Figure 1: Study Area Segments for Transportation Forest Avenue

This process included the submission of five memoranda summarizing the results of various stages of this process. Other deliverables throughout this process included the Transit Supportive Development and Complete Streets principles, evaluation tables, and other items. Finally, maps, street sections, diagrams, and renderings of the final concept plan are included in Chapter III of this report.

The Concept Plan and the vision of Forest Avenue contained within were developed based on input by the City of Portland, and Portland Area Comprehensive Transportation System (PACTS), and reflect the input of stakeholders, including residents and business owners along the corridor. Stakeholder and public input was given in two Public Advisory Committee meetings held on May 4, 2011 and June 15, 2011, as well as two Public Meetings held on May 12, 2011 and June 22, 2011. The project timeline was compressed significantly, so the public process was also compressed; however, feedback was still obtained on major deliverables in the study. The first Public Advisory Committee meeting and Public Meeting included discussion of existing conditions, TSD and Complete Streets principles, as well as key challenges and opportunities on

the corridor. The draft alternatives for land use and zoning, as well as transportation and streetscape were presented to the Public Advisory Committee at the second meeting. A draft set of improvements for the Concept Plan was presented to the public at the second Public Meeting for feedback. Comments have also been received through individual meetings and other forms of feedback, such as email.

### **3. Land Use and Zoning Concept Plan**

#### **3.1 Alternatives**

Three conceptual alternatives that embodied different land use and zoning strategies were defined and evaluated in order to explore possibilities for the future of land development around Forest Avenue. The alternatives included modification of the current zoning framework, and an exploration of alternative zoning paradigms, such as form-based codes, which a handful of cities and towns across the country are beginning to implement. The project's Transit-Supportive Development (TSD) principles (see Chapter II), developed with input from the City of Portland, PACTS, Project Advisory Committee, and the public, served as the guidance for selecting improvements to explore and evaluate.

##### **3.1.1 Summary of Alternatives**

The following alternatives were developed and presented to the Public Advisory Committee for feedback.

##### **Use-Based Zoning**

Euclidean zoning, based on land uses, is the most well known and widely used form of zoning code. In this approach, land uses, such as commercial, residential, industrial, institutional, and so on, are defined and grouped in zoning districts. Development along the study corridor is currently governed by an Euclidean code (Figure 2). The zoning for Forest Avenue could be considered typical for a commercial corridor, with mixed-use commercial along Forest Avenue, surrounded by residential areas. There is an overlay zone around the University of Southern Maine (USM), making this area subject to different guidelines than the rest of the residential zone around it.

The first conceptual alternative (Use-Based Zoning) envisioned a strategy based on adapting the current zoning to the principles of TSD. Some possible enhancements to the existing code were explored, as well as some improvements and incentives for the existing City of Portland design guidelines.

##### **Form-Based Zoning**

The second conceptual alternative involved the application of a Form-Based Code (FBC), which is a contemporary form of zoning which regulates development based on the desired urban form rather than uses. FBCs address the scale and type of blocks and streets, relationships between buildings, and relationship between buildings and the public realm by incorporating three primary elements: vertical form, site design, and land use. Land use is still addressed in FBC, though it is generally considered secondarily to form. A regulating plan is used to designate an area by the appropriate form of development (i.e. designate a character), rather than by land use.

Form-Based Codes typically aim towards some of the following goals:

- Achieving quality aesthetics in neighborhoods and village centers

- Improving walkability
- Increasing the amount of neighborhood parks and open space
- Providing safer neighborhoods and village centers day and night
- Conserving city resources (infrastructure and others)
- Creating a stronger sense of place and identity for neighborhoods and village centers
- Creating economic growth opportunities
- Providing more housing options for citizens
- Conserving agriculture lands by providing village centers and reducing sprawl

Some examples of developments that resulted from implementing design guidelines and FBCs are shown in Chapter II. Many of the abovementioned goals are already identified in adopted City of Portland policy documents such as the Comprehensive Plan.



Figure 2: Existing Zoning on Forest Avenue

## Hybrid Zoning

The third conceptual alternative (Hybrid Zoning) retained the existing Euclidean zoning code with some enhancements to achieve TSD outcomes, while incentivizing the use of FBCs or providing FBC overlays at certain locations. Overlays would be used to achieve certain goals in certain locations, such as providing a housing and activity center for USM students or providing an intensive residential feeder for the commercial activity on the corridor.

### 3.1.2 Evaluation of Alternatives

Alternatives were evaluated qualitatively according to the TSD principles and a preliminary assessment of institutional feasibility, technical feasibility, and cost was conducted. Figure 3 shows a summary of that evaluation. Each category for which alternatives were evaluated has a

weight assigned to it that reflects the priorities and goals of the project. For example, in this visioning exercise, cost is weighted less than the realization of the principles or the feasibility. Weighted averages were taken in several stages. First, all of the principles were evaluated and the weighted average taken for each category. Then, an overall weighted average for the principles was calculated. This weighted average was considered with weighted averages for feasibility and cost to determine an overall rating.

Overall, the alternatives received the same rating. Alternatives achieved different things that averaged the same rating. For example, FBCs may optimally achieve TSD principles, but they may be less politically attractive and more costly to prepare. Use-Based Zoning might not be able to address as many of the TSD principles, but is a widely accepted zoning method, and enhancements to current zoning would be less costly than developing a new strategy.

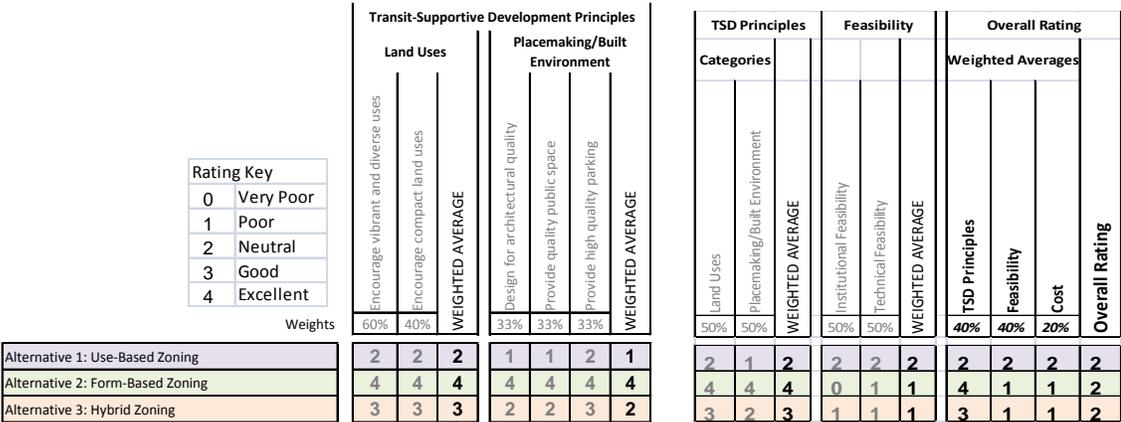


Figure 3: Evaluation of Land Use and Zoning Alternatives

### 3.2 Concept Plan

Feedback during the public process for *Transforming Forest Avenue* indicated that there is general satisfaction with the current zoning code. The evaluation indicates that although it may not be the ideal approach to achieving TSD principles, it is more feasible and less costly than other approaches. Therefore, it is likely that for the time being, the approach to zoning will not change. Enhancements, adjustments, or incentives can still be made to the existing zoning to promote TSD principles. The following subsections describe the way in which Transit Supportive goals could be realized given the existing zoning approach.

#### 3.2.1 Vibrant and Diverse Land Uses

The existence of vibrant and diverse land uses should stimulate a variety of activity at all times of day in order to increase the economic vitality and perceived safety along the corridor. Varied land use would also provide a variety of options to residents and visitors for living, working, and engaging in recreational activities. Providing a mixture of uses also provides multiple reasons to visit the same location, making transit a more feasible or reasonable way to travel and reach destinations.

Mixed use is typically achieved by having a variety of uses located in close proximity, either within the same building or in adjacent structures. A typical example is to have commercial on the bottom floor of a building and residential above. The current zoning code allows for mixed use,

particularly in the B-2 and B-2b zoned areas. Some examples can already been seen in multi-story buildings in which the first floor is commercial and upper residential. Conditional uses also permit a greater variety than the zoning code normally allows, though in practice these uses rarely occur along the corridor.

Changing the composition of land uses can be a slow process focusing primarily on new development. A shift in composition can be accomplished either by changing current zoning, or by encouraging greater realization of current mixed-use regulations. For example, in the first approach, some areas could be rezoned to a type that allows more mixed use development, like B-2b. In the second approach, the City could provide incentives for certain uses that are allowed in the existing zoning but are currently lacking on the corridor. Incentives could include relaxing certain requirements, expediting approval processes, or eliminating fees.

Successfully mixing uses requires attention to the transition between the varied uses. For example, residents along the corridor near commercial activity may wish to retain a residential character within the area. Improvements can be made to accomplish a residential character without restricting mixed-uses. For example, residences can be buffered from busier parts of the corridor with landscaping. Building equipment can be attractively screened from view of residences. The transition between uses should not be abrupt and should include good connections between uses to encourage pedestrian activity.

The following image shows the existing transition between the Forest Avenue shopping plaza and the housing immediately behind. The buffer and access to the plaza could be improved to provide a more pleasant residential environment and better access to the retail opportunities. This could include better landscaping, improved pedestrian pathways, and rear entrances to shops to activate the area.

### **3.2.2 Compact Uses**

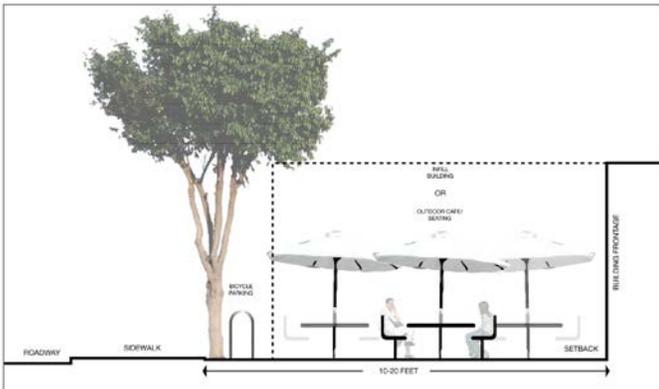
Compact uses also provide support for transit. Increasing convenience by concentrating development and activities along transit routes increases the likelihood of transit use. Compactness should not create an adverse environment for pedestrians by allowing development at a scale that would be intimidating or out of place. Rather, it should provide for vibrant loci of activity at a pedestrian scale.

Compact uses can be encouraged in a variety of ways, though the general approaches focus on either new development or infill of existing structures. Particularly in the commercial areas, incentives can be used to encourage new development to more fully realize the desired density within the current zoning code. Incentives for infill of existing development can also be used to increase density, and to enhance the pedestrian environment.

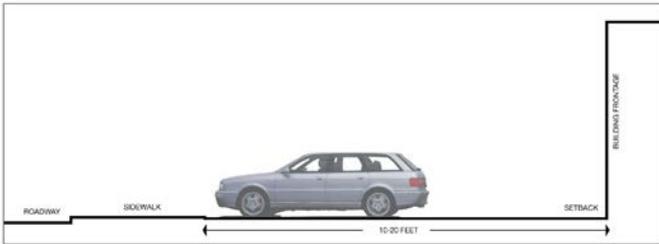


Figure 4: Existing Transition between Retail and Residential on Forest Avenue

Figure 5 is a representation of parking lot infill with buildings and street furniture (in this case, seating and bicycle parking). Encouraging compact development through such approaches could be limited by constraints in the zoning code, such as a requirement to provide adequate parking. Easing parking requirements could be allowed under the condition it does not create a drastic deficit in parking supply. While a deficit in parking is not desired, improvements to alternative transit options through TSD principles may result in a reduced need for parking. A strategic approach to managing parking is described in Sub-section 3.2.5 (High Quality Parking).



Possible Infill Strategies



Existing Front Yard Configurations

Figure 5: Example of Infill

### 3.2.3 Architectural Quality

In addition to building form, architectural quality pertains to building scale, orientation, and access. Good architectural quality can compel visitors to remain in the area. Architectural quality can be directly addressed through design guidelines. The City of Portland's *Design Manual*, adopted in May of 2010, establishes general standards for particular zones accompanied by a set of more specific design guidelines to help achieve standards in the zones. Improvements to the design guidelines could include additional graphics used to explain guidelines and form-based elements. By incorporating detailed design options, developers will be guided to achieve a coherent character along the corridor.

Typical ways to address form through design guidelines include the following:

- Defining building envelope within which a building on a typical lot may be designed.
- Providing a reference library of approved façade treatments and materials.
- Providing a reference library of approved front yard landscape treatments.
- Recommending store window dimensions, awning types, colors, and materials, consistent with the corridor branding.

### 3.2.4 Public Spaces

The Forest Avenue corridor benefits from of two near-by major public resources: Back Cove and Deering Oaks Park. Back Cove is an estuary basin with a widely-used recreation loop tracing its shore. Deering Oaks Park is a 55 acre public park with recreation courts and fields, and a pond. Connections and compatible nearby land uses would optimize use of these existing resources. The public spaces could also be improved along the corridor. Well-used and active public spaces can help draw activity to an area and increase the perception of safety by providing added activity.

Improvements to the streetscape or the installation of attractive street furniture would improve the public environment. Figure 6 shows a simple approach to improving building frontages with street furniture. Enhancements to the design guidelines would also improve the immediate public environment along the corridor. In addition, public spaces should be located next to other activities, have good pedestrian connections, should be activated through activity programming (i.e. activities in the space), and high quality installations (such as street furniture/seating).

Shown in Figure 7 is an underutilized space with potential for a public plaza. This space is apart of the USM Glickman Library. The library's entrance facing Forest Avenue is currently closed, leaving this plaza underutilized. Opening this entrance and installing street furniture and other amenities, might encourage more use of this space.

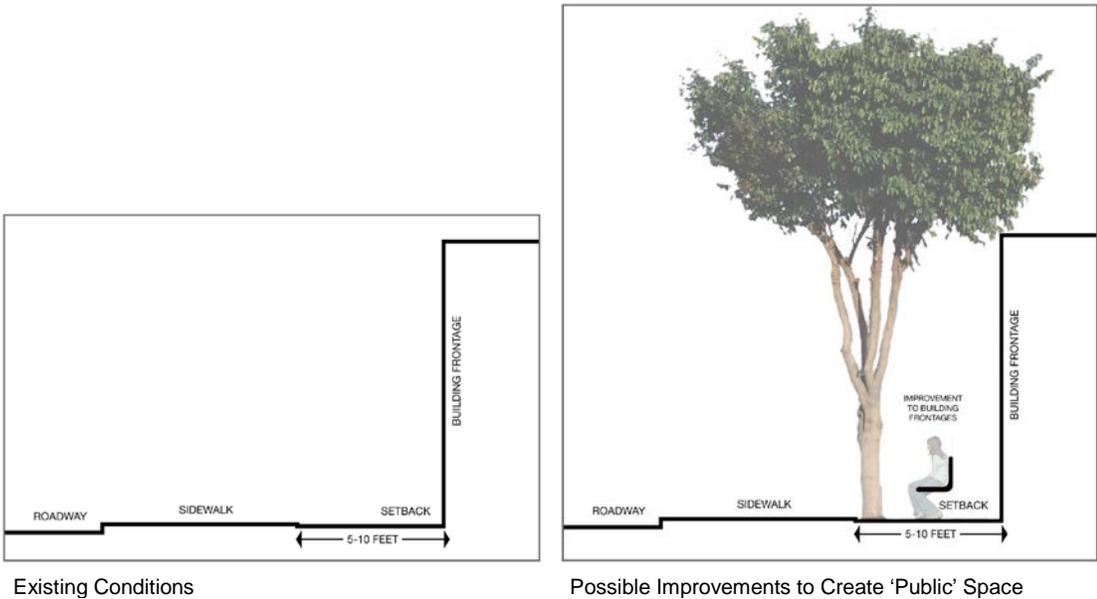


Figure 6: Example of Improvement to Public Space in Building Frontages



Figure 7: Example of Underutilized Public Space on Forest Avenue

### 3.2.5 High Quality Parking

There are two main considerations regarding parking: appearance and strategy. Both appearance and the development of a comprehensive parking strategy are vital components use to achieve high quality in parking areas.

Front parking lots are inharmonious with TSD principles. Approaches to improving parking along the corridor include visually screening parking using landscaping, or to incentivize side or rear location of parking. Requiring or incentivizing pervious paving in parking lots, such as seen in Figure 8, could increase the attractiveness of parking lots as well as lessen their environmental impact.



Figure 8: Example of Pervious Parking Lot<sup>2</sup>

In addition to improving the appearance of parking, a parking strategy could be implemented to reduce the amount of space used for parking and optimize the location of parking lots. A one-time survey performed as part of this study was conducted to estimate utilization of off-street parking spaces along the corridor. Results were that less than half (around 40%) of parking spaces were occupied between 1:00 and 3:00pm on a weekday. 85% is typically viewed as an optimal parking occupancy as it meets the demand and allows for turn-over without searching for parking. Although further study is required to examine different times of day and to consider different types of demand, the preliminary survey indicates that the use of space for parking may not be optimal. Instead, some space currently dedicated to parking might be appropriate for other uses such as plazas, public space, or infill opportunities. However, the parking requirements in the zoning code currently restrict the ability to do so. Modifications to the parking requirements may be considered after a full parking study to accomplish more efficient provision of parking. Centralized parking structures could also provide a concentration of parking, allowing for better realization of economic potential in the area. Centralized parking, when combined with other TSD principles, can help create a park-once-and-walk environment.

Another way to achieve more efficient use of parking is for businesses share parking. This approach may be particularly desirable when businesses experience parking demand at different times of day. For example, a church typically experiences the most demand for parking on the weekend, while an office must provide parking for its employees during the day on the weekdays. The same case pertains to a bagel or coffee shop only open from early morning until early afternoon, while a restaurant or bar may only be open in the evenings. By sharing parking, businesses can meet demand with fewer spaces and less land devoted to parking. There are various ways in which collaboration could be structured, four of which include informal collaboratives, semi-independent organizations, independent organizations, and an authority structure:

- *An Informal collaborative* is when stakeholders decide to coordinate activities, an informal collaborative can be established involving no clear legal or financial relationships.
- *Semi-independent organizations* are, in some cases, more formalized organizations in which it may be necessary to allow for financial participation in joint activities. These can occur within an existing framework such as a Chamber of Commerce.

---

<sup>2</sup> Source: [http://www.lrc.usace.army.mil/co-r/best\\_management\\_practices.htm](http://www.lrc.usace.army.mil/co-r/best_management_practices.htm), accessed June 28, 2011.

- *Independent organizations* are those in which organizations can be independent (non-profit) with dedicated staff. This type of organization would also likely require the election of a board.
- *An authority structure* is a formal government body to manage parking.

The following are a few examples of the types of organizations that have been established to foster coordination between business owners to manage parking:

- *Parking Management Collaborative*: This type of organization is typically a voluntary collaboration between public and private participants. The level of formalization can depend on the desired purview of the collaborative. A collaborative can be used to provide a coordinated approach to parking through provision, marketing, and wayfinding. They can also involve coordination of technology such as common parking validation.
- *Transportation Management Association (TMA)*: TMAs are more formal structures, which typically focus on reducing congestion and increasing air quality by implementing transportation demand management strategies. This can include parking, but efforts typically include marketing, the development of complimentary programs, and advocacy.
- *Parking and Business Improvement Area (PBIA)*: These types of organizations build on the concept of a business improvement area (BIA) or district (BID) in which member businesses fund improvements in a certain area meant to contribute to the economic vitality of the area. Member businesses would participate in the decision of how to use funds, and could be required to develop a parking management strategy.

Establishing a volunteer parking collaborative with minimal formalization would be an immediate-term approach to begin coordination. A collaborative would require the least upfront investments out of the above options, including some staff time and monetary resources. At first, there would be no financial commitment, though this could be considered in the future to fund studies and implementation of the parking management strategy.

One way to initiate a collaborative is to invite business owners to a series of workshops to raise interest about the possibility of sharing parking and educate participants regarding the benefits that might be realized. In these workshops, business owners could be engaged in the tasks of examining the existing supply and identifying needs, exploring solutions, and developing their own parking management program.

These efforts would all benefit from a comprehensive parking study, which would explore demand and analyze parking access with consideration of curb-cut consolidation and funding sources for parking management strategies.

## **4. Transportation and Streetscape Concept Plan**

### **4.1 Alternatives**

As part of the Transforming Forest Avenue study, three transportation alternatives were developed to represent three different visions for Forest Avenue and to achieve study goals. They represent different interpretations of how to apply Complete Streets principles (Chapter II) developed as a part of this study with feedback from the City, PACTS, Project Advisory Committee, and the public. Complete Streets aim to accommodate all users, but may prioritize users to different degrees based on the intended primary function of the road. In each alternative,

Forest Avenue was envisioned as a different type of street. Although all three alternatives included a common set of streetscape improvements, intersection treatments, narrowing of travel lanes, and additional transit service, they were intended to differ thematically to elicit conversation regarding desirable features and possible trade-offs to achieve certain goals. These alternatives are summarized below.

#### **4.1.1 Summary of Alternatives**

The following alternatives were developed and presented to the Public Advisory Committee for feedback.

##### **Alternative 1: Connecting Destinations**

In this alternative, Forest Avenue is envisioned as a vibrant main street. The most vulnerable users of the road (pedestrians and cyclists) were prioritized through a variety of improvements intended to enhance the corridor's role as both a destination and a connector. The main features of this alternative included improvements to pedestrian and bicycle facilities, such as upgraded and increased crossings, shared lane markings for bicycles, and a bicycle lane of sufficient width in Segment A. On-street parking was retained as an important buffer for pedestrians. Automobile and transit travel was not envisioned to change significantly.

##### **Alternative 2: Greening Forest Avenue**

Forest Avenue is envisioned as an enhanced avenue, in this alternative, with a boulevard and landscaped median (where road width allows). This alternative provides relatively equal consideration to all users while creating a greener, more attractive corridor. New plantings and a landscaped median contributed to a consistent green character throughout the corridor. It also included the elimination of on-street parking to allow for a bicycle lane in both directions along the entire corridor. Bus stops were envisioned as pull-out locations wherever possible.

##### **Alternative 3: Creating a Transit Corridor**

This alternative seeks to retain Forest Avenue's existing role as an arterial, but to focus on improving transit as a way to draw riders from single occupancy vehicle trips. The most significant improvement would be achieved through the elimination of on-street parking to allow for a bus only lane in the southbound direction. This lane would allow buses to bypass the worst congestion in the PM peak hours. This alternative also included the provision of additional express transit service from a park-and-ride location at the northern terminus of Route 2.

#### **4.1.2 Evaluation of Alternatives**

The alternatives were evaluated qualitatively according to the Complete Streets Principles, a preliminary assessment of institutional and technical feasibility, and high-level costs. Figure 3 shows a summary of that evaluation. The top table shows the more detailed evaluation of each Complete Streets principle. The lower table shows the summary of the weighted averages of categories of Complete Streets Principles and the evaluation of feasibility and cost, producing an overall ranking. As in the evaluation for the land use and zoning alternatives, each category is weighted according to the priorities and goals of the study.

The alternatives received similar overall ratings. Despite having similar ratings, each alternative achieves different objectives. While Greening Forest Avenue was rated to achieve the most benefit in terms of the Complete Streets principles categories, the Complete Streets Principles

weighted average was the same for each alternative. A shift in priorities, and therefore in the weights for each category, could cause the alternatives to rank differently. Alternatives 2 and 3 ranked lower for feasibility and cost because, for example, the removal of parking might be politically undesirable and the costs associated with roadway reconfiguration were higher. This evaluation contributed to the development of a Transportation and Streetscape Concept Plan that focuses largely on the improvements suggested in the first alternative, with significant improvements to the streetscape as described in the second alternative.

The alternatives were evaluated separately for their ability to attract transit riders, using a high-level sketch model that included the major transit improvements. A summary of the assessment in terms of changes relative to existing conditions (the baseline) is shown in Figure 10. None of the proposed changes to transit service were radical enough to induce a significant number of additional transit trips. However, creating a more attractive destination, improving alternatives to automobile travel, and improving land use and zoning conditions, should all contribute to creating a more transit-supportive environment for the future. This analysis suggests that there is no one-way to increase transit travel. Longer-term processes of land use and transportation planning would gradually produce a more transit-supportive community.

	Complete Streets Principles															
	Health and Safety				Accommodate All Modes						Connectivity/Accessibility			Environment		
	Promote Physical Activity	Enhance safety of vulnerable users	Manage vehicle speeds	WEIGHTED AVERAGE	Encourage multi-modality	Improve transit operations, facilities, and access	Mitigate traffic diversion	Manage parking	Increase comfort	WEIGHTED AVERAGE	Connect the street network	Provide wayfinding	WEIGHTED AVERAGE	Increase permeability	Reduce greenhouse gas (GHG) emissions	WEIGHTED AVERAGE
	15%	50%	35%		25%	20%	25%	15%	15%		50%	50%		50%	50%	
<b>Alternative 1: Connecting Destinations</b>	3	3	2	3	3	2	2	2	3	2	2	2	2	3	3	2
<b>Alternative 2: Greening Forest Avenue</b>	3	3	2	3	3	2	2	2	3	2	2	2	3	3	3	3
<b>Alternative 3: Creating a Transit Corridor</b>	2	2	2	2	3	3	2	2	2	2	2	2	2	3	2	2

	Complete Streets Principles				Feasibility			Cost			Overall Rating				
	Categories										Weighted Averages				
	Health and Safety	Accommodate all Modes	Connectivity/Accessibility	Environment	WEIGHTED AVERAGE	Institutional Feasibility	Technical Feasibility	WEIGHTED AVERAGE	Capital Cost	Maintenance Cost	WEIGHTED AVERAGE	Complete Streets Principles	Feasibility	Cost	Overall Rating
Weights	25%	30%	25%	20%		50%	50%		50%	50%		40%	40%	20%	
<b>Alternative 1: Connecting Destinations</b>	3	2	2	2	2	2	1	2	2	1	2	2.4	1.5	1.5	1.9
<b>Alternative 2: Greening Forest Avenue</b>	3	2	2	3	2	1	1	1	1	1	1	2.5	1.2	1.2	1.7
<b>Alternative 3: Creating a Transit Corridor</b>	2	2	2	2	2	1	1	1	1	2	1	2.2	1	1.4	1.6

Figure 9: Evaluation of Transportation and Streetscape Alternatives

	PM Peak Hour Person-Trips, Change from Baseline		
	Alternative 1	Alternative 2	Alternative 3
<b>Downtown Attraction:</b>			
Transit	13	12	16
Walk/Bike	-2	4	0
Drive Alone/Shared Ride	-11	-16	-16
<b>Downtown Production:</b>			
Transit	19	17	23
Walk/Bike	-1	8	0
Drive Alone/Shared Ride	-18	-25	-23

Figure 10: Evaluation of Alternatives: Mode Shift to Transit

## 4.2 Concept Plan

The transportation and streetscape component of the Concept Plan includes the desirable, feasible, and/or compatible aspects derived from feedback from the Public Advisory Committee and the general public. Some improvements contained in the alternatives were clearly undesirable to the public, such as the removal of on-street parking, and so were not included in this Concept Plan.

Improvements to the Concept Plan take into account future traffic operations for the year 2035 as projected by the regional traffic demand forecasting model. On average over the length of the study corridor, these projected traffic levels are 20 percent higher than existing (2011) conditions. A similar analysis was attempted for the year 2035 peak hour volumes, but this did not yield a directly comparable result because all of the projected traffic could not enter the corridor network with only the existing street configuration in place. Forest Avenue is already approaching capacity, and will not be able to accommodate future traffic projected by regional models. These results suggest that within not too many years, extensive queuing and stop-and-go operation, and/or diversion to other streets, will prevail throughout the corridor during peak hours. Thereafter, peak hours of congestion will grow and perhaps to take up most of the business day by 2035. In effect, traffic volume will be both greater in the single peak hour and extend the duration of high volume periods over the course of the day.

The improvements included in the Concept Plan would not eliminate low levels of service on the corridor, but some would achieve modest localized improvement in traffic operations relative to not making the changes. The improvements also aim to make non-motorized forms of transportation more attractive. This Concept Plan includes as many feasible improvements as possible to adhere to Complete Streets Principles within the constraints indicated in the future traffic analysis. This is an attempt to avoid a reduction in capacity that would negatively affect traffic operations. The challenge remains that without dedicated facilities, bus operations will experience additional delays related to the congestion on the corridor, and their ability to compete as a travel choice will be limited without regional-scale changes in transportation policy.

Two studies being carried out at the same time as Transforming Forest Avenue are particularly relevant to the potential outcomes of the Concept Plan: the MaineDOT study of the I-295 interchange configuration and a signal timing study on Forest Avenue. The preliminary results from the signal timing study were used in the assessment of future traffic. The impact of the I-295 interchange study is discussed further in Sub-section 4.2.2. (Segment A: Deering Oaks Park).

The following subsections describe the Concept Plan both in terms of corridor wide improvements, and segment-specific improvements. Chapter III contains visual representations of the improvements. The following descriptions of corridor improvements begin with those described in the Concept Plan which were supported by the results of the existing conditions and future transportation analysis performed as a part of this study.

#### **4.2.1 Corridor-Wide Improvements**

The following improvements would be applied along the entire corridor. The corridor-wide improvements for the Concept Plan are organized under the categories of modal improvements (pedestrian and bicycle, traffic and transit), streetscape and design improvements, and environmental improvements. Within the modal improvements, pedestrians and cyclists are grouped because many improvements affect both types of users, and they are presented first because they are considered the most vulnerable users in terms of safety. Traffic and transit improvements are grouped because many traffic improvements affect travel lanes and other factors that relate to transit operations.

##### **Pedestrians and Bicycle Improvements**

All of the general bicycle and pedestrian improvements discussed during the study process are included in a refined format in this Concept Plan.

##### ***Upgrade sidewalks and intersections to increase accessibility for people with disabilities.***

Upgrades include the widening and improving of sidewalks, introducing textured ramps, and adding countdown pedestrian signal heads. Space for sidewalks within the existing right of way can be gained by narrowing traffic lanes, as discussed further under traffic and transit improvements.

***Redo pavement striping and/or use more attractive materials or techniques.*** Much of the pavement striping, including pedestrian crosswalks and shared lane markings for bicycles, are faded and almost invisible on Forest Avenue and need to be redone. Using asphalt stamping or different materials like brick at certain locations would help to add character to particular areas. Selection of an appropriate treatment should consider life cycle cost under the prevailing climatic and traffic conditions.

***Provide shared lane markings (sharrows) for cyclists.*** Shared lane markings, which would be used throughout the study corridor, guide cyclists to a safe position in the roadway and validate a cyclist's place in a travel lane. AASHTO recommends a lane width of 14' for shared lane markings to allow automobiles to pass cyclists without veering into adjacent lanes (Figure 11). However, this lane width is undesirable in the corridor. Shared lane markings can still be used in narrower lanes to provide the above benefits when there is not enough space for a separate bicycle lane.

***Provide additional bicycle parking.*** Bicycle parking is a relatively inexpensive way to make cycling a more feasible and attractive method of travel. Bicycle parking would be concentrated at major destinations and at transit stops. A variety of parking, such as shorter-term racks and longer-term shelters would provide a range of options. Bicycle parking can also be artistic and add to the character of the corridor.

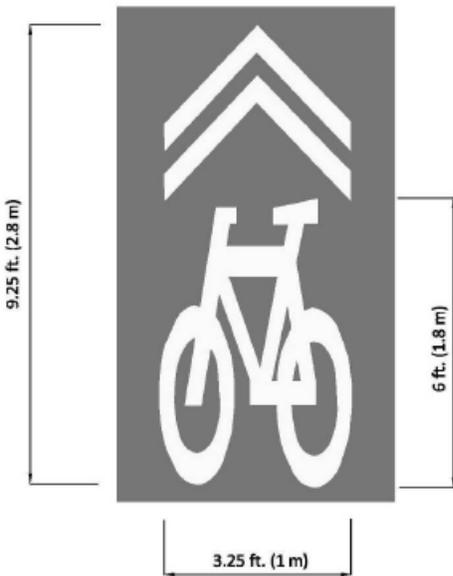


Figure 11: Shared Lane Marking for Bicycles (Sharrows)<sup>3</sup>

### Traffic and Transit Improvements

It is assumed that the traffic level of service will be somewhat improved by the separate signal timing study. Additional improvements contained in the Concept Plan include the following:

**Reduce travel lanes widths.** Travel lanes throughout the corridor would be narrowed to 12' on the outside and 10' on the inside. AASHTO recommends 10' to 12' lanes on arterials, with narrower widths within that range being acceptable and even advantageous in interrupted (with signals) arterials of this speed (30 miles per hour).<sup>4</sup> The outer lane is widest to facilitate bus travel.

**Introduce 2S shuttle service.** To stimulate economic development and increase the use of Forest Avenue as a commercial destination, an off-peak shuttle service (called "2S" here) would be established to serve more non-work trips. This shuttle service would operate from the terminus of Route 2 downtown to a turnaround point just north of Woodfords Corner. Examples of users of this service could include daytime shoppers who wish to park once and then visit other parts of the corridor without walking far, USM students wishing to access other nearby destinations, and people who work downtown but eat lunch or run daytime errands at locations along the corridor.

**Improve amenities as bus stops.** Overall, amenities would be improved at all bus stop locations to improve the perception of the quality of service. Currently there are only a few locations with a bench. At a minimum, benches would be added at all bus stop locations unless it conflicts with accessibility for people with disabilities. In addition, all stops would include additional information, such as, the schedule and route map on signage. At key locations, including near the US post

---

<sup>3</sup> American Association of State Highway and Transportation Officials. (2010). *Draft AASHTO Guide for the Planning, Design, and Operation of Bicycle Facilities*. Page 60.

<sup>4</sup> American Association of State Highway and Transportation Officials. (2004). *A Policy on Geometric Design of Highways and Streets (Green Book)*, 5th Edition.

office, USM, Forest Avenue Plaza, and Woodfords Corner, bus shelters would be constructed. These efforts would improve rider experiences without affecting operations.

### **Streetscape and Design Improvements**

Streetscape and design improvements would primarily be targeted at making the corridor a more pleasant place to be, rather than a place to pass through. These improvements should be made wherever possible, with attention to maintenance requirements.

**Install consistent landscaping along the corridor.** Consistent plantings, verges, and greenery would be incorporated wherever possible on the corridor, particularly on medians or where sidewalk space would be gained from the narrowing of travel lanes. The goal would be to re-embrace the name of Forest Avenue by increasing vegetation on the corridor.

**Install street furniture.** Where space is available, street furniture would be installed for both functionality and comfort. There are many types of street furniture, some of which (benches, bicycle parking, and bus shelters) have already been mentioned. However, street furniture could also include trash bins, newsstands, decorative lamp posts, and many other items on the streetscape. Consistently branded street furniture would give Forest Avenue a cohesive identity, and in certain locations, can be used to indicate a special character. Street furniture could also be artistic installations.

### **Environmental Improvements**

The following are a few more directly streetscape-related environmental improvements along the corridor. Incentives discussed in Section 3 for land use and zoning improvements could be used to encourage more sustainable development along the corridor.

**Use recycled materials.** Recycled materials would be used when possible along the corridor for construction (with consideration of cost and maintenance trade-offs) and/or for more decorative elements such as street furniture.

**Use pervious materials and surfaces.** Pervious paving has already been addressed in Section 3 in terms of parking lots. Use of pervious paving would be expanded where possible in alleys and sidewalks. In addition, curb extensions, street planters, and rain gardens would be used to capture and filter stormwater runoff.

### **Items for Further Consideration**

The following improvements could be included in the Concept Plan, and are considered important enough to warrant further consideration for inclusion. However, additional analysis or study is required to determine whether these would, in fact, be improvements, and to determine the most appropriate way to implement them.

**Introduce additional pedestrian crossings.** Additional crosswalks would be added, when possible, in the case of four-way intersections without crosswalks in each direction. A few locations are suggested improvements in the segment specific sections, however, other locations or the possibility of midblock crossings should be assessed more carefully in terms of traffic impact. Any new crossings at signalized intersections should be considered in the ongoing signal timing study.

**Upgrade pavement striping.** The Concept Plan includes the renewal of pavement striping at all crossings and pavement markings like sharrows. Further research should be done to select the best material given available resources to better withstand adverse weather conditions. For

example, thermoplastic is commonly used in more adverse weather conditions, but it is also more expensive than paint to install and maintain. The particular maintenance requirements in Portland should be considered in the selection of the appropriate material.

**Consolidate curb-cuts.** This Concept Plan would include the consolidation of curb-cuts as a product of more centralized or shared use parking and as an effort to reduce the potential conflict between pedestrians, cyclists, and traffic. Reducing the number of locations at which local access turns are made could also serve to improve traffic flow if the increased turning movements at consolidated locations do not have a negative impact. However, specific locations should be considered based on further parking management efforts as well as potential impact to traffic flow. Therefore, further analysis should be done if curb-cut consolidation is to be pursued.

**Determine appropriate location and spacing of bus stops.** The location and spacing of bus stops can have a significant impact on average bus speeds. Further analysis would be required to determine the optimal location and spacing. A study should be undertaken with Metro to determine the best location for bus stops within the study corridor considering both bus operations and customer access. Such a study could focus on optimizing the entire Route 2, including an examination of ridership, schedule, and routing.

**Strategic stormwater management.** Simply increasing the pervious pavement and plantings on Forest Avenue may not be enough to effectively manage stormwater runoff. In addition, there could be trade-offs to aggressive stormwater management approaches, such as the loss of usable sidewalk space. Stormwater management should be addressed strategically at a more regional scale to determine the level of improvement that is ideal for this corridor given the constraints on right-of-way.

**Develop a comprehensive wayfinding strategy.** Wayfinding allows people to more effectively use the transportation options available to them. Wayfinding systems can be branded to provide a character to the corridor that contributes to a sense of place. The City of Portland already employs some wayfinding strategies, such as signage for designated bicycle routes. A new wayfinding system has recently been approved, and all efforts to install wayfinding strategies should coincide with the most recent system adopted by the City of Portland. A more comprehensive wayfinding strategy could be employed for multiple modes to improve the ability of people on the corridor to determine direction, distance, and travel time to other destinations by walking, cycling, and transit. In addition, wayfinding strategies could be employed to assist with locating parking, particularly if a more centralized or coordinated parking approach is pursued.

#### 4.2.2 Segment A: Deering Oaks Park

The Concept Plan for Segment A, spans from Bedford Street to Park Avenue. The most dramatic improvements for cyclists and pedestrians beyond the general streetscape improvements on the corridor are included. The goal for this segment would be to create a unique identity as a gateway to downtown, complete with branded signage and iconic installations when possible. The improvements below are intended to create a progression from a more boulevard-style street near I-295 to a calmer, more pedestrian-scaled street towards downtown. Chapter III contains a street section drawing just north of Marginal Way illustrating a possible application of this Concept Plan at one point in the segment. The following improvements are included in this segment of the Concept Plan.

**Widen and landscape center median.** This segment of Forest Avenue would be developed as a boulevard with beautification and landscaping of the center median from Bedford Street/Baxter Boulevard to Marginal Way. The existing right-of-way is adequate to allow for some widening of the existing median. Landscaping should include attractive plantings that do not negatively impact line of sight.

**Reduce travel lanes between High Street and Park Avenue.** The level of service analysis suggests that there is excess capacity on Forest Avenue between High Street and Park Avenue/Portland Street. In the Concept Plan, the travel lanes in this part of the segment would be reduced to one in each direction. This improvement would provide space for bicycle facilities and would not impact on-street parking.

**Install bulb-outs at Park Avenue/Portland Street.** At Forest Avenue's intersection with Park Avenue/Portland Street road width would be narrowed using bulb-outs to decrease the turning radii for automobiles, slowing them, and to reduce crossing distances for pedestrians. This would also eliminate the right-turn 'slip-lane' onto Park Avenue.

**Expand and improve amenities on sidewalks.** Sidewalks would be significantly improved and widened, and would have more street furniture and art that is compatible with both the adjacent institutional structures as well as the lushness of the park. Bus shelters would be installed near USM and the post office.

**Provide consistent cycle tracks.** This is the only segment in the Concept Plan that would have exclusive bicycle facilities. Cycle tracks are bicycle facilities that are distinct from both the roadway and pedestrian facilities. In this case, the distinction would be achieved by a slight grade separation as well as protection, such as bollards, from travel lanes. Care should be taken that bollards are not a hazard for cyclists or motorists, and are used more for delineation than access prevention. See Figure 12 for an example in Washington DC. The cycle tracks would continue from Bedford Street/Baxter Boulevard (connecting with the bicycle facilities on those streets), through the interchange, and end at the Park Avenue/Portland Street intersection.



Figure 12: Example of Bollards to Buffer Bicycle Lanes<sup>5</sup>

**Provide bicycle boxes where left turns are desirable.** Bicycle boxes provide the benefit of more comfortable queuing at lights and added space for maneuvering to make a left turn. The public provided feedback that bicycle boxes may not be necessary along the entire corridor. However, they are typically applied where there are high volumes of vehicles and significant turning movements and may be useful in this small section for less experienced cyclists. Therefore, the cycle tracks would be integrated with bicycle boxes where cyclists would take left-turns onto Portland Street, Marginal Way, and Bedford Street.

---

<sup>5</sup> Source: Sebastian, Jim (DDOT). From National Association of City Transportation Officials (NACTO), <http://nacto.org/cities-for-cycling/projects/truncated-cycle-track-at-the-intersection-of-o-st-and-15th-st-washington-d-c/>, accessed June 30, 2011.

## Exit 6 Interchange

The Exit 6 interchange of I-295 is an important and problematic part of this segment that merits more detailed discussion. Improvements for this area, shown in Chapter III, are targeted primarily at improving pedestrian and bicycle safety, and are the subject of Enhanced Project Scoping (EPS). These improvements could be implemented whether or not the ramps are reconfigured as a result of the MaineDOT study, but are based on the premise that the previously recommended changes to the ramp configuration would be implemented. These changes include tighter turning radii at the off-ramps and building out of delta islands to provide off-ramp traffic with its own merging lane onto Forest Avenue. Listed below are a variety of improvements included in the Concept Plan to improve safety for pedestrians and cyclists. Implemented improvements should be approved or deemed acceptable by the MaineDOT and the Federal Highway Administration (FHWA).

**Improve ramp crossings for cyclists and pedestrians.** Rumble strips, zigzag striping (Figure 13), signage, warning beacons (Figure 14), and other warnings would be used to alert drivers on the exit ramps to slow down and yield for both pedestrian and bicycles. Chapter III contains a visualization of the bicycle facilities and crossing at an off-ramp ramp on a proposed built-out delta as in the preliminary I-295 plans.



Figure 13: Example of Zigzag Striping to Alert Motorists to Reduce Speed<sup>6</sup>



Figure 14: Warning Beacon for Pedestrian Crosswalks<sup>7</sup>

---

<sup>6</sup> Source: LIVINGINLOCO, <http://www.livinginloco.com/2010/03/survey-says-zig-zags-on-belmont-ridge/>, accessed June 28, 2011

<sup>7</sup> Source: Spot Devices, <http://www.spotdevices.com/system-rrfb.html>, accessed June 30, 2011.

**Provide colored treatments at possible bicycle/automobile conflict areas.** Colored bicycle lane treatments provide warning to both cyclists and motorists when they are approaching an area where cars may wish to cross a bicycle lane. The treatment at ramps for cyclists would look something like that seen in Figure 15. Another option within the existing configuration that is not being recommended at this point is installing unprotected bicycle lanes to the left of merge lanes rather than protected cycle tracks at the curb. This alternative would encourage more ‘vehicular’ cyclist behavior, keeping cyclists with the flow of traffic instead of requiring them to cross at the ramps, almost as pedestrians. In either solution, any conflict areas should be clearly colored and marked, such as the treatment shown in Figure 15.



Figure 15: Example of Colored Bicycle Lanes and Signage in Conflict Areas<sup>8</sup>

**Provide lighting under the interchange.** The interchange is currently a dark and unattractive place for pedestrians to walk. Landscaping and other improvements will help improve this atmosphere, but the perception of safety as well as the aesthetics would be further improved by creative or artistic lighting. At the very least, simple lighting would be provided. Figure 16 shows an example of more artistic lighting.



Figure 16: Examples of Artistic Lighting of Underpasses<sup>9</sup>

<sup>8</sup> Source: National Association of City Transportation Officials (NACTO), <http://nacto.org/cities-for-cycling/design-guide/bikeway-signing-marking/colored-bike-lanes/#design>, accessed June 28, 2011.

<sup>9</sup> Source: FitzGibbons, Bill. From San Antonio Current, <http://www2.sacurrent.com/printStory.asp?id=69955>, accessed June 29, 2011.

## Items for Further Consideration

The following include additional improvements that could be considered in the Concept Plan after further study, and discussions of the relevance of possible long-term realignments of the corridor raised during the *Transforming Forest Avenue* study.

**Complete crosswalks at Marginal Way.** An additional pedestrian crosswalk could be introduced at Marginal Way to complete the pedestrian crossings at the intersection. However, the current signal timing would likely not provide a crossing phase long enough to be ideal for typical pedestrian crossing speeds. The Forest Avenue signal timing study could correct this problem and provide an adequate pedestrian crossing phase.

**Consider implications of relocation of Kennebec Street.** There has also been discussion of a future reconfiguration of the Marginal Way intersection including the relocation of Kennebec Street to intersect with Forest Avenue at State Street and the termination of the Bayside Trail at the Marginal Way intersection. If this reconfiguration were ever to occur, both intersections should include pedestrian crossings at all sides if possible, along with all of the previously discussed pedestrian crossing improvements.

**Consider a pedestrian and cyclist bridge connection to Bayside Trail.** A pedestrian and bicycle bridge could be considered over Forest Avenue to create a direct and safe connection between Deering Oaks Park and the future exit of the Bayside Trail. This improvement is not included in the Concept Plan because it would be expensive, may not be desirable compared to improving bicycle and pedestrian facilities at the street level, and would depend on the final configuration of the Bayside Trail and the Marginal Way intersection. However, it may prove to be more desirable as these concepts progress.

**Consider implications of closure of State Street.** There is another major reconfiguration in this segment that has been discussed but its potential impacts are not fully understood. The closure of State Street from Forest Avenue to Park Avenue would provide some benefits in terms of reducing conflicts for pedestrians and cyclists and reconnecting parts of Deering Oaks Park. However, it would also have significant traffic impacts that should be explored in much greater detail.

**Coordinate improvements with the final configuration of the I-295 interchange.** Determining the configuration of the interchange is not within the scope of this study. The final implementation of improvements to the I-295 interchange area would ideally be coordinated with the final interchange alignment established by the MaineDOT study. All improvements that would affect any of the interchange area under the purview of state and federal authorities should be addressed with those authorities to ensure that they are considered acceptable.

**Consider further improvements to Bedford Street near Forest Avenue.** Some alternatives at this intersection were examined as part of the *Transforming Forest Avenue* study, but results show that this intersection has already been optimized through modifications made over the last several years. One alternative that was not modeled but could be considered is to dead-end Bedford Street near the USM parking garage to allow vehicles to enter and exit the garage from each end without allowing through movements. This could potentially improve the intersection by decreasing turning movements onto Bedford Street. However, it could also have significant impacts to the surrounding streets as through traffic would be diverted. A detailed study would be required to further understand these impacts and the potential benefits.

### 4.2.3 Segment B: Central Forest Avenue

In this Concept Plan, the segment from Bedford Street to Coyle Street would serve as the heart of commercial, civic, and other activity along the corridor. Access to businesses would be the most important goal, so a priority would be to encourage easy travel between the many destinations by maximizing pedestrian, bicycle, and transit improvements. Improvements to this segment would not involve any major reconfiguration of the roadway, as shown in the street section representing the application of the Concept Plan (Chapter III). Segment specific improvements are listed below.

**Complete pedestrian crossing at Preble Street.** The pedestrian crossing would be completed at Preble Street to allow pedestrians to cross in all directions.

**Calm traffic on side streets.** The diversion of traffic onto neighborhood streets is an ongoing concern for the study corridor. The existing congestion and low level of service already cause diversion, and careful consideration was given to all improvements in this Concept Plan to avoid or reduce the chances of additional diversion. One direct approach to discouraging traffic diversion would be to calm or slow traffic down on the more residential side streets. Specifically, this would include the streets between (but not including) Preble Street and Revere Street.

Traffic calming on these streets could be accomplished through a variety of established methods that aim to directly control speeds or create an environment that makes motorists naturally drive slower. For example, a few ways in which speed control can be achieved include speed tables (Figure 17) and chicaning (Figure 18). Chicaning forces repeated back and forth turns in the road, which is often achieved through placement of parking or construction of islands. There are many more possible approaches. Such interventions can be made attractive through techniques already described like asphalt stamping and landscaping.



Figure 17: Speed Table with Stamped Asphalt and Pedestrian Crossing



Figure 18: Chicaning Created by Placement of Parking

#### 4.2.4 Segment C: Woodfords Corner

Improvements to Segment C, extending from Coyle Street to Pleasant Avenue, would involve significant changes to the road right-of-way to address congestion. In addition, significant streetscape improvements would create a more pedestrian-friendly environment at Woodfords Corner. Similar to the I-295 interchange, this segment has been an important focus of the study. Chapter III contains a street section representing this Concept Plan at a point north of Woodfords Corner, and a diagram of the more detailed improvements to this area that are a part of this segment's Concept Plan.

A Synchro traffic analysis was completed for the three northernmost signalized intersections in the corridor for projected year 2035 volumes. The results of the baseline scenario (using the current configuration) indicated that the intersections would be able to accommodate the 2035 demand at a very low level of service ('F' at the intersections with Ocean Avenue and Woodford Street) in the PM peak. A Synchro analysis with the same volumes over the new configuration included in this Concept Plan suggested about a 70 percent reduction in delay from the baseline, resulting in level of service 'D' at these intersections.

**Restrict on-street parking in the PM peak.** Public feedback for this area strongly focused on the congestion on Forest Avenue in the northbound direction approaching Woodfords Corner. A variety of approaches were explored to address the congestion throughout Woodfords Corner. Based on the evaluation, the Concept Plan would restrict on-street parking between Woodford Street and Ocean Avenue in the PM peak hours to allow for a second travel lane. Because there is currently no on-street parking directly north of Ocean Avenue, the width is insufficient to accommodate two northbound through lanes. Therefore, in order to accommodate two northbound through lanes to the north of the Ocean Avenue intersection, roadway widening would be necessary. This configuration is included in the Enhanced Project Scoping. This recommendation is subject to further traffic engineering analysis to confirm its feasibility.

**Prohibit left turns in the PM peak.** In addition to the extra travel lane in the PM peak hours, northbound left turns off of Forest Avenue onto Saunders Street would be prohibited, and the

peak hour ban on southbound left turns from Forest Avenue onto Vannah Avenue would be enforced.

**Southbound lane treatment at Woodfords Corner.** In the southbound direction, only one lane of traffic is permitted to continue through Woodfords Corner on Forest Avenue. If this rule were enforced, the level of service assessment indicated that it would be possible to reduce the receiving lane south of Woodfords corner to one lane for a short distance. This reduction would allow for the installation of a bulb-out to make crossing Woodfords Corner more pedestrian friendly, and for the addition of a plaza area. This concept is visualized in Chapter III. After a short 20', the road would expand back to two travel lanes to accommodate the queuing at the signalized intersection with Revere Street and to minimally reduce on-street parking. For this improvement to be successful, it will be important to ensure that motorists are in the appropriate southbound lane. If an error is made, motorists still have the option to continue onto Deering Avenue and then access Forest Avenue from Revere Street. The goal, however, would be to minimize these types of diversions onto Deering Avenue.

The Public Advisory Committee and the Portland City Council discussed this recommendation at length. There are ongoing concerns that the removal of a receiving lane at this location would increase traffic diversion into residential neighborhoods along Deering Avenue. This recommended alternative is pending confirmation of the engineering feasibility of two southbound travel lanes at this location. Final design of this feature should incorporate bulb-outs or median refuge islands as appropriate and feasible to accommodate pedestrian crossings.

**Install bulb-out on Deering Avenue.** Another bulb-out would be installed on Deering Avenue near the existing bus stop by Dunkin' Donuts. Landscaping and other improvements could create another plaza area. This improvement would also create a slower traffic environment for vehicles continuing onto Deering Avenue.

**Complete crosswalk at Vannah Avenue.** Improved landscaping and the addition of bulb-outs would already provide a significant improvement for pedestrians. Another pedestrian improvement would include adding a crosswalk across Forest Avenue at Vannah Avenue to complete the crossings at this intersection.

**Provide signage to direct motorists to appropriate lanes.** Signage would inform drivers and cyclists of lane distinctions that change throughout the day, and insure correct lane selections. For example, overhead signage for motorists approaching Woodfords Corner in the northbound direction would clearly indicate each lane and whether or not the outside lane is open or being used as parking. There could also be signage in the southbound direction regarding which lane continues onto Forest or Deering Avenues. As already mentioned, signage is already cluttered on Forest Avenue, so a consolidation would help achieve clarity.

**Use appropriate streetscape improvements.** As with the rest of the corridor, streetscape improvements would be made throughout the area. However, planters would be more common than planted trees at this location, due to maintenance challenges. Asphalt stamping and branded street furniture in any plaza space created from improvements would improve appearance with fewer plantings.

### Items for Further Consideration

**Determine appropriate shared lane markings where parking is restricted.** The treatment for cyclists north of Woodfords Corner should accommodate the fact that sometimes the right-most lane is a parking lane, and sometimes it is a travel lane. One approach is to simply provide shared lane markings in the outside parking/travel lane that would be covered while cars are parked. Another is to add shared lane markings both to the right and left of the parking/travel lane

so that the outside marking is visible while cars are parked. However, the parking/travel lane will not be wide enough to allow for safe travel of cyclists when cars are parked (if cars park using 8', only 3' will be left to cyclists, leaving them in the 'dooring zone'). Figure 19 provides an example of this dilemma in Baltimore. Care should be taken to determine a safe design based on the final implementation and striping of the parking/travel lane.



Figure 19: Shared Lane Marking Placement while Off-Peak Parking Allowed<sup>10</sup>

**Determine configuration for cyclist-railroad track crossing.** Cyclists should be encouraged to cross railroad tracks north of Woodfords Corner at closer to 90 degrees, but the exact alignment of bicycle crossings will depend on the expansion of the road right-of-way in this area and will involve cooperation with the railroad. One way to accomplish this could be to install a brief section of bicycle lane or an angled shared lane marking (Figure 20) that directs cyclists in the safest direction (closer to 90 degrees) across the railroad track within the existing lane. This approach requires a cyclist to take up more of the travel lane to accomplish maneuvers. Another would be to expand the street (in a bulge or jug handle) at the railroad tracks (see an example in Cohasset, MA in Figure 20 and Figure 21: Angled Shared Lane Marking). If the jug handle approach were employed on Forest Avenue, attention should be paid to the safe re-integration of the cyclist into the travel lane without a bicycle lane.

---

<sup>10</sup> Source: Elly Blue, Western Bike Works, <http://bikeportland.org/2009/01/27/baltimores-bike-improvements-13783>, accessed June 29, 2011.



Figure 20: Angled Shared Lane Marking<sup>11</sup>; Figure 21: Bulge for Cyclists at Railroad Crossing<sup>12</sup>

## 5. Further Analysis and Future Studies

There are elements of the *Transforming Forest Avenue* Concept Plan that require further study before being considered feasible or desirable. These have been discussed throughout the Concept Plans, but they are summarized in this section as a set of recommended future studies.

**Comprehensive parking study.** A comprehensive parking study should examine parking demand at different times of day and attempt to differentiate between types of demand. In addition, work should include meeting with stakeholders to discuss needs and explore challenges to coordination. Based on this understanding, a comprehensive parking strategy should be developed. Funding sources should be identified for any projects identified. The assessment of the existing supply and demand should provide business owners with enough information to begin to consider joint parking lots. Results of the parking study could be combined with further traffic analysis to determine appropriate locations for curb-cut consolidation.

**Snow-removal strategy.** In its snow removal strategy, the City should aim to achieve better year-round access for pedestrians, transit riders, and cyclists. The current approach to snow removal can leave sidewalks almost impassable in the winter as snow is piled on sidewalks, melts, and refreezes. Access to buses from the curb at bus stops is not maintained. A snow removal strategy should take into account available resources or seek to identify additional resources in order to improve snow removal.

**Bus stop optimization study.** A bus stop optimization study should aim to minimize overall passenger travel and access times by considering alternative locations for stops along Route 2 in the corridor. Changes might include shifts from one side of an intersection to another to reduce traffic signal or operational delays, or even consolidation of existing stops, reducing the number slightly to improve overall average speed. This analysis should include a detailed assessment of passenger boardings and lightings by stop, and the origins and destinations of these passengers.

---

<sup>11</sup> Source: NACTO, <http://nacto.org/cities-for-cycling/design-guide/bikeway-signing-marking/shared-lane-marking/#design>, accessed June 28, 2011.

<sup>12</sup> Source: White, Nancy. Wicked Local Cohasset, <http://www.wickedlocal.com/cohasset/news/x1070363127/North-Main-rail-crossing-concerns-addressed#axzz1Qbs8BlqF>, accessed June 28, 2011

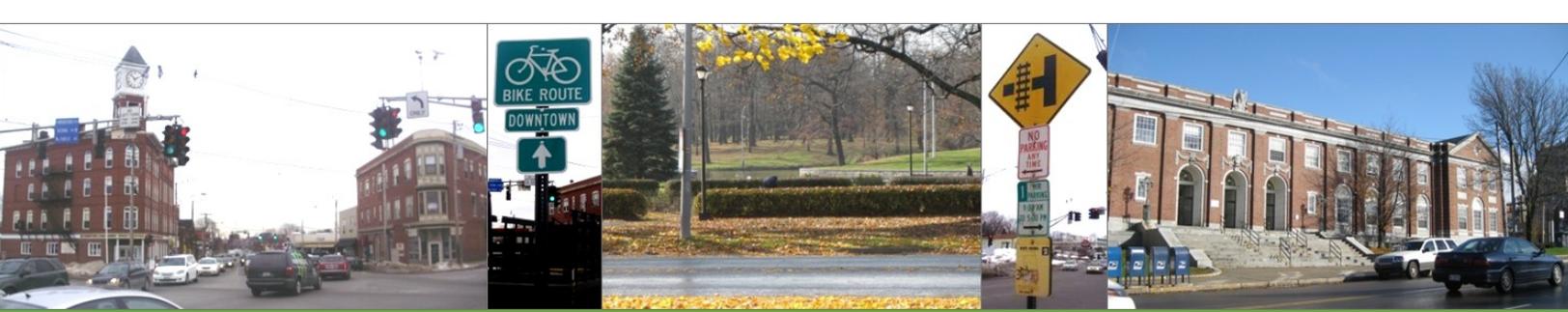
It should also include an operational simulation that takes both traffic signal operation and actual traffic volumes into account.

**Stormwater management strategy.** The City should consider a more regional stormwater management strategy that takes into account groundwater recharge, retention, and drainage. Consideration of drainage strategies would include a hydrology analysis to ascertain where storm water will be emptied and the natural direction of flow. It should also consider filtration mechanisms to ensure pollutants are not carried off with stormwater. Within this context, the City could consider stormwater strategies that should be employed on Forest Avenue along with the trade-off with further development or infill.

**Comprehensive wayfinding strategy.** The City should determine a consistent strategic approach expanding on the wayfinding currently available. The strategy should consider multiple modes, including automobiles (those passing through and those searching for parking), non-motorized transportation, and transit. Currently, there are many signs along Forest Avenue which clutter the streetscape. Simply adding wayfinding signs, therefore, may not necessarily improve navigation along the corridor. This study could include determining how signs can be consolidated.

**Continuation of I-295 Interchange study.** It is expected that MaineDOT will complete this study to determine an appropriate alignment for the I-295 interchange. However, the final configuration would ideally consider and incorporate the various pedestrian and bicycle improvements included in this Concept Plan. If appropriate, modifications could be suggested. Also, the MaineDOT study could consider the narrowing of the roadway through and south of the interchange to allow for better bicycle and pedestrian facilities. This option would require further study.

**Relocation of State and Kennebec Streets.** Relocation or realignment of these streets would require a major traffic study. Any future studies related to these reconfigurations could also include consideration of a pedestrian/bicycle overpass over Forest Avenue to accommodate a Bayside Trail-Deering Oaks connection.



## Chapter II. Principles, Codes and Guidelines

- |   |             |
|---|-------------|
| <b>1. Transit-Support Development Principles</b>                          | <b>II-1</b> |
| <b>2. Examples: Applications of Form-Based Code and Design Guidelines</b> | <b>II-3</b> |
| <b>3. Complete Streets Principles</b>                                     | <b>II-5</b> |



## Transit-Supportive Development Principles

Overall Approach: Develop principles for land use characteristics that support current and promote future transit demand. These principles should promote transit use as well as support the pedestrians and cyclists that will be using transit to access the land uses on the corridor, without excluding consideration of current or desired future automobile use.

Principle	Strategy	Description
<b>Land Uses</b>		
Encourage vibrant and diverse uses	Promote a mixture of land uses	Mixed land uses provide more desired destinations in a smaller area and can stimulate activity at various times of day, supporting all-day and nighttime transit service.
	Promote a variety of housing types	Residential development should contain mixed housing types and sizes, such as townhouses and apartments appropriate for singles and families at a variety of price points.
	Provide active streets	Commercial streets should have active streetfronts with a variety of retail, food, office and entertainment opportunities in proximity to the transit stops. Encouraging outdoor seating or other visible activity can further increase the vibrancy of a corridor and the appeal of arriving by transit.
	Provide civic uses and neighborhood amenities	Incorporating civic uses and amenities in development engages the community, provides benefits to residents, and provides additional destinations on the corridor to draw
Encourage compact land uses	Promote compact development	Promoting higher density within the land uses on the corridor provides a greater concentration of potential demand for transit.
	Focus the most compact development near transit	Development should be most compact along the corridor closest to transit stops, and gradually less compact away from the corridor.
<b>Placemaking/Built Environment</b>		
Design for architectural quality	Scale buildings to human use	Buildings should be oriented to the street to be pedestrian-friendly, help define the streetscape, and be easily accessible.
	Keep building scales consistent and transition gradually	Avoiding abrupt changes in building scales ensures a reasonable transition to adjacent sites and respects the character of existing neighborhoods.
	Promote public safety and security	Following City of Portland Crime Prevention Through Environmental Design (CPTED) guidelines during development helps to maintain or improve natural surveillance, increasing perception of safety of arriving by transit, foot, or bicycle.
	Promote architectural quality	Employ high quality, durable building materials that are consistent with the overall composition of area.
	Orient buildings to allow easy pedestrian access	Orienting buildings and entrances towards the street and pedestrian walkways decreases the walking distance to transit and provides an environment that is more functional and pleasant.

Principle	Strategy	Description
Provide quality public space	Provide public meeting and gathering spaces	Centrally located or visible parks and plazas provide public meeting places, which can increase vitality on a corridor and support transit demand.
	Provide high quality landscaping	Landscaping and design features such as shade trees, median plantings, appropriate lighting, and street furniture can improve comfort and security for pedestrians, as well as provide an attractive, human-scaled corridor.
Provide high quality parking	Conceal parking areas	Parking areas should be concealed with landscaping or wrapped with development while not creating barriers for pedestrian or bicycle access to land uses. Options for more pedestrian-friendly parking lot design include placing parking in the rear or side of the property rather than in the front, using pedestrian pathways, and clearly marked pedestrian crossings.
	Prioritize on-street over other forms of parking	On-street parking provides convenient short-term parking, reducing area needed for parking lots and allowing other more compact development.



Design Guidelines Regulated Building Form Contributing to Street Vitality in Vancouver, BC.



Photo: Steve Ruark for The New York Times  
Mixed-Use Development at Market Commons, a Retail and Entertainment Hub in Clarendon, VA

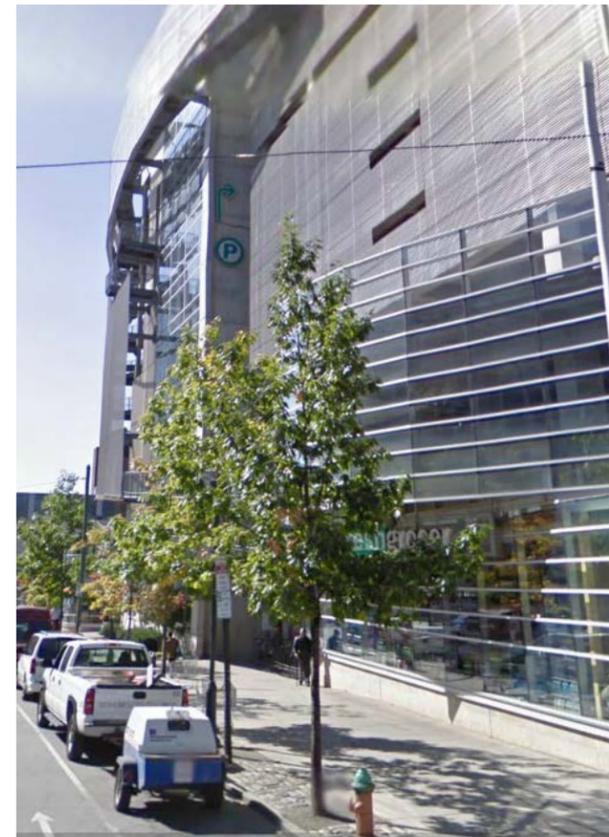


Photo: Google Street View  
Aesthetically Designed Mixed-Use Parking Structure outside the University of Pennsylvania Campus, Philadelphia, PA



Residential Development of Uniform Character Enhancing Edge Conditions at Stapleton, Denver, CO



Form-Based Code Application at Rosemary Beach, FL



Form-Based Code Application at Kentlands, MD



Form-Based Code Application at Kentlands, MD



## Complete Streets Principles

Overall Approach: “Complete Streets” are designed, operated and maintained to enable safe access for all users. Pedestrians, cyclists, transit riders and motorists of all ages and abilities must be able to safely move along and across a complete street.

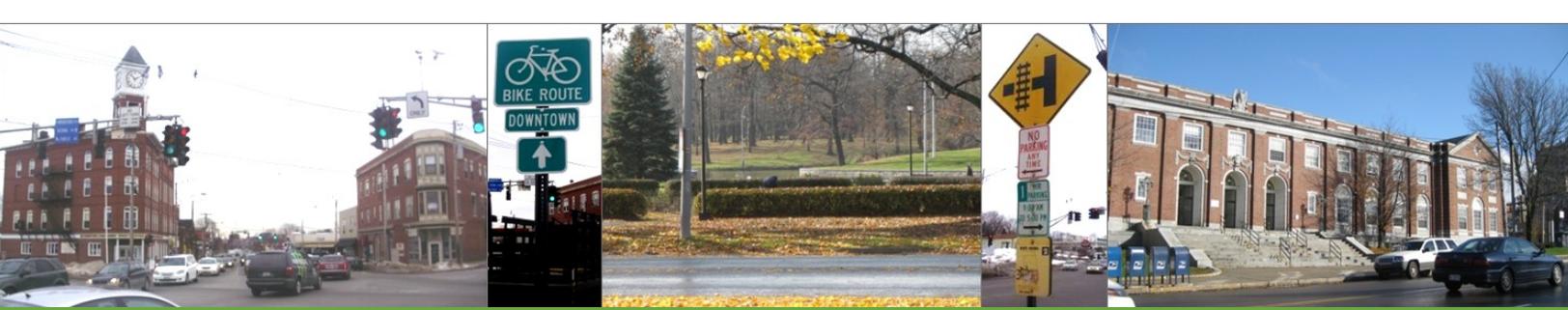
These Complete Streets principles are intended to be applied using a Context Sensitive Solutions approach; the design of a complete street and the level of accommodation of each mode varies depending on the context and needs of a community. Forest Avenue is an arterial (which would have some focus on providing longer through travel between major trip generators) but has also been targeted for better serving transit, bicyclists and pedestrians. These principles acknowledge the importance of transit, commercial, and automobile traffic on this corridor while retaining a focus on better serving pedestrians and cyclists.

Principle	Strategy	Description
<b>Health and Safety</b>		
Promote physical activity	Promote active forms of transportation as well as other physical activities	The health benefits of active transportation have been widely acknowledged. Designing streets to promote physical activity helps to connect to a wider network of amenities to keep residents fit.
	Design streets to acknowledge their role as public spaces that define a vibrant community	Streets include not just lanes for traffic, but the entire right of way, which can include bicycle lanes, parking, plantings, and sidewalks. Designs should account for streets' potential as public spaces.
Enhance safety of vulnerable users	Manage conflicts and increase safety of vulnerable users	Intersections are important focal areas for safety for all users. Attention should be paid to these potential conflict areas to accommodate the most vulnerable users. This includes the physical design of the intersection as well as signals.
	Promote safe walking and cycling for children	Follow street design principles and promote activities and policies that make streets safer for children. Link to Safe Routes to Schools efforts.
	Ensure access for persons with disabilities	Ensure that all streets are accessible to persons with disabilities so that they can move along and across those streets
Manage vehicle speeds	Implement traffic calming measures when appropriate to make streets safer for all users	Lowering speeds reduces fatalities associated with accidents and makes a street more comfortable for all users.
<b>Accommodate all Modes</b>		
Encourage multi-modality	Design streets to accommodate all modes to the degree feasible given desired functionality	Streets should accommodate all modes, ensuring that no mode is disproportionately disadvantaged by improvements for another mode. The level and type of accommodations varies by context and desired functionality.
	Design streets to be an appropriate size	Road diets, reducing the width or number of travel lanes, can improve conditions for all users. Careful considerations should be made for accommodating larger vehicles (such as buses) and bicycle lanes, however, studies have shown that design standards are often wider than necessary.

Principle	Strategy	Description
<p>Improve transit operations, facilities, and access</p>	<p>Increase transit flow in roadway</p>	<p>Special infrastructure or technology for transit, such as queue jumping lanes or transit signal priority, as well as enforcing policies such as bus right-of-way at pull-outs, can decrease travel times by transit.</p>
	<p>Design streets to allow for efficient transit operations without negatively impacting pedestrians and cyclists</p>	<p>Increased operational efficiency makes transit more desirable. Traditional improvements for transit operational efficiency, such as wider lanes or larger turning radii, may not be ideal for pedestrians and cyclists. Such approaches should be avoided or mitigated as feasible given a street's desired functionality.</p>
	<p>Improve bus stop amenities, including shelters and benches</p>	<p>Improving amenities for waiting passengers makes transit more attractive. Shelters and other amenities can be designed to brand transit service.</p>
	<p>Provide high quality sidewalks around bus shelters</p>	<p>Improving sidewalk quality around and near bus stops improves pedestrian accessibility.</p>
	<p>Improve pedestrian crossings near bus stops</p>	<p>When possible and without disproportionately negatively impacting bus operations, locating stops near crossings or providing mid-block crossings can provide pedestrians with safe and easy access to transit.</p>
	<p>Locate bus stops conveniently relative to desired destinations</p>	<p>Locating bus stops near desirable locations decreases walking times and increases attractiveness of transit.</p>
<p>Mitigate traffic diversion</p>	<p>Design arterial and residential streets to reduce the effects of diversion of arterial traffic into neighborhoods</p>	<p>Arterial traffic can bring with it congestion, noise, pollution, and other qualities that would be undesirable to divert to neighborhood streets. Well-designed streets that incorporate pedestrians, cyclists, and transit users should not cause significant amounts of arterial through traffic to seek alternative routes</p>
<p>Manage parking</p>	<p>Manage parking demand</p>	<p>Appropriately pricing parking can help manage demand and space required to accommodate automobiles as well as incentivize other modes of transportation.</p>
	<p>Design parking to mitigate potential conflict</p>	<p>On-street parking buffers pedestrians from traffic, but care should be taken to address or mitigate potential conflict with bicycle facilities. Entrances to parking lots can also be sources of conflict with other users.</p>
	<p>Provide bicycle parking</p>	<p>Increasing bicycle access to the corridor includes providing parking at or near transit stops and destinations.</p>
<p>Increase comfort</p>	<p>Design streets to include characteristics that increase comfort for pedestrians and cyclists</p>	<p>Utilize design features such as building and landscaping enclosures, street furniture, buffers between pedestrians/cyclists and traffic to increase pedestrian and cyclist comfort.</p>

Principle	Strategy	Description
<b>Connectivity/Accessibility</b>		
Connect the street network	Enhance interconnectivity of street network	Interconnected street patterns, such as a grid network that avoids dead ends and cul-de-sacs, improve mobility of pedestrians and cyclists, assists in efficient transit routing, and helps to distribute traffic among streets. Street redesign should retain or enhance existing connectivity. In an established street pattern, additional connections for pedestrians and cyclists may be created on existing blocks.
Provide wayfinding	Provide legible signage and landmarks	Highly visible and legible signage and clear landmarks ensure that all travelers can easily find destinations.
	Provide signs to direct towards major destinations	Additional wayfinding, such as signage indicating direction and distance to other desirable destinations, can improve wayfinding as well perceptions of pedestrian, cycling, and transit accessibility.
<b>Environment</b>		
Increase permeability	Limit impervious footprint of streets	Limiting street footprints includes reducing width and using pervious paving where possible.
	Limit the concentration of water	Using pervious materials and infiltration basins help limit pressure on potable groundwater supplies.
	Capture stormwater	Consider stormwater curb extensions, street planters, and rain gardens to capture and filter stormwater runoff and allow it to infiltrate into the ground.
Reduce greenhouse gas (GHG) emissions	Reduce congestion	Employ strategies that decrease congestion, thereby decreasing GHG emissions. Strategies can both focus on reducing the stop-and-go emissions in congested conditions and reducing SOV travel.
	Increase attractiveness of non-motorized and transit modes	When possible, prioritize transit and active transportation over SOV travel to encourage a mode shift to less polluting per capita forms of transportation.





## Chapter III. Final Concept Plan Visualizations

1. **Segment A - Deering Oaks Park**
  - i. **Transportation and Streetscape Concept Plan**
  - ii. **Transportation and Streetscape Concept Plan: Street Section**
  - iii. **Lane Configuration Concept: I-295**
  - iv. **Visualization of Improvements at I-295**
  
2. **Segment B - Central Forest Avenue**
  - i. **Transportation and Streetscape Concept Plan**
  - ii. **Transportation and Streetscape Concept Plan: Street Section**
  
3. **Segment C - Woodfords Corner**
  - i. **Transportation and Streetscape Concept Plan**
  - ii. **Transportation and Streetscape Concept Plan: Street Section**
  - iii. **Lane Configuration Concept: Woodfords Corner**
  - iv. **Visualization of Improvements at Woodfords Corner**





## Chapter III.

### Segment A - Deering Oaks Park

- i. Transportation and Streetscape Concept Plan
- ii. Transportation and Streetscape Concept Plan: Street Section
- iii. Lane Configuration Concept: I-295
- iv. Visualization of Improvements at I-295





Improved Pedestrian Lighting



Textured Ramps for Improved Accessibility



Bus Shelters with all Amenities



Pervious Paving



Innovative Stormwater Drainage solutions



Prominent Bicycle Lane Markings

CORRIDOR WIDE IMPROVEMENTS

Improved access for people with disabilities	Improved treatment (e.g. asphalt stamping) of pedestrian and cyclist crossings	Improved paving treatment and pedestrian lighting	Distinctly visible shared lane markings for cyclists	Additional bicycle parking	Narrow travel lanes	Route '2S' shuttle service	Improved amenities at bus stops	Consistent landscaping	Branded and consistent street furniture	Use of recycled materials	Use of pervious materials and surfaces
--	--	---	--	----------------------------	---------------------	----------------------------	---------------------------------	------------------------	---	---------------------------	--

BAXTER BOULEVARD INTERSECTION

- 'University of Southern Maine' branding
- Bus shelters with all amenities
- Bicycle boxes on NB Forest Ave and side streets

BAXTER BOULEVARD - I-295

- Landscaped medians
- Expanded sidewalks
- Cycle tracks
- Conflict area markings
- Rumble strips/zigzag striping on interstate exits

I-295 UNDERPASS

- Landscaped medians
- Expanded sidewalks with improved paving treatment and pedestrian lighting for pedestrian safety
- Cycle tracks

I-295 - MARGINAL WAY

- Landscaped medians
- Expanded sidewalks
- Cycle tracks
- Conflict area markings
- Rumble strips/zigzag striping on interstate exits

MARGINAL WAY INTERSECTION

- 'Gateway to Portland' branding
- Additional pedestrian crossing
- Bicycle boxes

HIGH STREET INTERSECTION

- Improved ped crossing configuration
- Pedestrian bulb-outs

HIGH STREET - PARK AVENUE

- Removal of one travel lane in each direction
- Expanded sidewalks
- Cycle tracks
- Bus shelter with all amenities

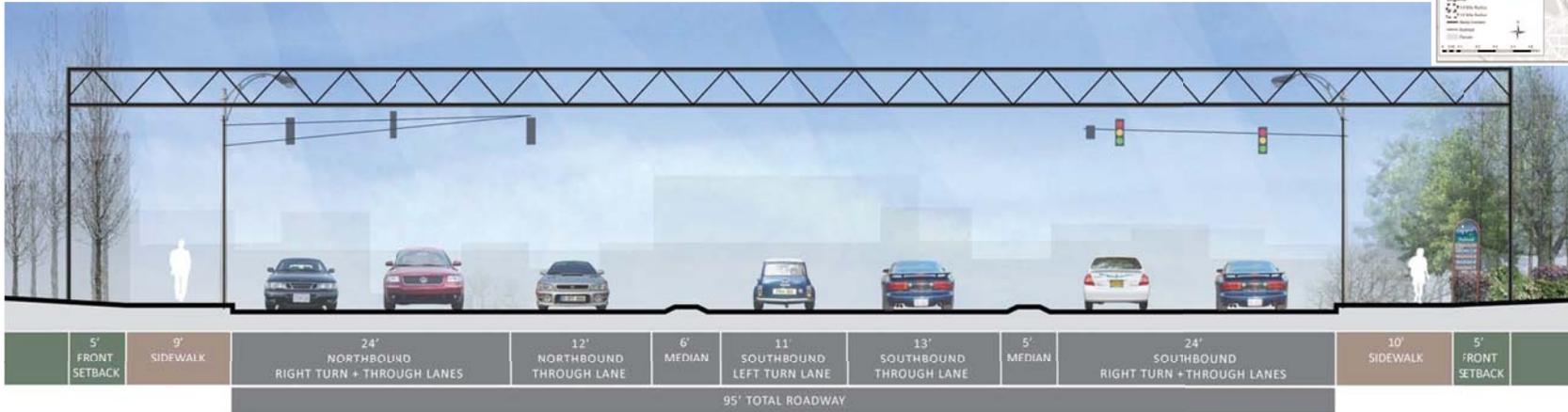
PARK AVENUE INTERSECTION

- Pedestrian bulb-outs
- Bicycle boxes

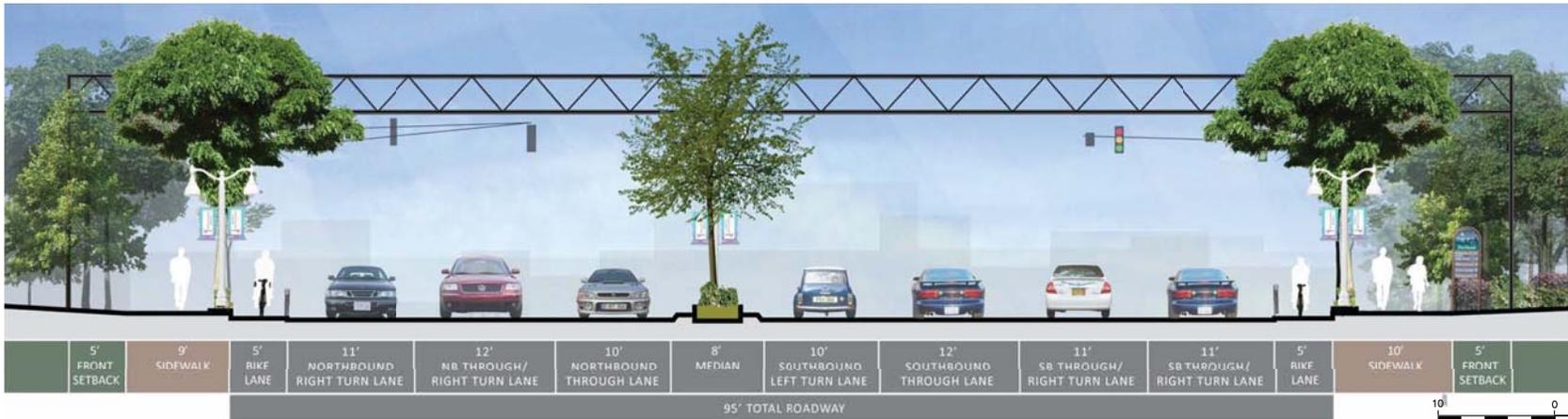




Key Map



Existing Street Section A



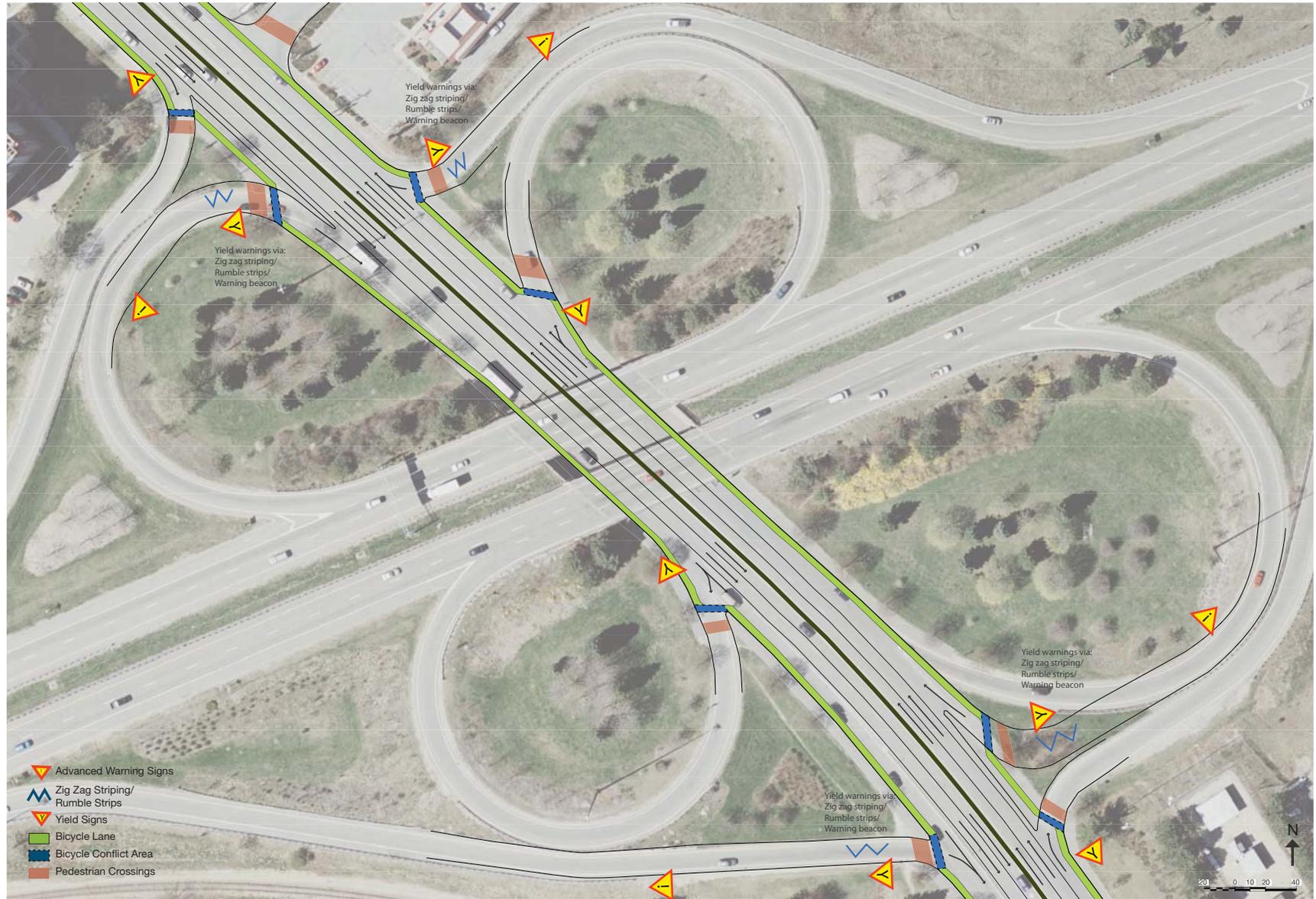
Proposed Street Section A



# Transportation and Streetscape Concept Plan

## Street Section for Segment A - Deering Oaks Park



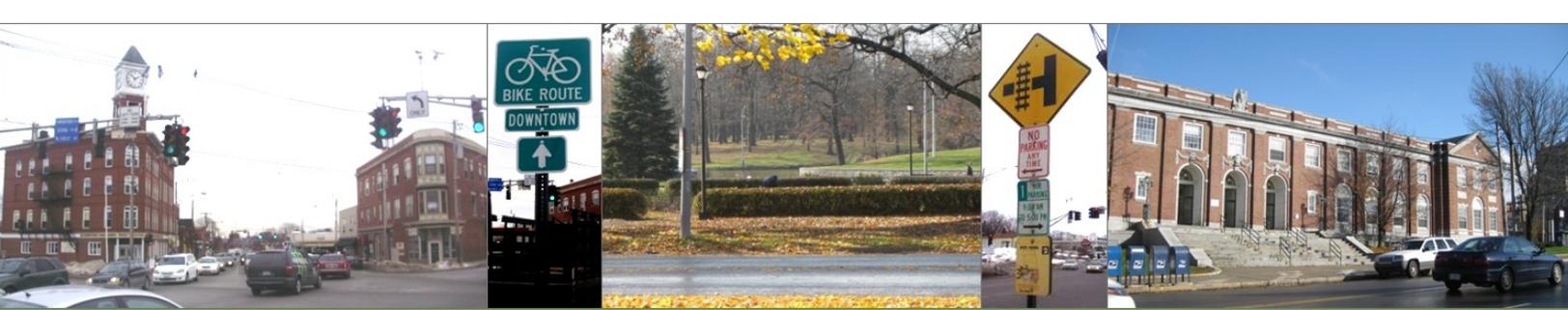




Existing View from North of I-295 Intersection facing South



View of I-295 Intersection facing South with Proposed Improvements



## Chapter III.

### Segment B - Central Forest Avenue

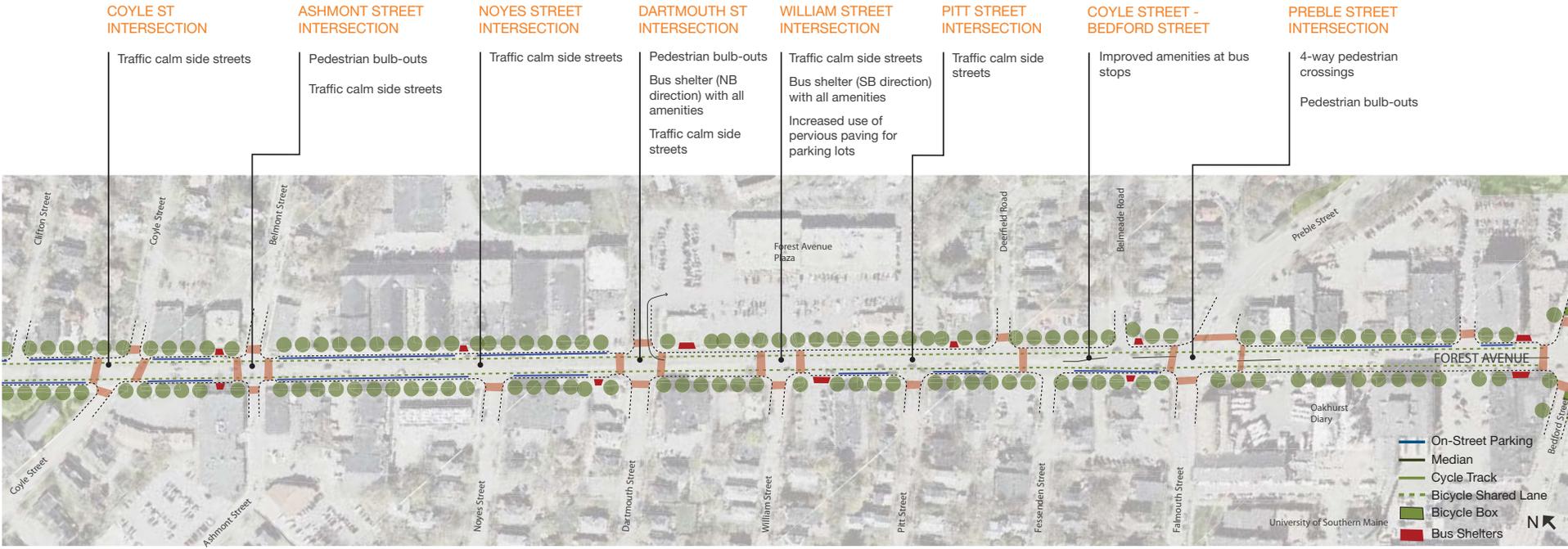
- i. Transportation and Streetscape Concept Plan
- ii. Transportation and Streetscape Concept Plan: Street Section





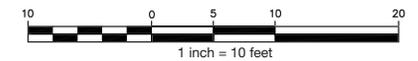
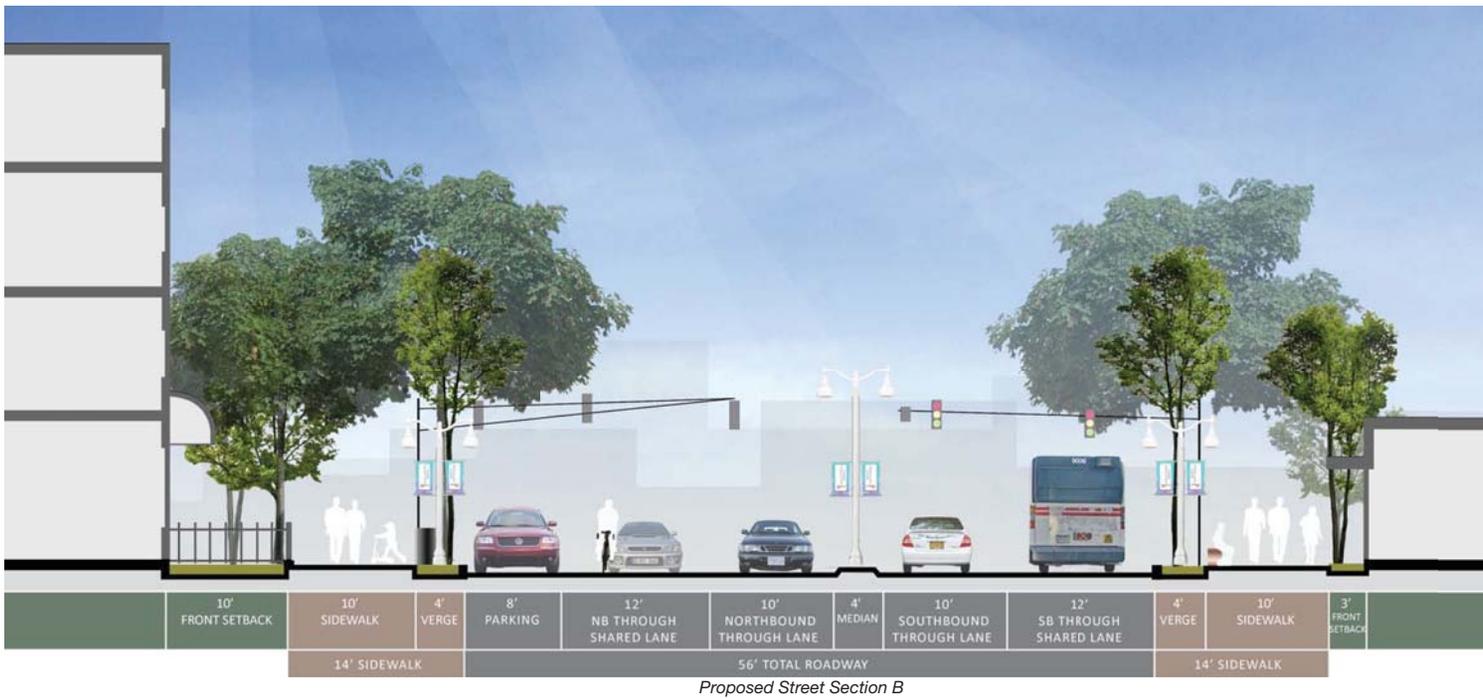
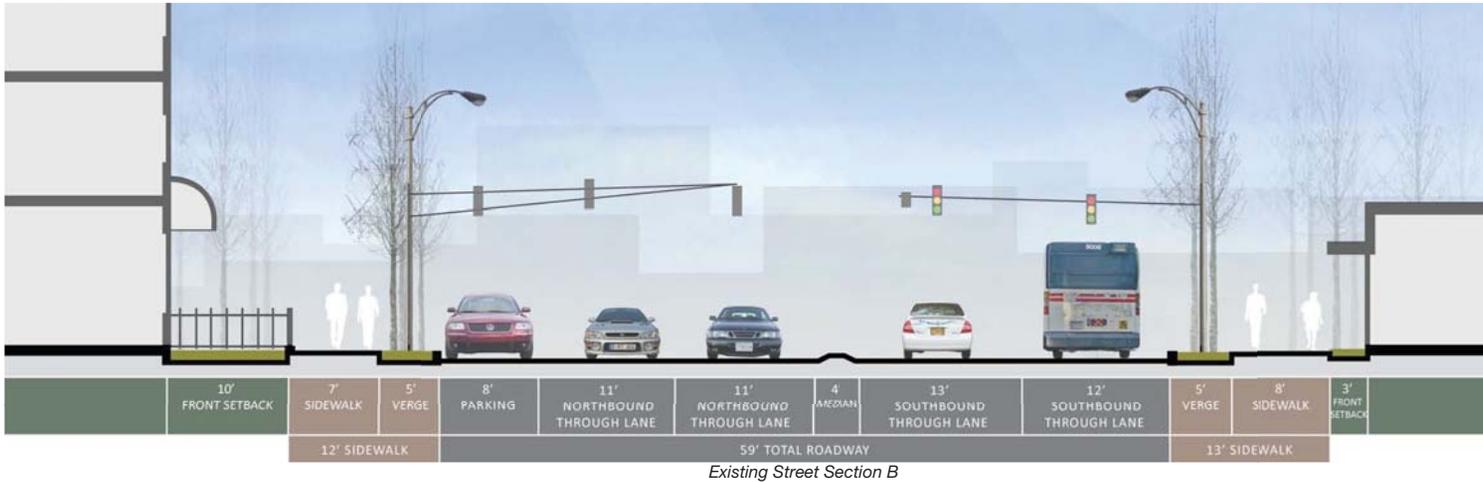
**CORRIDOR WIDE IMPROVEMENTS**

Improved access for people with disabilities	Improved treatment (e.g. asphalt stamping) of pedestrian and cyclist crossings	Improved paving treatment and pedestrian lighting	Distinctly visible shared lane markings for cyclists	Additional bicycle parking	Narrow travel lanes	Route '2S' shuttle service	Improved amenities at bus stops	Consistent landscaping	Branded and consistent street furniture	Use of recycled materials	Use of pervious materials and surfaces
--	--	---	--	----------------------------	---------------------	----------------------------	---------------------------------	------------------------	---	---------------------------	--



**Transportation and Streetscape Concept Plan**  
Corridor Segment B - Central Forest Avenue

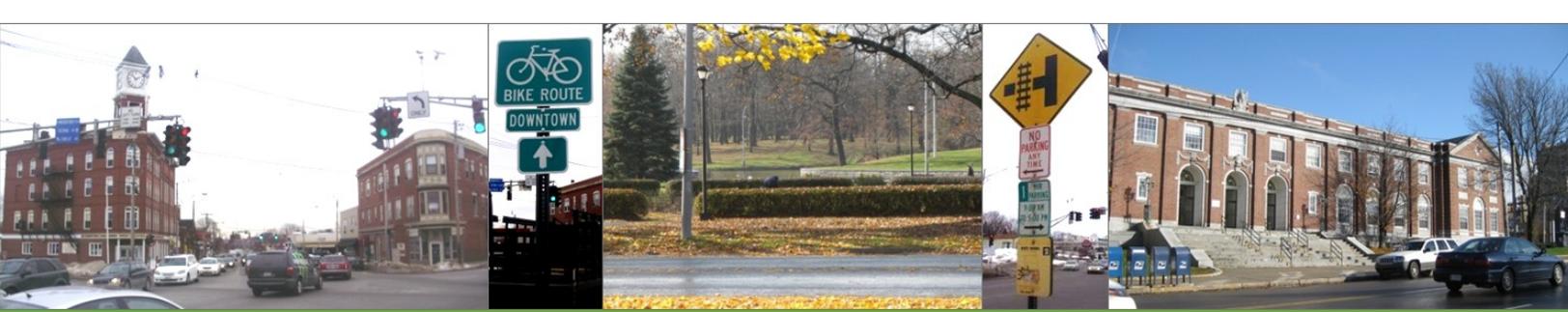




# Transportation and Streetscape Concept Plan

Street Section for Segment B - Central Forest Avenue





## Chapter III.

### Segment C - Woodfords Corner

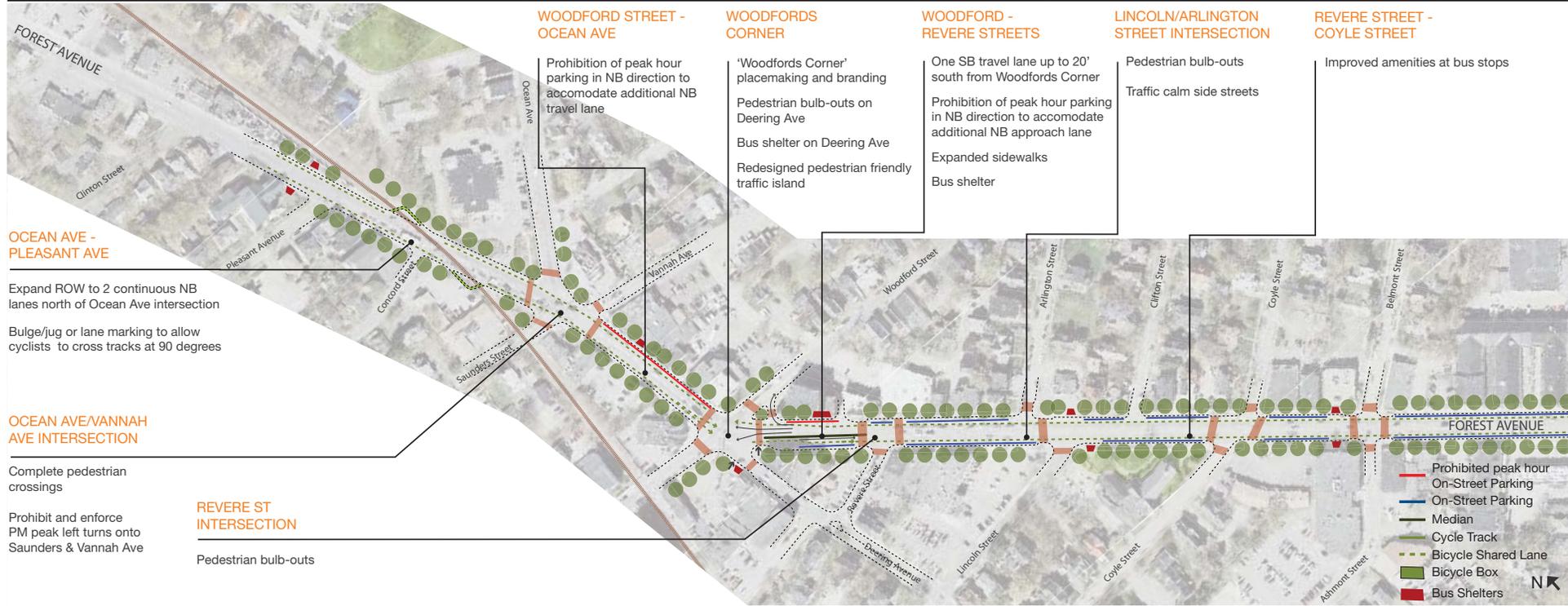
- i. Transportation and Streetscape Concept Plan
- ii. Transportation and Streetscape Concept Plan: Street Section
- iii. Lane Configuration Concept: Woodfords Corner
- iv. Visualization of Improvements at Woodfords Corner





**CORRIDOR WIDE IMPROVEMENTS**

Improved access for people with disabilities	Improved treatment (e.g. asphalt stamping) of pedestrian and cyclist crossings	Improved paving treatment and pedestrian lighting	Distinctly visible shared lane markings for cyclists	Additional bicycle parking	Narrow travel lanes	Route '2S' shuttle service	Improved amenities at bus stops	Consistent landscaping	Branded and consistent street furniture	Use of recycled materials	Use of pervious materials and surfaces
--	--	---	--	----------------------------	---------------------	----------------------------	---------------------------------	------------------------	---	---------------------------	--



**OCEAN AVE - PLEASANT AVE**

Expand ROW to 2 continuous NB lanes north of Ocean Ave intersection  
Bulge/jug or lane marking to allow cyclists to cross tracks at 90 degrees

**OCEAN AVE/VANNAH AVE INTERSECTION**

Complete pedestrian crossings  
Prohibit and enforce PM peak left turns onto Saunders & Vannah Ave

**REVERE ST INTERSECTION**

Pedestrian bulb-outs

**WOODFORD STREET - OCEAN AVE**

Prohibition of peak hour parking in NB direction to accommodate additional NB travel lane

**WOODFORDS CORNER**

'Woodfords Corner' placemaking and branding  
Pedestrian bulb-outs on Deering Ave  
Bus shelter on Deering Ave  
Redesigned pedestrian friendly traffic island

**WOODFORD - REVERE STREETS**

One SB travel lane up to 20' south from Woodfords Corner  
Prohibition of peak hour parking in NB direction to accommodate additional NB approach lane  
Expanded sidewalks  
Bus shelter

**LINCOLN/ARLINGTON STREET INTERSECTION**

Pedestrian bulb-outs  
Traffic calm side streets

**REVERE STREET - COYLE STREET**

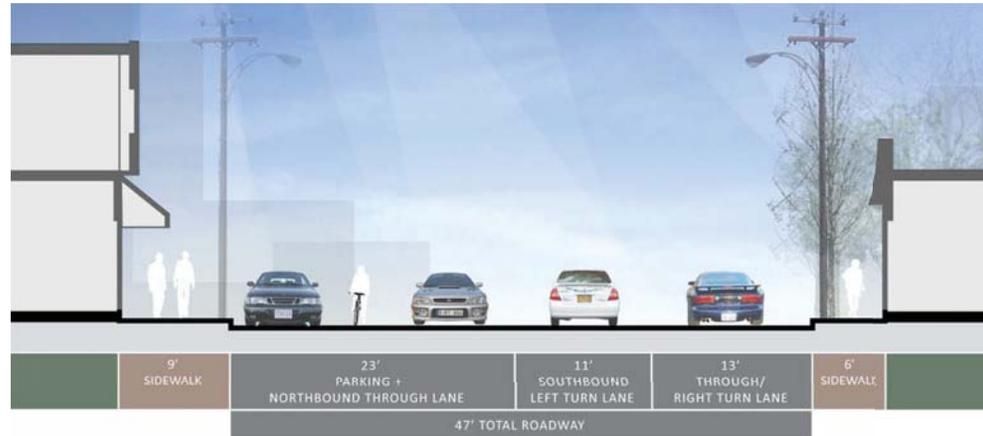
Improved amenities at bus stops

- Prohibited peak hour
- On-Street Parking
- On-Street Parking
- Median
- Cycle Track
- - - Bicycle Shared Lane
- Bicycle Box
- Bus Shelters

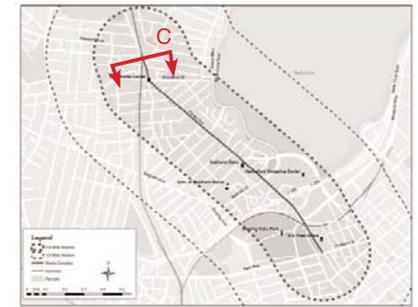


**Transportation and Streetscape Concept Plan**  
Corridor Segment C - Woodfords Corner





Existing Street Section C

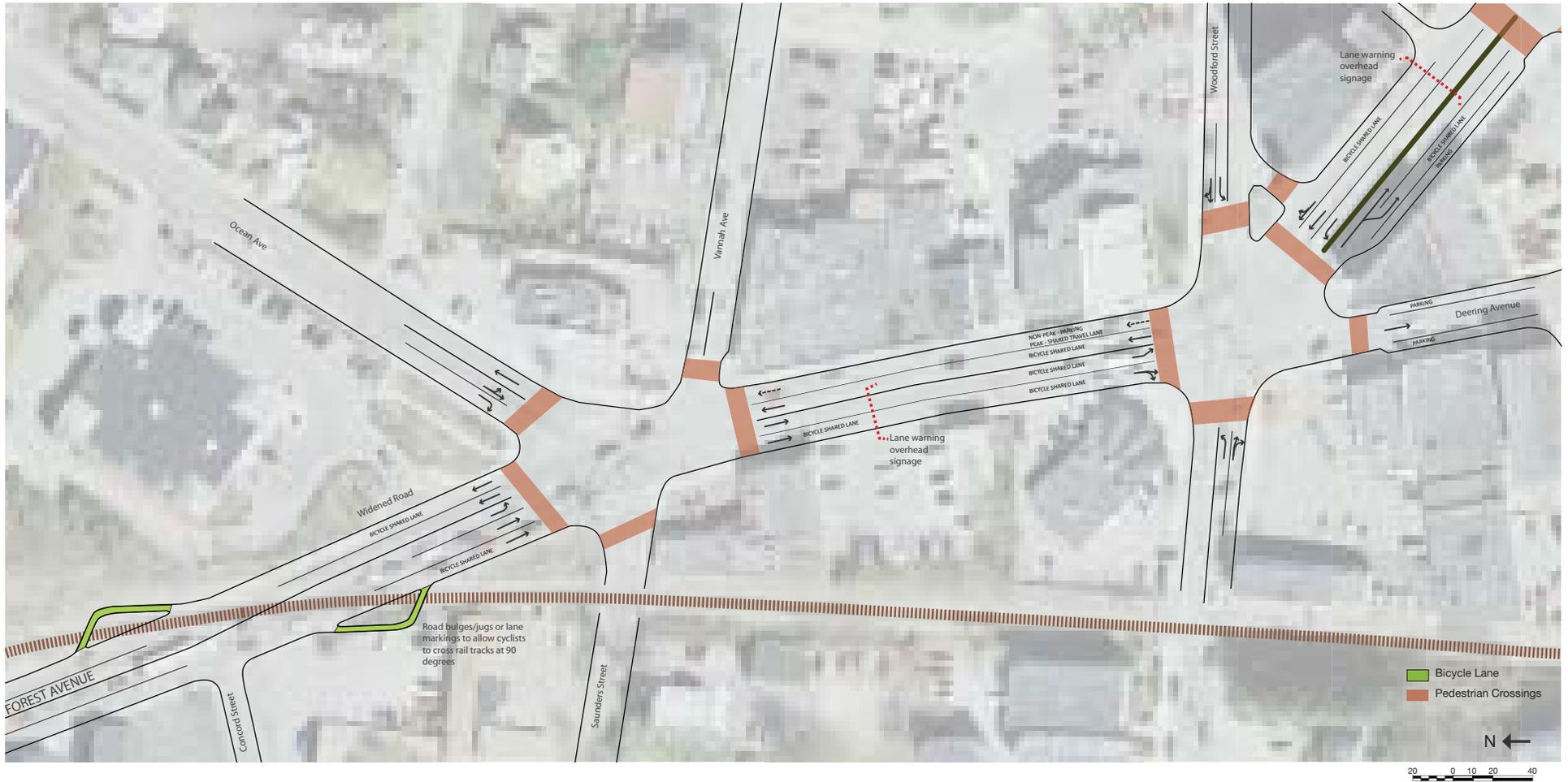


Key Map



Proposed Street Section C







Existing View from North of Woodfords Corner facing South



View of Woodfords Corner facing South with Proposed Improvements



## **Age-Friendly Community**

### **Timeline**

05.2015      Report published

### **Summary**

In 2010 15.9% of Maine's population was 65 years or older. By 2030 it is estimated that this number will grow to 25%, meaning one in every four people living in Maine will be of retirement age. Portland lies just below the state average with 12.6% of its population (in 2010) aged 65 years or older and based on the statewide estimates for 2030 it is likely that this number will grow as well. Acknowledging both the demographics of their city and the desire of residents to age in place the City of Portland joined AARP's Network of Age-friendly Communities. The AARP Network of Age-friendly Communities is an affiliate of the World Health Organization's (WHO) Age Friendly Cities and Communities Program.

AARP characterizes livability through ten attributes: transportation, housing, a physical environment that fosters walking, care and support services, health services, engagement of residents in social life, engagement of residents in civic life, safety and security, recreation and cultural activities, and access to grocery stores and other shopping.

WHO characterizes livability through eight domains: transportation, housing, outdoor spaces and buildings, community support and health services, social participation, civic participation and employment, communication and information, and respect and social inclusion.

For the purpose of the attached study, a combination of the AARP attributes and WHO domains were investigated, they included: housing, outdoor spaces and building, transportation, social inclusion, and health and wellness. The goals of this research study were to 1) complete a community needs assessment on the "age-friendliness" of Portland, Maine and 2) make recommendations to the City of Portland, Maine on implementing steps and strategies to enhance the "age-friendliness" of their city. This study was conducted in collaboration with the City of Portland.

### **In this chapter**

- **Assessing Needs for a Livable Community in Portland, Maine**, Master's in Public Health capstone report, Emily LaVine, 05.2015
- **Checklist of Essential Features of Age-friendly Cities**, factsheet, World Health Organization, 2007

**Assessing Needs for a Livable Community in Portland, Maine**

**MPH Capstone**

**Emily LaVine**

**Table of Contents**

---

**Executive Summary**..... 2

**Review of the Literature**..... 3

**Methods**

Study design..... 4

Data Collection and Analysis..... 4

Limitations..... 4

Ethical considerations..... 4

**Key Findings**

Demographics..... 5

Housing..... 6

Outdoor Spaces and Buildings..... 7

Transportation and Streets..... 7

Social Inclusion..... 8

Health and Wellness..... 9

Portland Community..... 9

Word Cloud..... 15

Inventory of Community Assets..... 16

**Discussion**..... 17

**Next Steps & Recommendations**..... 19

**References**..... 20

**Appendix**..... 22

## Executive Summary

---

In 2010 15.9% of Maine's population was 65 years or older.<sup>1</sup> By 2030 it is estimated that this number will grow to 25%, meaning one in every four people living in Maine will be of retirement age.<sup>2</sup> Portland lies just below the state average with 12.6% of its population (in 2010) aged 65 years or older and based on the statewide estimations for 2030 it is likely that this number will grow as well.<sup>1</sup> Acknowledging both the demographics of their city and the desire of residents to age in place the City of Portland joined AARP's Network of Age-friendly Communities. The AARP Network of Age-friendly Communities is an affiliate of the World Health Organization's (WHO) Age Friendly Cities and Communities Program. Although affiliated, AARP and WHO characterize livability differently. AARP characterizes livability through ten attributes: transportation, housing, a physical environment that fosters walking, care and support services, health services, engagement of residents in social life, engagement of residents in civic life, safety and security, recreation and cultural activities, and access to grocery stores and other shopping.<sup>3</sup> WHO characterizes livability through eight domains: transportation, housing, outdoor spaces and buildings, community support and health services, social participation, civic participation and employment, communication and information, and respect and social inclusion.<sup>3</sup> Although their characterizations differ slightly they share a common goal, to foster livable communities.<sup>3</sup> For the purpose of this study a combination of the AARP attributes and WHO domains were investigated, they included: housing, outdoor spaces and building, transportation, social inclusion, and health and wellness. The goals of this research study were to 1) complete a community needs assessment on the "age-friendliness" of Portland, Maine and 2) make recommendations to the City of Portland, Maine on implementing steps and strategies to enhance the "age-friendliness" of their city. Objectives included: conducting a literature review of aging in place initiatives, compiling an inventory of community assets, administering a survey of demographic, housing, outdoor spaces and building, transportation, social inclusion, and health and wellness characteristics in Portland, and analysis of community needs assessment; completion of these objectives will identify the characteristics of Portland that are livable and age friendly and those that are not. This study was conducted in collaboration with the City of Portland.

## Review of the Literature

---

As people age there is a strong desire to stay in place, in fact it is the preferred option for people aged 50 years and older.<sup>2</sup> In a 2010 survey conducted by the American Association of Retired Persons (AARP) 75% of respondents strongly agreed that “what I’d really like to do is stay in my current residence for as long as possible and with over 200 unique models that address aging in place and livability people nationwide are doing just that.”<sup>2</sup> Moreover, retaining long-term relationships to environmental surroundings has been shown to contribute to well-being as a person ages.<sup>4</sup>

Livability can be defined in many ways, AARP defines a livable community as “...one that is safe and secure, has affordable and appropriate housing and transportation options, and offers supportive community features and services.”<sup>3</sup> While livability takes a community approach, aging in place takes an individual approach; the Centers for Disease Control and Prevention (CDC) defines aging in place as “The ability to live in one’s own home and community safely, independently, and comfortably, regardless of age, income, or ability level.”<sup>5</sup> So where do livability and aging in place intersect? According to the ecological model of aging, “a person’s functioning is the result of their biological, psychological, and social resources; environmental characteristics; and the fit between ever-changing individuals and their ever-changing environments.”<sup>6</sup> When the demands of physical and social environments outweigh individual capacity aging in place is less likely to occur.<sup>6</sup> Thus, livable communities provide support systems that help people age in place and age with choice. Conversely, the needs of individuals to age in place influence the types of support systems communities initiate.

As previously indicated, there are over 200 unique models that address livability and aging in place.<sup>2</sup> In addition, there are many initiatives that, while not “age-friendly” specific, support elements of livable communities and aging in place, such as the Partnership for Sustainable Communities and the Smart Growth Network.<sup>7</sup> In Maine, researchers have identified ten models that they believe “are suited for and adaptable to Maine’s communities,” they include: Lotsa Helping Hands, Share the Care, Time Banks, Shared Housing, Shared Spaces, Naturally Occurring Retirement Communities, Block Nurse Program, The Village Model, The Green House Model, and Supportive Housing for the Elderly.<sup>2</sup> Generally, these models/ initiatives can be grouped into four categories, community planning, local system coordination and program development, co-location of services, and consumer association.<sup>2</sup>

The age demographics and trends in Maine and nationwide support the need for these initiatives, but why else should communities and individuals invest in livability and aging in place? Livable communities are sustainable communities; they support diversified housing and transportation options, social equity, and economic growth.<sup>7</sup> Aging in place provides individuals with a sense of identity and security.<sup>8</sup> When individuals age in place they exhibit improved cognition, increased functioning in daily activities, and decreased levels of depression compared to individuals aging in an institutionalized setting.<sup>9</sup> Conversely, relocating to an institutionalized setting has been shown to reduce quality of life and increase mortality risk.<sup>8</sup> Lastly, aging in place and receiving services and supports within a community are believed to be a more cost effective approach than institutionalized care.<sup>8</sup>

## Methods

---

### Study Design

This study was conducted using primary and secondary data. Primary data were collected through a web-based survey and secondary data were collected through web-based searches of community assets in Portland, Maine. The survey, “Livable Communities- Portland, Maine,” was adapted from the “AARP Livable Communities” survey. It was comprised of six different sections 1) demographics, 2) housing, 3) outdoor spaces and buildings, 4) transportation and streets, 5) social inclusion, and 6) health and wellness. Prospective participants were targeted through web mailings. Web mailings included the following information: project title, general statement about the study, inclusion/exclusion criteria, commitment required by participants, location of research, investigator's name, study contact persons, risk/benefits, language that participation is voluntary, and a link to the survey. Additionally, in an effort to capture potential participants who are not “online,” paper surveys were dropped off at four different community centers, including: Rieche, Peaks, East End, and Parkside. Paper surveys were also distributed to Northfield Green, Franklin Towers, and Opportunity Alliance Senior Center. The survey was conducted from March 9, 2015 to April 17, 2015.

### Data Collection and Analysis

Surveys were completed online using Snap Survey software; once collected, paper surveys were inputted into the Snap Survey software. Survey data included 237 respondents; 204 (86%) responded online and 33 (14%) responded on paper. Inclusion criteria for participation were 1) are a resident of the Greater Portland area and 2) are aged 18 years or older. Analyses representing survey responses are reported in percentages. Results from a qualitative data analysis are displayed in a word cloud. Secondary data, including census data and community assets data, were collected from web-based searches from February 1, 2015 to April 10, 2015.

### Limitations

Limitations of this study included time, resources, and delivery method. The survey was conducted for five weeks; a longer period of data collection may have produced more statistically significant result. In addition resources such as work force and funding were limited. Lastly, the primary delivery method of the survey was online, potentially resulting in selection bias and missed opportunities to collect data. Through continued outreach and engagement of potential stakeholders these limitations may be overcome in future assessments.

### Ethical considerations

Risks of harm to subjects that were reasonably foreseeable yet very unlikely were 1) loss of time and 2) feeling uncomfortable. Safe guards were put in place to mitigate these risks, they included, 1) voluntary participation 2) survey length (fewer than 40 questions and was time-tested to take approximately 15 minutes), 3) option to refuse to answer any question, and 4) participation could cease at any time, even after starting the survey there was no obligation to complete the survey. None of this research involved asking participants about confidential information. Data collected from the survey was anonymous. Data was maintained and stored on the Snap survey WebHost, it was not transferred electronically, and only the principal investigator had access to the data. The privacy of subjects' responses was protected by Snap Survey security software. This research study was approved by the University of Southern Maine's Office of Research Integrity and Outreach.

## Key Findings

### Demographics

Among the 237 respondents 79 (33%) were male and 158 (67%) were female. Age of respondents ranged from 27 to 92 years. 70% of respondents were age 60 years or older. 18% of respondents reported that they themselves or someone in their household has a physical limitation, disability, or chronic disease. Regarding level of education, 11% of respondents reported having a high school diploma and/or GED, 3% reported attending a technical school, 36% reported having a 2 or 4 year degree, 9% reported having post graduate study, and 41% reported having a graduate degree. A majority of respondents (77%) own their primary residence, 20% rent, and 3% have other living arrangements.

**Table 1: Demographic Characteristics**

	Survey, n=237	Portland, n=66,227 <sup>10</sup>
<b>Sex</b>		
Male	33%	49%
Female	77%	51%
<b>Age</b>		
18-44	5%	42%
45-59	25%	21%
60-74	55%	11%
75+	15%	7%
<b>Physically Disabled</b> (18 yrs. and older)	18%	48%
<b>Education Level</b>		
High school graduate/ GED	11%	21%
Technical school	3%	
2 or 4 year college degree	36%	35%
Post graduate study	9%	
Graduate degree	41%	17%
<b>Housing</b>		
Rent	20%	55%
Own	77%	45%
Other living arrangement	3%	

Type of residence varied among respondents; 56% of respondents live in a single family home, 10% in a townhouse or duplex, 19% in an apartment, and 12 % in a condominium (fig. 1). Overall responses were received from residents of all six zip codes in Portland, including 04101 (16%), 04102 (31%), 04103 (28%), 04108 (18%), 04109 (<1%), and 04019 (<1%); 6% of respondents reported “other” (fig. 2). Length of residence of respondents varied significantly, 19% reported living in Portland for 5 years or fewer, 19% for 5 to 10 years, 13% for 10 to 15 years, 10% for 15 to 20 years, and 30% for 20 plus years (fig. 3).

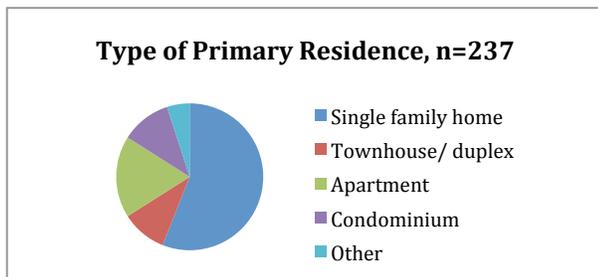


Figure 1: Type of primary residence

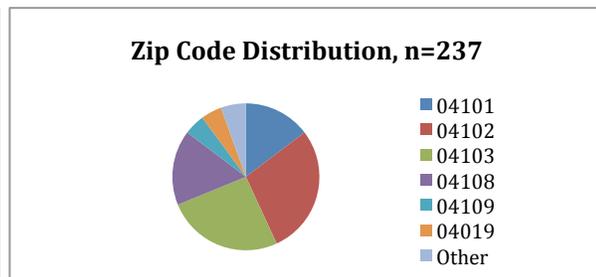


Figure 2: Zip code distribution

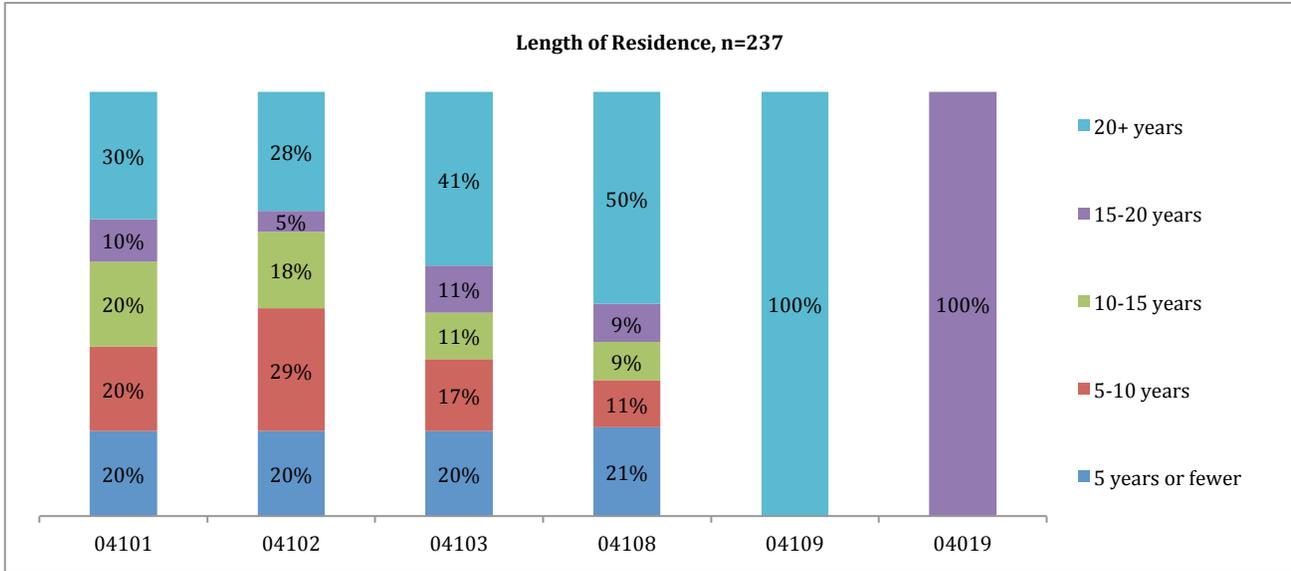


Figure 3: Length of Residence

### Housing

Over 50% of respondents agreed that affordable housing options, well maintained home and properties, and seasonal services such as snow removal were extremely important to have in a community. Additionally, over 70% of respondents agreed that housing options equipped with age-friendly features and affordable home repair/ modifications services were very or extremely important to have in a community. (fig. 4)

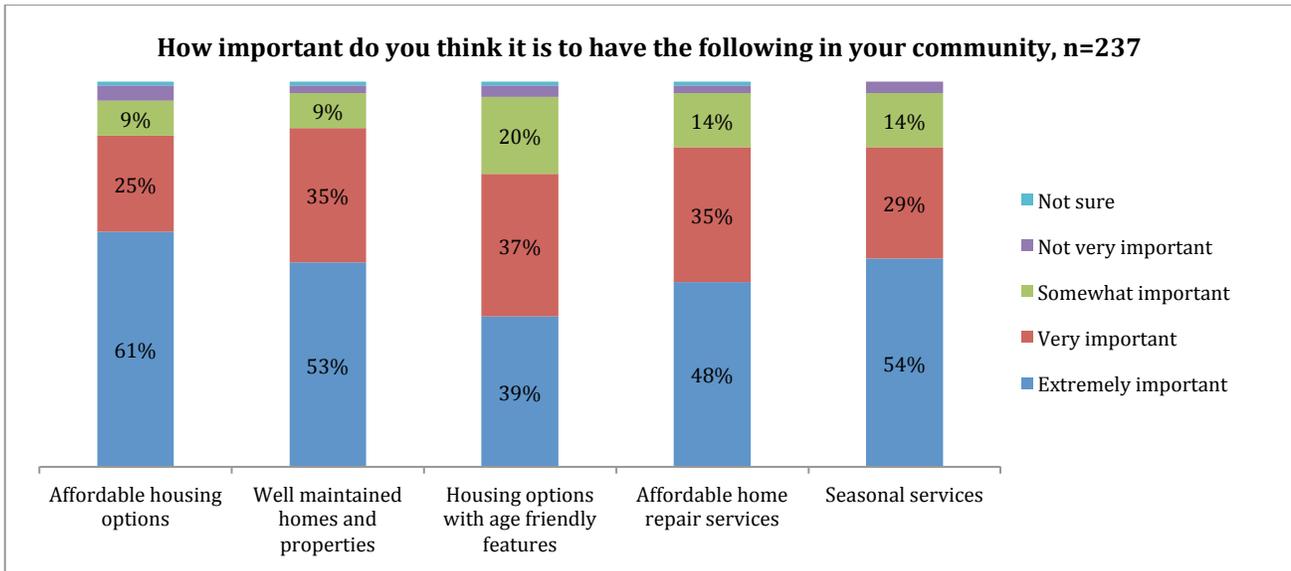


Figure 4: Importance of Housing

### Outdoor Spaces and Buildings

Over 90% of respondents agreed that conveniently located venues for entertainment and well-maintained public parks were very or extremely important to have in a community. Additionally, over 70% of respondents agreed that parks with enough benches and within walking distance of home were very or extremely important to have in a community. (fig. 5)

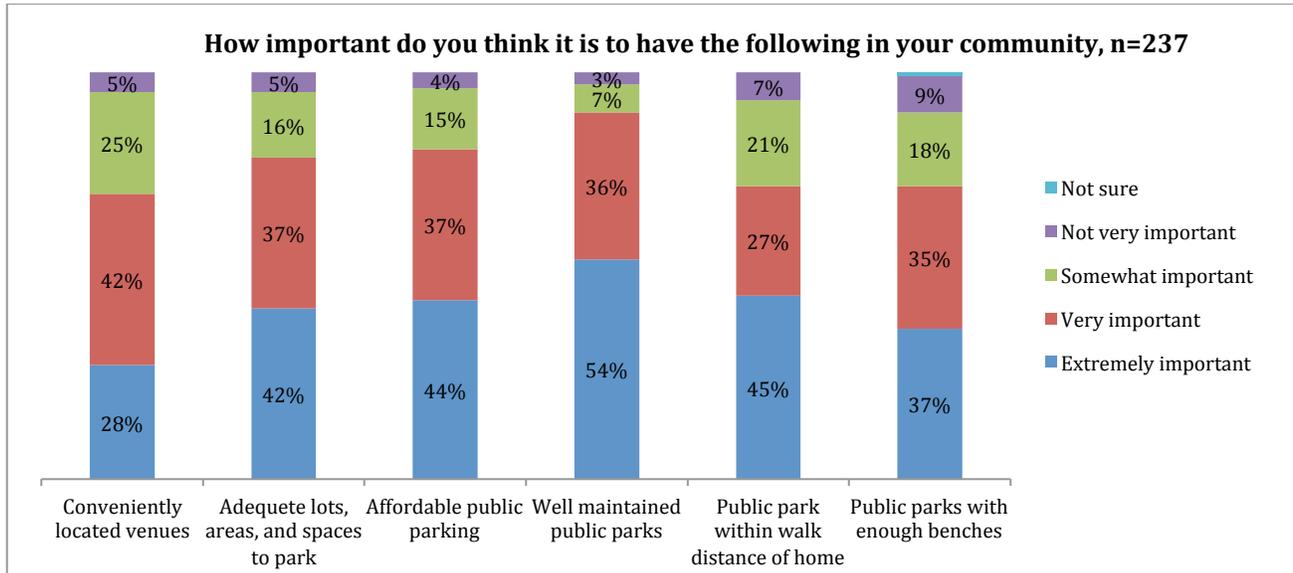


Figure 5: Importance of Outdoor Spaces and Buildings

### Transportation and Streets

Over 50% of respondents agreed that all ten of the transportation and street related factors asked about were extremely important to have in a community. The top three factors that were reported as extremely important by respondents were safe streets and intersections (77%), well-maintained sidewalks (77%), and special transportation services (75%). (fig. 6)

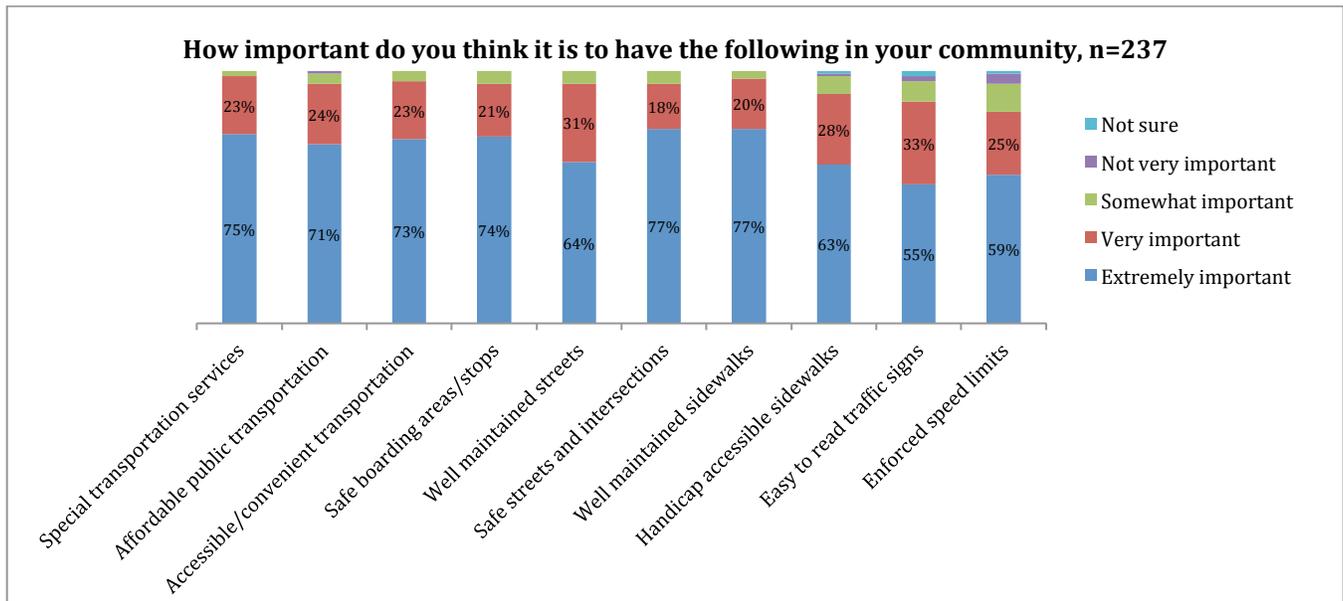


Figure 6: Importance of Transportation and Streets

### Social Inclusion

About half (52% and 56%, respectively) of respondents reported that programs for older adults that promote social inclusion and opportunities for older adults to participate in decision making bodies were extremely important to have in a community. Among the remaining social inclusion factors, reporting was skewed. Concerning local schools that involve older adults 44% reported extremely important, 32% very important, and 20% somewhat important; a range of volunteer activities to choose from and continuing education classes showed similar findings. (fig. 7)

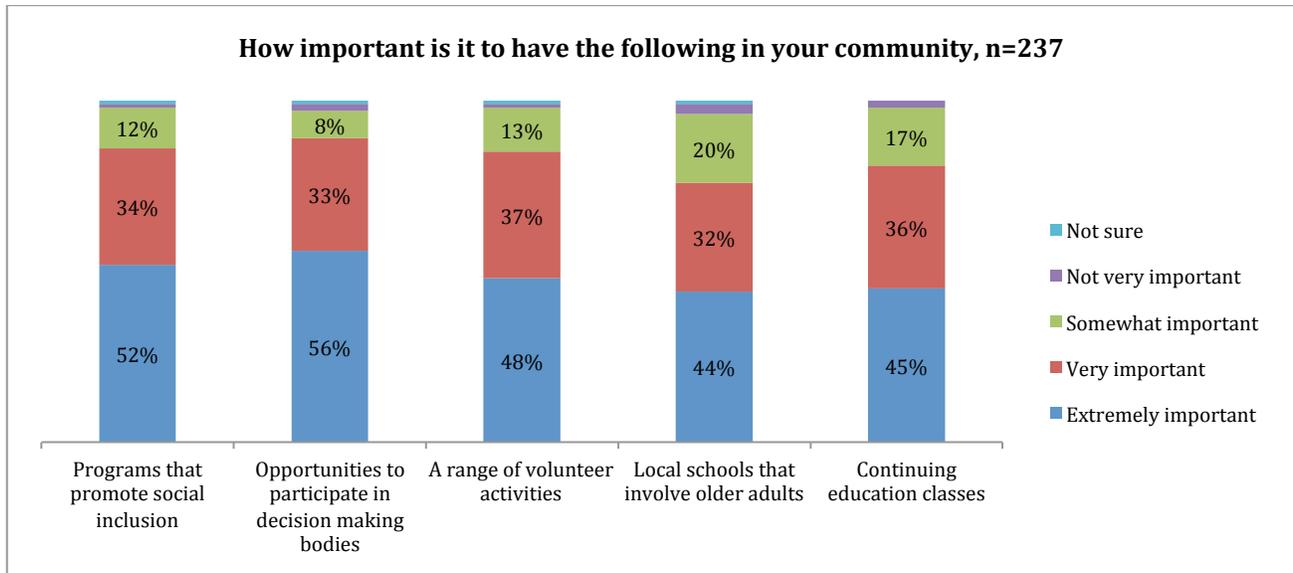


Figure 7: Importance of Social Inclusion

A majority of respondents reported receiving information about their community more than once a week from four vehicles: computer/ internet (76%), television/ radio (65%), newspaper (67%), and family, friends, and neighbors (60%). An average of 13% of respondents reported receiving information from all sources once a week. Respondents received the least amount of information through contacting a community agency or business, with 40% reporting rarely or never. (fig. 8)

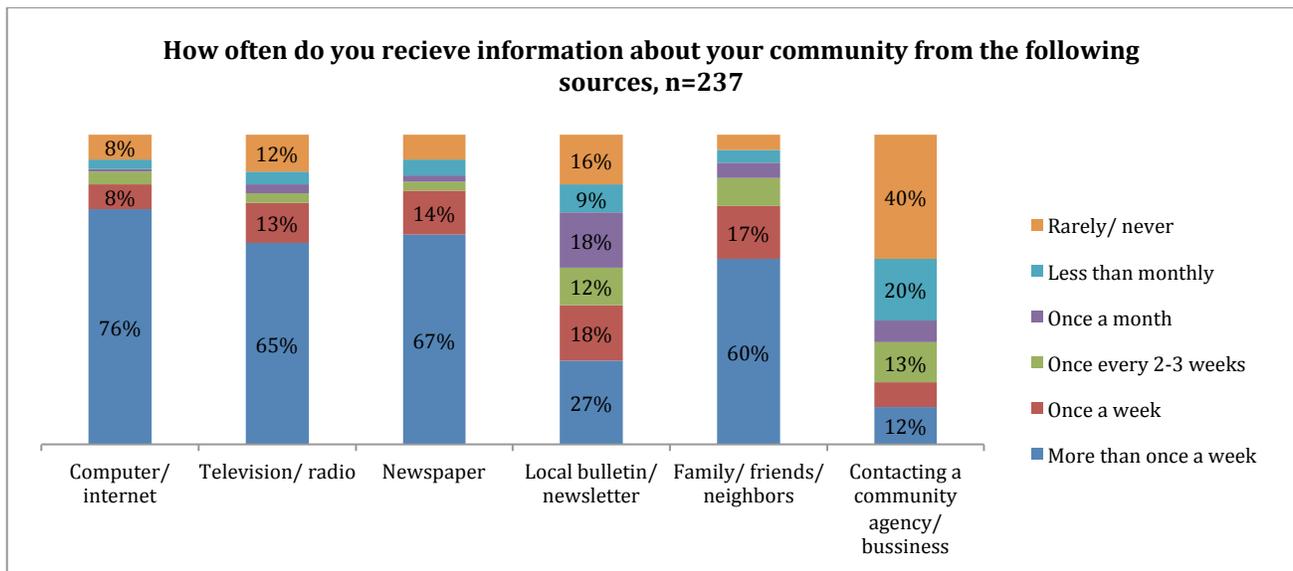


Figure 8: Receipt of information

### Health and Wellness

Among the health and wellness factors inquired about respondents agreed most on home health care services (93%), affordable home health care services (93%), health and wellness programs (86%), and fitness activities geared toward older adults (86%) being extremely or very important to have in a community. Respondents differed the most on multilingual health professionals, with 28% reporting extremely important, 31% very important, 25% somewhat important, and 11% not very important. (fig. 9)

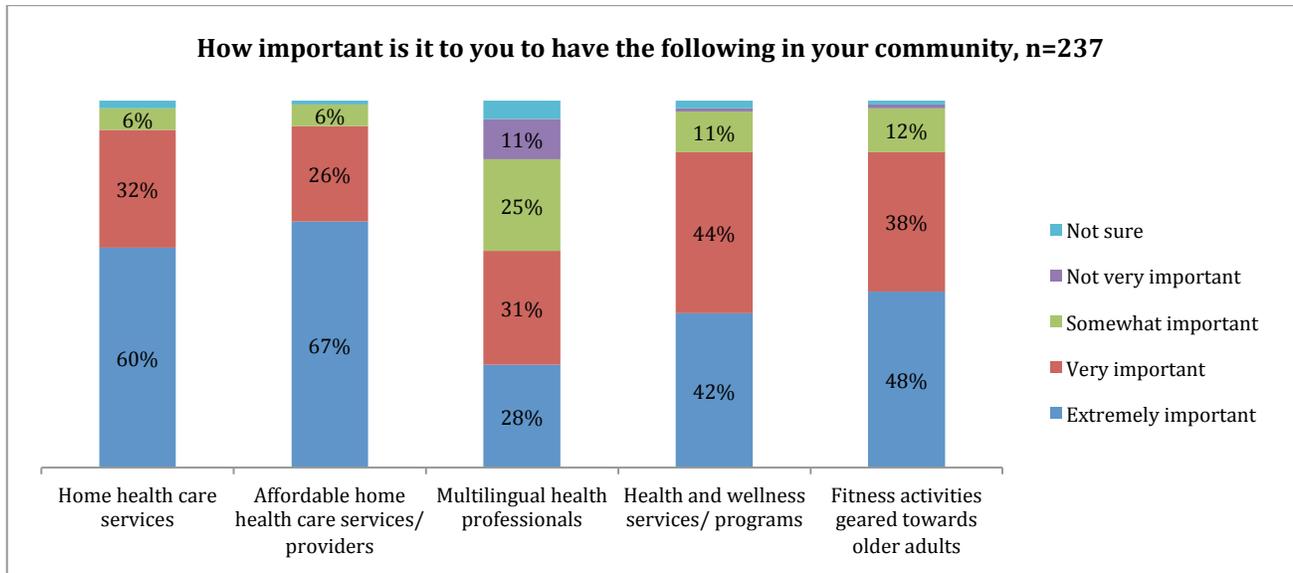


Figure 9: Importance of Health and Wellness

### Portland Community

Overall, respondents were varied in their responses about the housing factors available in Portland. Fewer than 31% of respondents completely agreed that Portland had all the housing factors asked about. While 71% of respondents partially agreed that Portland had well maintained homes and properties, fewer than 50% of respondents partially agreed that Portland had the remaining housing factors asked about. Respondents were most unsure about housing options with age friendly features (29%) and affordable home repair services (21%). (fig. 10)

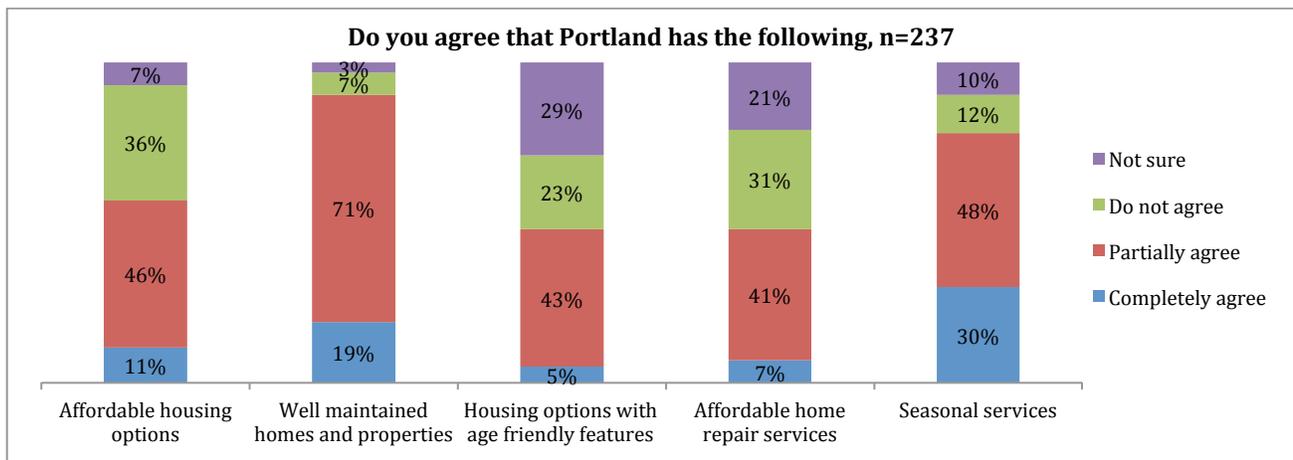


Figure 10: Housing in Portland

A majority of respondents (61%) reported that they have or will install grab bars or handrails in their home. Additionally, at least 30% of respondents reported that they have or will add ramps or widen doorways (34%), put rooms on the first floor (39%), and install a medical emergency system (33%) in their home. (fig. 11)

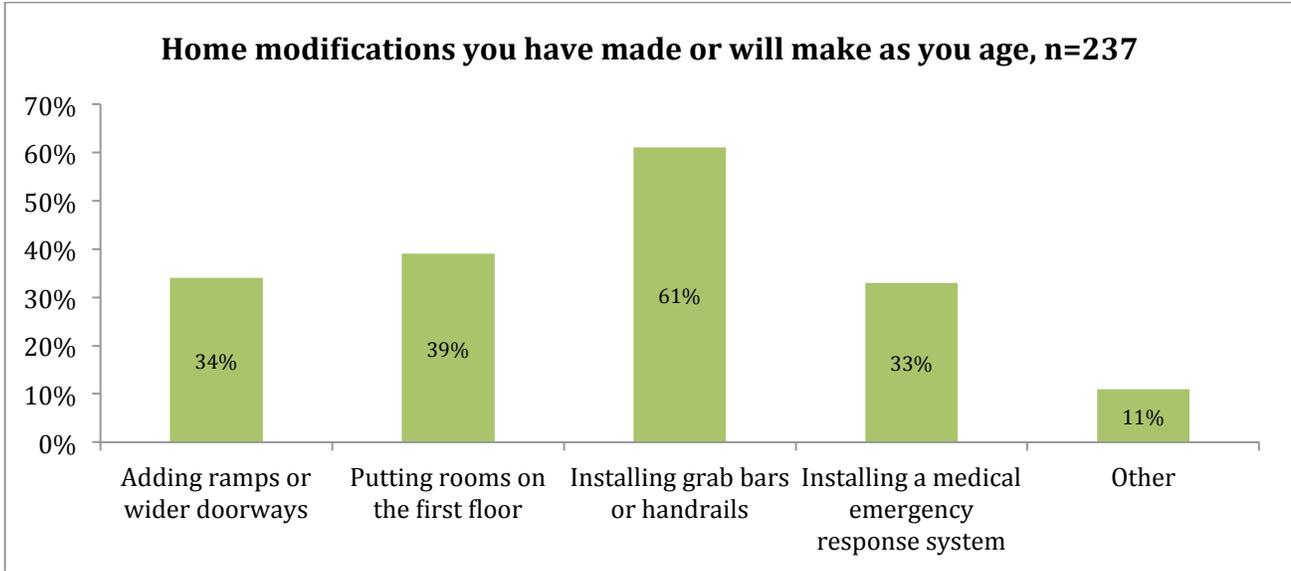


Figure 11: Home Modifications

Overall, respondents were varied when asked if they would want to or need to move to a different home as they age. 49% of respondents reported that it was somewhat, very, or extremely likely that they would want to move to a different home as they age and 44% reported that it was not very likely. Conversely, 59% of respondents reported that it was somewhat, very, or extremely likely that they would need to move to a different home as they age and 26% reported that it was not very likely. (fig. 12)

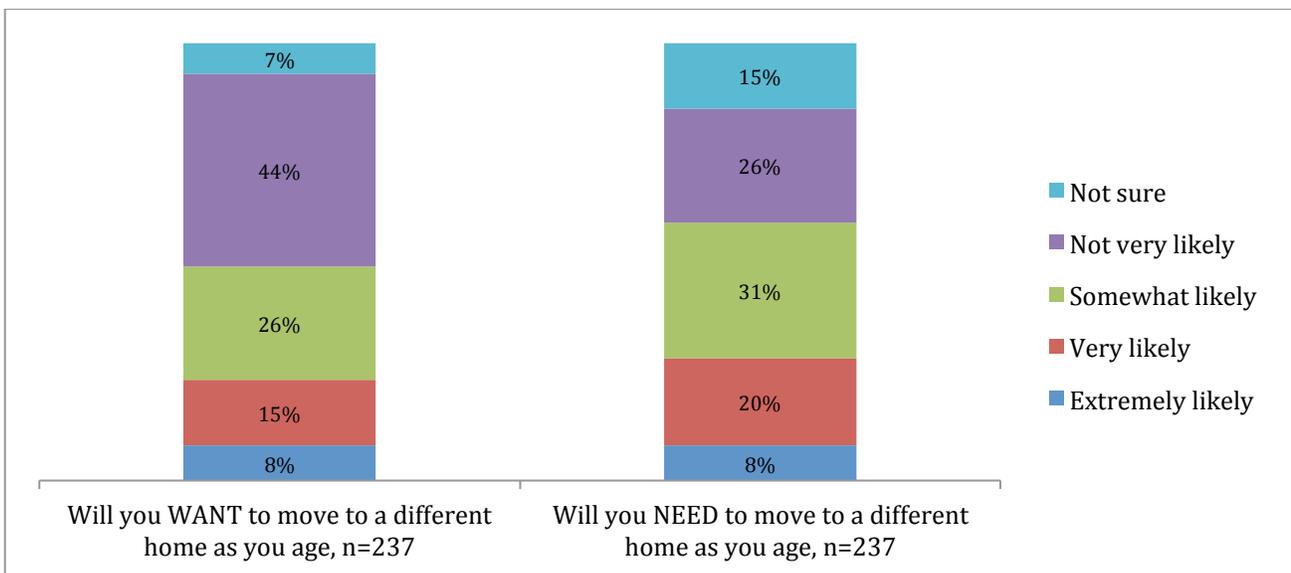


Figure 12: Moving to a Different Home

Respondents reported that needing a home that will aid independent living (51%), maintaining current home is too expensive (44%), and needing a different size/type home (39%) were factors that would impact their decision to move. Other factors included lower cost of living (28%), moving closer to family (22%), and needing more accessible transportation (21%). (fig. 13)

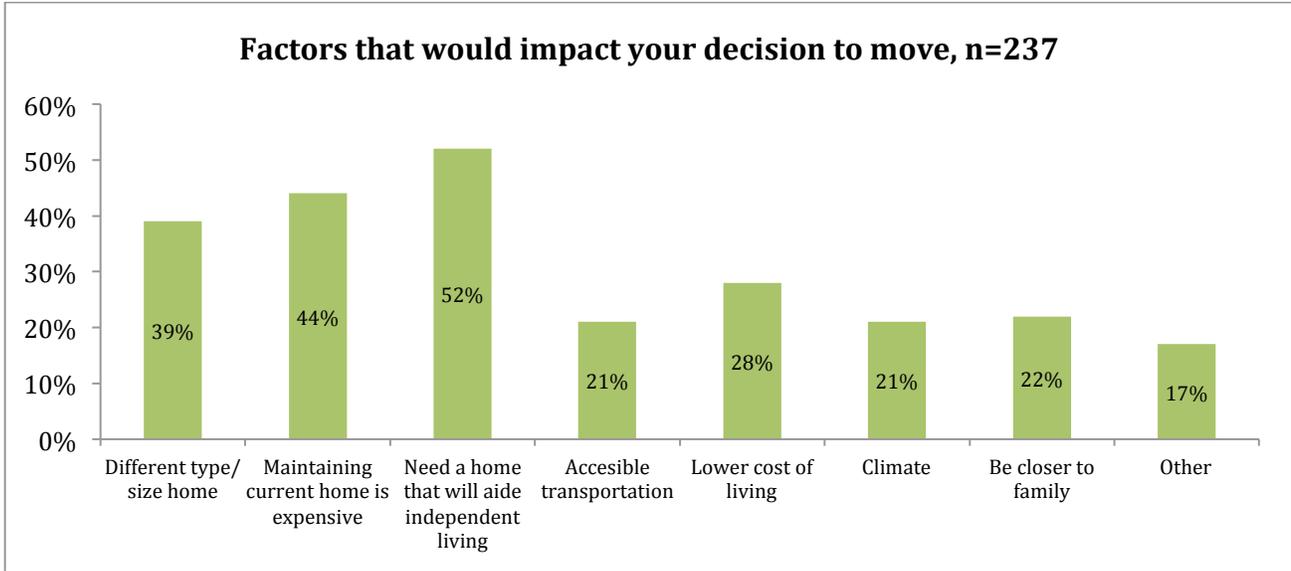


Figure 13: Factors Impacting a Decision to Move

Over 80% of respondents partially to completely agreed that Portland had conveniently located venues for entertainment (92%), well maintained public parks (89%), and public parks within walking distance of home (81%). Responses for public parks with enough benches in Portland were mixed, with 18% completely agreeing, 45% partially agreeing, 22% not agreeing, and 15% being unsure. (fig. 14)

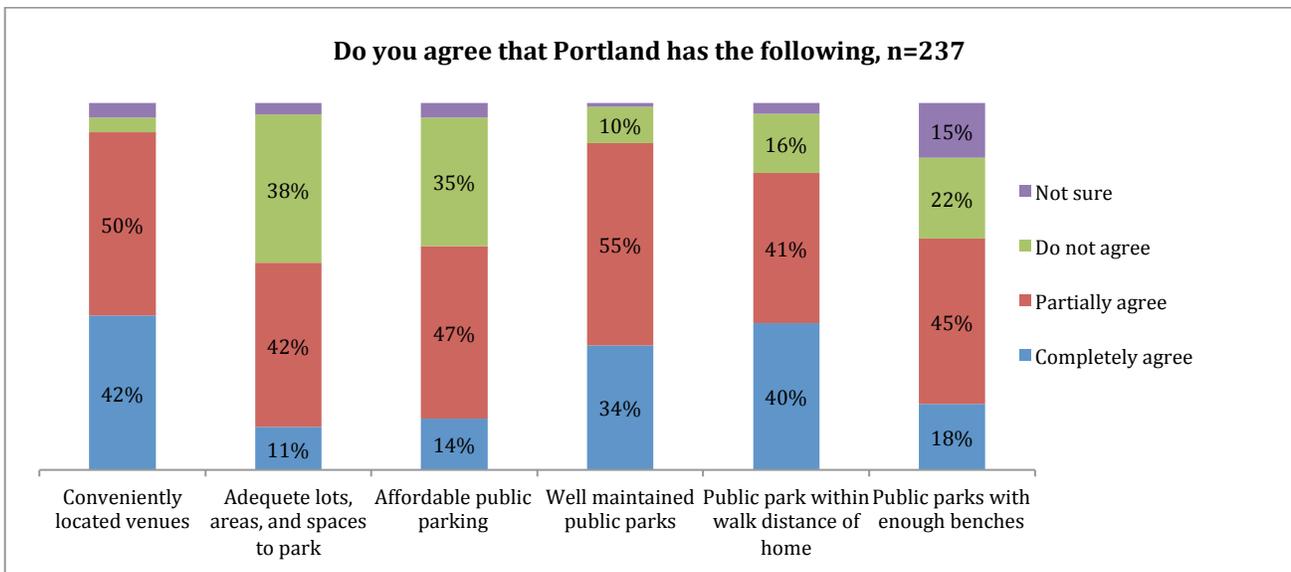


Figure 14: Outdoor Spaces and Buildings in Portland

An average of less than 10% of respondents completely agreed that Portland has the transportation factors asked about and an average of 53% of respondents partially agreed that Portland has the transportation factors asked about. 33% and 47% of respondents did not agree that Portland has well maintained streets and sidewalks, respectively. Additionally, 36% and 47% of respondents did not agree that Portland has enforced speed limits and sidewalks accessible for wheelchairs and other assistive devices, respectively. Respondents were most unsure about special transportations services (23%). (fig. 15)

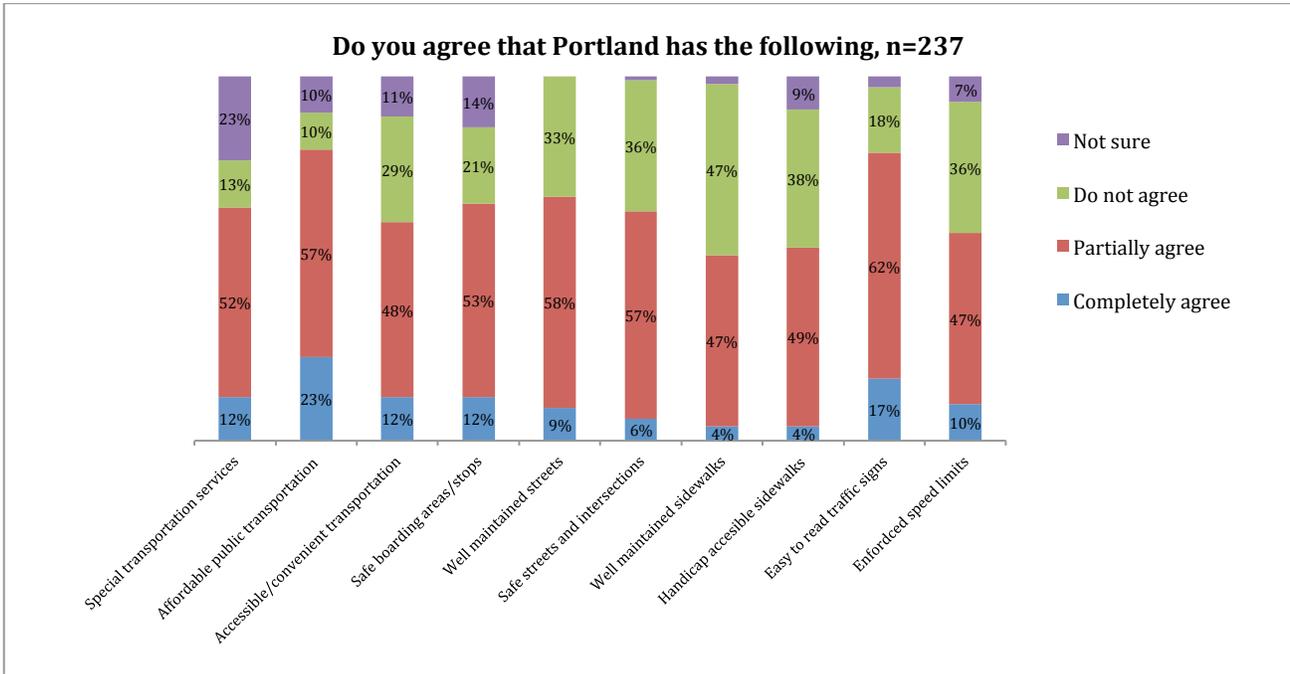


Figure 15: Transportation and Streets in Portland

Overall, respondents reported utilizing all forms of transportation asked about, including driving themselves (88%), having others drive them (12%), walking (57%), biking (21%), public transportation (22%), taxi (15%), and special transportation services (3%). (fig. 16)

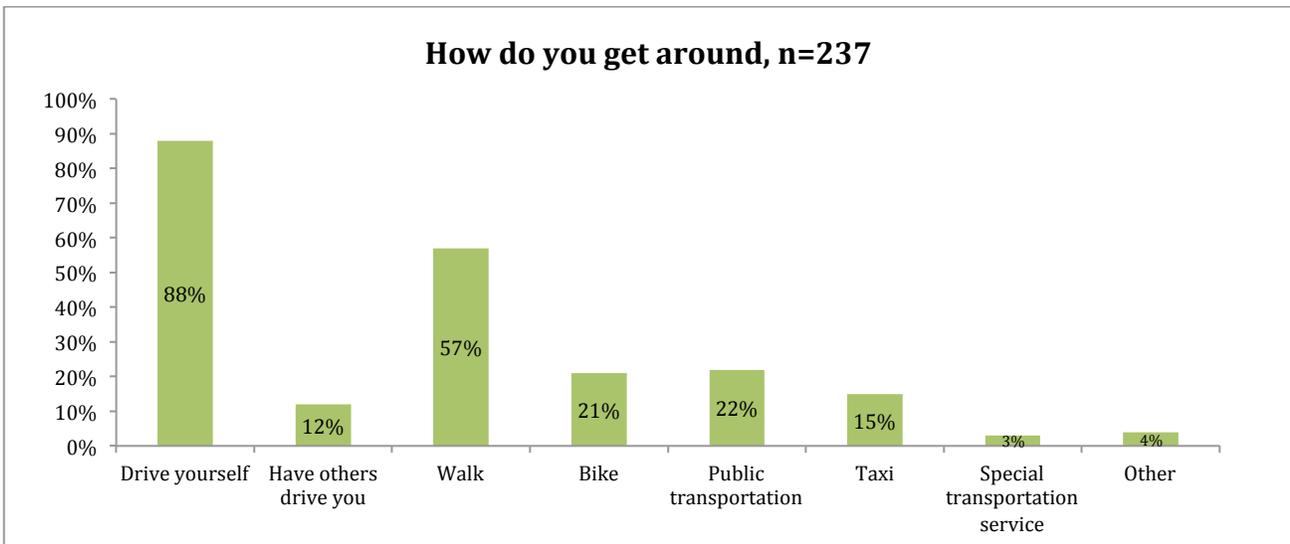


Figure 16: Transportation Mediums

79% and 87% of respondents partially or completely agreed that Portland has a range of volunteer activities and continuing education classes, respectively. Regarding the remaining social inclusion factors asked about, results were mixed. (fig. 17)

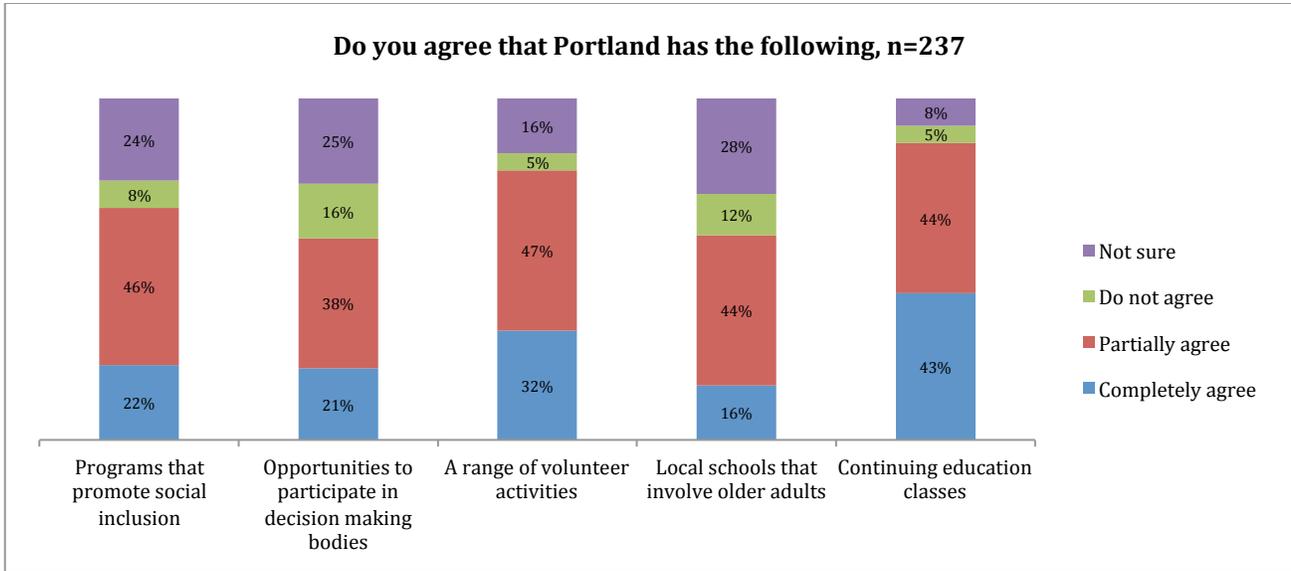


Figure 17: Social Inclusion in Portland

64% of respondents reported that it was extremely important for them to remain socially active as they age, 25% reported that it was very important, 9% somewhat important, and 2% not very important (fig. 18). Over 80% of respondents reported interacting with family, friends, or community members at least once a week (fig. 19).

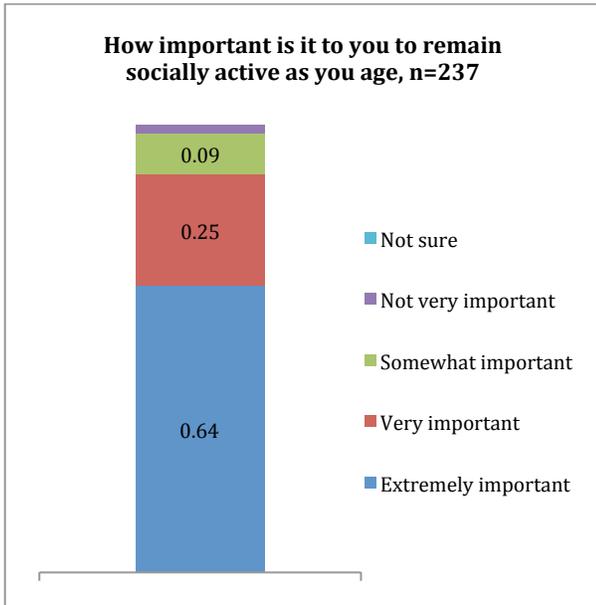


Figure 18: Importance of Being Socially Active

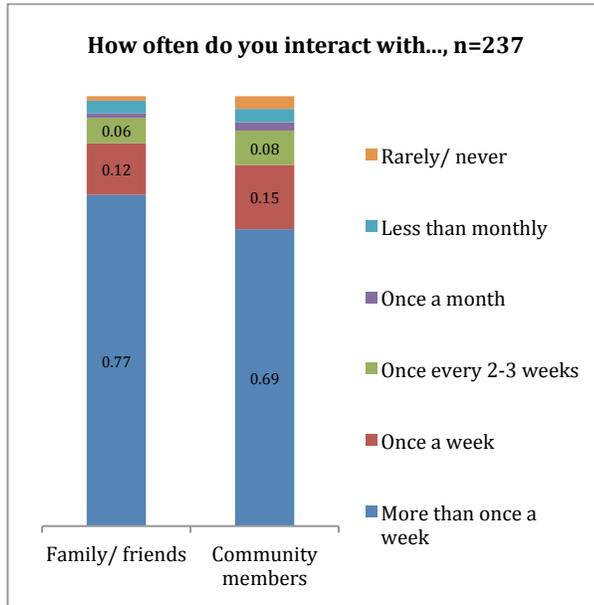


Figure 19: Frequency of Interactions

An average of less than 11% of respondents completely agreed that Portland has the health and wellness factors asked about. Less than 50% of respondents completely or partially agreed that Portland has affordable home health care and multilingual health professionals. An average of about 40% of respondents were unsure about the health and wellness factors in Portland. Overall, they were most unsure about multilingual health professionals (47%). (fig. 20)

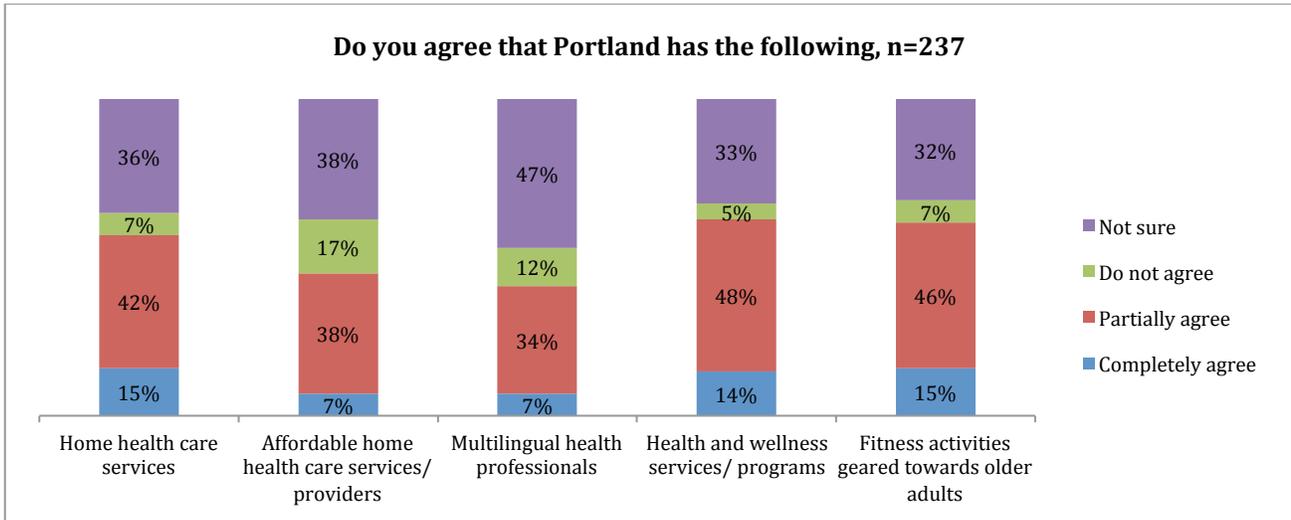


Figure 20: Health and Wellness in Portland

Overall, the majority of respondents (80%) agreed that it was extremely important to them to remain physically active as they age and 81% reported engaging in physical activity more than once a week (fig. 21, fig. 22). 77% of respondents reported their health as very good or excellent and 23% reported it as fair or good (fig. 23).

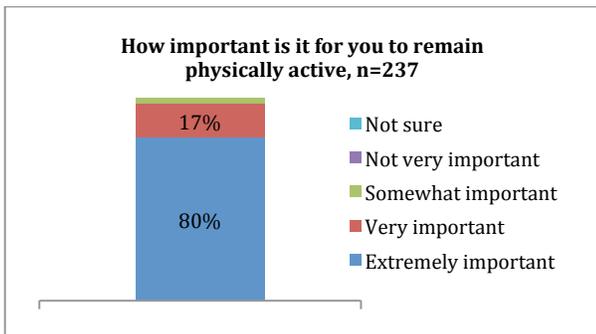


Figure 21: Importance of Being Physically Active

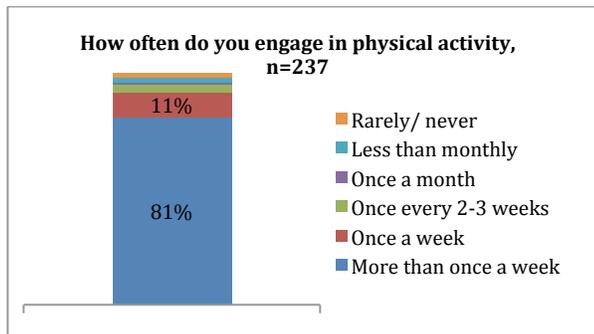


Figure 22: Frequency of Physical Activity

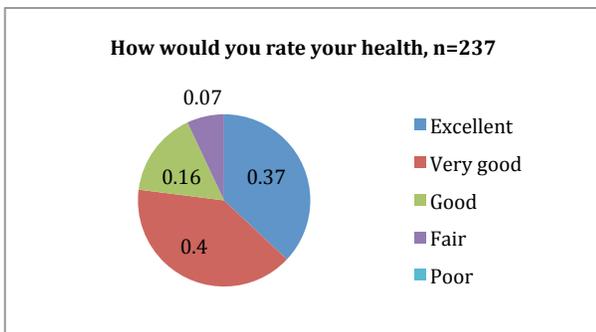


Figure 23: Health Rating



## **Inventory of Community Assets**

An inventory of community assets was completed through web research of housing, outdoor spaces and buildings, transportation and streets, social inclusion, and health and wellness options in the Portland area. See Appendix 1 for a full listing of each category.

Collection of secondary data of community assets revealed that Portland has over 350 acres of outdoor parks; 222.81 acres of community parks, 143 acres of natural parks, and 21.43 acres of neighborhood parks (see appendix).<sup>11</sup> In addition, 89% of survey respondents partially or completely agreed that Portland had well-maintained parks (fig. 14). Many older adults utilize parks for walking; this form of exercise has been shown to have a variety of health benefits in this population, including: weight management, improved sleep, increased levels of good (HDL) cholesterol, decreased stress, blood pressure control, and muscle strengthening.<sup>12</sup>

An inventory of community assets also revealed a range of health and wellness services in the Portland area, including, but not limited to 14 home health care agencies, 5 distinct older adult wellness programs, and a dedicated Office of Elder Affairs. Older adults typically utilize more services, often present with more complex needs, and lack support systems that aide healthy living.<sup>13</sup> For these reasons health and wellness service are vital to older adults, especially as they age.

Age-friendly initiatives, including Village-to-Village, Time Banks, and Lotsa Helping Hands are active in the Portland community. The Village Networks include A Home on Munjoy Hill (AHOM) and the Greater Portland Maine Village Information Group.<sup>14</sup> Both groups are in the development stage. While AHOM aims to support the Munjoy Hill community, the Greater Portland Maine Village Information Group, which operates through a special interest group at the Osher Life Long Learning Institute serves as a way for people to gather more information about Villages, including the costs, benefits, and its feasibility in a particular community. Hour Exchange Portland is the city's time bank program, members earn credits for each hour of service that in exchange can be used to receive services.<sup>15</sup> This cash-free approach empowers individuals and groups to help and be helped through one-to-one exchanges while simultaneously addressing inequality and creating social capital within a community.<sup>15,2</sup> Lastly, there are two Lotsa Helping Hands communities in Portland.<sup>16</sup> Losta Helping Hands is a web-based tool that helps coordinate care for individuals and groups; researchers believe there is potential for this model in Maine because it provides a way a for out-of-state family and friends to coordinate care for their loved ones and it utilizes technology to organize and streamline services needed/ being offered.<sup>2</sup> All three initiatives (Village-to-Village, Time Banks, and Lotsa Helping Hands) have been identified as adaptable models for Maine.<sup>2</sup>

## Discussion

---

Through quantitative and qualitative data analysis themes emerged; they included, housing, transportation and streets, and communication and information. In addition, there is opportunity for community engagement through multigenerational planning and neighborhood associations.

### Housing

59% of survey respondents reported that it was somewhat to extremely likely that they would need to move to a different home as they age, citing housing that will aide independent living (wider doorways, single level living, etc.) as a top factor that would impact this decision (fig. 12, fig. 13). A variety of housing options available to seniors in the Portland area is outlined in the Inventory of Community Assets (Appendix 1); however population growth of people aged 65 and older is expected to exceed available housing units, particularly housing units that meet the needs of older adults.<sup>17</sup> Housing models for older adults that show promise in Maine include Shared Housing, the Green House Model, and HUD Section 202 Supportive Housing for Elderly.<sup>2</sup>

### Transportation and Streets

The majority of survey respondents (88%) reported driving themselves as a way they get around, while only 3% reported utilizing special transportation services (fig. 16). Although utilization of special transportation services was low among respondents, 23% of respondents reported being unsure about special transportations services in the Portland area (fig. 15). Although not reflected in our survey results, specialized transportation is a growing concern for older adults in Maine and without it independently living can be compromised.<sup>18,19</sup> Additionally, only 12% of survey respondents completely agreed that Portland has accessible and convenient transportation and just 48% partially agreed (fig. 15). Handicap accessible sidewalks, well maintained sidewalks, and safe streets and intersections were also identified as needing improvement with fewer than 10% of respondents reporting that they completely agree Portland has these factors (fig. 15).

### Communication & Information

Although our inventory of community assets identified a range of social inclusion opportunities and health and wellness services respondents were unsure about their presence in Portland and or only partially agreed that Portland offered such opportunities/ services. An average of 37% of respondents were unsure about home health care services, multilingual health professionals, health and wellness programs, and fitness activities for older adults available in the Portland area, and less than 50% only partially agreed that Portland had these services/programs (fig. 20). Additionally, an average of 24% of respondents were unsure about programs that promote social inclusion and opportunities to participate in decision making bodies, and again, less than 50% only partially agreed that Portland has these programs/opportunities (fig. 17). The difference seen between primary data and secondary data may be due to a lack of communication and information.

### Community Engagement

Portland has a plethora of Neighborhood Associations, twenty-one to be exact. Neighborhood Association meet monthly and in addition the City Manager meets monthly with Neighborhood Association leaders, both provide opportunities for individuals to participate in a decision making body. Neighborhood Associations can serve multiple functions and address multiple issues. The extensive network of Neighborhood Associations in Portland offers a foundation to build

relationships, facilitate communication, organize and implement volunteer efforts, and support change within a community.<sup>20</sup> Estimates show that by 2040 the youngest and oldest populations will make up about half of the population.<sup>21</sup> Recent 5-year estimates (2009-2013) show that the percentage of Portland residents over the age of 60 is 16.4%; estimates also show that the percentage of Portland residents between the ages of 25 and 34 and the ages of 1 and 14 is 19.6% and 16.2%, respectively.<sup>10</sup> Based on this data Portland is a multigenerational city and as such may be congruent to multigenerational planning. While engagement of older adults is important when planning and implementing efforts for a livable community, engaging all age groups will foster sustainability within a community.<sup>21</sup>

## Next Steps and Recommendations

---

- 1. Share the results** at the City's Senior Summit in June in order to further engage identified and potential stakeholders and enhance collaboration efforts.
- 2. Form an advisory board** comprised of community and municipal stakeholders in order to provide strategic direction, guide initiatives, and evaluate effectiveness.
- 3. Collect qualitative data** through conduction of focus groups and expert interviews in order to gain a better understanding of individual, group, and neighborhood needs.
- 4. Assess data gaps**, survey results showed an underrepresentation of specific demographic groups, such as those with a chronic disease or disability, this would ensure future planning accurately reflects the needs of all demographic groups.
- 5. Utilize community engagement concepts and principles** when developing an action plan to ensure a continuum of community involvement. The number of survey responses received shows an interest among older adults in livability and aging in place; engaging older adults and understanding their experiences will be imperative for future efforts.

## References

---

- <sup>1</sup>U.S. Census Bureau. (2014). State and County QuickFacts: Portland, Maine. Retrieved from <http://quickfacts.census.gov/qfd/states/23/2360545.html>
- <sup>2</sup>Maurer, J., Parham, L., & Kimball, P. (2013). Building a Collaborative Community Response to Aging in Place. Retrieved from [http://maine4a.org/image\\_upload/FINALREPORT.pdf](http://maine4a.org/image_upload/FINALREPORT.pdf)
- <sup>3</sup>Harrel, R., Lynott, J., & Guzman, S. (2014). Is This a Good Place to Live? Measuring Community Quality of Life for All Ages. AARP Public Policy Institute. Retrieved from [http://www.aarp.org/content/dam/aarp/research/public\\_policy\\_institute/liv\\_com/2014/is-this-a-good-place-to-live-report-AARP-ppi-liv-com.pdf](http://www.aarp.org/content/dam/aarp/research/public_policy_institute/liv_com/2014/is-this-a-good-place-to-live-report-AARP-ppi-liv-com.pdf)
- <sup>4</sup>Wiles, J., Leibing, A., Guberman, N., Reeve, J., & Allen, R. (2011). The Meaning of "Ageing in Place" to Older People. *The Gerontologist*. doi: 10.1093/geront/gnr098
- <sup>5</sup>(2013). Healthy Places Terminology. Centers for Disease Control and Prevention. Retrieved from <http://www.cdc.gov/healthyplaces/terminology.htm>
- <sup>6</sup>Greenfield, E. (2011). Use of Egological Frameworks to Advance a Field of Research, Practice, and Policy on Aging-in-Place Initiatives. *The Gerontologist*. 52(1).
- <sup>7</sup>Janes, J. (2008). Mapping Aging in Place in a Changing Neighborhood. Institute for Life Course and Aging. Retrieved from <http://neighbourhoodchange.ca/wp-content/uploads/2011/06/McDonald-2008-Aging-in-Place-neighbourhoods.pdf>
- <sup>8</sup>Lehing, A., & Harmon, A. (2013). Livable Community Indicators for Sustainable Aging in Place. Retrieved from <https://www.metlife.com/assets/cao/mmi/publications/studies/2013/mmi-livable-communities-study.pdf>
- <sup>9</sup>Council on Social Work Education. (n.d.). Aging in Place Bibliography. Retrieved from <http://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=2&ved=0CCYQFjAB&url=http%3A%2F%2Fwww.cswe.org%2Ffile.aspx%3Fid%3D74192&ei=mh1fvfKGDJCVyATGqoDwBg&usg=AFQjCNE42jQQFKhYcCSbilshfHJazcpdAg&bvm=bv.93990622,d.aWw>
- <sup>10</sup>U.S. Census Bureau. (2013). 2009-2013 American Community Survey 5-year Estimates. Retrieved from <http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?src=bkmk>
- <sup>11</sup>(n.d.). Parks in Portland, Maine. Retrieved from <http://www.portlandmaine.gov/DocumentCenter/View/2026>
- <sup>12</sup>Godbey, G., Mowen, A. (2010). The Benefits of Physical Activity Provided by Park and Recreation Services: The Scientific Evidence. National Recreation and Park Association. Retrieved from [http://www.nrpa.org/uploadedFiles/nrpa.org/Publications\\_and\\_Research/Research/Papers/Godbey-Mowen-Research-Paper.pdf](http://www.nrpa.org/uploadedFiles/nrpa.org/Publications_and_Research/Research/Papers/Godbey-Mowen-Research-Paper.pdf)

<sup>13</sup>U.S. Department of Health and Human Services. (2015). Health People 2020: Older Adults. Retrieved from <http://www.healthypeople.gov/2020/topics-objectives/topic/older-adults>

<sup>14</sup>Village To Village Network. (2015). Retrieved from [http://www.vtvnetwork.org/content.aspx?page\\_id=1905&club\\_id=691012#search\\_results](http://www.vtvnetwork.org/content.aspx?page_id=1905&club_id=691012#search_results)

<sup>15</sup>Hour Exchange Portland (2015). Retrieved from <http://www.hourexchangeportland.org/howitworks.php>

<sup>16</sup>Lotsa Helping Hands. (2015). Retrieved from <http://www.lotsahelpinghands.com/looking-for-community/results/index.php?location=Portland%2C+Maine&range=10>

<sup>17</sup>Bouchard, K. (2015). Report: Maine's need for affordable senior housing is growing. Portland Press Herald. Retrieved from <http://www.pressherald.com/2015/02/11/report-maines-need-for-affordable-senior-housing-in-growing/>

<sup>18</sup>Miller, K. (2013). For older citizens, lack of transportation a daily struggle. Portland Press Herald. Retrieved from [http://www.pressherald.com/2013/11/07/for\\_older\\_citizens\\_lack\\_of\\_transportation\\_a\\_daily\\_struggle\\_/](http://www.pressherald.com/2013/11/07/for_older_citizens_lack_of_transportation_a_daily_struggle_/)

<sup>19</sup>Fox-Grage, W. & Lynott, J. (n.d.) Expanding Specialized Transportation: New Opportunities under the Affordable Care Act. AARP Public Policy Institute. Retrieved from <http://www.aarp.org/content/dam/aarp/ppi/2015/AARP-New-ACA-Transportation-Opportunities.pdf>

<sup>20</sup>Wilson, C. (n.d.) Strategies for Developing Neighborhood Associations. Retrieved from [https://www.myclearwater.com/gov/depts/public\\_comm/NeighborhoodServices/pdf/Strategies\\_Developing\\_NHood\\_Assoc.pdf](https://www.myclearwater.com/gov/depts/public_comm/NeighborhoodServices/pdf/Strategies_Developing_NHood_Assoc.pdf)

<sup>21</sup>Hodgson, K. (n.d.). Multigenerational Planning. American Planning Association. Retrieved from <https://www.planning.org/research/family/briefingpapers/multigenerational.htm>

**Appendix**

---

Appendix 1: Inventory of Community Assets

<b>Inventory of Community Assets</b>
<b>Housing</b>
<i>Subsidized Senior Housing</i>
100 State St.
Bayview Heights
Bulter/ Payson Apartments
Deering Pavilion
Franklin Towers
Harbor Terrace
Loring House
North School
Northfield Green
Park Danforth
Peaks Island Elderly Housing
Washington Gardens
<i>Assisted Living and Long Term Care Facilities</i>
Barron Center
Seaside Nursing and Rehabilitation Center
Portland Center for Assisted Living
Saint Joseph's Rehabilitation and Residence
Seventy-Five State Street
The Cedars
<b>Outdoor spaces and buildings</b>
<i>Community Parks</i>
Back Cove Trail
Deering Oaks Park
Eastern Promenade
Payson Park
Western Promenade
<i>Natural Parks</i>
Baxter Woods
Baxter (Deering) Pines
Capisic Pond Park
Everygreen Cemetery Woodlands
Fore River Park
Oatnuts Park
PATHS
Pine Grove Park

Presumpscot Rover Preserve
Riverton Trolley Park
University Park
<i>Neighborhood Parks</i>
Bedford Park
Belmeade Park
Barrows Park
Fesseden Park
Fort Allen Park
Fort Summer Park
Harborview Memorial park
Heseltine Park
Lincoln Park
Longfellow Park
Nason's Corner
Post Office Park
Quaker Park
Stroudwater Park
Stroudwater Park 2
Tommy's Park
Trinity Park
Winsow Park
<i>Island Parks</i>
Fort Gorges
Peaks Island
<i>Off Leash Dog Parks</i>
Quarry Run Dog Park
Valley Street Dog Park
<i>Public Assembly Facilities</i>
Cumberland County Civic Center
Hadlock Field
Maine State Pier
Merrill Auditorium
Ocean Gateway
Portland Exposition Building
The Children's Art Museum
The Portland Art Museum
<i>Libraries</i>
Glickman Family Library
Portland Public Library
<b>Transportations</b>
<i>Public Transportation</i>

Metro
<i>Car Sharing</i>
GOMAINE Ride Share
U-Haul Car Share
<i>Taxi Services</i>
ASAP Taxi
207 Taxi
ABC Taxi
Alliance Cab
Uber
PWM Portland Airport Taxi
<i>Special Transportation Services</i>
Regional Transportation Program
Mermaid Transportation
Independent Transportation Network (ITN)
Aging Excellence Transportation Services
North East Mobile Health Services
Advantage Home Care Senior Transportation
Home Instead Senior Transportation
<i>Garages and Parking</i>
385 Congress St
66 Pearl St. Parking Lot
Casco St. Parking Lot
Cotton & Center Parking Lot DiMillo's Parking Lot
East Brown Cow Parking Lot
Fish Pier Parking Lot
Fisherman's Wharf Parking Lot
Free St. Parking
J.B. Brown Parking Lot on Free St. Maria's Ristorante Parking Lot Middle & Pearl Parking Lot
Midtown Parking Lot
Omni Park System / Casa Parking Lot Portland Square Monthly Lower Lot Portland Square Visitor Lot
Regency Hotel Parking Lot
Simba / Hale Parking Lot
Top of the Old Port Parking Lot Venture (VIP) Parking Lot
57 York St. Parking Lot
66 - 68 Danforth St. Parking Lot Amato's Federal St. Parking Lot Baxter Place Lot
Center St. Parking Lot Cumberland Ave. & Brown St. Lot Hub Furniture Parking Lot
Joe's Smoke Shop Parking Lot Maine Health Lot
Maine Historical Society Parking Lot Shepley St. Parking Lot
Thames St. Lot
WCSH Congress Sq. Parking Lot

<b>Social Inclusion</b>
<i>Neighborhood Associations</i>
Back Cove
Bayside Neighborhood Association
Deering Center Association
East Bayside Neighborhood
East Deering Neighborhood Association
Hobart Street Wildlife Sanctuary
India Street Neighborhood Association
Libbytown Neighborhood Association
Munjoy Hill Neighborhood Organization
Nason's Corner Neighborhood Association
Neighborhood Advisory Committee
North Deering Neighborhood Association
Parkside Neighborhood Association
Peaks Island Council
Riverton Community Association
St. John Valley Neighborhood Association
The Stroudwater Village Association
Universty Neighborhood Association
West End Neighborhood Association
Western Promenade Neighborhood Association
Woodfords-Oakdale Neighborhood Association
<i>Volunteer Opportunities</i>
Southern Maine Agency on Aging (SMAA): The Retired and Seniors Volunteer Program (RSVP)
SMAA: Catch Healthy Habits
Oportunity Alliance (OA): Foster Grandparent Program
OA: Senior Companion Program
Hour Exchange Portland
Maine Medical Center Volunteers
AARP Volunteer
Service Corps of Retired Executives
Catholic Charities
Portland Public Schools: School Volunteers
United Way of Greater Portland
<i>Continuing Education</i>
Portland Adult Education
Osher Lifelong Learning Institute
e-Connection (Individual Computer Training, specializing in assisting Golden Agers)
<b>Health and Wellness</b>
<i>Adult Day Programs</i>
Elderworks

Senior Enrichment Center
Barron Center: Adult Day Health Program
<i>Hospitals</i>
Maine Medical Center
Mercy Hospital
<i>Primary Care</i>
Maine Medical Partner
Mercy Primary Care
Inter-Med
Martin's Point Healthcare
<i>Home Health Care</i>
Advantage Home Care
Home Instead
MAS Home Care of Maine
Living Innovations
Interim Healthcare
Visiting Angels
AB Home Health Care
Friends in Home Care
Full Circle America (virtual home care)
Catholic Charities: Agape Home Care
Casco Bay Home Care
Home Partners
Visiting Nurses Association (VNA)
Elder Tasks
<i>Wellness and Exercise</i>
MMC Geriatric Center
Partnership for Healthy Aging
Portland Recreation 62+ Program
Salvation Army Senior Center
YMCA of Southern Maine- Active Adults Program
EldersBloom
Aging Excellence- SWIFT Wellness Program
<i>Health and Human Services</i>
City of Portland Office of Elder Services
Portland Public Health Division
Social Services Division



# Checklist of Essential Features of Age-friendly Cities

This checklist of essential age-friendly city features is based on the results of the WHO Global Age-Friendly Cities project consultation in 33 cities in 22 countries. The checklist is a tool for a city's self-assessment and a map for charting progress. More detailed checklists of age-friendly city features are to be found in the WHO Global Age-Friendly Cities Guide.

This checklist is intended to be used by individuals and groups interested in making their city more age-friendly. For the checklist to be effective, older people must be involved as full partners. In assessing a city's strengths and deficiencies, older people will describe how the checklist of features matches their own experience of the city's positive characteristics and barriers. They should play a role in suggesting changes and in implementing and monitoring improvements.

## Outdoor spaces and buildings

- Public areas are clean and pleasant.
- Green spaces and outdoor seating are sufficient in number, well-maintained and safe.
- Pavements are well-maintained, free of obstructions and reserved for pedestrians.
- Pavements are non-slip, are wide enough for wheelchairs and have dropped curbs to road level.
- Pedestrian crossings are sufficient in number and safe for people with different levels and types of disability, with non-slip markings, visual and audio cues and adequate crossing times.
- Drivers give way to pedestrians at intersections and pedestrian crossings.
- Cycle paths are separate from pavements and other pedestrian walkways.
- Outdoor safety is promoted by good street lighting, police patrols and community education.

- Services are situated together and are accessible.
- Special customer service arrangements are provided, such as separate queues or service counters for older people.
- Buildings are well-signed outside and inside, with sufficient seating and toilets, accessible elevators, ramps, railings and stairs, and non-slip floors.
- Public toilets outdoors and indoors are sufficient in number, clean, well-maintained and accessible.

## Transportation

- Public transportation costs are consistent, clearly displayed and affordable.
- Public transportation is reliable and frequent, including at night and on weekends and holidays.
- All city areas and services are accessible by public transport, with good connections and well-marked routes and vehicles.

- Vehicles are clean, well-maintained, accessible, not overcrowded and have priority seating that is respected.
- Specialized transportation is available for disabled people.
- Drivers stop at designated stops and beside the curb to facilitate boarding and wait for passengers to be seated before driving off.
- Transport stops and stations are conveniently located, accessible, safe, clean, well-lit and well-marked, with adequate seating and shelter.
- Complete and accessible information is provided to users about routes, schedules and special needs facilities.
- A voluntary transport service is available where public transportation is too limited.
- Taxis are accessible and affordable, and drivers are courteous and helpful.
- Roads are well-maintained, with covered drains and good lighting.
- Traffic flow is well-regulated.
- Roadways are free of obstructions that block drivers' vision.
- Traffic signs and intersections are visible and well-placed.
- Driver education and refresher courses are promoted for all drivers.
- Parking and drop-off areas are safe, sufficient in number and conveniently located.
- Priority parking and drop-off spots for people with special needs are available and respected.

## Housing

- Sufficient, affordable housing is available in areas that are safe and close to services and the rest of the community.
- Sufficient and affordable home maintenance and support services are available.
- Housing is well-constructed and provides safe and comfortable shelter from the weather.
- Interior spaces and level surfaces allow freedom of movement in all rooms and passageways.
- Home modification options and supplies are available and affordable, and providers understand the needs of older people.
- Public and commercial rental housing is clean, well-maintained and safe.
- Sufficient and affordable housing for frail and disabled older people, with appropriate services, is provided locally.

## Social participation

- Venues for events and activities are conveniently located, accessible, well-lit and easily reached by public transport.
- Events are held at times convenient for older people.
- Activities and events can be attended alone or with a companion.
- Activities and attractions are affordable, with no hidden or additional participation costs.

- Good information about activities and events is provided, including details about accessibility of facilities and transportation options for older people.
- A wide variety of activities is offered to appeal to a diverse population of older people.
- Gatherings including older people are held in various local community spots, such as recreation centres, schools, libraries, community centres and parks.
- There is consistent outreach to include people at risk of social isolation.

### **Respect and social inclusion**

- Older people are regularly consulted by public, voluntary and commercial services on how to serve them better.
- Services and products to suit varying needs and preferences are provided by public and commercial services.
- Service staff are courteous and helpful.
- Older people are visible in the media, and are depicted positively and without stereotyping.
- Community-wide settings, activities and events attract all generations by accommodating age-specific needs and preferences.
- Older people are specifically included in community activities for “families”.
- Schools provide opportunities to learn about ageing and older people, and involve older people in school activities.

- Older people are recognized by the community for their past as well as their present contributions.
- Older people who are less well-off have good access to public, voluntary and private services.

### **Civic participation and employment**

- A range of flexible options for older volunteers is available, with training, recognition, guidance and compensation for personal costs.
- The qualities of older employees are well-promoted.
- A range of flexible and appropriately paid opportunities for older people to work is promoted.
- Discrimination on the basis of age alone is forbidden in the hiring, retention, promotion and training of employees.
- Workplaces are adapted to meet the needs of disabled people.
- Self-employment options for older people are promoted and supported.
- Training in post-retirement options is provided for older workers.
- Decision-making bodies in public, private and voluntary sectors encourage and facilitate membership of older people.

### **Communication and information**

- A basic, effective communication system reaches community residents of all ages.
- Regular and widespread distribution of information is assured and a coordinated, centralized access is provided.

- Regular information and broadcasts of interest to older people are offered.
- Oral communication accessible to older people is promoted.
- People at risk of social isolation get one-to-one information from trusted individuals.
- Public and commercial services provide friendly, person-to-person service on request.
- Printed information – including official forms, television captions and text on visual displays – has large lettering and the main ideas are shown by clear headings and bold-face type.
- Print and spoken communication uses simple, familiar words in short, straightforward sentences.
- Telephone answering services give instructions slowly and clearly and tell callers how to repeat the message at any time.
- Electronic equipment, such as mobile telephones, radios, televisions, and bank and ticket machines, has large buttons and big lettering.
- There is wide public access to computers and the Internet, at no or minimal charge, in public places such as government offices, community centres and libraries.

## **Community and health services**

- An adequate range of health and community support services is offered for promoting, maintaining and restoring health.
- Home care services include health and personal care and housekeeping.
- Health and social services are conveniently located and accessible by all means of transport.
- Residential care facilities and designated older people's housing are located close to services and the rest of the community.
- Health and community service facilities are safely constructed and fully accessible.
- Clear and accessible information is provided about health and social services for older people.
- Delivery of services is coordinated and administratively simple.
- All staff are respectful, helpful and trained to serve older people.
- Economic barriers impeding access to health and community support services are minimized.
- Voluntary services by people of all ages are encouraged and supported.
- There are sufficient and accessible burial sites.
- Community emergency planning takes into account the vulnerabilities and capacities of older people.



## **Housing First**

### **Timeline**

01.02.2014 Submitted to Housing and Community Development Committee

### **Summary**

The Housing First Model is part of a national trend to confront homelessness. The model is based on the concept that homeless individuals or households first need housing as part of their stabilization process.

The Homelessness Task Force Report, submitted to the City Council in November 2012, outlined four recommended actions, one of which was “Rapid Rehousing”. Under the Task Force Implementation Plan, the Housing and Community Development Committee was assigned “Rapid Rehousing”, with the development of three new “housing first” projects as an identified task. Logan Place, on Frederic Street, and the Florence House, on Valley Ave, opened in 2005 and 2009 respectively. The third location, on Bishop Street, is in development stages.

The City has set a goal for 2016 of five new Housing First developments.

### **In this chapter**

- **Housing First Pre-Development RFP**, Housing and Community Development Committee memo, 01.02.2014
- **Report of the Task Force to Develop a Strategic Plan to Prevent and End Homelessness in Portland: Rapid Re-housing Strategy Update and Staff Recommendations**, Housing and Community Development Committee memo, 04.04.2014
- **Client Support and Services Plan**, report, Portland Community Partners, 09.2012



Mary Davis

Division Director, Housing &amp; Community Development Division

**AGENDA ITEM #4**

**TO:** Councilor Donoghue, Chair  
Members of the Housing and Community Development Committee

**FROM:** Mary Davis, Director  
Housing & Community Development Division

**DATE:** January 2, 2014

**SUBJECT:** Housing First Pre-Development RFP

**I. SUMMARY OF ISSUE**

The Homelessness Task Force Report submitted to the City Council in November 2012, outlined four recommended actions, one of which was “Rapid Rehousing” (Attachment 1). Under the Task Force Implementation Plan, the Housing and Community Development Committee was assigned “Rapid Rehousing”, with the development of three new “housing first” projects as an identified task.

A suggestion was made to provide a grant that would assist an affordable housing developer with pre-development activities (site location, identifying resources available for development and support services). Staff investigated the possibility of using HOME funds for this purpose but determined that the program regulations would prohibit such use. As an alternative, staff looked at the Housing Replacement Fund and determined that the ordinance would allow for this type of use. Staff is recommending that \$50,000 in Housing Replacement funds be allocated to create a Housing First Pre-Development Grant. These funds would be allocated through an RFP process. A draft of the RFP is included as Attachment 2.

**II. REASON FOR SUBMISSION**

Under the Housing Replacement Ordinance, any funds collected are to be deposited into the City’s Housing Trust Fund. The Housing Trust Fund Ordinance requires that the Housing and Community Development Committee conduct a public hearing on the use of these funds and refer recommendations to the City Council for action.



Mary Davis

Division Director, Housing &amp; Community Development Division

### III. FINANCIAL IMPACT

If approved, the RFP will make available \$50,000 from the Housing Replacement Fund to be used to assist with pre-development activities associated with the construction of a “housing first” project. This RFP does not propose any funding beyond the suggested \$50,000 for pre-development activities.

The current balance in the Housing Replacement fund is \$724,301.

### IV. STAFF ANALYSIS AND RECOMMENDATION

The intent of the RFP is to make funds available to assist with pre-development activities associated with the creation of a housing first project. Such activities would include appraisals, architect services, engineering services, environmental assessment services, legal fees, consultant/developer staff costs, market studies, site control costs, and relocation expenses. The consultant selected will also be awarded development rights for the proposed project.

RFP proposals will be reviewed by a committee of City staff. Staff will then make a recommendation to the HCDC. Once the consultant completes the pre-development activities and site(s) have been selected, the consultant will prepare a Preliminary Development Proposal for review by the HCDC. If the HCDC approves the Preliminary Development Proposal, it will be forwarded to the City Council for approval.

Staff is requesting comments and suggestions from the committee on the draft RFP. A final draft will be presented to the HCDC for approval and recommendation to the City Council.

### ATTACHMENTS:

Excerpt from Homelessness Task Force Report  
Draft Housing First Pre-Development RFP



Strengthening a Remarkable City, Building a Community for Life [www.portlandmaine.gov](http://www.portlandmaine.gov)

Executive Office  
Mark H. Rees, City Manager

Com 5-12/13  
Tab 11 11-19-12

TO: Mayor Brennan and City Councilors  
FROM: Mark H. Rees, City Manager  
Douglas Gardner, Director, Health & Human Services Department  
DATE: November 9, 2012  
RE: Homelessness Task Force Communication

At its November 21, 2011 meeting, the Portland City Council passed an order establishing a Task Force to develop a strategic plan to prevent and end homelessness. The Task Force was charged with completing the following tasks:

1. Review and gain an understanding of the causal factors associated with homelessness, as well as the current community resources available to meet the unique needs of individuals experiencing homelessness;
2. Develop a multi-year strategic plan, including measureable objectives to reduce, prevent and end homelessness in Greater Portland;
3. The strategic plan should focus on three areas; access to healthcare services, supportive and affordable housing, and prevention;
4. Convene a larger stakeholder group to include social service providers, advocates, consumers, community and business leaders, and public safety representatives to inform the work of the Task Force;
5. Develop a strategic plan to prevent and end homelessness that can be endorsed by the Portland City Council and one that can be evaluated over time and modified if needed.

The Task Force, which has become commonly known as the Homelessness Task Force, formally began its work on January 24, 2012 and subsequently met eight (8) times. The Task Force subdivided into four committees focused on the following aspects of homelessness and specific groups impacted by homelessness: 1) *Retooling the emergency shelter system*, 2) *Access to physical and behavioral health*, 3) *Services to youth, families and Veterans* and 4) *Supportive and affordable housing*. In addition to the regular meetings of the Task Force, there were also two public meetings convened to seek input from the interested stakeholders.

As you know, the City Council held a workshop on October 15, 2012 at which time the Task Force presented its draft report. What you now have before you for consideration is the final work product from the Task Force's efforts. There have been no substantive changes made to the report from its previous version; the edits have included formatting changes and typo corrections. The report is coming to the City Council in the form of an official communication.

The Task Force has created an Implementation Plan comprised of four overarching Recommended Actions: 1) Retooling the Emergency Shelter System, 2) Rapid Rehousing, 3) Increased Case Management and 4) Report Monitoring. After reviewing the document and contemplating implementation steps, staff is recommending that the first three major components of the plan be forwarded to Council Subcommittees for action. In terms of action item #4, Report Monitoring, staff is recommending that a legacy group from the original Task Force be identified and formally noticed of any committee work related to the Plan. The legacy group will be expected to participate and inform the work of the Council Committees and ultimately the action of the full City Council. This strategy will allow for continued public input, as well as ongoing Task Force monitoring and ensure that the report guides the work of the Council.

Although there will inevitably be overlap with the work and some shared responsibility in terms of implementation, staff is recommending the Public Safety, Health & Human Services Committee receive action items #1, Retooling of the Emergency Shelter System and #2, Increased Case Management and the Housing and Community Development Committee receive action item #3, Rapid Rehousing.

Although it is not recommended that the Legislative Committee receive any specific piece of the plan at this time, it is clear that it will have a role in implementation and will likely be called upon by the PSHHS and HCD Committees to assist in the advancing certain aspects of the plan. Similarly, the Finance Committee will most surely be called upon to assist; particularly related to contemplating City financial support.

This approach will allow the PSHHS and HCD Committees to develop a set of priorities based on the recommendations from the Task Force for consideration. In addition to the aforementioned legacy group, this approach will also allow the City Council to act as monitoring body; one that will receive regular updates on a defined schedule from the individual Council Committees. Finally, I am recommending that each Council Committee consider the recommendations from the Task Force when developing their 2013 Committee Work Plans.



# PORTLAND MAINE

*Strengthening a Remarkable City, Building a Community for Life • www.portlandmaine.gov*

**Planning & Urban Development Department**  
Jeff Levine, AICP, Director

**Housing & Community Development Division**  
Mary P. Davis, Director

## **MEMORANDUM**

### **Agenda Item 6**

**TO:** Councilor Mavodones, Chair  
Members of the Housing and Community Development Committee

**FROM:** Mary Davis, Director  
Housing & Community Development Division

**DATE:** April 4, 2013

**SUBJECT:** *“Report of the Task Force to Develop a Strategic Plan to Prevent & End Homelessness in Portland”* – **RAPID RE-HOUSING STRATEGY UPDATE.**

On March 18, Doug Gardner, Jeff Levine and I met with the Mayor, City Manager and Deputy City Manager to discuss the implementation plan outlined in the *“Report of the Task Force to Develop a Strategic Plan to Prevent & End Homelessness in Portland”*. This is an update based on that meeting.

#### **(1) Create Housing First Units**

A suggestion was made to provide a grant that would assist an affordable housing developer with pre-development activities (site location, identifying resources available for development and support services). Staff investigated the possibility of using HOME funds for this purpose but determined that the program regulations would prohibit such use. As an alternative, staff looked at the Housing Replacement Fund and determined that the ordinance would allow for this type of use. Staff is recommending that \$50,000 in Housing Replacement funds be allocated to create a Housing First Pre-Development Grant. These funds would be allocated through an RFP process.

#### **(2) Rapid Re-Housing Program/Tenant-Based Rental Assistance**

The use of HOME funds for Tenant Based Rental Assistance (TBRA) was approved by the HCDC in March. TBRA programs can be used to support a variety of different local goals or initiatives. The HOME Program rules are flexible to allow the community to structure a program that meets the needs of the community. The Family Shelter and Oxford Street Shelter applied for a grant from MaineHousing that will provide up to \$100,000 for case management services. These services would be available to individuals placed into permanent housing from the shelters. A combination of these grant funds along with HOME TBRA funds will provide 20 to 25 short term housing vouchers

### **(3) Housing Liaison System**

The Housing and Community Development Division (HCD) is in the process of finalizing an Analysis of Impediments to Fair Housing. This analysis has identified several different areas where we can work with local landlords to provide information and resources which will encourage them to provide increased access to housing for people who are homeless. This supports the strategy outlined in the *“Report of the Task Force to Develop a Strategic Plan to Prevent & End Homelessness in Portland”* which calls for the development of a housing liaison system. The HCD Division will work with the Social Services Division, HHS to implement this strategy and work towards creating and expanding resources that enable landlords and tenants to work together to overcome rental issues.

A memo provided to the Public Safety, Health and Human Services Committee is also enclosed. This memo provides an update regarding the four strategies outlined in the *“Report of the Task Force to Develop a Strategic Plan to Prevent & End Homelessness in Portland”*.



# PORTLAND MAINE

*Strengthening a Remarkable City, Building a Community for Life • www.portlandmaine.gov*

Health & Human Services Department  
Douglas Gardner, Director

## MEMORANDUM

**TO:** Councilor Edward Suslovic, Chair  
Members of the Public Safety, Health & Human Services Committee

**FROM:** Douglas Gardner, Director   
Health & Human Services Department

**DATE:** April 4, 2013

**SUBJECT:** *“Report of the Task Force to Develop a Strategic Plan to Prevent & End Homelessness in Portland” – STAFF RECOMMENDATIONS.*

The Portland City Council created the Task Force to Develop a Strategic Plan to Prevent and End Homelessness (TF) in November 2011. The Task Force (TF) was chaired by Suzanne McCormick, President & CEO of the United Way of Greater Portland, business community leader Jon Jennings and former City Councilor Dory Waxman. The TF was comprised of business leaders, homeless providers, content experts, public safety and representatives from our two area hospitals. The TF completed its work in October of 2012 and following a City Council Work Shop on October 15<sup>th</sup>, submitted its final report to the full City Council on November 9<sup>th</sup>. The Task Force has created an Implementation Plan comprised of four overarching Recommended Actions: 1) Retooling the Emergency Shelter System, 2) Rapid Rehousing, 3) Increased Case Management and 4) Report Monitoring. As you are aware, the Council charged the Public Safety, Health & Human Services Committee with the Retooling the Emergency Shelter System and Increased Case Management, and the Housing & Community Development Committee with the Rapid Rehousing components of the plan.

The following is a summary of staff recommendations related to implementation of the TF recommendations. I have also included here the recommendations being advanced with the Housing and Community Development Committee. That committee will also be apprised of the Public Safety, Health & Human Services Committee recommendations as well. These recommendations have been endorsed by the City Manager and to the extent necessary, any budget implications have been incorporated into his recommended FY 2014 Budget.

There are six general themes contemplated with the following recommendations; Case Management, Rapid Rehousing, Outreach, Zoning constraints, Special Population Housing and the Housing First Model. City staff is advancing, for your review and comment, a series

of short term strategies associated with each of these broader themes. These strategies were not only informed by the TF report, but also through a series of topic specific meetings.

**(1) Case Management:**

- **Emergency Shelter Client Support & Services Plan Policy**

The Client Support & Services Plan Policy is the result of a collaborative effort involving the City, Preble Street and Homeless Voices for Justice. It was developed over the course of several months during the summer of 2012 in a parallel process to the work of the TF (Attached). The policy is driven by an individualized intake and assessment that begins as soon as someone enters the shelter for the first time or returns after a break of more than 90 days. At the end of the intake, an immediate and specific referral is made to an assigned housing counselor and other specialists as needed. The policy requires all shelter clients to participate in an approved housing plan and to take the necessary and deliberate steps to achieve that plan in the shortest time possible. A client who declines to work on or follow through with a housing plan will no longer be eligible to use shelter services once proper notice has been given and every effort has been made to gain compliance. This policy shift is already creating a more efficient and productive work flow with housing placements up considerably and levels of overall engagement up by 50% or more. Staff is recommending full implementation of the policy at each of the emergency shelters in the City.

- **City Family Shelter Case Management Capacity**

As part of the City's FY 2014 budget process, an additional case manager has been added to the Family Shelter operated by the City. The Family Shelter has experienced a 25% increase in the number of bed nights used for FY 2012. This increase has continued for FY 2013 and the shelter has remained full to capacity with overflow families placed in area hotels. This new case management position will assist families with the location of permanent housing and provide follow up services to families who have a history of repeated shelter stays. Support services will be provided for up to six months once families have located housing. Services provided will include financial budgeting, life skills training, landlord tenant relationships and crisis intervention. Staff is recommending that this additional position be approved by City Council as part of the FY 2014 budget process.

**(2) Rapid Re-Housing:**

- **Community Support Team**

The Community Support Team Pilot is collaboration between the Portland Housing Authority, Preble Street and the City. The Portland Housing Authority has committed to set aside 40 Section 8 Housing Vouchers for Chronically Homeless individuals; the vouchers will be set aside on a monthly basis until the target of 40 is reached. The pilot is based on the well-established best practice of permanent supportive housing as an effective response

to homelessness. Programs to Assist in Transition from Homelessness (PATH) is the funding source for support services. Preble Street, as a PATH funded agency in Portland will provide clinical case management and peer support, and the City will provide housing counseling. Preble Street has named their PATH program CLIP or Clinical Intervention Program. Staff is recommending continued City support and involvement with this pilot.

- **Limited Scale Homeless Prevention & Rapid Rehousing**

The Housing and Community Development Committee is evaluating a concept of using HOME Program funds to create a Tenant Based Rental Assistance (TBRA) program. MaineHousing has a similar program entitled Stability Through Engagement Program (STEP). The STEP program is a short term rental assistance program that provides up to 12 months of assistance and requires the tenant to pay 30% of their monthly income. It is estimated that approximately \$130,000 in HOME funds could be available for this type of program. In addition, the Family Shelter and Oxford Street Shelter have both applied for the MaineHousing Home to Stay Grant. This grant will provide up to \$100,000 for each shelter to provide case management services to individuals placed into permanent housing from the shelters. The MaineHousing Home to Stay funding could be paired with the HOME fund TBRA to create a small scale program similar to the extremely effective Homeless Prevention & Rapid Rehousing Program (HPRP) which ended in 2011. It is estimated that between twenty (20) to twenty-five (25) short term housing vouchers could be created through this program. Staff is recommending that \$130,000 in HOME Program funds be allocated to this effort.

- **Working Group on Creating a Housing Liaison System**

The City's Housing and Community Development Division is in the process of finalizing an Analysis of Impediments to Fair Housing. This analysis had identified several areas where the City can work with local landlords to provide information and resources which will encourage them to provide increased access to housing for people who are homeless. This supports the TF's recommendation to create a Housing Liaison System. The City's Housing and Community Development Division, working with the Social Services Division/ HHSD will take the lead on implementing this strategy and work towards creating and expanding resources that enable landlords and tenants to work together to overcome rental issues.

### **(3) Outreach:**

The City convened a meeting of homeless providers and public safety officials in March to discuss outreach efforts. The question posed to the group was, if there were additional resources available for outreach, what would be the most effective use of those resources? The answer was simple, use any additional funding to enhance current efforts; specifically, the HOME Team. Therefore, consistent with the TF report, staff is recommending that any new funding that becomes available be used to augment existing outreach efforts. Furthermore, staff is recommending that a group be created to provide oversight and

coordination of all outreach efforts in the City. The Health & Human Service Department will take the lead in creating such an entity.

**(4) Zoning:**

The City's Land Use Ordinance creates some regulatory barriers to providing new facilities for the homeless, including new Housing First facilities. City staff is in the process of assessing what impediments the Land Use Ordinance creates and what strategies are advisable to address these concerns. While there clearly are areas that are not appropriate for additional facilities for the homeless, there may be opportunities to provide additional flexibility in the zoning in some areas. City staff will study this issue and report back to the Housing & Community Development Committee with recommendations

**(5) Special Population Housing:**

- **Sober Temporary Housing/Treatment**

The City convened a small group of providers on March 13, 2013 to discuss the concept of a Sober Transitional Housing program with treatment. This program would be designed to fill the gap in the substance abuse treatment continuum between inpatient detoxification and emergency shelter. A draft budget has been developed and will be submitted to the Public Safety, Health & Human Services Committee. As an interim step, the City is in negotiations with the York County Shelter, Inc. to provide sober shelter for Oxford Street Shelter consumers who are working on sobriety and are interested in this type of program. It is anticipated that this pilot program will be operational by the end of April 2013. Staff is recommending endorsement of this pilot program as an interim step. Additionally, a working group will be created to further vet the concept of a Sober Transitional Housing Program and investigate potential funding sources.

- **Homeless Medical Respite Program**

The TF recommends the development of a Homeless Medical Respite Program for people who are discharged from an acute care setting to the emergency shelter system. An initial meeting was called in January in response to a significant increase in the number of hospital discharges to the City's emergency shelters. This meeting was well attended by homeless service providers, the local hospitals and City staff. As a result, a group of key stakeholders has been identified to evaluate the need for this type of program, possible funding sources and to identify a lead agency to operate the program. The TF identified the United Way of Greater Portland (UWGP) to lead this effort. To that end, Suzanne McCormick, President & CEO of the UWGP has agreed to convene a working group. Staff recommends supporting this effort as a short term strategy.

## **(6) Creation of Housing First Models:**

- **Pre-Development Request for Proposals**

The TF has recommended the development of three (3) new 35-unit Housing First programs in the Greater Portland Area. We know from previous Housing First efforts that this is likely a long-term strategy to address homeless in the City. The Planning and Urban Development Department is suggesting that the City use some of the Housing Replacement Fund to create a \$50,000 pre-development grant. This grant would provide funding to an affordable housing developer to assist them with pre-development activities, such as locating a site, securing construction funding and identifying a sustainable funding source for the required support services. The rules surrounding the use of the Housing Replacement Fund would allow for this type of expenditure. Staff is recommending that \$50,000 in Housing Replacement funds be allocated to create a Housing First Pre-Development Grant.

Attached you will find an analysis of the impact the aforementioned strategies will have on the overall number of people staying at the Oxford Street Shelter. This matrix is based on several assumptions, including average number of new intakes, standard housing placements, recidivism rates, and other factors which influence the actual number of individuals seeking shelter in the City over time. As part of the matrix, we have attempted to estimate the shelter census as of December 31, 2013 and savings associated with closing the overflow shelters at General Assistance and Refugee Services.

Staff will be available at the Public Safety, Health & Human Services Committee meeting on April 9<sup>th</sup> to answer any questions you may have after reviewing this memo. In addition, the members of the TF and other interested parties have been noticed of the meeting.

### **ATTACHMENTS:**

- Client Support & Services Plan Policy
- Housing Placement Matrix
- Portland Shelter Bednight Data
- Oxford Street Shelter Housing Placement Data
- Progress Report – *Retooling the Emergency Shelter System*
- Progress Report – *Rapid Rehousing*
- Progress Report – *Increased Case Management*

September 2012

**Portland Community Partnership  
Adult Emergency Shelters**

**Client Support and Services Plan**

The City of Portland and Preble Street have long been strong community partners in responding to the needs of people experiencing homelessness. The City of Portland's Health & Human Services Department operates the Oxford Street Shelter and the Community Overflow Shelter/Warming Center and Preble Street operates the Florence House Women's Shelter and the Resource Center's Day Shelter. Our shelter programs provide a safe haven on a temporary basis for Portland's homeless population, as well as efficient and effective support services to promote rapid re-stabilization and the achievement of permanent housing.

We recognize that prolonged stays in emergency shelters create despair, a sense of powerlessness and hopelessness, and are very expensive. We are committed to creating an environment where people who are homeless are empowered, treated with dignity and respect, and given the opportunity to move toward self-sufficiency through solution oriented services which include active engagement, a comprehensive needs assessment, strength based social work and result in the person moving to stable, appropriate housing.

The Federal Department of Housing and Urban Development (HUD) recommends that communities establish a centralized or coordinated homeless assessment and intake process that includes a comprehensive and standardized assessment process with a client centered plan focused on locating and retaining housing. This "best practice" was evident in the very successful Homeless Prevention and Rapid Re-Housing Program (HPRP) which provided quick assessments, case management; client support and follow up services. This program successfully placed 1306 into permanent housing over a two year period. For those participants who were previously homeless and in emergency shelters, the housing placements represented a total of 75,730 shelter bed nights.

This approach reflects our belief that early intervention and immediate connection to housing and casework services can make a difference in reducing the number and length of homeless occurrences, resulting in an overall reduction in the need for emergency shelter and other emergency services and leads to permanent housing and ultimately self-sufficiency.

The coordinated work of the City of Portland and Preble Street upholds the community's long standing commitment to helping our neighbors in need. It is the premise of our collective work that everyone deserves better than to be in a shelter.

## **Support and Services**

### **Intake**

It is the responsibility of shelter staff to assist each new client through the intake process. A "new client" is any person who has never been to the shelter or who has been away for more than 90 consecutive days.

During intake, shelter staff will:

- Welcome the client to the shelter, acknowledging the extreme stress and possible resulting trauma that the person is experiencing having to resort to accessing a shelter and provide the client with a copy of the document, *Welcome to the Shelter*;
- Inform the client that the shelter is intended to provide temporary, emergency shelter and that professional support and services will be available to them to help them through this process;
- Reassure the client that Housing Counselors are available to assist in locating housing 7 days a week;
- Whenever possible, introduce the client to a Housing Counselor who will serve as his/her primary contact during his/her shelter stay;
- Explain the purpose of the weekly Orientation Meeting;
- Inform the client of the date, time, and location of the next Orientation Meeting;
- Determine when the client can attend the next Orientation meeting;
- Review the weekly open access hours for their Housing Counselor so that the client and Housing Counselor can develop a self-sufficiency/housing plan;
- Inform the client that the Housing Counselor will work with him/her to locate suitable stable housing.

The Shelter Support Services Team may exempt a client from the provisions of this policy at any time. Grounds for exemption may include mental health concerns, active substance abuse, unique medical needs or other unusual circumstances.

The Intake worker will make a referral to the Preble Street clinical staff for a diagnostic assessment when there is a need for additional mental health and support services in order to help the person gain housing and access community resources such as Shelter+Care, BRAP and community support services. Every attempt will be made to have this review completed within 7 days after the referral is made.

### **Assessment Review and Consultation**

All new intakes and clinical assessments will be reviewed and discussed with the in-house shelter team consisting of both Preble Street and Oxford Street staff. Team meetings will be scheduled on a weekly or twice weekly basis as needed. Preble Street's and the City's LCSW clinical staff will also be available to meet with clients and support the professional work of the staff throughout each work week.

**Orientation**

It is the responsibility of shelter staff to post the dates, times, and location of Orientation Meetings, and to ensure that additional meetings are scheduled if needed. It is responsibility and the expectation that the client will attend the orientation meeting or will have already met with their Housing Counselor prior to the assigned orientation.

**Housing/Self-Sufficiency Plan**

During Orientation, shelter staff will review shelter policies and procedures, identify community resources, and introduce the clients to the team of Housing Counselors and Support Staff.

Shelter staff will clearly state that within the first week of their stay, via open access hours and appointments, each client will be provided with support services via their Housing Counselor and can begin work on a Housing/Self-Sufficiency Plan.

If this meeting is unsuccessful, the client and the Housing Counselor will attempt to meet the following week. If repeated attempts to connect are unsuccessful, the client will be directly referred to the Preble Street clinical staff for an assessment if one has not already been completed. Upon assessment, the clinical staff will make a recommendation to the client and his/her Housing Counselor regarding service referrals and housing options. A Self Sufficiency/Housing Plan can be created from this meeting. The clinical staff will follow up on and make appropriate service referrals and the Housing Counselor will continue to meet with the client regarding housing plans.

**Accountability**

If the Self Sufficiency/Housing Plan does not lead to helping the client locate housing, or if the client continually declines services and supports, or if appropriate housing opportunities are declined, a follow up meeting with a member of the Preble Street/Oxford Street Management team will be requested. The Preble Street/Oxford Street Management team member(s) and the client will explore reasons that are prohibiting the locating of housing. The Preble Street/Oxford Street Management team will assist that person in addressing the barriers to housing and with the assessment input of the clinical staff, work with the client to identify appropriate housing options.

If the Preble Street/Oxford Street Management team and the clinical staff determine that the client has no mental health or addiction issues that prevent him/her from maintaining independent housing and the client has the financial ability to successfully maintain the rent, then the client will be informed that if they do not utilize support services to locate housing, the shelter may not continue to be a resource for them and that an alternative arrangement for shelter may need to be made by the client. The client will also be expected to use their own resources (regular income, general assistance, voucher, etc.) for temporary shelter if they chose not to follow through with a housing plan. This conversation will be summarized with a list of available housing options for the person via a Completion of Services letter.

The Preble Street/Oxford Street Management team and the Preble Street clinical staff will assess each referral on an individual basis and develop strategies to assist people with overcoming barriers to housing.

**Appeal Process**

The Client Appeal Form will be used for all appeals related to this policy. Client Appeal Forms will be available at shelter front desks. Completed forms should be submitted to shelter staff at any time and will be forwarded to the Preble Street/Oxford Street Management team and the Preble Street clinical staff who will promptly review requests for appeals from clients.

The client will continue to stay at the shelter throughout the appeal process. If the appeal is denied, the client may stay for one (1) additional night or for a period of time designated in the resolution of the appeal. The Shelter Management Team will offer to meet with the client and offer any appropriate recommendations for shelter/housing resources if the appeal is denied.

**Implementation**

The coordinated work of Preble Street and the City of Portland in regards to the rapid re-housing of people experiencing homelessness will be implemented in phases. This document reflects Phase 1 of several stages.

###

## Housing for homeless planned near Morrill's Corner

Avesta advances its efforts to get those with chronic illnesses off the streets with a proposal for a 30-unit apartment building in Portland.

RANDY BILLINGS | PORTLAND PRESS HERALD | NOVEMBER 24, 2014



An architect's rendering depicts the proposed Avesta Housing complex on Bishop Street. If approved, it will be modeled after the 30-unit Logan Place at 52 Frederic St., which opened in 2005. *CWS Architects rendering*

Avesta Housing is looking to build a 30-unit apartment building near Morrill's Corner in Portland for chronically homeless people with chronic medical conditions.

The \$5 million project hinges on the nonprofit housing agency getting \$3.8 million in housing tax credits and operational funding from the state, and 30 housing vouchers from the Portland Housing Authority. If the project moves forward, it will become the city's third housing development built specifically for the chronically homeless, or those with disabilities who have been homeless for at least a year or had three episodes of homelessness within a three-year period.

The project will be modeled after the 30-unit Logan Place at 52 Frederic St., which opened in 2005 as the city's first effort to provide permanent, supportive housing to the chronically homeless. It's a model often referred to as "housing first," because it provides a stable living environment so people can deal with other factors contributing to their homelessness.

The other housing-first facility is the Florence House at 190 Valley St., which opened in 2009 and mostly serves women who are victims of domestic violence.

With homelessness in Portland increasing as a result of the Great Recession, the city launched a task force in 2011 to develop a plan to tackle the problem. The city's Homeless Prevention Task Force issued a series of recommendations in 2012 that included building three additional supportive housing complexes.

Mayor Michael Brennan said the latest project is an opportunity to act on the task force's work.

"I know people in Portland are committed to ending homelessness, and this is the best way we know to do that in the city," Brennan said.

Currently, most of the city's social services are located on the peninsula, primarily in the Bayside neighborhood. The task force recommended that the additional housing complexes be built off the peninsula and in other communities, if possible.

Avesta development officer Greg Payne said the agency made a deliberate decision to propose the new project at 72-78 Bishop St. to honor that off-peninsula recommendation. "This is very much in response to the work of the homelessness task force," he said.

On Monday, the City Council voted to rezone the 1.16-acre property from a moderate industrial and residential zone to a community business zone to allow the development to move forward. Only four people spoke on the rezoning issue. They supported the project, but some had concerns about traffic and safety around Morrill's Corner in general.

Payne said Avesta expects to hear back from the state on its funding requests in the coming weeks. Once most of the financing is lined up, the agency will submit its site plan to the city with the goal of breaking ground next fall, he said.

Mayfield Road resident Matt Hutton, who is married and has two children, told the Press Herald on Friday that he has many concerns about the project beyond traffic. Among them is that there are not enough services available in the area, including places other than gas stations in which to buy food.

Bishop Street also lacks sidewalks, and that could lead to people wandering down the middle of the street, he said, pointing to Spurwick's Bishop Street clinic for abused children.

"Spurwick is a good example of a great place in the wrong location," Hutton said. "Their needs are not met by their location. They need to exercise the tenants living there, and their only 'walk' or exposure for the day to the outside is a treacherous walk down Bishop."

Jon Bradley, associate director at Preble Street, which staffs Florence House and Logan Place, said between two and five staffers would be at the Bishop Street facility 24 hours a day to ensure that any issues with residents do not spill into the neighborhood. It would cost about \$800,000 annually to staff Bishop Street, he said.

"Most of our issues are internal," Bradley said. "We handle them in-house and not in the community, and we expect that."

Bradley said Logan Place's success lies in the fact that 10 of the original 30 residents still live at the facility and have agreed to receive services, including those dealing with substance abuse and mental illness. Those no longer there either died or found more independent living arrangements, and very few have returned to the shelter, he said.

A seven-year review of Logan Place found that residents received 35 percent more in mental health services at 46 percent of the cost of emergency care. There were other cost savings as well: Emergency room costs declined by 62 percent, health care expenses by 59 percent, ambulance transportation by 66 percent, police contact by 66 percent, incarceration by 62 percent and shelter visits by 98 percent. Portland police issued a letter in support of the Bishop Street project, noting the past successes at the Florence House and Logan Place.

Rob Parritt, director of the Oxford Street Shelter, said the housing complex would immediately reduce overcrowding at the city-run shelter.

With more people seeking shelter than there are beds available, an overflow shelter has been opened at the Preble Street Resource Center, and in some cases the city's General Assistance office has been used to house overflow.

Although the city has seen a downturn in the number of homeless people at the shelter, Parritt said the Bishop Street development would fill a critical need.

"(Bishop Street) would have a huge impact," he said. "Any supportive housing is a good thing and we don't have enough of it in the city of Portland."

People discharged from the hospital to the shelter often have mobility issues, are incontinent, or have significant medical needs. Those with medical conditions require more space and more specialized resources, which in many cases the shelter cannot provide.

"Really, a lot of these guys and ladies need (certified nursing assistant-level) care and we really don't have that here," Parritt said. "I would love it (if) something like (Bishop Street) would open tomorrow, but I know it's a long-term thing."



## **Short-Term Rentals**

### **Timeline**

10.28.2015 Submitted to the Housing and Community Development Committee. **No action taken.**

### **Summary**

Cities across the country have been struggling to adapt to new market forces brought about by the rise of the “sharing economy”. Companies like Uber and Airbnb are often cited as being at the forefront of this web- based movement revolutionizing commuting, shopping, and lodging.

But these new models are also being scrutinized for their unintended consequences on existing businesses and communities. To date, governments have struggled to reign in these ever-evolving markets to provide certainty, safety, and fairness. Given their quick ascension to prominence there has not been sufficient time for public entities to develop and evaluate best practices for how to effectively regulate these industries. Commonly cited issues related to short-term rentals (STRs) include violation of local zoning laws, removal of housing stock from the market, driving up prices, and more.

Critics assert that STRs take apartments and homes out of the market, limiting the supply of long term housing for local residents. Considering Portland’s extremely low vacancy rate any significant reduction in available housing stock should be a concern for the City. Further, there is clear financial incentive for property owners to prefer STRs over traditional long term tenants.

Recent surveys of online STR websites conducted during 2015’s peak tourist season have shown more than 250 STRs within Portland. These STRs offer an average price per night of about \$150. When narrowing the search for only entire units the total units listed drops to 206 and the average price increases to \$186 per night.

The following HCDC memo provides a summary of regulations adopted by several communities across the nation and outlines a series of questions Portland needs to come to terms with before appropriate regulations can be determined.

### **In this chapter**

- **Consideration of potential regulations for short term rentals (STR’s) that utilize lodging sites such as AirBnB, HomeAway, Flipkey, VRBO, Craigslist, and others, Housing and Community Development Committee memo, 10.28.15**



Jeff Levine, AICP  
Director, Planning & Urban Development Department

**TO:** Councilor Donoghue, Chair  
Members of the Housing and Community Development Committee

**FROM:** Jeff Levine, Director  
Planning and Urban Development  
Tyler Norod, Housing Planner  
Housing and Community Development Division

**DATE:** October 28, 2015

**SUBJECT:** Consideration of potential regulations for short term rentals (STR's) that utilize lodging sites such as AirBnB, HomeAway, Flipkey, VRBO, Craigslist, and others.

## I. SUMMARY OF ISSUE

The following section is intended to provide an overview of the emerging short term rental (STR) market in Portland and how other communities are addressing this issue. Some of the following information was presented in earlier memos to the Committee. New information has since been added following feedback from Committee members including STR's impacts on vacancy rates, the financial incentives of STR's versus traditional long term rentals, and regulations being implemented in other communities.

Cities across the country have been struggling to adapt to new market forces brought about by the rise of the "sharing economy". Companies like Uber and Airbnb are often cited as being at the forefront of this web based movement revolutionizing commuting, shopping, and lodging. With listings in more than 34,000 cities and 190 countries AirBnB alone is now valued at approximately \$20 billion which ranks it near the top of most valuable hotel chains. Although AirBnB is the largest short term renter (STR) website there are many other companies competing for their share of the market such as HomeAway, Flipkey, VRBO, Craigslist, and others.

But these new models are also being scrutinized for their unintended consequences on existing businesses and communities. To date, governments have struggled to reign in these ever evolving markets to provide certainty, safety, and fairness. Given their quick ascension to prominence there has not been sufficient time for public entities to develop and evaluate best practices for how to



Jeff Levine, AICP  
Director, Planning & Urban Development Department

effectively regulate these industries. Commonly cited issues related to STR's include the following:

- Violate local zoning laws
- Remove housing stock from the market and drive up prices
- Inconvenience neighbors
- Disrupts neighborhood character
- Building safety and ADA issues
- Unfair competition for other lodging types such as B&B's
- Unpaid local taxes

Short term rentals (STR's) have garnered significant attention in Portland and elsewhere for both their positive economic impact as well as concerns related to their effects on already tight local housing markets. Critics assert that STR's take apartments and homes out of the market limiting the supply of long term housing for local residents and in doing so increase the cost of housing. Unfortunately, it is a challenge to accurately substantiate these claims. It is equally as challenging to determine the number of hosts that are simply renting out their primary residence compared to units that are being removed from the long term market solely for commercial STR use. Recent surveys of online STR websites conducted during the peak tourist season such as have shown more than 250 STR's within Portland. These STR's offer an average price per night of about \$150. When narrowing the search for only entire units the total units listed drops to 206 and the average price increases to \$186 per night. Each website offers its own listings but many STR units are listed on multiple sites making an accurate total count problematic.

There is clear financial incentive for property owners to prefer STR's over traditional long term tenants or to even not sell a property as they move out of their owner occupied unit to another property. If each of these units were rented out 30 days a month during peak season the average entire unit rental would generate approximately \$5,580 per month. This figure is greatly in excess of the average monthly rent for the surrounding residential market which is closer to \$1,100 per month. Assuming the average rent of \$1,100 and the average STR rate of \$189 per night a landlord would only need to rent their units five nights a month in the offseason to make up for the lost revenue of a full time tenant while possibly making approximately \$4,400 a month more than the typical rent during peak seasons.

It is unclear whether or not the limited number of STR's in Portland have a significant impact on the overall housing market. According to the STR research



Jeff Levine, AICP

Director, Planning &amp; Urban Development Department

firm AirDnA, Portland has approximately 32,700 housing units. Given the more than 250 STR's being advertised approximately less than 1% of the City's housing stock is being offered as a STR. However, most of the units offered as STR's are limited to the Peninsula which may have a disproportionate impact on those neighborhoods. The Peninsula contains approximately 12,000 housing units. Assuming approximately 250 units are being listed mostly on the peninsula this would account for approximately 2% of the Peninsula's housing stock.

Considering the Peninsula's extremely low vacancy rate any significant reduction in available housing stock should be a concern for the City. For context, cities around the country with the highest percent of their housing stock being utilized as STR's are between 6.5% and 1.1% according to AirDnA. The National Association of Realtors defines a landlord's market as one where vacancy rates are less than 5%. The recently completed 2030 Workforce Housing study by the Greater Portland Council of Governments (GPCOG) estimated Portland's 2014 vacancy rate at 4.4%. This was for the entire Portland market. It would stand to reason that the Peninsula's vacancy rate is even lower. Therein it is possible to see how removing an estimated 2% of the housing stock from the Peninsula could have a significant effect on the market.

Review of STR market trends shows that some hosts are likely using these units part time to generate additional income to support a variety of expenses ranging from home repair, student loans, medical bills, taxes, child expenses, or simply additional discretionary income. In Portland, these may be long term residents who utilize STR's to enable them to stay in their homes and further participate in the local economy. It would also stand to reason that hosts who use their primary residence or units within their building as STR's would be more likely to be more selective in their guests and responsive to neighbors concerns.

Unfortunately, some STR hosts have taken advantage of the market to buy up existing housing stock for the sole purpose of using it as an STR. These units effectively operate as an unlicensed hotels or bed & breakfasts. Not only do these types of practices remove long term housing options from the City's supply but they also can increase the perceived value of real estate. Traditional buyers may now have to compete with individuals or companies who assume greater revenue capacity with STR's over long term rentals. Although difficult to confirm exact figures, recent reviews of online STR sites have shown at least four individuals or companies who have multiple properties apparently used exclusively as STR's.

Staff researched how other cities were approaching the regulation of short term rental units. As mentioned above, this is a new and quickly evolving issue that



Jeff Levine, AICP

Director, Planning &amp; Urban Development Department

makes evaluating time tested best practices difficult to come by. The short summaries of regulations proposed or passed in other communities listed below may provide Portland with some guidance on how to tailor its own potential policy solutions.

### Savannah, GA

Savannah, Georgia, a city of 144,000 people, implemented regulations in November of 2014. STR's are allowed in some zones as long as they register and comply with city safety, noise, parking, taxes, and other applicable regulations. Registration costs \$150 and \$50 for subsequent annual renewals. The host must provide documentation proving that the property meets the necessary codes along with proof of insurance and ownership. The city also established a three step escalating scale for fines ranging from \$500 - \$1000 for properties that violate the ordinance or received substantiated complaints. These fees may not be substantial enough to deter violations depending on the value of the local STR market. The city also requires that an owner/manager/operator must be available within two hours of any complaint or issue being received by the city.

Savannah anticipates approximately 200 of the estimated 300 STR applications to be from property management companies that own multiple properties. With approximately twice the population of Portland and similarly reputation as a tourist friendly city, one might expect to see twice as many STR's in Savannah. If these figures are correct it demonstrates the potential for commercialization of STR's in loosely regulated municipalities, something that Portland may want to discourage if there are concerns about the City's housing stock.

### Santa Monica, CA

Beginning in June of 2015, Santa Monica began implementing a new STR policy that limits STR's to hosts primary dwelling unit and requires that the host be present for the guest's entire stay. The ordinance specifically prohibits STR's that provide the exclusive use of STR's for less than 30 days by transient guests. Violators could be fined up to \$500 per day and face criminal prosecution. Hosts must obtain a city business license and pay a 14% transient occupancy tax. There are exemptions available for hosts making less than a certain amount per year in gross receipts. The ordinance allows "residents" to rent out bedrooms, so both owners and long term tenants may partake in hosting STR's. However, there is a provision that stipulates that tenant's leases must allow tenants to rent out rooms as an STR. The ordinance does provide some flexibility in that hosts may rent out



Jeff Levine, AICP

Director, Planning &amp; Urban Development Department

their “guest house” if it is on a parcel that is zoned as a single family. This exemption does not apply if the property is zoned as a multi-family.

Santa Monica chose to pursue a stricter ordinance governing STR's in an attempt to help relieve stress on their local housing market. Similar measures are also being considered by other surrounding cities struggling with their own housing affordability issues including Los Angeles. It is still too early to determine the effectiveness of the policy. AirBnB still shows more than 300 entire units being offered in Santa Monica which would all seemingly violate the new regulations.

### Boulder, CO

Boulder's City Council voted in June of this year to restrict STR's to primary residences where residents live in the unit at least 275 days out of the year. The Council voted 7-1 in favor of this ordinance but there still needs to be final approval in November of an overlapping policy related to taxation of STR's. The ordinance would limit the occupancy of STR's to no more than what is already allowed within each zone. STR's would also not be allowed in deed restricted affordable units. Boulder, a city of approximately 88,000 people, currently has 514 units listed on AirBnB.

### Berkeley, CA

A STR ordinance is currently under consideration in Berkeley, California. The new ordinance as proposed would allow residents to rent out space in their primary dwelling unit assuming that they live their nine months out of the year. Residents would be allowed to rent out bedrooms in their primary residences for as many nights as they wish as long as they are present during the stays. STR's are defined as rentals not exceeding 14 days. The hosts would be required to have a valid business license and at least \$500,000 in insurance. Hosts would also be required to notify neighbors of their property being used for STR's. Guests would be provided with information on relevant city ordinances related to noise, trash, and parking. When not present, the owner must designate a local contact to handle any complaints or issues that may arise. If three substantiated violations occur within 180 days the license will be forfeited for one year.

### Austin, TX

Although significantly larger city than Portland, Austin has been one of the pioneers in terms of regulating STR's. Austin's policy limit the number of unrelated people who can stay in one place at a time to six. It also capped the



Jeff Levine, AICP  
Director, Planning & Urban Development Department

number of listings in many neighborhoods throughout the city. Austin provides three STR categories that operators must register within. Type I is for owner occupied units. Type II is for non-owner occupied buildings two units or smaller. Type III is for non-owner occupied multi-family buildings wherein one or more unit is being utilized as an STR. Types II and III have caps that do not allow more than a certain percentage of the housing stock within each census district to be used as STR's.

A recent expose in the Washington Post identified significant enforcement issues with Austin's system. Problems were identified related to the number of people staying at STR's, absent landlords renting out property with problem causing guests, and what neighbors referring to as "rogue hotels operating in residential neighborhoods". The article interviewed local residents who did not appear to be concerned about allowing local people to rent out their primary homes but were having issues with properties that were managed in a more commercial manner.

### Other Communities

Other communities that share similarities to Portland's demographics and market are currently in the middle of examining STR policies of their own such as Burlington, Vermont, and Asheville, North Carolina. Given how new this issue and corresponding policies are it may be helpful to wait to analyze the framework and effectiveness of other cities as they attempt to tackle this growing issue.

## **II. REASON FOR SUBMISSION**

The Committee requested that staff research STR's in Portland and examine best practices from other cities looking to regulate this fledgling market.

## **III. INTENDED RESULT**

The intended result is to determine the best policy approach for Portland that balances the pros and cons of STR's with the housing and economic goals of the City.

## **IV. COMMITTEE GOAL/COUNCIL GOAL ADDRESSED**

The potential regulation of STR's is in line with the Committee and Council's goals of providing additional housing options that are affordable to a variety of Portland residents. Potential regulation may also impact economic development



Jeff Levine, AICP

Director, Planning &amp; Urban Development Department

goals of the City as they related to tourism. A thoughtful and balanced approach to this complex issue is advised.

## V. FINANCIAL IMPACT

Depending on policy recommendations by the Council there is the possibility that STR regulation could result in additional registration and penalty fees to the City. Potential regulation could also result in additional lodging tax revenue for the State although that would be difficult to achieve and may not happen for a significant period after regulations are put in place. Cooperation from the various STR enabling websites would be necessary to effectively recover these tax revenues. Potential regulations may also effect tourism related revenue in the City. Potential regulation efforts could inhibit, support, or not have any effect on tourism depending on steps taken. It is difficult to assess the total economic effect of any regulations on this nimble and evolving market but economic development issues should be taken into consideration with any policy recommendations.

## VI. STAFF ANALYSIS AND RECOMMENDATION

Based on previous discussions with the Committee and research examining regulations in other communities staff has developed three potential frameworks for future policy direction. The regulation of STR's is a nuanced and complex undertaking. Committee direction to pursue any option below or combination thereof would likely require additional analysis and time to better understand the implications and minutiae of any alterations to the City's code.

### Option 1: Allow STR's but require registration & safety requirements

One option for the City is to require STR's to register with the City. Oversight would focus on safety, accessibility, and building code related issues. STR's could register through the same landlord system being developed within the new Housing Safety Office. This low bar to entry would encourage STR operators to participate in the City's system allowing us to better understand the extent of the STR market in Portland. It would also help the City encourage safer housing and lodging options.

This option is the easiest implementation of the three options presented but it has limitations and brings up additional questions. Current staff workloads and priorities would make it difficult to ensure sufficient inspections of registered STR units. Inspections and enforcement would likely be tied to complaints or



Jeff Levine, AICP  
Director, Planning & Urban Development Department

concerns raised about specific properties. This option would also limit the City's ability to address neighborhood and lodging industry concerns by essentially legalizing STR's. The following questions should also be considered while evaluating this option:

- Would STR's be legal city wide or just in certain zones?
- Would there be any limit to how many units an individual or corporation could operate?
- If the City were to tighten regulations at a later date would they need to "grandfather" any existing STR operators?

Additionally, if the Committee believes that STR's are having a significant negative effect on the local housing market this option would do little to improve the situation and may worsen perceived problems providing a green light to convert traditional housing stock to STR's.

#### Option 2: Revise the existing zoning code to allow for some STR's

As discussed at the October 14, 2015 HCDC meeting, there are some areas within the existing zoning code which may be able to accommodate clearer policy direction for regulating STR's. By modifying the existing definition for dwelling units and amending Section 14-404(e) of the zoning code Portland could provide guidance for the public as to what extent STR's are allowed.

To start, amending the definition of "Dwelling Unit" within the code to include language requiring a minimum occupancy period of one month unless it is being used in line with a revised version of Section 14-404(e). There were inquiries made as to the implications of allowing for a one week minimum under the "dwelling unit" definition but the overlap with a lodging house and the proposed revisions to Section 14-404(e) may prove confusing.

The majority of reforms would need to be made to Section 14-404(e) which in its current form states:

*"The letting of rooms within an existing dwelling unit in any residential zone, provided that:*

- 1.) There shall be no more than two (2) persons occupying such room or rooms;*
- 2.) There shall not be more than two (2) rooms per dwelling unit occupied for such use; and*



Jeff Levine, AICP  
Director, Planning & Urban Development Department

3.) *There shall be no increase in bathroom and/or kitchen facilities in the dwelling, and no such facility shall have been constructed in the immediately preceding two (2) years.*”

Revisions could be made that would specifically allow for residents to allow “transient guests” to let rooms within someone’s dwelling. These units would need to be registered with the City and would need to be in compliance with all safety, noise, and other applicable ordinances. A “transient guest” is already defined in the existing code as:

*“A person who occupies a facility offering accommodations on an overnight basis for compensation and whose actual occupancy is limited to no more than fifteen (15) days out of any sixty-day period.”*

By outwardly allowing for “transient guests” within this section the City could clarify STR’s place in our market.

At the same time, if the Committee believes that STR’s, if left under regulated, still have the potential to negatively affect the local housing market than it is recommended that STR’s be limited to a primary residence. This could be in the form of either a dwelling unit or an owner-occupied building. Doing so would eliminate the potential for larger commercial scale STR operators from impacting the market while limiting the financial benefit to residents who need help to stay in their homes or would be absorbing the housing stock anyways out of choice.

However, a number of questions still remain that would need to be discussed to define the extent to which STR’s could be allowed under this revised code.

- Would this only apply to a resident’s unit or building that is their primary residence?
- Would residents need to be home while renting out STR’s or could they rent out the entire unit?
- Would STR’s in second homes be allowed?
- Would it be acceptable to extend this allowance to one or more units within an owner occupied building?
- Is there a limit on the number of rooms or dwelling units that one person can operate?
- Should a system be established for outlining violations and associated penalties be included?
- Section 14-404(e) is currently allowed in all residential zones of the City. Should we extend this to other zones that allow residential uses?



Jeff Levine, AICP  
Director, Planning & Urban Development Department

Option 3: Create a new STR division within the existing code:

Depending on the extent of regulations desired Section 14-404(e) may be a difficult place to regulate such a complex issue. It may be cleaner to simply create a new division within the zoning code to address the various prescriptions of potential regulations. As it exists today, Section 14-404 is a somewhat obscure section of the code. Although adding to an already obtuse and lengthy code is less than ideal, it would be easier for the general public to find and clearer if a separate division was created. The issue of the overall codes length and complexity is a larger issue that may be best to be handled separate from the regulation of STR's.

Listed below are a few potential components of a STR regulation that could be established under a separate division within the existing zoning code. This regulatory framework is designed to fit Portland's needs while addressing concerns related to safety, housing affordability, neighborhood continuity, and inconveniences to abutters. It would still allow for local residents to generate additional income but make a clearer playing field with rules that make for a safer, more responsible market that are encourages hosts to act as good neighbors to concerned abutters.

1. All STR's must register with the City;
2. All STR applicants must inform neighbors within a certain distance of the registered building/unit.
3. To discourage the removal of units from the local housing stock, all STR's must be the host's primary dwelling unit or within an owner occupied building;
4. For clarity - No host can rent out more than a defined number of rooms/units;
5. Establish transient guest occupancy limits per persons per bedroom;
6. STR regulations would not apply to the Islands;



Jeff Levine, AICP  
Director, Planning & Urban Development Department

7. Regulation would not supersede condo bylaws or contracts with landlords specifically restricting STR's but would allow for renters to register their unit provided that have permission from their landlord;
8. Income generated by renters cannot be shared with the landlord as a means of skirting limitations on the number of units/rooms that may be rented;
9. Escalating penalty for failing to register with the City;
10. Hosts must sign affidavit that STR unit is up to date on all city safety codes including having working smoke/CO detectors and access to fire extinguishers;
11. If requested by City officials, STR's must allow on-site inspections, as well as present their registration information, rental history and upcoming reservations;
12. STR's must identify and provide contact information for a point of contact who will be primarily responsible for resolving any issues or complaints as they arise. The point of contact must be available to respond in person if needed within a certain timeframe of any complaint/issue with the STR;
13. Three strike limit for any substantiated complaints within a 12 month period leading to a 12 month loss of registration;
14. Issuance of a strike may also include primary point of contact not adequately responding, in person if requested, within a certain timeframe of any complaint/issue;
15. Operating or advertising STR's with a suspended license is an automatic to be determined fine.

This framework for a potential STR division offers similar questions as those posed under Option 2. It is meant to be a discussion point to help clarify the City's goals related to STR regulation. There is still the overall question of whether or not STR's need to be regulated at this time or if the City should wait to see how regulation in other cities play out. For cities with tight housing markets, limiting STR's to a

Portland, Maine



Yes. Life's good here.

Jeff Levine, AICP

Director, Planning & Urban Development Department

resident's primary residence seems to be one of the most common parameters set. Being a relatively new industry the effectiveness of these tools has yet to be determined but the trend towards greater regulation is gaining momentum.

As a reminder, any policy enacted will likely have its flaws. There is no silver bullet policy that will solve everyone's concerns and this issue in particular is sure to come with its own learning curve. Each of the three options have their strengths and weaknesses. Effective enforcement will be difficult no matter which option is pursued by the City. By coming to terms with what is practical, reasonable, and within the lines of the City's priorities will be key in determining the appropriate next steps.