

STATE OF MAINE

—
IN THE YEAR OF OUR LORD
TWO THOUSAND TWENTY-TWO

—
H.P. 1489 - L.D. 2003

**An Act To Implement the Recommendations of the Commission To Increase
Housing Opportunities in Maine by Studying Zoning and Land Use
Restrictions**

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 5 MRSA §13056, sub-§7, as amended by PL 2003, c. 159, §3, is further amended to read:

7. Contract for services. When contracting for services, to the maximum extent feasible, seek to use the State's private sector resources in conducting studies, providing services and preparing publications; ~~and~~

Sec. 2. 5 MRSA §13056, sub-§8, as enacted by PL 2003, c. 159, §4, is amended to read:

8. Lead agency for business assistance in response to certain events. Be the lead agency for the State to provide information and business assistance to employers and businesses as part of the State's response to an event that causes the Department of Labor to carry out rapid-response activities as described in 29 United States Code, Sections 2801 to 2872 (2002); ~~and~~

Sec. 3. 5 MRSA §13056, sub-§9 is enacted to read:

9. Establish statewide housing production goals. Establish, in coordination with the Maine State Housing Authority, a statewide housing production goal that increases the availability and affordability of all types of housing in all parts of the State. The department shall establish regional housing production goals based on the statewide housing production goal. In establishing these goals, the department shall:

- A. Establish measurable standards and benchmarks for success of the goals;
- B. Consider information submitted to the department from municipalities about current or prospective housing developments and permits issued for the construction of housing; and
- C. Consider any other information as necessary to meet the goals pursuant to this subsection.

Sec. 4. 30-A MRSA §4364 is enacted to read:

§4364. Affordable housing density

For an affordable housing development approved on or after July 1, 2023, a municipality with density requirements shall apply density requirements in accordance with this section.

1. Definition. For the purposes of this section, "affordable housing development" means:

A. For rental housing, a development in which a household whose income does not exceed 80% 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 75-412, 50 Stat. 888, Section 8, as amended, can afford a majority of the units that the developer designates as affordable without spending more than 30% of the household's monthly income on housing costs; and

B. For owned housing, a development in which 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 75-412, 50 Stat. 888, Section 8, as amended, can afford a majority of the units that the developer designates as affordable without spending more than 30% of the household's monthly income on housing costs.

2. Density requirements. A municipality shall allow an affordable housing development where multifamily dwellings are allowed to have a dwelling unit density of at least 2 1/2 times the base density that is otherwise allowed in that location and may not require more than 2 off-street parking spaces for every 3 units. The development must be in a designated growth area of a municipality consistent with section 4349-A, subsection 1, paragraph A or B or the development must be served by a public, special district or other centrally managed water system and a public, special district or other comparable sewer system. The development must comply with minimum lot size requirements in accordance with Title 12, chapter 423- A, as applicable.

3. Long-term affordability. Before approving an affordable housing development, a municipality shall require that the owner of the affordable housing development have executed a restrictive covenant, recorded in the appropriate registry of deeds, for the benefit of and enforceable by a party acceptable to the municipality, to ensure that for at least 30 years after completion of construction:

A. For rental housing, occupancy of all of the units designated affordable in the development will remain limited to households at or below 80% of the local area median income at the time of initial occupancy; and

B. For owned housing, occupancy of all of the units designated affordable in the development will remain limited to households at or below 120% of the local area median income at the time of initial occupancy.

4. Shoreland zoning. An affordable housing development must comply with shoreland zoning requirements established by the Department of Environmental Protection under Title 38, chapter 3 and municipal shoreland zoning ordinances.

5. Water and wastewater. The owner of an affordable housing development shall provide written verification to the municipality that each unit of the housing development is connected to adequate water and wastewater services before the municipality may certify the development for occupancy. Written verification under this subsection must include:

A. If a housing unit is connected to a public, special district or other comparable sewer system, proof of adequate service to support any additional flow created by the unit and proof of payment for the connection to the sewer system;

B. If a housing unit is connected to a septic system, proof of adequate sewage disposal for subsurface wastewater. The septic system must be verified as adequate by a local plumbing inspector under section 4221. Plans for subsurface wastewater disposal must be prepared by a licensed site evaluator in accordance with subsurface wastewater disposal rules adopted under Title 22, section 42;

C. If a housing unit is connected to a public, special district or other centrally managed water system, proof of adequate service to support any additional flow created by the unit, proof of payment for the connection and the volume and supply of water required for the unit; and

D. If a housing unit is connected to a well, proof of access to potable water. Any tests of an existing well or proposed well must indicate that the water supply is potable and acceptable for domestic use.

6. Subdivision requirements. This section may not be construed to exempt a subdivider from the requirements for division of a tract or parcel of land in accordance with subchapter 4.

7. Restrictive covenants. This section may not be construed to interfere with, abrogate or annul the validity or enforceability of any valid and enforceable easement, covenant, deed restriction or other agreement or instrument between private parties that imposes greater restrictions than those provided in this section, as long as the agreement does not abrogate rights under the United States Constitution or the Constitution of Maine.

8. Rules. The Department of Economic and Community Development shall adopt rules to administer and enforce this section. The department shall consult with the Department of Agriculture, Conservation and Forestry in adopting rules pursuant to this subsection. The rules must include criteria for a municipality to use in calculating housing costs. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 5. 30-A MRSA §4364-A is enacted to read:

§4364-A. Residential areas, generally; up to 4 dwelling units allowed

1. Use allowed. Notwithstanding any provision of law to the contrary, except as provided in Title 12, chapter 423-A, for any area in which housing is allowed, a municipality shall allow structures with up to 2 dwelling units per lot if that lot does not contain an existing dwelling unit, except that a municipality shall allow up to 4 dwelling units per lot if that lot does not contain an existing dwelling unit and the lot is located in a designated growth area within a municipality consistent with section 4349-A, subsection 1, paragraph A or B or if the lot is served by a public, special district or other centrally managed water system and a public, special district or other comparable sewer system in a municipality without a comprehensive plan.

A municipality shall allow on a lot with one existing dwelling unit the addition of up to 2 dwelling units: one additional dwelling unit within or attached to an existing structure or one additional detached dwelling unit, or one of each.

A municipality may allow more units than the number required to be allowed by this subsection.

2. Zoning requirements. With respect to dwelling units allowed under this section, municipal zoning ordinances must comply with the following conditions.

A. If more than one dwelling unit has been constructed on a lot as a result of the allowance under this section or section 4364-B, the lot is not eligible for any additional increases in density except as allowed by the municipality.

B. A municipal zoning ordinance may establish a prohibition or an allowance for lots where a dwelling unit in existence after July 1, 2023 is torn down and an empty lot results.

3. General requirements. A municipal ordinance may not establish dimensional requirements or setback requirements for dwelling units allowed under this section that are greater than dimensional requirements or setback requirements for single-family housing units, except that a municipal ordinance may establish requirements for a lot area per dwelling unit as long as the required lot area for subsequent units on a lot is not greater than the required lot area for the first unit.

4. Water and wastewater. The owner of a housing structure must provide written verification to the municipality that the structure is connected to adequate water and wastewater services before the municipality may certify the structure for occupancy. Written verification under this subsection must include:

A. If a housing structure is connected to a public, special district or other comparable sewer system, proof of adequate service to support any additional flow created by the structure and proof of payment for the connection to the sewer system;

B. If a housing structure is connected to a septic system, proof of adequate sewage disposal for subsurface wastewater. The septic system must be verified as adequate by a local plumbing inspector under section 4221. Plans for subsurface wastewater disposal must be prepared by a licensed site evaluator in accordance with subsurface wastewater disposal rules adopted under Title 22, section 42;

C. If a housing structure is connected to a public, special district or other centrally managed water system, proof of adequate service to support any additional flow created by the structure, proof of payment for the connection and the volume and supply of water required for the structure; and

D. If a housing structure is connected to a well, proof of access to potable water. Any tests of an existing well or proposed well must indicate that the water supply is potable and acceptable for domestic use.

5. Municipal implementation. In adopting an ordinance, a municipality may:

A. Establish an application and permitting process for housing structures;

B. Impose fines for violations of building, zoning and utility requirements for housing structures; and

C. Establish alternative criteria that are less restrictive than the requirements of subsection 4 for the approval of a housing structure only in circumstances in which the municipality would be able to provide a variance under section 4353, subsection 4, 4-A, 4-B or 4-C.

6. Shoreland zoning. A housing structure must comply with shoreland zoning requirements established by the Department of Environmental Protection under Title 38, chapter 3 and municipal shoreland zoning ordinances.

7. Subdivision requirements. This section may not be construed to exempt a subdivider from the requirements for division of a tract or parcel of land in accordance with subchapter 4.

8. Restrictive covenants. This section may not be construed to interfere with, abrogate or annul the validity or enforceability of any valid and enforceable easement, covenant, deed restriction or other agreement or instrument between private parties that imposes greater restrictions than those provided in this section, as long as the agreement does not abrogate rights under the United States Constitution or the Constitution of Maine.

9. Rules. The Department of Economic and Community Development may adopt rules to administer and enforce this section. The department shall consult with the Department of Agriculture, Conservation and Forestry in adopting rules pursuant to this subsection. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

10. Implementation. A municipality is not required to implement the requirements of this section until July 1, 2023.

Sec. 6. 30-A MRSA §4364-B is enacted to read:

§4364-B. Accessory dwelling units

1. Use permitted. Except as provided in Title 12, chapter 423-A, a municipality shall allow an accessory dwelling unit to be located on the same lot as a single-family dwelling unit in any area in which housing is permitted.

2. Restrictions. An accessory dwelling unit may be constructed only:

A. Within an existing dwelling unit on the lot;

B. Attached to or sharing a wall with a single-family dwelling unit; or

C. As a new structure on the lot for the primary purpose of creating an accessory dwelling unit.

This subsection does not restrict the construction or permitting of accessory dwelling units constructed and certified for occupancy prior to July 1, 2023.

3. Zoning requirements. With respect to accessory dwelling units, municipal zoning ordinances must comply with the following conditions:

A. At least one accessory dwelling unit must be allowed on any lot where a single-family dwelling unit is the principal structure; and

B. If more than one accessory dwelling unit has been constructed on a lot as a result of the allowance under this section or section 4364-A, the lot is not eligible for any additional increases in density except as allowed by the municipality.

4. General requirements. With respect to accessory dwelling units, municipalities shall comply with the following conditions.

A. A municipality shall exempt an accessory dwelling unit from any density requirements or calculations related to the area in which the accessory dwelling unit is constructed.

B. For an accessory dwelling unit located within the same structure as a single-family dwelling unit or attached to or sharing a wall with a single-family dwelling unit, the setback requirements and dimensional requirements must be the same as the setback requirements and dimensional requirements of the single-family dwelling unit, except for an accessory dwelling unit permitted in an existing accessory building or secondary building or garage as of July 1, 2023, in which case the requisite setback requirements for such a structure apply. A municipality may establish more permissive dimensional and set back requirements for an accessory dwelling unit.

C. An accessory dwelling unit may not be subject to any additional parking requirements beyond the parking requirements of the single-family dwelling unit on the lot where the accessory dwelling unit is located.

5. Shoreland zoning. An accessory dwelling unit must comply with shoreland zoning requirements established by the Department of Environmental Protection under Title 38, chapter 3 and municipal shoreland zoning ordinances.

6. Size requirements. An accessory dwelling unit must meet a minimum size of 190 square feet. If the Technical Building Codes and Standards Board under Title 10, section 9722 adopts a different minimum size, that standard applies. A municipality may impose a maximum size for an accessory dwelling unit.

7. Water and wastewater. The owner of an accessory dwelling unit must provide written verification to the municipality that the accessory dwelling unit is connected to adequate water and wastewater services before the municipality may certify the accessory dwelling unit for occupancy. Written verification under this subsection must include:

A. If an accessory dwelling unit is connected to a public, special district or other comparable sewer system, proof of adequate service to support any additional flow created by the accessory dwelling unit and proof of payment for the connection to the sewer system;

B. If an accessory dwelling unit is connected to a septic system, proof of adequate sewage disposal for subsurface wastewater. The septic system must be verified as adequate by a local plumbing inspector under section 4221. Plans for subsurface wastewater disposal must be prepared by a licensed site evaluator in accordance with subsurface wastewater disposal rules adopted under Title 22, section 42;

C. If an accessory dwelling unit is connected to a public, special district or other centrally managed water system, proof of adequate service to support any additional flow created by the accessory dwelling unit, proof of payment for the connection and the volume and supply of water required for the accessory dwelling unit; and

D. If an accessory dwelling unit is connected to a well, proof of access to potable water. Any tests of an existing well or proposed well must indicate that the water supply is potable and acceptable for domestic use.

8. Municipal implementation. In adopting an ordinance under this section, a municipality may:

- A. Establish an application and permitting process for accessory dwelling units;
- B. Impose fines for violations of building, zoning and utility requirements for accessory dwelling units; and
- C. Establish alternative criteria that are less restrictive than the requirements of subsections 4, 5, 6 and 7 for the approval of an accessory dwelling unit only in circumstances in which the municipality would be able to provide a variance under section 4353, subsection 4, 4-A, 4-B or 4-C.

9. Rate of growth ordinance. A permit issued by a municipality for an accessory dwelling unit does not count as a permit issued toward a municipality's rate of growth ordinance as described in section 4360.

10. Subdivision requirements. This section may not be construed to exempt a subdivider from the requirements for division of a tract or parcel of land in accordance with subchapter 4.

11. Restrictive covenants. This section may not be construed to interfere with, abrogate or annul the validity or enforceability of any valid or enforceable easement, covenant, deed restriction or other agreement or instrument between private parties that imposes greater restrictions than those provided in this section, as long as the agreement does not abrogate rights under the United States Constitution or the Constitution of Maine.

12. Rules. The Department of Economic and Community Development may adopt rules to administer and enforce this section. The department shall consult with the Department of Agriculture, Conservation and Forestry in adopting rules pursuant to this subsection. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

13. Implementation. A municipality is not required to implement the requirements of this section until July 1, 2023.

Sec. 7. 30-A MRSA §4364-C is enacted to read:

§4364-C. Municipal role in statewide housing production goals

This section governs the responsibilities and roles of municipalities in achieving the statewide and regional housing production goals set by the Department of Economic and Community Development in Title 5, section 13056, subsection 9.

1. Fair housing and nondiscrimination. A municipality shall ensure that ordinances and regulations are designed to affirmatively further the purposes of the federal Fair Housing Act, 42 United States Code, Chapter 45, as amended, and the Maine Human Rights Act to achieve the statewide or regional housing production goal.

2. Municipalities may regulate short-term rentals. A municipality may establish and enforce regulations regarding short-term rental units in order to achieve the statewide or regional housing production goal. For the purposes of this subsection, "short-term rental unit" means living quarters offered for rental through a transient rental platform as defined by Title 36, section 1752, subsection 20-C.

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



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

CITY COUNCIL MEETING - DECEMBER 18, 2023 AT 5:00 PM

The Portland City Council will hold a City Council Meeting in Council Chambers. The Honorable Mark Dion, Mayor, will preside.

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

The City Council will conduct this meeting from Council Chambers, located on the second floor of City Hall. Public comments may only be submitted in person or in writing.

To view this meeting remotely, please visit the live-stream at <https://portlandme.portal.civicclerk.com/event/6495/media>

PLEDGE OF ALLEGIANCE:

ROLL CALL:

5:00 P.M. PUBLIC COMMENT PERIOD ON NON-AGENDA ITEMS:

ANNOUNCEMENTS:

RECOGNITIONS:

Recognizing Portland Police Officer David Shertz, Fire Lieutenant Michael Casey, firefighters Jacob Garrison, Ronald Giroux and Dan Verrill, fire boat members Lieutenant David Crowley and firefighters Torin Hultz and Patrick Hourihane, and civilian Manny Kourinos - Mark Dion, Mayor

Recognizing Apex Racket and Fitness for 50 Years in Business - Mark Dion, Mayor

Recognizing the life and contributions of Lado Lodoka - Pious Ali, Councilor and Regina Phillips, Councilor

PRESENTATIONS:

State of the Schools - Portland Board of Public Education, Sarah Lentz, Chair

APPROVAL OF MINUTES OF PREVIOUS MEETING:

Inaugural City Council Meeting - December 4, 2023 6:00PM

Special City Council Meeting - December 4, 2023 6:30PM

APPOINTMENTS:

Order 88-23/24 Appointing Constables for 2024 - Sponsored by Danielle P. West, City Manager

This order appoints constables from multiple City Departments, SP Plus Corporation staff at the Jetport Parking Garage, and the Portland Housing Authority for the 2024 calendar year:

- Fire Department constables are responsible for the issuance of citations authorized by the City Code of Ordinances Chapter 10 and Fire Prevention Laws.
- Permitting and Inspections Department constables enforce City Code provisions for business licensing, rental housing, building, electrical and plumbing codes.
- Department of Parks, Recreation, and Facilities constables enforce dogs at large violations in parks, playgrounds and cemeteries, as well as failure to dispose of animal waste (Chapter 5 of City Code).
- Police Department constables issue citations for violations of various City ordinances, including, for example, harboring a dangerous dog and smoking in city parks.
- Portland Housing Authority property managers are responsible for lease enforcement, including serving legal documents in eviction cases. In accordance with Maine law, certain documents can only be served by a Constable or Sheriff.
- Parking Control Officers are made constables to be allowed to issue parking tickets and court summons for contested parking tickets.

These appointments are effective from 12:01 a.m. on January 1, 2024 until 12:00 midnight, December 31, 2024, and are made pursuant to Portland City Code, Sections 2019 and 2019.5. Constables are not allowed to carry a firearm, concealed or unconcealed, in the performance of their duties, or to make arrests or issue parking tickets, except for the constables listed who work for the Parking Division and issue parking tickets as part of their job.

Five affirmative votes are required for passage after public comment.

Order 89-23/24 Authorizing Special Council and Outside Board and Commission Appointments for 2024 - Sponsored by Mark Dion, Mayor

This order appoints City Councilors and City staff to various boards and commissions for 2024.

Five affirmative votes are required for passage after public comment.

COMMUNICATIONS:**Communication 20-23/24 Calendar Year 2023 Accomplishments of the Housing & Economic Development Committee - Housing & Economic Development Committee, Pious Ali, Chair**

This item is a communication for the Mayor and City Council on a report of the Housing and Economic Development Committee's (HEDC) accomplishments during calendar year 2023. HEDC reviewed this report at its November 14, 2023, meeting and voted 4-0 to forward it as a communication to the City Council.

As a communication this item requires no public comment or formal Council action.

Communication 21-23/24 Regarding the City of Portland Administrative Banner Policy - Jessica Grondin, Director of Communications and Digital Services

As a communication this item requires no public comment or formal Council action.

Communication 22-23/24 Regarding the 2024 Council Common Goals - Mark Dion, Mayor

As a communication this item requires no public comment or formal Council action.

Communication 23-23/24 Statement by the Land Bank Commission regarding encampments - Mark Dion, Mayor

As a communication this item requires no public comment or formal Council action.

Communication 24-23/24 Statement by the Portland Parks Commission regarding encampments - Mark Dion, Mayor

As a communication this item requires no public comment or formal Council action.

UNFINISHED BUSINESS:

Order 61-23/24 Zoning Map Amendment to B-2b Community Business for the area of land around the intersection of Washington Avenue, Bates Street and Veranda Street - Sponsored by the Planning Board, Brandon Mazer, Chair

On September 12, 2023, the Planning Board unanimously voted (6-0; Barker absent) to recommend a zoning map amendment from RP Residence Professional to B-2b Community Business for the applicant's parcels at CBL's 429 J01101 and 429 J006001 and 25 adjacent parcels zoned RP Residence Professional, B-2 Community Business and R-5 Residential including CBLs 429 I001001, 429 I005001, 429 I006001, 429 I007001, 429 J004001, 429 J003001, 429 J002001, 166 G015001, 166 G011001, 166 F003001, 429 C004001, 429 C006001, 429 C007001, 429 H030001, 429 H031001, 429 H047001, 429 H046001, 429 H029001, 429 H028001, 166 F006001, 166 F005001, 429 J010001, 429 J007001, 429 J005001, 429 C006001. The Planning Board found the proposed zoning map amendment to be consistent with the Comprehensive Plan for the City of Portland.

The proposed zoning map amendment application was submitted by Troy Huynh to facilitate the development of a mixed-use building with ground floor retail and residential units above at 17 and 25 Bates Street. The expanded zoning boundary would bring several parcels currently legally nonconforming into conformity with zoning. In addition, the B-2b zone would allow uses and densities more compatible with the applicant's site and surrounding neighborhood and will create opportunities for significant amounts of housing and space for job growth.

This item must be read on two separate days. It received its first reading on October 16, 2023, and was postponed at the request of staff to December 18, 2023. Five affirmative votes are required for passage after public comment.

Order 80-23/24 Approving the First Amendment and Restated Purchase and Sale Agreement with Lambert Woods North LLC Re: 622 Auburn Street, Portland, and 0 Gray Road, Falmouth - Sponsored by the Housing & Economic Development Committee, Councilor Pious Ali, Chair

On October 24, 2023, the Housing and Economic Development Committee voted (4-0) to recommend the City Council enter into the First Amendment and Restate Purchase and Sale Agreement for City-owned property at 622 Auburn Street, and 0 Gray Road, Falmouth.

On May 10, 2022, the City entered into a Purchase and Sale Agreement with Maine Cooperative Development Partners for a limited equity cooperative affordable housing development at 622 Auburn Street, and 0 Gray Road, Falmouth.

Originally, Maine Cooperative Development Partners proposed creating limited equity cooperative housing units (“Co-ops”) at the 622 Auburn and 0 Gray Road site. All of the homes would have been permanently affordable for households earning at or up to 100% AMI. The scope of the project has changed. Maine Cooperative Development Partners (MCDP) has assigned its rights under the Original Purchase and Sale Agreement to Lambert Woods North LLC (the Buyer). The LLC is comprised of Maine Cooperative Development Partners, and Preservation of Affordable Housing in a 50/50 partnership. Lambert Woods North LLC is now proposing to create 72 units of Low Income Housing Tax Credit (LIHTC) rental housing affordable at 60% of the area median income.

At the request of staff, this item was postponed on December 4, 2023 so that it may be considered with the following companion items. Five affirmative votes are required for passage after public comment.

Order 81-23/24 Designating the Lambert Woods North Affordable Housing Development and Tax Increment Financing District and Adopting the Municipal Development Program for the District - Sponsored by the Housing & Economic Development Committee, Councilor Pious Ali, Chair

During a meeting held on October 24, 2023, the Housing and Economic Development Committee voted (4-0) to forward this item to the City Council with a recommendation for passage conditioned upon the final underwriting recommendation and evidence of site control.

Lambert Woods North, LLC is proposing construction of six buildings composed of two three-story flats consisting of 10 units each, and four three-story rowhouses (two rowhouses would have 16 units, one rowhouse would have 12 units, and the final rowhouse would have 8 units) for low-income households at 622 Auburn Street. Lambert Woods North LLC is requesting financial assistance from the City in the form of Affordable Housing Tax Increment Financing (AHTIF) to assist with the cost of the project. If approved, the AHTIF financing would be provided through a Credit Enhancement Agreement at 75% of the increased taxable value currently estimated at an average of \$123,504 annually over 30 years.

The project would include 34 one-bedroom, 10 two-bedroom, and 28 three-bedroom units. All of the units would be reserved for households earning at or below 60 AMI (i.e. \$56,800 for two people). The property would integrate bus shelters for the 9A and 9B buses, lighted sidewalks, community space, a playground, and community gardens. The building would meet or exceed Portland's Green Building Ordinance.

This is a companion order to the above.

This item must be read on two separate days. It received its first reading on December 4, 2023. Five affirmative votes are required for passage after public comment.

Order 82-23/24 Approving the Lambert Woods North Affordable Housing Credit Enhancement Agreement with Lambert Woods North LLC - Sponsored by the Housing & Economic Development Committee, Councilor Pious Ali, Chair

During a meeting held on October 24, 2023, the Housing and Economic Development Committee voted (4-0) to forward this item to the City Council with a recommendation for passage.

This is a companion order to the above.

This item must be read on two separate days. It received its first reading on December 4, 2023. Five affirmative votes are required for passage after public comment.

Order 83-23/24 Appropriating \$1,500,000 from the Jill C. Duson Housing Trust Fund to Maine Cooperative Development Partners LLC RE: Dougherty Commons Condominiums - Sponsored by the Housing & Economic Development Committee, Councilor Pious Ali, Chair

During a meeting held on November 14, 2023, the Housing & Economic Development Committee voted (4-0) to forward this item to the City Council with a recommendation for passage.

Maine Cooperative Development Partners LLC (MCDP) is proposing to construct a two-story, four-unit condominium townhouse building, and a three-story 16 unit condominium rowhouse building (for a total of 20 condominiums) on the city-owned property located at 43 & 91 Douglass Street. The City Council approved the amended Purchase and Sale Agreement for the city-owned property during their 11-13-23 Council meeting. This housing proposal is one part of a three-part residential housing development at 43 & 91 Douglass Street.

The Dougherty Commons Condominium project would include 20 units affordable for households earning up to 100% AMI. The total bedroom count is; 8 one-bedroom and 12 three-bedroom condominium units.

The chart below shows the maximum income allowable for each unit type and household size based on a maximum sale price of \$260,000 for a one-bedroom unit, and \$325,000 for a three-bedroom unit.

One Bedroom Condo	Maximum Household Income
1 person	\$83,650
2 person	\$95,500
Three Bedroom Condo	Maximum Household Income
3 person	\$107,550
4 person	\$119,500
5 person	\$127,750
6 person	\$137,187

This item must be read on two separate days. It received its first reading on December 4, 2023. Five affirmative votes are required for passage after public comment.

Order 84-23/24 Amendment to Zoning Map Re: B-2 Community Business for 182 Woodford Street Rear and 186 Woodford Street - Sponsored by the Planning Board, Brandon Mazer, Chair

On October 10, 2023, the Planning Board unanimously voted (4-0; Smith & Murphy Absent; Silk Recused) to recommend a zoning map amendment changing 186 Woodford Street (Parcel: CBL 124 J005001) from an existing R-5 Residential zone, B-1 Neighborhood Business zone, and B-2 Community Business zone to a B-2 Community Business zone. In addition, the Planning Board is recommending to change the zoning at 182 Woodford Street Rear (Parcel: CBL 124 J021001) from an R-5 Residential zone to B-2 Community Business zone. The Planning Board found the proposed zoning map amendment to be consistent with the Comprehensive Plan for the City of Portland.

The proposed zoning map amendment application was submitted by Community Housing of Maine (CHOM) to facilitate the redevelopment of the former Woodfords Church Parish building and the construction of a new building, which would create 80 affordable housing units within Woodford's Corner, a priority node identified in the Comprehensive Plan.

This item must be read on two separate days. It received its first reading on December 4, 2023. Five affirmative votes are required for passage after public comment.

Order 85-23/24 Amendment to Portland City Code Chapter 14 Re: Conformance with LD 2003 - Sponsored by the Planning Board, Brandon Mazer, Chair

On October 24, 2023, the Planning Board unanimously recommended a set of zoning text amendments to the City Council (7-0) to comply with the requirements of LD 2003.

LD 2003, or *An Act to Implement the Recommendations of the Commission to Increase Housing Opportunities in Maine by Studying Zoning and Land Use Restrictions*, was signed into law in April 2022. The law's intent is to remove local regulatory barriers to housing production in Maine by requiring that municipalities adopt standards around affordable housing, residential uses, and accessory dwelling units within their local codes of ordinances. State rule-making was published in April 2023, and the law was amended in June 2023 to provide additional clarity around certain provisions.

The implementation deadline for communities in which ordinances may be enacted by municipal officers is January 1, 2024. The proposed amendments as recommended by the Planning Board include changes to Articles 3, 6, 7, 18, and 19 of the city's land use code.

This item must be read on two separate days. It received its first reading on December 4, 2023. Five affirmative votes are required for passage after public comment.

ORDERS:

Order 86-23/24 Accepting and Appropriating an Anonymous \$5,000 Donation for Those In Need - Sponsored by Danielle P. West, City Manager

This item accepts and appropriates an anonymous donation of \$5,000 from a family in Falmouth, Maine, to be used as a Secret Santa giveaway by the Police Department to those in need.

This donation has been given to and accepted by the City for this purpose since 2020.

This item must be read on two separate days. Staff is requesting that the second reading be waived, which requires seven affirmative votes, so that the funds can be distributed during the holiday season. Staff also requests that this item be passed as an emergency. Seven votes are required for passage as an emergency following public comment.

AMENDMENTS:

Order 87-23/24 Amendment to Zoning Map Re: R-5 Residential for 921 Ocean Avenue, 410, 422 & 426 Presumpscot Street - Sponsored by the Planning Board, Brandon Mazer, Chair

On October 24, 2023, the Planning Board unanimously voted (7-0) to recommend a zoning map amendment changing 921 Ocean Avenue (CBL 418A A005001), 410, 422 & 426 Presumpscot Street (CBLs 418A A004001, 418A A008001 & 418A A007001) and Parcel 418A A006 from an R-3 Residential zone to a R-5 Residential zone. The Planning Board found the proposed zoning map amendment to be consistent with the Comprehensive Plan for the City of Portland.

The proposed zoning map amendment application was submitted by Christopher Lee of Backyard ADUs to facilitate the development of a Planned Residential Unit Development (PRUD) on 921 Ocean Avenue, 422 & 426 Presumpscot Street, and Parcel 418A A006 with approximately 40 to 50 dwelling units.

This item must be read on two separate days. This is its first reading.

Order 45-23/24 Amendment to the Portland City Code Chapter 2 Re: Qualification for Land Bank Commission Members and Addition of North Deering Park - Sponsored by Ashley Rand, City Clerk

The various boards and committees struggle to fill vacant spots. Amending the Land Bank Commission rules will help with recruitment efforts to fill vacancies. Vacancies are posted in the paper as well as online, but we still are not receiving enough applications to fill spots. Right now the Land Bank Commission requires a member from each district as well as At-Large members to be on the board. This vacancy was advertised, but no one from a district that was needed applied. Amending this would allow for positions to be advertised for each district, but when no applicants apply from the vacant district seat, candidates from the same district may be appointed.

This amendment also adds North Deering Park to the list of Land Bank parcels, after it was placed in the Land Bank by Order 98-22/23 approved on November 14, 2023.

On October 16, 2023 this item was referred to the Legislative and Nominating Committee for review.

On November 21, 2023, the Legislative and Nominating Committee meeting and voted 3-0 (Ali Absent) to refer this item back to City Council for approval.

This item must be read on two separate days. This is its first reading.

EXECUTIVE SESSION:

ADJOURNMENT:

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

CITY OF PORTLAND
IN THE CITY COUNCIL

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

AMENDMENT TO PORTLAND CITY CODE CHAPTER 14
RE: CONFORMANCE WITH LD 2003

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

*That Chapter 14, Sections 3, 6, 7, 18 and 19 are hereby
amended to read as follows, on the following pages:*



3 DEFINITIONS

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

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

- A. Keeps for public patronage or permits or allows the operation of any adult amusement device as defined in Chapter 4 of the City of Portland Code of Ordinances; or
- B. Customarily, meaning more often than an average of one calendar week during any calendar month of operation, exhibits motion pictures or displays any other visual representation described or advertised as being “X rated” or “for adults only,” or which customarily excludes persons from any portion of the premises by reason of immaturity of age by the use of such, or similar, phrases; or
- C. Is adjudged to be in violation of 17 M.R.S. §§ 2911, 2912.

Affordable housing. Housing for which the percentage of income a household is charged in rent and other housing expenses (including utilities such as electric, heat, water, sewer, and/or trash that the household pays separately from rent) or must pay in ownership cost (including but not limited to monthly mortgage payments, (including condominium/HOA fees, mortgage insurance, other insurance, and real estate taxes), does not exceed 30% of a household’s income, or other amount

established in City regulations that does not vary significantly from this amount.

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

Agriculture. The practice of farming, including the cultivation of the soil for the growing of crops and rearing of animals to provide food and other products. Agriculture may include nurseries, greenhouses, and truck gardens, provided that there is no sale of products not produced on the premises.

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

Alley. Any way designed primarily for vehicular and pedestrian or utility access to the back or side of premises otherwise abutting on a street, except driveways unless officially designated otherwise.

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

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

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



use or medical marijuana customers. A marijuana retail store is only authorized as a principal use, and is not permitted as an accessory use. A marijuana retail store may not exceed a maximum gross floor area of 2,000 square feet. A marijuana retail store shall not include a registered dispensary.

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

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

Military personnel berthing. A building, or portion thereof, which is primarily used as, and intended for, temporary living quarters for military personnel.

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

Multi-family development. The construction or creation of three or more dwelling units on any parcel of land or the addition of two or more dwelling units cumulatively within a three-year period.

~~**Multiplex.** A residential development consisting of three or more horizontally or vertically attached~~

~~dwelling units, or a series of such attached dwelling units, and the construction of at least one building.~~

Neighborhood center. A building or portion of a building used for recreational, artistic, social, educational, health, culture, or similar activities and services, usually owned and operated by a public or nonprofit group or agency. As part of these functions and activities, it shall be permissible to serve food, subject to other applicable codes and ordinances.

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

- A. Space used principally for sale or repair of vessels.
- B. Commercial vessel tenant space used by a noncommercial vessel for a period not exceeding ten consecutive days while the primary commercial vessel tenant is conducting its business or trade.

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



6 USE STANDARDS

6.1 APPLICABILITY

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

6.2 DETERMINATION OF USE

6.2.1 Use tables

Tables 6-A to 6-F shall determine if a use is permitted (●), conditional (◐), or not permitted (◑), as a principal use within a zone. Unless otherwise noted, where a use is listed in terms of square footage, square footage figures shall correspond to the total floor area of the use.

6.2.2 Unlisted uses

- A. Uses not expressly listed as permitted or conditional in Tables 6-A to 6-F are prohibited as principal uses except that a use may be permitted subject to meeting the following performance-based standards:
1. The proposed use is consistent with the purposes of the zone.
 2. The proposed use is closely related to a permitted or conditional use in terms of character, scale, and external impacts.
 3. The buildings and structures associated with the proposed use are designed and operated so that it will prevent undue adverse environmental impacts, substantial diminution of the value or utility of

neighboring structures, or significant hazards to the health or safety of neighboring residents by controlling noise levels, emissions, traffic, lighting, odor, and any other potential negative impacts.

- B. The review authority shall determine whether the uses not listed as permitted or conditional uses meet the above standards. If it is determined that the use does not meet the above criteria, it shall not be permitted.
- C. The review authority may impose reasonable conditions of approval on the proposed use to ensure that it is similar in character and impact to a permitted or conditional use.

6.2.3 Multiple uses

A site may contain more than one principal use, so long as each principal use is allowed within the zone.

6.3 CHANGE OF USE

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

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

	R-1	R-2	R-3	R-4	R-5/R-5a	R-6/R-6a	Use Standards
Residential	Single-family dwellings	●	●	●	●	●	
	Two-family dwellings				●	●	6.4.2
	Multi-family dwellings			○		○ ¹ /● ²	6.4.2, 6.5.6(G)
	Multiplex				○	● [†]	6.4.12
	Congregate care facilities					● ²	
	Handicapped family units	●	●	●	●	●	
	Planned Residential Unit Developments			● ⁴		● ⁴	
	Special needs independent dwelling units				●	● ¹	
	Lodging houses					○ ^{1,3}	6.4.10 9
	Sheltered care group homes	○	○	○	○	○	6.5.6(K)
Institutional	Elementary, middle, and secondary schools	○	○	○	○	○ ¹	6.5.6(F)
	Governmental uses	●	●	●	●	●	
	Hospitals			○		○ ¹	
	Intermediate care facilities	○	○	○		○ ¹ /● ²	
	Long-term and extended care facilities	○	○	○		○ ¹ /● ²	6.5.6(F)
	Places of assembly (<10,000 SF)	○	○	○	○	○	
	Places of assembly (>10,000 SF)	○	○	○	○	○	
	Preschool facilities	○	○	○	○	○	6.5.6(I)
	Post-secondary schools		○			○ ¹	6.5.6(F)
	Comm.	Bed and breakfasts					●/○ ⁵
General offices (<5,000 SF)						○	6.5.6(C)
Hostels						●/○ ⁶	6.4.9 8
Other	Agriculture	●	●				
	Cemeteries	○	○		●	●	
	Off-street parking			○	○	○ ¹	6.5.6(H)
	Parks and open spaces	●	●	●	●	●	
	Raising of domesticated animals	○					6.5.6(J)
	Solar energy system (minor)	●	●	●	●	●	6.4.16
	Utility substations	○	○	○	○	○	6.5.6(L)

¹ In the R-5 zone only.

² In the R-5a zone only.

³ Conversions of existing two-family or multiplex structures into lodging houses are permitted as a conditional use, provided that the lodging house shall not be located within 500 ft. of another as measured along street lines.

⁴ Must consist of horizontally or vertically attached dwelling units, or a series of such dwelling units, with all land owned and used in common. PRUDs shall be subject to review and approval by the Planning Board under Article 15.

⁵ Permitted if a conversion of a structure existing as of 3/3/97 to up to four guest rooms and conditional if a conversion of the same to five to nine rooms.

⁶ Permitted if for no more than 10 overnight transient guests and conditional if for between 11 and 20 overnight transient guests. An owner, manager, or operator shall be a permanent resident of the building.



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

	IR-1	IR-2	IR-3 ¹	I-B	Use Standards	
Residential	Single-family dwellings	●	●	● ²	●	
	Two-family dwellings				○ 6.4.2,	
	Multi-family dwellings				○ 6.5.6(G)	
	Handicapped family unit	●	●	●	●	
	Planned Residential Unit Developments	●	●			
	Lodging houses		○ ³	● ³	● ³	
Institutional	Elementary, middle, and secondary schools	○	○	●	○	
	Educational facilities (including seasonal camps)	○	○			
	Governmental uses	○	○	●	○ 6.5.6(F) ⁶	
	Places of assembly (<10,000 SF)	○	○	●	○	
	Places of assembly (>10,000 SF)	○	○		○	
	Preschool facilities	○	○	●	○ 6.5.6(I)	
Commercial/Service	Auto service stations				○ 6.5.6(A)	
	Bed and breakfasts				● ⁴	
	General services (<5,000 SF)				●	
	Hotels			● ⁵	○ ⁵	
	Restaurants			●	●	
	Retail (<10,000 SF)			●	●	
Other	Studios for artists and craftspeople				●	
	Agriculture	●				
	Boathouses and storehouses for fishing equipment	●	●	●	●	
	Campgrounds	○		●	○ 6.4.6 5	
	Cemeteries	○	○			
	Marinas and yacht clubs			●	●	
	Off-street parking				●	
	Parks and open spaces	●	●	●	●	
	Raising of domesticated animals	○				6.5.6(J)
	Solar energy system (minor)	●	●	●	●	6.4.16
	Utility substations	○	○	●		6.5.6(L)
Wharves, piers, docks, and landing ramps	○	○	●	●		

¹ All uses within the IR-3 permitted only within a PUD with a minimum total area of 20 acres of contiguous land subject to the standards of Subsection 6.4.14.

² Single-family attached permitted provided that new construction shall be limited to no more than six attached dwellings per building.

³ With greater than two but no more than nine rooming units.

⁴ Permitted on Peaks Island only.

⁵ Maximum 50 rooms.

⁶ The standards of Subsection 6.5.6(F) shall not apply to institutional uses within the I-B zone. In the IR-1 and IR-2 ones, institutional uses are subject to the standards of Subsection 6.5.6(F) only if the total land area of the use is two acres or more.

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

	B-1/B-1b	B-2/B-2b/ B-2c	B-3/B-3b/ B-3c ¹¹	B-4	B-5/ B-5b	B-6	B-7	Use Standards	
Residential	Single-family dwellings	●	●	●	●	●	●		
	Two-family dwellings	●	●	●	●	●	●		
	Multi-family dwellings	● ¹	●	●	●	●	●		
	Congregate care facilities			●					
	Handicapped family units			●	●	●	●		
	Combined living/working spaces	●	●	●		●	●	●	
Institutional	Lodging houses	● ²	●	●	●		●	6.4.109	
	Clinics	● ²	●	●	●		●		
	Cultural facilities			●	●	●	●		
	Elementary, middle, and secondary schools	● ²	●	●		●	●		
	Emergency shelters			○	○	○		6.5.6(B)	
	Governmental uses	● ²	●	●	●	●	●		
	Intermediate care facilities		●	●					
	Long-term and extended care facilities		●						
	Places of assembly (< 10,000 SF)	● ²	●	●	●	●	●		
	Places of assembly (> 10,000 SF)		●	●	●	●	●		
	Preschool facilities	● ²	●	●	●	●	●		
	Post-secondary schools		●	●	●	●	●		
	Adult business establishments		● ³	● ³					6.4.32
	Auto, boat, and related dealerships		○		●				6.5.6(A)
Auto service stations		○ ⁴		●	●			6.5.6(A)	
Bars		● ⁵	● ⁵	●	●	●	●	6.4.43	
Bed and breakfasts	●	●	●				●	6.4.54	
Exhibition, meeting, and convention halls			●		●	○	●		
Funeral homes		●		●					
General offices (<5,000 SF)	● ²	●	●	●	●	●	●	6.4.76	
General offices (>5,000 SF)		●	●	●	●	●	●		
General services (<5,000 SF)	● ²	●	●	●	●	●	●	6.4.76	
General services (>5,000 SF)		●	●	●	●	●	●		
Hostels	●		●		●		●	6.4.76, 6.4.89	
Hotels		●	●	●	●	● ¹³	●		
Marijuana retail store		●/○ ⁶	●	●			●	6.4.110	
Recreation and amusement centers				●	●		●		
Registered marijuana dispensary		●/○ ⁶	●	●			●	6.4.110	
Restaurants	● ²	●	●	●	●	●	●	6.4.43, 6.4.76	
Retail (< 5,000 SF)	● ²	●	●	●	●	●	●	6.4.76, 6.4.15	
Retail (5,000 – 25,000 SF)		●	●	●	●	●	●	6.4.15	



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

	B-1/B-1b	B-2/B-2b/ B-2c	B-3/B-3b/ B-3c ¹¹	B-4	B-5/ B-5b	B-6	B-7	Use Standards
Retail (>25,000 SF)		●	●	●	●	●	●	6.4.15
Small-scale marijuana caregiver		●	●	●			●	6.4.11 ⊕
Theaters and performance halls		●	●	●	●	●	●	
Veterinary services		●		●			●	
Communication studios		●	●	●	●	●	●	
Dairies		● ⁷		●				
High-tech manufacturing							⓪	6.5.6(D)
Intermodal transportation facilities					●	●	●	
Laboratory and research facilities		⓪		●		⓪	●	6.5.6(E)
Low-impact industrial (<10,000 SF)		● ⁸	⓪	●	●	●	● ⁸	6.5.6(E)
Low-impact industrial (>10,000 SF)		● ⁸		●	⓪			6.5.6(E)
Marijuana testing facilities				●				
Marijuana manufacturing facilities				●				6.4.11 ⊕
Marijuana cultivation facilities (<7,000 SF plant canopy)				●				6.4.11 ⊕
Printing and publishing		⓪ ⁹	●	●	●	●	⓪	
Repair services		●	●	●	●	●	●	
Studios for artists and craftspeople	● ²	●	●	●	●	●	●	
Tow lots				●				6.4.17
Warehousing, storage, and distribution		⓪ ¹⁰	⓪ ¹⁰	●	● ¹⁰	⓪ ^{10, 14}	⓪ ^{10, 14}	6.5.6(E)
Marine uses					●	●		6.4.12 ⁺
Correctional pre-release facilities				●				6.4.8 7
Off-street parking			●/⓪ ¹²		●	⓪	⓪	6.5.6(H)
Parks and open spaces	●	●	●	●	●	●	●	
Solar energy system (minor)	●	●	●	●	●	●	●	
Solar energy system (major)				⓪				6.4.16
Utility substations	●	●	⓪	●	●	●	⓪	6.5.6(L)
Wind energy system (minor)		⓪	⓪	⓪	⓪	⓪	⓪	6.4.18

¹ Permitted if permitted in the adjacent or nearest residential zone. In other cases, permitted if located above first floor commercial, or on first floor where a minimum depth of 25 ft. along the principal frontage is maintained for commercial use.

² Permitted on the ground floor only in the B-1b zone.

³ Permitted in the B-2 and B-3 zones only.

⁴ Permitted as a conditional use in the B-2 only. Expansion of auto service stations in existence as of 11/15/99 permitted as a conditional use in the B-2b and B-2c zones.

⁵ Not permitted in the B-2c and B-3c zones.

⁶ Permitted in the B-2 zone. Conditional in the B-2b and B-2c.

⁷ Permitted only if an expansion of an existing dairy.

⁸ Permitted with a retail component only. Low-impact industrial uses greater than 10,000 SF are permitted in the B-2 only.

⁹ Printing and publishing of 10,000 SF or less, or expansion of printing and publishing establishments greater than 10,000 SF in existence as of 4/4/88, shall be treated as a conditional use.

¹⁰ Permitted in the B-2/B-2b/B-2c as a conditional use if 10,000 SF or less. Self-storage permitted in the B-4 zone. Self-storage permitted as a conditional use in the B-5 zone (on-peninsula locations only) in buildings existing as of 12/16/15. Self-storage permitted as a conditional use in the B-3 zone in buildings existing as of 1/1/1995; the area of the building dedicated to self-storage shall not exceed 30% of the total building area and may not be located directly adjacent to or facing a public right-of-way. Self-storage not permitted in the B-2/B-2b/B-2c, B-6, and B-7 zones.

¹¹ See PAD Overlay for additional use regulations.

¹² Structured parking shall be permitted. Surface parking shall be treated as a conditional use.

¹³ Hotels shall be limited to no more than 150 rooms.

¹⁴ Wholesale is allowed as conditional use, providing the wholesale operation is associated with an onsite retail establishment and occupies less than 15,000 SF.

TABLE 6-D: PERMITTED AND CONDITIONAL USES IN OFFICE PARK & RESIDENCE PROFESSIONAL ZONES

	OP ¹	R-P ²	Use Standards
Any residential use permitted in the nearest residential zone		●	
Preschool facilities	●	⓪	6.5.6(I)
Funeral homes		●	
General offices	●	●	
High tech manufacturing	⓪		6.5.6(D)
Laboratory and research facilities	●		
Printing and publishing	●		
Studios for artists and craftspeople		●	
Parks and open space	●	●	
Solar energy system (minor)	●	●	6.4.16
Utility substations		●	
Wind energy system (minor)	⓪		6.4.18

¹ All permitted and conditional uses in the O-P zone, with the exception of parks and open spaces, solar energy systems, and wind energy systems, shall be allowed only within an office park of at least three acres of contiguous land subject to the standards of Subsection 6.4.13.

² Any conditional use that is permitted as a conditional use in the nearest residential zone shall be permitted as a conditional use in the R-P zone. All conditional use standards of the residential zone shall apply.

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

	I-L/I-Lb	I-M/I-Mb	I-H/I-Hb	A-B ⁷	Use Standards
Institutional	Airports			● ⁸	
	Preschool facilities	●	●		
	Emergency shelters	○	○	○	6.5.6(B)
	Intermediate care facilities		● ⁴		
Commercial/Services	Places of assembly (<10,000 SF)	●			
	Bars			●	
	General offices (<5,000 SF)	● ¹	●		
	General offices (>5,000 SF)	● ¹	●		
	General services (<5,000 SF)				●
	General services (>5,000 SF)				●
	Hotels				●
	Recreation and amusement centers	●	●		
	Repair services	●	●	●	
	Restaurants				●
	Animal-related services	● ²			
	Construction & engineering services	●	●	●	
	Dairies	●	●	●	
	Fish waste processing			●	
	Food & seafood processing, packing, and distribution		●	●	
	High-impact industrial uses			●	
	Intermodal transportation facilities	●	●	●	
	Laboratory and research facilities	●	●	●	
	Low-impact industrial	●	●	●	
	Lumber yards	●	●	●	
	Marijuana cultivation facility (<2,000 SF plant canopy)	●	●	●	
	Marijuana cultivation facility (2,000-7,000 SF plant canopy)		●	●	
Marijuana cultivation facility (>7,000 SF plant canopy)			●	6.4.10 11	
Marijuana manufacturing facility	●	●	●		
Marijuana testing facility	●	●	●		
Printing and publishing	●	●	●		
Recycling and solid waste disposal facilities		● ⁵	● ⁵		
Studios for artists and craftspeople	●	●			
Telecommunication towers (ground-mounted)		●	●		
Tow lots		●	●	6.4.17	
Warehousing, storage, and distribution facilities	● ³	●	●		

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

	I-L/I-Lb	I-M/I-Mb	I-H/I-Hb	A-B ⁷	Use Standards
Correctional pre-release facilities		● ⁶	● ⁶		6.4.7 8
Marinas	●				
Off-street parking				●	
Solar energy system (minor)	●	●	●	●	6.4.16
Solar energy system (major)		●	●	ⓘ	
Utility substations	●	●	●		
Wind energy system (minor)	ⓘ	●	●	●	6.4.18
Wind energy system (major)		●	●	ⓘ	

¹ Only back office uses permitted.

² Not including kennel or boarding facilities.

³ Must be less than 10,000 SF in floor area. No outdoor storage permitted. Self-storage not permitted in the I-L/I-Lb zone.

⁴ Permitted in existing structures not designed for industrial, amusement, warehouse or manufacturing uses as of 9/15/14 or later. Such structures may be reused or expanded to establish a facility of no more than 30 persons plus staff.

⁵ Permitted within an enclosed structure only.

⁶ Not permitted in the I-Ma, I-Mb, or I-Hb zones.

⁷ Permitted uses on lots within airport restricted access areas shall be limited to those which do not require or encourage access or visits by the public and which provide technical administrative or other support to airport operations.

⁸ Including airport administration, terminals, carrier operations, concessions, reservations and ticket sales, freight, repair and storage, fueling services, flying schools, car rental operations, and other associated uses.



TABLE 6-F: PERMITTED AND CONDITIONAL USES IN RECREATION OPEN SPACE ZONE

	R-OS ¹	Use Standards
Cemeteries	●	
Marinas	●	
Parks and open space	● ²	
Solar energy system (minor)	⦿	6.4.16, 6.5.7(A)
Solar energy system (major)	⦿	
Utility substations	●/⦿ ³	6.5.6.L, 6.5.7(A)
Wharves, piers, docks, and landing ramps	●	
Wind energy system (minor)	⦿	6.4.18, 6.5.7(A)
Wind energy system (major)	⦿	

¹ Accessory uses within structures of 2,500 SF or more shall be treated as a conditional use under Subsection 6.5.7(A).

² Including active recreational uses, such as playgrounds, golf courses, fields, pools, courts, community gardens, marinas, and sports complexes and passive uses, such as arboretums and picnic areas.

³ Sewage pumping and treatment facilities shall be permitted. Water pumping stations shall be treated as a conditional use under Subsection 6.5.7.

6.4 SUPPLEMENTAL USE STANDARDS

The following standards shall apply to the following uses as indicated in Tables 6-A to 6-F, whether permitted or conditional.

6.4.1 In general

A. No building intended for use as a habitation shall be erected on a lot which has its only street frontage on a street less than 35 feet wide. No building shall be erected on a lot, except on the islands in Casco Bay, which does not abut a street meeting the minimum requirements for street improvements set forth in this subsection. For purposes of this subsection, street shall be as defined in Article 3, except that a dedicated street which may no longer be accepted due to lapse of time and an accepted street which may have been discontinued by abandonment shall also be deemed to be streets, provided that an applicant for a building permit respecting any

lot abutting such street shall, without compensation or claim for damages, and at his or her own cost and expense, first submit to the Building Authority:

1. A deed from the owner of such lot conveying to the City all his or her right, title, and interest in and to such street or any portion thereof.
2. An agreement by such owner forever releasing the City from any and all claims for damages for the laying out and taking of such street and indemnifying the City against any and all other such claims, both such instruments to be executed and in recordable form acceptable to the Corporation Counsel and to encumber and run with the land.

B. For a lot abutting any portion of a street which is unimproved or improved but not permanently paved, that portion which abuts the lot, and any like portion between such

portion and the nearest permanently paved street or portion which is the principal access to such lot, shall be improved, including sewers, storm drains, pavement, curbs and, if located on a designated school walking route, sidewalks, in accordance with the City of Portland *Technical Manual*. Where the nearest permanently paved street does not have granite curbing, the Public Works Authority may waive the requirement of curbing under this subsection, if it determines that an acceptable alternative drainage plan will be provided. Prior to the issuance of a building permit for erection of a building on a lot abutting any portion of a street which is unimproved or improved but not permanently paved, the following shall occur:

1. A plan of the street improvements required by this subsection shall be submitted to the Public Works Authority.
2. Upon determination by the Public Works Authority that the plan meets the street improvement requirements established by this subsection, a performance guarantee and inspection fee for said improvements shall be submitted to the City as set forth under Articles 14 and 15. Also as set forth in Articles 14 and 15, a one-year defect bond shall be tendered to the City prior to release of the performance guarantee required hereby. The provisions of this paragraph (2) shall not apply to the erection of any single-family dwelling on any lot where the owner of the lot establishes that he or she was the owner of that same lot on November 19, 1984, and at all times thereafter, and states his or her

intention under oath to make the structure his or her personal residence.

- C. The requirements of this subsection shall not apply to the following city streets upon their construction by the Public Works Authority to such standards as are determined by the authority to be the most feasible:
 1. Dingley Court.
 2. Morgan Court.

6.4.2 Additional residential use permissions

A. In island zones: Up to two units are permitted on any lawfully conforming lot that does not contain an existing dwelling unit. Such units may be located:

- 1. In two separate structures, so long as the minimum lot area per dwelling unit standards of Article 7 are met, or**
- 2. Within a single structure, in which case the minimum lot area per dwelling unit standards of Article 7 shall not apply.**

B. In mainland zones where residential is a permitted or conditional use: Up to four units are permitted on any lawfully conforming lot that does not contain an existing dwelling unit. Such units may be located:

- 1. In separate structures, so long as the minimum lot area per dwelling unit standards of Article 7 are met, or**
- 2. Within a single structure, in which case the minimum lot area per dwelling unit standards of Article 7 shall not apply.**

C. Sections 6.4.2(A) and (B) shall not apply to lots on which a dwelling unit in existence on July 1, 2023 is demolished and a vacant lot results.

D. Lots with one existing dwelling unit in any zone where residential is a permitted or conditional use:



1. Up to two additional dwelling units are permitted on any lawfully conforming lot containing one existing dwelling unit.
2. Such units may be located:
 - i. In separate structures, so long as the minimum lot area per dwelling unit standards of Article 7 are met, or
 - ii. Within or attached to the existing structure, in which case the lot area per dwelling unit standards of Article 7 shall not apply.
3. Units created under this section shall not be considered accessory dwelling units under Section 6.6.2(A).

6.4.26.4.3 Adult business establishments

- A. Adult business establishments shall be located at least 1,000 feet from any other adult business establishment, and at least 500 feet from any residential zone, as measured in a straight line, without regard to intervening structures or objects.
- B. No sexually explicit materials, entertainment, or activity shall be visible from the exterior of the premises.

6.4.36.4.4 Bars and restaurants in the B-6 zone

- A. No bars located east of Waterville Street shall be permitted within 50 feet of Fore Street.
- B. Restaurants located east of Waterville Street within 50 feet of Fore Street shall be limited in hours of operation to between 5 a.m. and 11 p.m. each day and food service and consumption shall be the primary function of the restaurant.

6.4.46.4.5 Bed and breakfasts

- A. In the R-6 and R-6a zones, the minimum gross floor area for bed and breakfasts shall be 2,000 square feet for the first three guest rooms and 500 square feet for each additional guest room.
- B. In all mixed-use zones except the B-1/B-1b zones, bed and breakfasts may include a meeting facility limited to use for private parties, business meetings, weddings, receptions, seminars, or business and educational conferences, provided that:
 1. *In the B-2/B-2b/B-2c zones.* The meeting facility must be less than 4,000 square feet.
 2. *In the B-3/B-3b/B-3c zones.* The building in which the bed and breakfast and meeting facility will be located must have existed on March 3, 1997 and have been greater than 4,000 square feet in floor area on that date.

6.4.56.4.6 Campgrounds

- A. Campgrounds shall not include recreational vehicles.
- B. Campgrounds shall be licensed by the State of Maine Department of Human Services.
- C. No tent shall be located within 75 feet of the perimeter of site.
- D. The land area of the campground shall not be less than the equivalent of 5,000 square feet of land area per tent site exclusive of the roadway network.

6.4.66.4.7 Commercial uses in the B-1/B-1b zones

- A. Commercial uses shall be permitted provided that such uses generate less than 100 peak hour vehicle trips per 2,000 square feet of

floor area and less than 100 peak hour vehicle trips in total.

- B. Retail and restaurant uses shall not operate between the hours of 11 p.m. and 6 a.m., and shall not accept deliveries or services between the hours of 10 p.m. and 7 a.m. For restaurants, food service and consumption shall be the primary function.
- C. No beverage container redemption centers shall be permitted. Beverage dealers shall be permitted as a retail use provided that the maximum total floor area for redemptions as an accessory use, including the storage of spent containers, shall be no greater than 500 square feet or 10% of the total floor area of the facility, whichever is less.

6.4.76.4.8 Correctional pre-release facilities

- A. No correctional prerelease facility shall be located within 1,000 feet of another, as measured in a radius from the center of the lot.
- B. If a facility requires state or federal licensing, staffing of the facility shall be as required by such license. If a facility does not require state or federal licenses, there shall be a minimum of one staff person for every 10 residents or fraction thereof. The facility shall provide 24-hour supervision of program participants.

6.4.86.4.9 Hostels

An operations plan must be submitted demonstrating that:

- A. No unaccompanied minors under the age of 18 shall be permitted in the facility.
- B. The length of stay for transient guests shall not exceed 15 days within any 60-day period.

- C. In the R-6 zone, for hostels greater than 10 guests, a minimum of 250 square feet of land area shall be required per hostel guest.
- D. In the B-1/B-1b zones, no more than 20 overnight transient guests shall be permitted.

6.4.96.4.10 Lodging houses

- A. Lodging houses, except for lodging houses located in the IR-2, IR-3, and I-B zones, shall contain common areas for use by all residents, including a kitchen. A kitchen need not be available as a part of the common areas where all meals are provided on a daily basis.
- B. Lodging houses shall provide a minimum of 200 square feet of combined rooming unit and common area per rooming unit.
- C. Each individual rooming unit shall be a minimum of 70 square feet.

6.4.106.4.11 Marijuana-related uses

- A. The following standards apply to the following marijuana-related uses:
 1. Marijuana cultivation facilities.
 2. Marijuana manufacturing facilities.
 3. Marijuana products.
 4. Marijuana retail stores.
 5. Marijuana testing facilities.
 6. Small-scale marijuana caregivers.
 7. Registered dispensaries.
- B. Location criteria
 1. No marijuana cultivation facility, marijuana manufacturing facility, marijuana testing facility, small-scale marijuana caregiver, marijuana store, or registered dispensary may be located within 500 feet of a pre-existing public school, private school, or a public preschool program, as defined by 20-A M.R.S. § 1. Distance shall be measured



- from nearest property line of the respective marijuana-related use and the property line of the lot containing the public school, private school, or public preschool program.
2. No marijuana cultivation facility, marijuana manufacturing facility, or marijuana testing facility may be located within 300 feet of the following residential zones: R-1, R-2, R-3, R-4, R-5/R-5A, R-6/R-6A, or R-7. Distance shall be measured from the nearest outer wall of the building housing the marijuana cultivation, manufacturing, or testing facility to the nearest applicable residential zone boundary. If the marijuana-related facility leases a room or suite of rooms within a building, including, without limitation, individual units within a shopping plaza or shopping mall, the nearest outer wall of the room or suite of rooms within which the facility is located shall constitute the nearest outer wall of the building housing that facility.
- C. Supplemental standards
1. Marijuana-related uses may only be permitted within a fully enclosed building.
 2. No outside storage of marijuana, marijuana products, or related supplies is permitted.
 3. No drive-through service is permitted for marijuana-related uses.
 4. No marijuana or marijuana product shall be smoked, eaten, or otherwise consumed or ingested on the premises where sold.
 5. An operating plan for marijuana cultivation facilities and marijuana manufacturing facilities shall be provided that, at a minimum, addresses wastewater, disposal of waste, and security at the premises.
6. A ventilation plan shall be included for marijuana cultivation facilities, marijuana manufacturing facilities, and small-scale marijuana caregivers that provides for adequate ventilation so as to prevent pesticides, insecticides, or other chemicals used in the cultivation or processing of marijuana or marijuana-related products from being dispersed or released outside the premises. The plan shall further provide for resulting smoke, vapor, fumes, gases, and particulate matter from marijuana or its processing or cultivation to be effectively confined to the premises.
 7. Marijuana-related uses shall provide odor control measures so that odor generated on site is mitigated at the property line of the lot containing the marijuana-related use. Applications must demonstrate appropriate measures, such as carbon filtration, ventilation and exhaust systems, facility plans, or other additional practices adequate to mitigate odors for the scale of operations for the uses proposed.
- D. For purposes of this ordinance, any approval issued for a marijuana cultivation facility, marijuana manufacturing facility, or marijuana testing facility operated pursuant to 22 M.R.S. § 2421 et seq. shall be deemed to constitute approval for the same corresponding marijuana cultivating, manufacturing, or testing facility use operating under 28 M.R.S. § 101 et seq. Notwithstanding the above, no marijuana cultivation facility, marijuana manufacturing facility, or marijuana testing facility may operate without the applicable state and City license.

~~6.4.11~~ 6.4.12 Marine uses

- A. In the B-5/B-5b and B-6 zones, marine uses shall include marine products wholesaling and retailing and harbor and marine supplies and services.
- B. In the B-5/B-5b zones, marine uses shall include marine repair services and machine shops; shipbuilding and facilities for the construction, maintenance, and repair of vessels; marine museums and aquariums; boat repair yards; boat storage; and seafood processing, packing, and distribution for human consumption.
- C. In the B-6 zone, marine uses shall include underground marine fuel storage provided that such storage shall be used solely for the purpose of fueling vessels.

6.4.12 ~~Multiplexes~~

- ~~A. No habitable space in a dwelling unit shall be below grade, except basements that are a part of and below aboveground units.~~
- ~~B. In the R-5 zone, the maximum number of units in a multiplex building shall be six.~~
- ~~C, D. No dwelling unit shall have less than 600 square feet of floor area, exclusive of common hallways and storage in basement and attic.~~

6.4.13 Office parks in the O-P zone

An office park shall be approved only if the development meets the following development standards:

- A. Office parks shall have a minimum gross area of three acres of contiguous land, consisting of either an Office Park Planned Unit Development (OPPUD) on one lot with one or more buildings and with driveways and open areas to be owned and maintained in common, or an office park subdivision (OPS) on one

parcel with two or more lots intended for separate ownership.

- B. Development proposals shall include a master plan of the office park. The master plan shall include the following:
 1. *For an OPPUD proposal.* The location of the building(s) on the site; infrastructure of the site; identification of common areas; traffic circulation, architectural character and treatment of the building(s); proposed building envelopes; phasing and timing of the development; private development restrictions; and such other information necessary and sufficient to ensure compliance with the standards in this subsection.
 2. *For an OPS proposal.* Delineation of the subdivision of land; infrastructure of the site; identification of common areas, if any; traffic circulation; desired architectural character, including private development restrictions to ensure compatibility of architectural character of future buildings with each other; phasing and timing of the development; private development restrictions; and such other information as necessary and sufficient to ensure compliance with the standards in this subsection.
- C. Development proposals shall demonstrate a reasonably unified design of the site, including the architecture, the layout of the buildings, pedestrian and vehicular circulation plan, open space, drainage, and the topography, soil conditions, vegetation and other natural features of the site. Integration of open spaces and natural features shall be achieved by incorporation of outdoor amenities for the



minimum 35-foot setback is met along Marginal Way.

- 4. In the B-7 zone, the substation equipment shall be fully enclosed within a structure.

6.5.7 Supplemental zone-specific conditional use standards

In addition to the general conditional use standards and supplemental use-specific conditional use standards, the following standards shall apply to conditional uses within certain zones:

A. R-OS Zone

- 1. The use shall be in conformity with or satisfy a deficiency identified in a federal, state, regional, or city recreation and open space plan, including but not limited to the state *Comprehensive Outdoor Recreation Plan*, as such plans may from time to time be created or revised.
- 2. Buildings and structures shall not obstruct significant scenic views presently enjoyed by nearby residents, passersby, or users of the site.
- 3. Indoor recreation or nonrecreational uses shall serve a significant public purpose that cannot reasonably be accommodated outside of the recreation and open space zone.

6.6 ACCESSORY USES

6.6.1 In general

- A. Accessory uses shall be permitted in conjunction with permitted or conditional principal uses. Accessory uses must be:
 - 1. Customarily found in association with the principal uses.

- 2. Generally consistent with the impacts of the primary use.
- 3. Secondary in nature, clearly incidental and subordinate to the principal uses in terms of area and function.
- 4. Located on the same lot as the principal use unless otherwise permitted.
- 5. Consistent with the intent of the zone.

- B. No accessory use or uses within a building shall occupy more than a combined total of 25% of the floor area of the principal building, with the exception of required off-street parking, unless otherwise provided in Subsection 6.6.2 below.

- C. No accessory use or uses not within a building shall occupy more than a combined total of 25% of the unbuilt lot area, or of the required rear yard area, with the exception of off-street parking or as otherwise provided in Subsection 6.6.2.

6.6.2 Standards for specific accessory uses

A. Accessory Dwelling Units (ADUs)

- 1. Accessory Dwelling Units (ADUs) shall be permitted on all lawfully conforming and nonconforming lots with legal residential uses. ADUs shall comply with all dimensional standards of the underlying zone unless otherwise provided below.
- 2. Up to two ADUs shall be permitted per qualifying property.
- 3. At the time of an ADU's initial construction or legal creation, the owner(s) of the property on which the accessory dwelling unit is created must occupy at least one of the dwelling units, with the exception of legally nonconforming lots on Peaks Island.

~~4. On Peaks Island, neither the accessory unit or principal unit shall be used for short-~~

~~term rentals as defined under Chapter 6, Section 150.1 of the City of Portland Code of Ordinances.~~

- ~~5.4.~~ When an ADU is significantly visible from public ways, the building design shall:
 - a. Be clearly subordinate to the principal structure(s) in scale and position in relationship with the street and principal structure(s).
 - b. Not include outside stairways or fire escapes above the ground floor.
- ~~6.5.~~ Under circumstances where an existing nonconforming structure is converted to an ADU, the design of the ADU shall take into consideration to the extent practicable the privacy of adjacent properties.
- ~~7.6.~~ The developer of an ADU shall record a deed restriction requiring that the ADU and at least one other non-accessory unit on-site remain under common ownership.
- ~~8.7.~~ ADUs shall comply with all dimensional requirements of the underlying zone except:
 - ~~9.8.~~ Lot coverage and lot area per dwelling unit requirements.
 - ~~c. Within the IR-1 zone, the minimum lot area shall be 70,000 square feet, except on Peaks Island where this standard shall not apply.~~
 - ~~d. Within the IR-2 zone, the minimum lot area shall be 30,000 square feet, except on Peaks Island where this standard shall not apply.~~
- ~~10.9.~~ An ADU shall be limited to a gross floor area of 2/3 of the gross floor area of the principal unit(s). In no circumstance shall the height of detached ADUs on a lot

exceed the height of the primary structure. Additionally, the aggregate square footage of detached ADUs on a lot shall not exceed the gross floor area of the primary structure.

- B. Amusement devices.** Except where the principal use consists of the sale of alcoholic beverages for consumption on premises or where the principal structure is an airline terminal, pinball machines or amusement devices shall not be considered to be accessory uses whenever there are more than a total of two such machines or devices on the premises.
- C. Antennas, discs, transmitting and receiving equipment.** Building-mounted antennas, discs, and other transmitting and receiving equipment shall be:
 - 1. No taller than 15 feet above the highest structural steel of the building roof.
 - 2. Setback no less than 15 feet from the building perimeter.
 - 3. Integrated into the architecture of the building in placement, form, color, and material so as to screen or camouflage such equipment from public view.
- D. Drive-throughs.** Drive-throughs shall be permitted as an accessory use in the B-4 zone. Drive-throughs shall be reviewed as conditional accessory uses in the B-2/B-2b/B-2c zones, B-3/B-3b/B-3c zones, B-6 zone, and B-7 zone. In all other zones, drive-throughs shall be prohibited. Where a conditional use, drive-throughs shall be subject to the provisions of Section 6.5 and the following additional review standards:
 - 1. *In general*
 - a. The Planning Board shall be the review authority.

7 DIMENSIONAL STANDARDS

7.1 APPLICABILITY

Construction, alterations, and additions to structures and buildings are governed by this article, except when superseded by other applicable laws or ordinances. It is the intent that, when in doubt, this article should be interpreted to accommodate the goals of the City's Comprehensive Plan and other plans.

7.2 RULES OF MEASUREMENT

Building footprint. The lot area contained within the outermost perimeter of the building envelope including cantilevered portions of the building, projections, and porches, decks, and similar attached structures integral to the building and contributing to its mass, but excluding roof overhangs.

Floor area. The total floor space enclosed by exterior or standard fire walls of a building, exclusive of vent shafts and courts.

Grade, pre-development. Average grade, existing on October 1, 2000, at the corners of the foundation of the proposed structure.

Height. The vertical measurement from grade, or the pre-development grade on the islands, to the highest point of a structure. For buildings, height shall be measured to the roof beams in flat roofs, to the highest point of the roof beams or the highest point on the deck of mansard roofs, to a level midway between the level of the eaves and highest point of pitched roofs or hip roofs, or to a level two-thirds of the distance from the level of the eaves to the highest point of gambrel roofs. For this

purpose, the level of the eaves shall be taken to mean the highest level where the plane of the roof intersects the plane of the outside wall on a side containing the eaves.

Impervious surface ratio. The proportion of a site covered by impervious surfaces, calculated by dividing the total impervious surface area by the lot area. For the purposes of this measurement, impervious surface shall be as defined by the Maine Department of Environmental Protection.

Landscaped open space ratio. The proportion of lot area covered by landscaped open space, calculated by dividing the total landscaped open space area by the lot area. For the purposes of this measurement, landscaped open space shall not include rooftop gardens or structured or engineered surfaces.

Lot area. The area of a lot enclosed within the boundary lines of a lot.

Lot coverage. The proportion of lot area covered by building footprint and the footprint of accessory detached structures.

Lot width. The distance measured between side lot lines through that part of the principal building where the lot is narrowest.

Net land area. The land area arrived at by subtracting from lot area the square footage of the following: a) areas of special flood hazard; b) existing watercourses measured by the area between the top of the banks at the normal high-water mark; c) wetlands; and d) slopes of 25% or greater. Where a slope of 25% or greater was altered to less than 25%

within the two years immediately preceding a development proposal, such slope shall also be subtracted from the lot area.

Setback. A space on a lot which is required by this article to be maintained open, unoccupied, and unobstructed between lot lines and any structure, except as otherwise permitted in this code of ordinances. A setback shall be measured from a line parallel to the lot line drawn through the point of a structure nearest to such lot line. This measurement shall be taken at right angles from such parallel line. When measuring setbacks, setbacks shall be interpreted to include setbacks of structures from property lines and setbacks of principal structures from one another. No principal structure shall occupy the minimum setback of another principal structure. Setbacks shall not apply to fences, flagpoles, raised garden beds, and other similar structures. When setbacks are established in relationship to height, the height in stories or feet of that part of the principal structure adjoining a yard shall be used in determining the required setback.

Setback, front. A setback along the front lot line, extending between side lot lines, the depth of which shall be the shortest horizontal distance between the front lot line and any structure. In the case of lots with frontages on two or more streets, the orientation of the principal entry to the principal building shall prevail. In the case of lots without frontage on a street, the property line that parallels the nearest developed street shall be considered the front.

Setback, rear. A setback along the rear lot line, extending between side lot lines, the depth of which shall be the shortest horizontal distance between

the rear lot line and any structure.

Setback, side. A setback along a side lot line extending from the front lot line to the rear lot line, the width of which shall be the shortest horizontal distance between the side lot line and any structure.

Stepback. A space on a lot which is required by this article to be maintained open, unoccupied, and unobstructed between lot lines and any structure that occurs at a prescribed height above the ground. Stepbacks shall apply to all attached accessory structures, including the minimum necessary housing of elevators, stairways, tanks fans, or other building operating equipment not intended for human occupancy.

Story. That portion of a building included between the surface of any floor and the surface of the floor, or the roof, next above. A half story is a story situated under a sloping roof, the area which at a height four feet above the floor does not exceed two-thirds of the floor area of the story immediately below it. A story which exceeds 18 feet in height shall be counted as two stories. A basement shall be counted as a story for the purpose of height measurement where more than one-half of its height is above the average level of the adjoining ground.

Street frontage. The distance for which a lot line adjoins a public street, from one lot line intersecting said street to the furthest distant lot line intersecting the same street.

7.3 DIMENSIONAL STANDARDS

Tables 7-A to 7-H shall establish the dimensional standards for each zone.

TABLE 7-A: RESIDENTIAL ZONE DIMENSIONAL STANDARDS

		R-1	R-2	R-3 ²	R-4	R-5 ^{2,3}	R-5a ⁴	R-6 ^{6,7}	R-6a ¹³	
Lot area (min.)	Governmental	15,000 SF	10,000 SF	6,500 SF	6,000 SF	6,000 SF				
	Hospital			10 ac.		5 ac.		2 ac.		
	Intermediate or long-term, extended care facility	3 ac.	3 ac.	2 ac.		2 ac.	1.5 ac.	1 ac. ⁸		
	Lodging house					9,000 SF		2,000 SF		
	Multiplex				9,000 SF	9,000 SF				
	Place of assembly	<10,000 SF	1 ac.	1 ac.	1 ac.	15,000 SF	.5 ac.	.5 ac.	10,000 SF	
		>10,000 SF	2 ac.	2 ac.	2 ac.	30,000 SF	1 ac.	1 ac.	15,000 SF	
	Post-secondary school		2 ac.			2 ac.		2,000 SF		
	Elementary, middle, and secondary school	2 ac.	2 ac.	2 ac.	30,000 SF	30,000 SF		30,000 SF		
	Raising of animals	3 ac.								
	Residential	15,000 SF	10,000 SF	6,500 SF	6,000 SF	6,000 SF ³	6,000 SF / 2 ac. max ⁵	2,000 SF	4 ac.	
	All other uses	15,000 SF	10,000 SF	6,500 SF	6,000 SF	6,000 SF		2,000 SF		
	Lot area per dwelling unit (min.)	15,000 SF	10,000 SF	6,500 SF	3,000 SF	3,000 SF	1,600 SF	725 SF		
	Lot area per rooming unit (min.)					1,000 SF		250 SF ⁹		
Lot area per multiplex unit (min.)				3,000 SF for first 3; 6,000 SF thereafter	4,500 SF					
Lot area per SNIDU¹ (min.)				2,400 SF	3,600 SF					
Street frontage (min.)	75 ft.	50 ft.	50 ft.	50 ft.	50 ft.	50 ft.	20 ft.			
Lot width (min.)	100 ft.	80 ft.	65 ft.	60 ft.	60 ft.	60 ft. 90 ft. for multiplex	60 ft.	20 ft.		
Front setback (min.)	25 ft.	25 ft.	25 ft.	25 ft.	20 ft.	25 ft.	5 ft.			
		Or average depth of adjacent front yards								
Rear setback (min.)		25 ft.	25 ft.	25 ft.	25 ft.	20 ft.	25 ft.	10 ft.		
	Detached accessory (< 250 SF footprint)	5 ft.	5 ft.	5 ft.	5 ft.	5 ft.	5 ft.	5 ft.		
Side setback (min.)	<1.5 stories to 1.5 stories	12 ft.	12 ft.	8 ft.	10 ft.	8 ft.	10 ft.		<45 ft. in height: 10 ft.	
	2 stories	14 ft.	14 ft.	14 ft.	14 ft.	12 ft.	14 ft.			
	2.5 stories	16 ft.	16 ft.	16 ft.	16 ft.	14 ft.	16 ft.	5 ft. ¹⁰		
	Detached accessory (< 250 SF footprint)	5 ft.	5 ft.	5 ft.	5 ft.	5 ft.	5 ft.		>45 ft. in height: 15 ft.	
	On side street (min.)	20 ft.	20 ft.	20 ft.	20 ft.	15 ft.	20 ft.	None		
		Or depth of front yard directly abutting the lot.								

DIMENSIONAL STANDARDS

TABLE 7-A (CONT.): RESIDENTIAL ZONE DIMENSIONAL STANDARDS

	R-1	R-2	R-3 ²	R-4	R-5 ^{2,3}	R-5a ⁴	R-6 ^{6,7}	R-6a ¹³
Stepbacks (above 35 ft. when property line abuts a residential zone)(min.)							10 ft. from side property line and 15 ft. from rear property line ¹¹	
Structure height (max.)	35 ft.	35 ft.	35 ft.	35 ft.	35 ft.	35 ft.	45 ft. ¹²	65 ft.
Detached accessory	18 ft.	18 ft.	18 ft.	18 ft.	18 ft.	18 ft.	18 ft.	
Lot coverage (max.)	20%	20%	35%	30%	40%	30%	60%	
Landscaped open space ratio (min.)							20%	
Width of garage opening on front façade (max.)							9 ft. or 40% of the front facade, whichever is greater, and in no case more than 20 ft.	

¹ Special needs independent dwelling unit.

² See Table 7-B for PRUD standards.

³ Single-family homes may be built on small lots in the R-5 under small residential lot dimensional requirements under certain conditions. See Table 7-C for R-5 Small Residential Lot dimensional requirements.

⁴ For R-5a, PRUD standards shall apply to PRUDs, multi-family development of 4 or more units, congregate care, and intermediate, extended, or long-term care facilities, unless noted otherwise in the table above. See Table 7-B for additional standards that apply to these uses.

⁵ Applies to 1-, 2-, and 3-family dwellings only.

⁶ Alterations to single-family, two-family, and multi-family dwellings in existence as of 6/15/15 shall not result in the creation of any additional dwelling unit of less than 600 square feet of floor area, exclusive of common hallways and storage in basement and attic; and shall not result in any existing dwelling unit being reduced in size to less than 1,000 square feet of floor area, exclusive of common areas and storage in basement and attic.

⁷ Subdivisions consisting of horizontally attached dwellings on individual lots are not required to have side yards between such dwellings where a party wall condition will exist. Horizontally attached dwellings located within a single lot shall be required to meet the applicable side setback requirements at the external lot boundaries of the subdivision and internal lot boundaries between such dwellings that are not attached to each other. No minimum lot size or width shall be required for individual lots underlying townhouse (horizontally attached) dwelling types. The applicable minimum lot area per dwelling shall apply to each lot.

⁸ Except for long-term and extended care facilities: 10,000 SF for the first 9 residents plus 750 SF for each additional resident, up to a total of 2 ac.

⁹ A minimum lot area per intermediate care resident of 250 SF also applies.

¹⁰ Except that a side setback in the R-6 zone may be reduced to zero, provided that the cumulative side yards are not less than 10 ft. A permanent maintenance easement a minimum of 5 ft. in width shall be provided on the parcel adjacent to the lot line with the reduced side setback.

¹¹ Does not apply on side streets.

¹² Except as provided under the Fort Sumner Park Height Overlay and the Bayside Height Overlay.

¹³ All R-6 dimensional standards apply in the R-6a unless otherwise indicated.

TABLE 7-B: PRUD DIMENSIONAL STANDARDS

	R-3	R-5	R-5a ³
Lot area¹ (min.)	3 ac.	2 ac.	2 ac. ⁴
Net land area per dwelling unit (min.)	6,500 SF	3,000 SF	1,600 SF ^{4,5}
Units per building (max.)	PRUD < 5 ac.: 2 PRUD > 5 ac.: 6	12	
Average number of units per building (max.)	PRUD > 5 ac.: 5		
Structure height (max.)	35 ft.	35 ft.	55 ft.
Building length (max.)	Without garages: 100 ft. With integral garages: 140 ft.	140 ft.	
Length of accessory garage structure (max.)		60 ft.	
Building setback from external subdivision property lines (min.)	3 or fewer D.U. in building: 25 ft. 4 or more D.U. in building: 35 ft.	Bldg. Length 100 ft. or less: 25 ft. Bldg. Length >100 ft.: 35 ft.	Bldg. Length 100 ft. or less: 25 ft. Bldg. Length >100 ft.: 35 ft.
Distance between detached PRUD dwelling units (min.)	16 ft.		
Common recreation open space area² (min.)	300 SF/D.U.	300 SF/D.U.	200 SF/D.U. ⁴
Habitable space elevation	No habitable space in a PRUD shall be below grade, except basements that are a part of and below above-ground units.		

¹ Areas of special flood hazard as defined in Article 12 shall be excluded from lot area calculations.

² Common open space shall be designated on the site. The primary purposes of such open space areas shall be for passive or active recreation. Such spaces may include natural, landscaped or hardscaped elements. At a minimum, a contiguous area of 6,000 SF shall be provided.

³ In the R-5a zone, PRUD standards shall apply to PRUDs, multi-family development of 4 or more units, congregate care, and intermediate, extended, or long-term care facilities unless otherwise noted.

⁴ Does not apply to intermediate, extended, or long-term care facilities but does apply to PRUDs, congregate care, and multi-family development of 4 or more units.

⁵ Minimum land area per intermediate care facility resident: 8,000 SF lot area for first 35 residents, plus 350 SF for each additional resident.

⁶ For PRUD standards in island zones, see Table 7-D.

TABLE 7-C: R-5 SMALL RESIDENTIAL LOT DEVELOPMENT DIMENSIONAL STANDARDS¹

	Lot area (min.)	5,000 SF
		7 ft. ²
Side setback (min.)	Detached accessory (< 250 SF footprint)	5 ft.
	Side yard on side street	10 ft.
	Lot width (min.)	40 ft.
	Street frontage (min.)	40 ft.
	Lot coverage (max.)	50%

¹ Single-family homes may be built on small lots in the R-5 under small residential lot development dimensional requirements if the lot is vacant; or used exclusively for parking; or contains structure(s) not used for residential purposes; or is created from a single lot division of a developed lot and results in a lot meeting the small residential lot dimensional requirements with the remaining developed portion meeting the standard dimensional requirements of the R-5 zone.

² The width of one side setback may be reduced 1 ft. for every foot that the other side yard is correspondingly increased, but no side yard shall be less than 4 ft. in width.

TABLE 7-D: ISLAND ZONE DIMENSIONAL STANDARDS

					I-B¹⁰				
					Served by Public Water & Sewer	Not Served by Public Water & Sewer			
					IR-1	IR-2	IR-3		
Lot area (min.)¹¹	Bed and breakfast							5,000 SF for 3 guest rooms plus 5,000 SF/ additional room	10,000 SF/ guest room
	Campground	10 ac.					5,000 SF/ campsite, but not less than 10 ac.		
	Hotel						10,000 SF/ guest room	5,000 SF for 3 guest rooms plus 5,000 SF/ additional room	10,000 SF/ guest room
	Lodging house						10,000 SF/ rooming unit	10,000 SF/ rooming unit, plus 5,000 SF/ additional rooming unit	10,000 SF/ rooming unit
	Place of assembly	>10,000 SF	30,000 SF	30,000 SF			35,000 SF	20,000 SF	
		<10,000 SF	15,000 SF	15,000 SF					
	PRUD/PUD	5 ac. ¹	5 ac. ¹				20 ac.		
	Raising of animals	3 ac.							
	Residential	40,000 SF ^{2,3}	20,000 SF ³				42,500 SF ⁶	20,000 SF	
	Restaurant						35,000 SF	10,000 SF	20,000 SF
	Retail						35,000	None	20,000 SF
	Seasonal camp	10 ac.					35,000 SF		
	School/educational facility	40,000 SF	20,000 SF				35,000	20,000 SF	
	All other uses						35,000 SF	20,000 SF	
	Lot area per dwelling unit (min.)		None ⁴ 40,000 SF ⁴	None ^{20,000} 20,000 SF ⁴			42,500 SF ⁷		
Street frontage (min.)		100 ft. ⁵	70 ft. ⁵			70 ft. ⁸	40 ft.		
Lot width (min.)		100 ft. ⁵	80 ft. ⁵			80 ft.	40 ft.		
Front setback (min.)		30 ft. ⁵	25 ft. or the average of adjacent front yards ⁵			25 ft. ⁹	20 ft. or avg. depth of adjacent front yards		
Rear setback (min.)		30 ft. ⁵	25 ft. ⁵			25 ft. ⁹			
Detached accessory (< 250 SF footprint)		10 ft. ⁵	10 ft. ⁵			10 ft. ⁹	10 ft.		

TABLE 7-D (CONT.): ISLAND ZONE DIMENSIONAL STANDARDS

					I-B ¹⁰	
					Served by Public Water & Sewer	Not Served by Public Water & Sewer
		IR-1	IR-2	IR-3		
Side setback (min.)		20 ft. ⁵	20 ft. ⁵	20 ft. ⁹	10 ft.	
	Detached accessory (<i>< 250 SF footprint</i>)	15 ft. ⁵	15 ft. ⁵	15 ft. ⁹	10 ft.	
	On side street	20 ft. ⁵	20 ft. ⁵	20 ft. ⁹	10 ft.	
Structure height (max.)		35 ft.	35 ft. For Little Diamond Island: 27 ft.	35 ft.	35 ft.	
	Accessory detached	18 ft.	18 ft.	18 ft.	18 ft.	
	Lot coverage (max.)	20%	20%	20%	50%	

¹ PRUDs shall consist of detached dwellings.

² 60,000 SF if not served by public water.

³ For PRUDs, minimum lot area shall be reduced up to 50% provided there is an equivalent corresponding increase in common or public open space that is usable for passive or active recreational opportunities or that serves as a buffer between buildings or between the development and the surrounding neighborhood.

⁴ *In the case of PRUDs, lot area per dwelling unit shall be calculated based on net land area. Except 1 dwelling unit per 40,000 SF of net land area for PRUDs in IR-1 and 20,000 SF of net land area in for PRUDs IR-2.*

⁵ For PRUDs, standard shall be reduced up to 50%. For accessory structures in the IR-1, IR-2, and I-B zones, side setbacks from principal structures shall be 5 feet.

⁶ Except that the minimum lot size per dwelling unit shall be reduced by the amounts specified below, to a minimum lot size of 35,000 SF per dwelling unit, provided that the Planning Board finds that the development meets the following criteria: a. The minimum lot size per dwelling unit shall be reduced by 5,000 SF if a public off-island water source provides 75% of the water needs of the development. b. The minimum lot size per dwelling unit shall be reduced by 2,500 SF if the development provides appropriate permanent restrictions or other agreements precluding the use, maintenance and parking of all private motor vehicles exclusive of construction and common service vehicles.

⁷ The maximum density for a PUD shall be based on the applicable minimum lot size for each use as measured in terms of net area. For purposes of calculating density, if separately described lots exceed the applicable minimum lot size, the excess area shall not be credited toward the minimum lot size for any other use.

⁸ Except where the Planning Board finds that the development has an adequate street network to permit access for pedestrians and emergency service vehicles.

⁹ When adjoining any external property boundary.

¹⁰ All I-B standards apply for lots served by public water and sewer and lots not served by public water and sewer unless otherwise indicated.

¹¹ In the IR-3, the minimum lot area for buildings containing both residential and nonresidential uses shall be cumulative. Where there are two or more residential uses contained in a building, the minimum lot area shall be the larger of the applicable minimum lot sizes.



TABLE 18-B: MINIMUM TERM OF AFFORDABILITY FOR REQUIRED WORKFORCE UNITS

% of Workforce		Minimum Term of Affordability
Units Provided		
25%		30 years
50%		20 years
100%		10 years

TABLE 18-C: BONUSES FOR ELIGIBLE PROJECTS

% Low-income or Workforce Units	% Workforce Units	Density Permitted ¹	Additional Height Permitted ²	Setback Reductions ³
10-19%	20%	1.1 x base	N/A	N/A
20-29%	40%	1.2 x base	10 ft.	N/A
30-39%	60%	1.3 x base	10 ft.	5 ft.
50-74%	100%	2.5 x base	15 ft.	5 ft.
≥ 75%	N/A	2.5 x base	25 ft.	10 ft.

¹ “Base” is the number of units allowed under the zoning without this bonus but with any other bonuses applied. In R-P zones, multifamily is permitted with a “base” no less than 1 unit per 1,500 SF of land area. ~~If an eligible project is providing both workforce and affordable housing units, the applicant shall have the option of utilizing applicable incentives, but not cumulatively.~~

² The maximum additional height permitted in the B-1/B-1b zones and the R-P zone shall be 15 feet. In addition, the maximum structure height is 50 feet within 750 feet of the Portland Observatory.

³ Setback reductions are absolute reductions in front, side, and/or rear setback requirements. The maximum setback reductions in the B-1/B-1b and R-P zones shall be 5 ft.

D. Implementing regulations. Regulations to further specify the details of this subsection shall be developed, including, but not limited to:

1. Specific methodology for income verification.

2. Situations where less than permanent affordability might be considered.
3. Guidelines for meeting the requirement that off-site units be “in the same neighborhood.”

E. Reporting to City Council. In conjunction with the annual report on the Housing Trust Fund, the Planning Authority shall annually report on developments subject to this subsection, the number of units produced, the amount of fee-in-lieu collected, and the overall effectiveness of this subsection in achieving its stated purpose.

18.2.4 Density and dimensional bonuses and reductions

Notwithstanding any other provision of this Land Use Code to the contrary, in order to encourage low-income and workforce units in designated growth areas, eligible projects as defined under Subsection 18.2.2 may avail themselves of the following options:

A. Density and dimensional bonuses. The maximum number of units that would otherwise be allowed under this Land Use Code shall be increased for an eligible project in the manner described in Table 18-C, applicable where multi-family is allowed as a permitted or conditional use, with the exception of the I-B zone. Other dimensional bonuses related to height and setbacks shall only be applicable in the B-1/B-1b, B-2/B-2b/B-2c, B-3/B-3b/B-3c, B-5, R-7, and R-P zones.

B. Planned Residential Unit Developments (PRUDs). ~~In order to promote orderly development of low- and moderate income development as PRUDs, in the R-3, R-5, and R-5a zones, any project-PRUD~~ in which more than

50% of the units are low-income or workforce units for rent or for sale may utilize the following dimensional bonuses and changes:

1. Minimum lot area per dwelling unit is reduced by 50%. The maximum number of units that would otherwise be allowed under this land use code shall be increased by 2.5.
2. Maximum number of units and maximum length of buildings do not apply but may be set through site plan review.
3. Minimum building setbacks may be reduced to 10 feet.
4. The PRUD may cross public rights of way provided that the right of way does not count towards minimum lot size nor towards any open space requirements.
5. Minimum recreation open space area is reduced to 200 square feet per dwelling unit of common area designated for recreational purposes by the residents. Minimum contiguous size and setbacks do not apply and shall be set through site plan review.
6. The Planning Board's *Design Manual*, design standards, and guidelines with respect to PRUDs shall apply in full to PRUDs utilizing this subsection.

C. Unit size and term of affordability. In order to be eligible for this subsection, the low-income and workforce housing units must meet Subsections 18.2.3(C)(3), (4), and (5).

C.D. Term of affordability. Affordable units under this section shall be deed-restricted to remain and be affordable for 30 years or the longest term permitted under federal, state, and local laws, whichever is longer. Such deed

restrictions shall be recorded in the Cumberland County Registry of Deeds.

D.E. Required public process. The developer of the project must also commit to a good faith effort to communicate openly with affected properties as their process moves forward. At a minimum, no less than 30 days prior to application for site plan review, any project that wishes to take advantage of this subsection must hold a public meeting noticed to all properties within 500 feet of their site and post a sign on the property in question describing the proposed project, intent to submit an application to the City in 30 days (cite anticipated submission date), and contact information for the developer and the Planning Authority. The Planning Board may adopt regulations regarding the content and processes for noticing as part of the *Technical Manual*.

E.F. Projects under 18.2.3. Projects that are subject to Subsection 18.2.3 that choose to provide the required workforce housing units on site are eligible for a 25% increase in total permitted units. If an eligible project as defined under Subsection 18.2.2 is also subject to Subsection 18.2.3, the applicant shall have the option of utilizing either this bonus or any bonuses they are eligible for under Subsections 18.2.4(A) and (B) but not both.

18.2.5 Inclusionary zoning for hotel projects

A. Purpose. This subsection is based on City analysis, most specifically the analysis documented in the Greater Portland Council of Government study *Proposed Hotel Linkage Fee: Supportable Range* dated August 29, 2018, that finds that new hospitality developments create

19 OFF-STREET PARKING & LOADING

19.1 OFF-STREET PARKING

19.1.1 General

Off-street parking, either by means of structured or surface spaces, in addition to being a permitted principal use in certain zones, shall be considered as an accessory use when required or provided to serve principal uses. The provisions of this article shall apply to parking as an accessory use.

19.1.2 Uses requiring off-street parking

Except as provided in Table 19-B and as provided elsewhere in this article, minimum off-street parking requirements shall be as provided in Table 19-A. For any use not listed in Table 19-A, the parking provisions for the most similar use, as determined by the Building Authority or the Planning Authority, shall apply.

19.1.3 Rules of calculation

- A. Floor area.** Unless otherwise stated, all square footage-based off-street parking standards shall be computed on the basis of gross floor area used or intended to be used for service to customers, patrons, clients, or patients. It need not include floors or parts of floors used principally for non-public purposes, such as bulk storage, cellar, or food preparation areas. These provisions notwithstanding, the "floor area" used as the basis for computing off-street parking requirements shall never be less than 80% of the total gross floor area.
- B. Fractions.** Any fraction greater than or equal to 0.5 will be rounded up to the nearest whole number. Any fraction less than 0.5 will be rounded down to the nearest whole number.

- C. Multiple uses.** When two or more principal uses or separate establishments are located within the same lot, off-street parking shall be provided for each principal use or separate establishment according to Table 19-A, unless joint use is approved under Subsection 19.1.5.
- D. Accessory uses.** Off-street parking shall not be calculated separately for accessory uses.
- E. New construction.** In the case of new construction, the minimum off-street parking requirements in Table 19-A shall be met.
- F. Changes of use.** In the case of changes of use, the only additional off-street parking required shall equal the difference between the parking required for the new use and the parking required for the existing use.
- G. Building additions or alterations.** In the case of additions or alterations which increase the number of units or square footage of a given use, the only additional off-street parking required shall equal the difference between the parking required for the use in the post-development condition and the parking required for the use in the pre-development condition.

19.1.4 Shared use vehicles

The required parking for multi-family residential buildings may be partially met through provision of shared-use vehicles, which are vehicles available for use on a fee basis to the residents of the building. One shared use vehicle shall be deemed to satisfy eight required car spaces, but in no case shall more than 50% of the parking requirement be satisfied by a shared vehicle use.

TABLE 19-A: OFF-STREET PARKING MINIMUMS

	Vehicular	Bicycle
Single-, two-, or multi-family units	1 space/ dwelling unit	
Lodging house	1 space/5 rooming units ¹	
Special needs independent dwelling unit	1 space/4 dwelling units, plus 1 space/staff member normally present at any one time	2 spaces/5 units
Sheltered care group home	1 space/2 employees	
Congregate care facilities	1 space/3 dwelling units	
Emergency shelters	1 space/2 employees	
Long-term, extended care, and intermediate care facilities	1 space/5 beds, plus 1 space/employee normally present during weekday morning shift	
Governmental uses	1 space/400 SF of floor area	
Hospitals and clinics	1 space/500 SF of floor area	
Places of assembly	1 space/150 SF of floor area used for assembly purposes ²	
Preschool facilities	1 space/staff member normally present at any one time	
Schools	For students up to 15 years	1 space/room used for instruction purposes
	For students 16 years and older	1 space/10 seats used for instruction purposes or, if no fixed seats, 1 space/100 SF used for instruction purposes
Bed and breakfasts	1 space/2 guest rooms for first 4 guest rooms, plus 1 space/additional room thereafter ³	2 spaces/10 vehicle parking spaces for the first 100 vehicle spaces required, plus 1 space/20 vehicle parking spaces thereafter ⁴
General offices	1 space/400 SF of floor area	
Hostels	1 space/8 beds or, if within ¼ mi. of a transit stop, 1 space/12 beds	
Hotels	1 space/4 guest rooms	
Retail	1 space/200 SF of first floor area in excess of 2,000 SF, plus 1 space/700 SF for each floor above	
Restaurants and bars	1 space/150 SF of floor area	
Theaters, performance halls, funeral homes	1 space/5 seats or, if no fixed seats, 1 space/100 SF of assembly space	
Industrial uses	1 space/1,000 SF of floor area in excess of 3,000 SF not including area catering to retail	

¹ Except in the R-5 zone, where the requirement shall be 1 space/2 rooming units.

² Except for neighborhood centers which primarily serve clientele from the surrounding neighborhood, where the parking requirement shall be 1/1,000 SF of floor area

³ Except in the I-B zone, where no off-street parking shall be required for beds and breakfasts.

⁴ Development with under 10 required vehicular parking spaces shall provide at least two bicycle parking spaces.

TABLE 19-B: CATEGORICAL EXCEPTIONS TO OFF-STREET PARKING MINIMUMS

Categorical Vehicular Exceptions		
Major site plans	The Planning Board shall establish the off-street parking requirement based on a parking study.	
Affordable housing	Two spaces are required for every 3 units, except that the Planning Board may establish a <u>lesser</u> parking requirement that is less than 1 space per workforce or low income housing unit, regardless of the size of the structure.	
Multi-family housing	The Planning Board may establish a parking requirement that is less than the normally required number of spaces upon a finding of unique conditions that result in a lesser parking demand, such as housing for persons who cannot drive, housing that participates in a Transportation Demand Management program, or housing which includes permanent restrictions on automobile usage, and which is permanently restricted from utilizing resident on-street parking stickers.	
Historic structures	No off-street parking in excess of that existing on or servicing the lot as of March 15, 1999 shall be required. ¹	
Accessory Dwelling Units	No off-street parking shall be required.	
Transit proximate development and uses	No off-street parking shall be required within ¼ mile of fixed route transit service. New uses or changes of use of more than 10,000 SF taking advantage of this exception shall be required to provide a Transportation Demand Management Plan if they use this provision in lieu of parking requirements.	
Zone-Based Vehicular Exceptions		
	Residential	Nonresidential
R-6	No off-street parking required for first three dwelling units. ²	
IR-1/I-B		Off-street parking requirements for nonresidential uses shall be reduced by 75%.
IR-3	No off-street parking required.	
R-OS	Off-street parking shall be adequate to serve projected employee and visitor needs.	
B-2/B-2b/B-2c		For changes of use of 10,000 SF or less, no off-street parking shall be required for nonresidential uses. ³
IS-FBC	No off-street parking required for first three dwelling units.	For changes of use of 10,000 SF or less, no off-street parking shall be required for nonresidential uses. ³
B-3	No off-street parking required for changes of use.	
B-5	No off-street parking required.	
B-6	Off-street parking requirement shall be determined based on a parking study.	
B-7	Off-street parking requirement shall be determined based on a parking study.	
Waterfront Zones	Off-street parking requirements shall be reduced by 50%. No off-street parking required in the WCZ.	

¹ Exception applies for uses within any contributing structure in a local or national register historic district or locally-designated or national register landmark building under Article 17. However, parking may not be decreased from that existing on or servicing the lot on March 15, 1999 except to the extent necessary to meet the requirements of the Americans with Disabilities Act.

² For alterations of buildings containing three or more dwelling units in the R-6 zone, no parking shall be required for the creation of one additional dwelling unit above existing conditions as of June 3, 2015. This exemption may be used one time.

³ If the number of existing parking spaces serving the site is less than the requirements of this article, that number of parking spaces may not be reduced lower than the required amount prior to the change of use except to the extent necessary to meet the requirements of the Americans with Disability Act, to the extent it is a requirement or a condition of site plan review, or to the extent the change of use requires less parking than the previous use and the total number of parking spaces serving the site exceeds the parking requirements of this article for all uses on the site including the change of use. A newly constructed building, a building addition, or a change of the use of a building exceeding 10,000 SF of floor area, shall provide parking as required by this article.