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Public Hearing and Passage: 6/5/06 9-0

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IN THE CITY COUNCIL

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AMENDMENT TO PORTLAND CITY CODE
CHAPTER 14, ARTICLE III. ZONING:
AMENDMENT TO R-6 SMALL RESIDENTIAL LOT DEVELOPMENT
§§14-139, 140, 385

ARTICLE V. SITE PLAN:
§14-526

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

1. That Chapter 14 (Land Use), Art. III (Zoning),
Division 7 (R-6 Dimensional Requirements, Small
Residential Lot Development), Section 14-139(2) is
hereby amended to read as follows:

Sec. 14-139. Dimensional requirements.

...

(2) *Small residential lot development:* Residential uses on small, vacant lots located in the R-6 are subject to Site Plan Review and may use the dimensional requirements below if all of the following conditions are met:

The lot is:

Vacant or is used exclusively for parking or contains structure not used for residential purposes as of January 1, 2005; and the lot existed as of January 1, 2005.

- (a) *Minimum lot size:* None
- (b) *Maximum lot size:* Ten thousand (10,000) square feet.
- (c) *Yard dimensions:*
1. *Front yard:* No more than ten (10) feet.

2. *Rear yard:* None, except that rear yards between two (2) buildings on the same or different lots shall maintain a minimum ten (10) foot setback between buildings or the sum of the heights of the abutting buildings and proposed buildings divided by five (5), whichever is greater; and that either the rear yard or one of the side yards shall be at least fifteen (15) feet; provided, however, detached accessory structures with a ground floor area of one hundred (100) square feet or less need not have a setback more than five (5) feet from the property line. Notwithstanding the foregoing, no structure shall be closer than four (4) feet to side property line.

3. *Side yard:*

None, except that side yards between two (2) buildings on the same or different lots shall maintain a minimum ten (10) foot setback between buildings or the sum of the heights of the existing buildings and proposed buildings divided by five (5), whichever is greater and that either the rear yard or one of the side yards shall be at least fifteen (15) feet; Provided, however, detached accessory structures with a ground floor area of one hundred (100) square feet or less need not have a setback more than five (5) feet from the property line. Notwithstanding the foregoing, no structure shall be closer than four (4) feet to side property line. On a corner lot no side yard is required on that side of the lot which abuts any street. A principal structure on a corner lot shall not be more than ten (10) feet from the street.

(d) *Minimum principal structure height:* Two (2) stories of living space above the grade of the adjacent street frontage, except for porches, entryways, attached garages and accessory detached structures.

(e) *Maximum principal structure height:* Forty five

(45) feet.

(f) *Open space requirement:* All lots used for residential purposes shall provide an attached exterior deck, porch, patio or balcony for each dwelling unit, except where a designated open space equal to ten (10) percent or more of the lot area is located on site and maintained as open space, then the number of exterior decks, porches, patios or balconies may be reduced by up to fifty (50) percent. The designated open space, if provided, shall have a minimum width and length of at least fifteen (15) feet, a slope of no greater than ten (10) percent and shall be used exclusively as recreational open space i.e. it shall not be used for vehicular circulation, parking, etc.. All required decks, porches, patios or balconies shall meet the requirements of the Planning and Development Design Manual.

(g) *Minimum lot width:* None.

(h) *Minimum land area per dwelling:* Seven hundred and twenty-five (725) square feet.

2. That Chapter 14 (Land Use), Art. III (Zoning), Division 7 (R-6 Other requirements, Small Residential Lot Development), Section 14-140 is hereby amended to read as follows:

Sec. 14-140. Other requirements.

(a) *Offstreet parking:* Off-street parking is required as provided in division 20 (off-street parking) of this article, except that required parking for residential building additions shall be located on the same lot.

For small, vacant lots which meet, and are developed under, the dimensional standards of 14-139(2) above, the following offstreet parking requirements shall apply:

1. one (1) parking space per dwelling unit is required and shall be located on the same lot; and
2. The technical and design standards for driveway design for one and two-family buildings (Section

II, Traffic Design Standards and Guidelines) shall apply to projects with up to four units and with no more than four parking spaces;

(b) *Storage of vehicles:* Only one (1) unregistered motor vehicle may be stored outside on the premises for a period not exceeding thirty (30) days.

(c) *Shoreland and flood plain management regulations:* Any lot or portion of a lot located in a shoreland zone as identified on the city shoreland zoning map or in a flood hazard zone shall be subject to the requirements of division 26 and/or division 26.5.

(d) *Small residential lot development* shall conform to the site plan standards of §14-526.

3. That Chapter 14 (Land Use), Art. III (Zoning), Division 23 (Restoration or Reconstruction within an existing footprint of damaged nonconforming building or premises), Section 14-385 is hereby amended to read as follows:

Sec. 14-385. Restoration or reconstruction within an existing footprint of damaged nonconforming building or premises.

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

- (a) The restoration or reconstruction is of a building which is nonconforming only as to land area, setbacks or any other dimensional requirements; and
- (b) Where the restoration or reconstruction will occur entirely within the existing footprint and previous shell of the building and will not create a new nonconformity; and
- (c) Restoration or reconstruction occurs within one (1) year of the initial damage where such damage is sudden and accidental; or

- (d) Restoration or reconstruction necessitated by decay must be completed within one (1) year of the demolition of the building or the commencement of the restoration or reconstruction, whichever occurs first; and
- (e) Any reconstruction, under this provision, in the Residential R-6 zone on a lot with 10,000 square feet or less, other than the exact restoration of a previously existing building on the site, shall comply with the applicable standards contained within the Planning and Development Design Manual and may only apply the parking provisions of small residential lot development in the R-6 zone.

For the purpose of this section, the footprint of a building is the perimeter of the foundation supporting a structure.

4. That Chapter 14 (Land Use), Art. V (Site Plan), Section 14-526 is hereby amended to read as follows:

Sec. 14-526. Standards.

(a) *Requirements for approval.* The Planning Board or Planning Authority shall not approve a site plan unless it meets the following criteria:

...

- (28) Small residential lot development located in the R-6 zone on lots of ten thousand (10,000) square feet or less shall meet the site plan requirements above and the requirements contained within the Planning and Development Design Manual which is incorporated herein by reference. Any proposal required to obtain a Certificate of Appropriateness under Portland's Historic Preservation Ordinance is exempt from the R-6 Design Review Standards.

The Planning Authority shall issue a Design Certificate, prior to Planning Board site plan review, after finding that the standards contained within the Planning and Development

Design Manual have been met. Any decision to grant or deny a Design Certificate shall be made in writing stating the findings of the Planning Authority. Any person aggrieved by the Planning Authority's decision to grant or deny a Design Certificate may appeal that decision to the Planning Board by filing a written request for appeal within 30 days of the date of such decision. In the event of such appeal, the Planning Board will conduct a *de novo* review of the project's compliance with the standards contained within this Planning and Development Design Manual.