

Order 98-06/07

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Public Hearing, Amended & Passed: 12/4/06 7-0 (Leeman, Duson absent)

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CITY OF PORTLAND
IN THE CITY COUNCIL

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**AMENDMENT TO PORTLAND CITY CODE
CHAPTER 14, (LAND USE), ARTICLE III (ZONING)
RE: INCENTIVES FOR AFFORDABLE HOUSING
("INCLUSIONARY ZONING")**

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

1. *That Division 30 (Incentives for Affordable Housing) of Chapter 14, Article III of the Portland City Code is hereby enacted as follows:*

DIVISION 30. INCENTIVES FOR AFFORDABLE HOUSING

Sec. 14-484. Purpose.

The City believes that it is in the public interest to promote an adequate supply of affordable housing for its residents. The purpose of this Division therefore is to offer incentives to developers to include units of affordable housing within development projects, thereby mitigating the impact of market rate housing construction on the limited supply of available land for suitable housing, and helping to meet the housing needs of all economic groups within the City. The City believes that this Division will assist in meeting the City's comprehensive goals for affordable housing, in the prevention of overcrowding and deterioration of the limited supply of affordable housing, and by doing so promote the health, safety and welfare of its citizens.

Sec. 14-485. Definitions.

"Affordable housing unit for rent" means a dwelling unit for which: (1) the rent is affordable to a household earning 80% or less of the U.S. Department of Housing and Urban Development moderate-income figure for Metropolitan Cumberland County Maine for a household of that size; and (2) annual rent increases for that unit are limited in perpetuity by deed restriction or other legally binding

agreement to the percentage increase in the U.S. Department of Housing and Urban Development moderate-income figure for Metropolitan Cumberland County Maine for a household of that size.

"Affordable housing unit for sale" means a dwelling unit for which: (1) the sale price is affordable to a household earning 120% or less of the U.S. Department of Housing and Urban Development moderate-income figure for Metropolitan Cumberland County Maine for a household of that size; and (2) the resale price is limited by deed restriction or other legally binding agreement for all future sales of the unit to an amount that is affordable to a household earning 120% of the U.S. Department of Housing and Urban Development moderate-income figure for Metropolitan Cumberland County Maine for a household of that size, as calculated for the year in which the sale takes place.

"Development fees" means: (1) the following fees, as described in this chapter: site plan review and inspection fees; subdivision review and inspection fees; and administrative fees; and (2) construction and permit fees as described in chapter 6. "Development fees" does not include any fees charged for reviews conducted by a party other than the City.

"Dwelling unit" has the same meaning as that term is defined in section 14-47.

"Eligible project" means a development project:

(1) that is permissible under the provisions of this chapter in the zone in which it is proposed;

(2) that will be a multifamily dwelling, as defined in section 14-47, and will not be located in an R-1 or R-2 zone;

(3) which has not and will not receive any public funding, reduced-interest loans or other subsidies or incentives other than those described in this Division; and

(4) that creates new dwelling units, among which is at least one affordable housing unit for rent or sale, through new construction, substantial rehabilitation of existing structures, adaptive reuse or conversion of a non-residential use to residential use, or any combination of these elements. Affordable housing units for sale or rent may not differ in exterior design from other units within an eligible project.

Sec. 14-486. Reduction of Fees.

Notwithstanding any other provision of this chapter or chapter 6 to the contrary, development fees shall be reduced by the City for an eligible project in the manner described in the following table:

Percentage of new units that are affordable units	Percentage discount of development fees
5% up to but not including 10%	5% reduction
10% up to but not including 15%	10% reduction
15% up to but not including 20%	15% reduction
20% up to but not including 25%	20% reduction
25% or more	25% reduction

Sec. 14-487. Priority Review.

The Planning Division shall perform its review of an eligible project in as expedited a manner as is practical, **without impairing the scope or thoroughness of the review.** The Planning Division may adopt administrative procedures to prioritize review of eligible projects and facilitate this expedited review.

The Planning Board shall make its best efforts to give priority in scheduling workshops and public hearings related to any plans or applications required for an eligible project that are within the Planning Board's jurisdiction, **without impairing the scope or thoroughness of its review.** At the conclusion of these public meetings, the Planning Board shall promptly issue a decision on all such plans and applications before it for consideration.

Sec. 14-488. Density, Parking and Dimensional Bonuses and Reductions.

Notwithstanding any other provision of this chapter to the contrary:

(a) Density bonuses. The maximum number of units that would otherwise be allowed under this chapter shall be increased for an eligible project in the manner described in the following table:

Percentage of new units that are affordable units	Percentage increase in maximum number of units allowed
5% up to but not including 10%	5% increase
10% up to but not including 15%	10% increase
15% up to but not including 20%	15% increase
20% up to but not including 25%	20% increase
25% or more	25% increase

(b) Parking requirement reduction. For each affordable housing unit for rent or sale within an eligible project, no more than one (1) parking space shall be required. The Planning Board may establish a parking requirement for affordable housing units for rent or sale within an eligible project that is less than one (1) parking space per affordable housing unit, regardless of the size of the structure.

(c) Building height bonus. The maximum structure height for an eligible project building (1) that is located in a B-2 or B-2b community business zone; (2) that contains five or more dwelling units; and (3) of which 20% or more of new dwelling units created are affordable units for rent or sale, is an additional ten feet above the maximum structure height that would otherwise apply to the building pursuant to this chapter. **The total height of the eligible project, including any bonus received pursuant to this subsection, may not exceed the maximum height recommended for the location of the project pursuant to a height study that has been adopted as part of the City's Comprehensive Plan.**

[Note: Language added after the Council's workshop on November 13 are presented in bold, double-underlined type.]